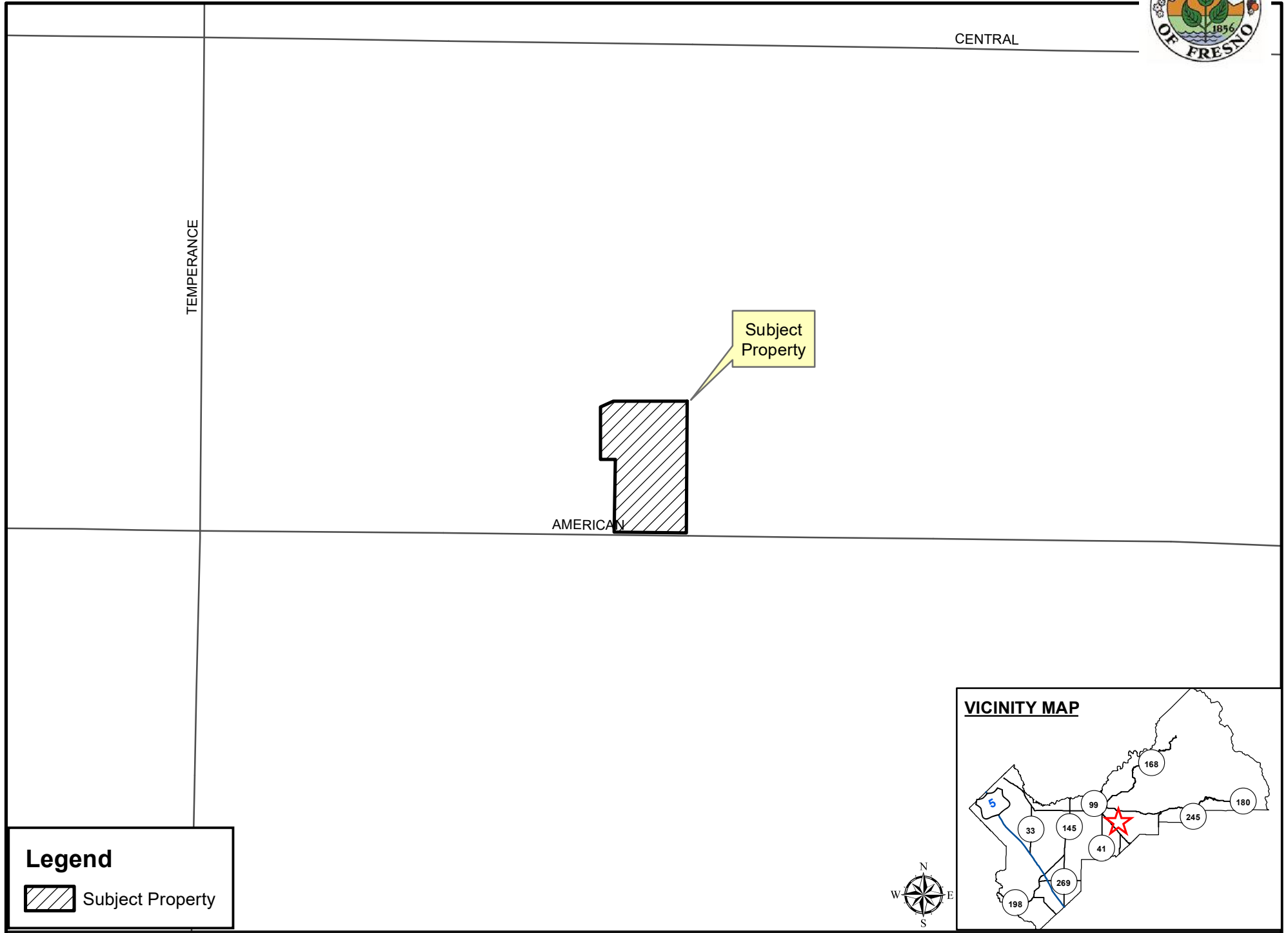


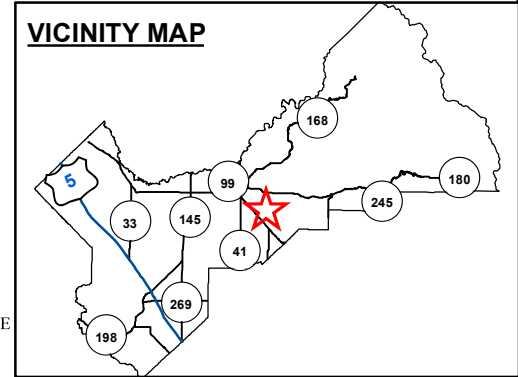
LOCATION MAP



Attachment "A"

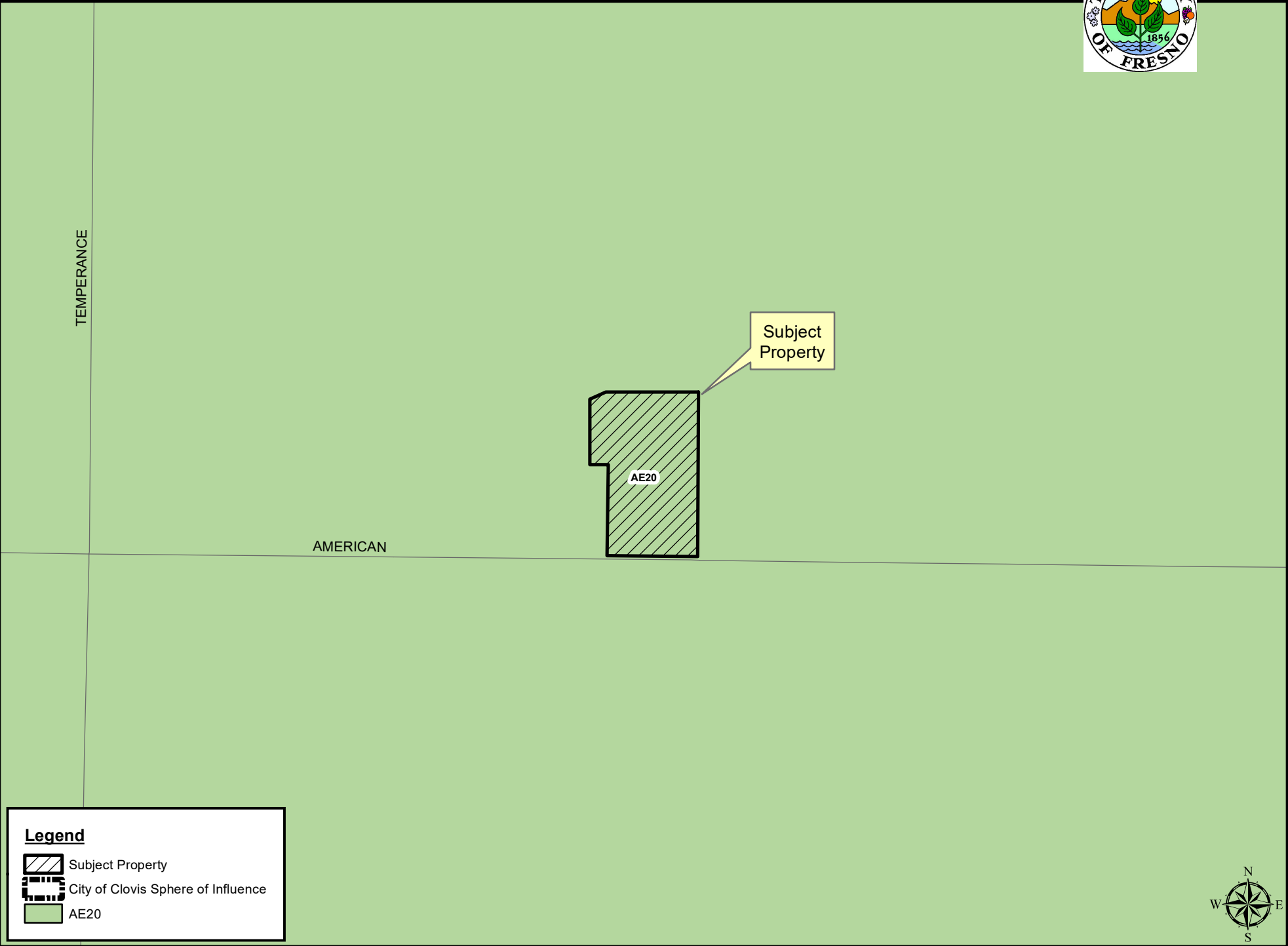
Legend

 Subject Property



EXISTING ZONING MAP

RLCC 1043



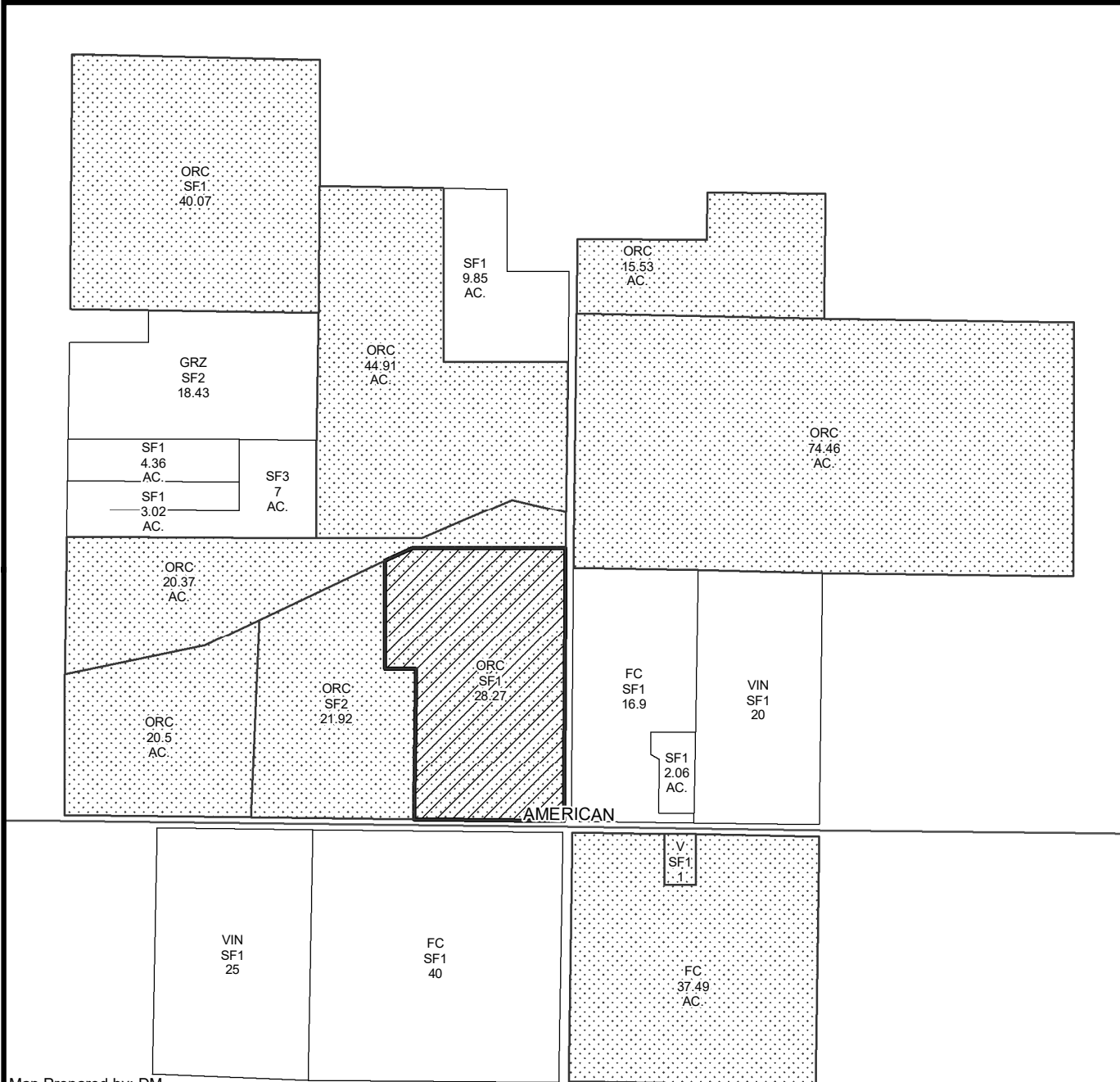
Attachment "B"

Legend

- Subject Property
- City of Clovis Sphere of Influence
- AE20



EXISTING LAND USE MAP

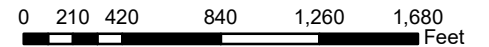


LEGEND

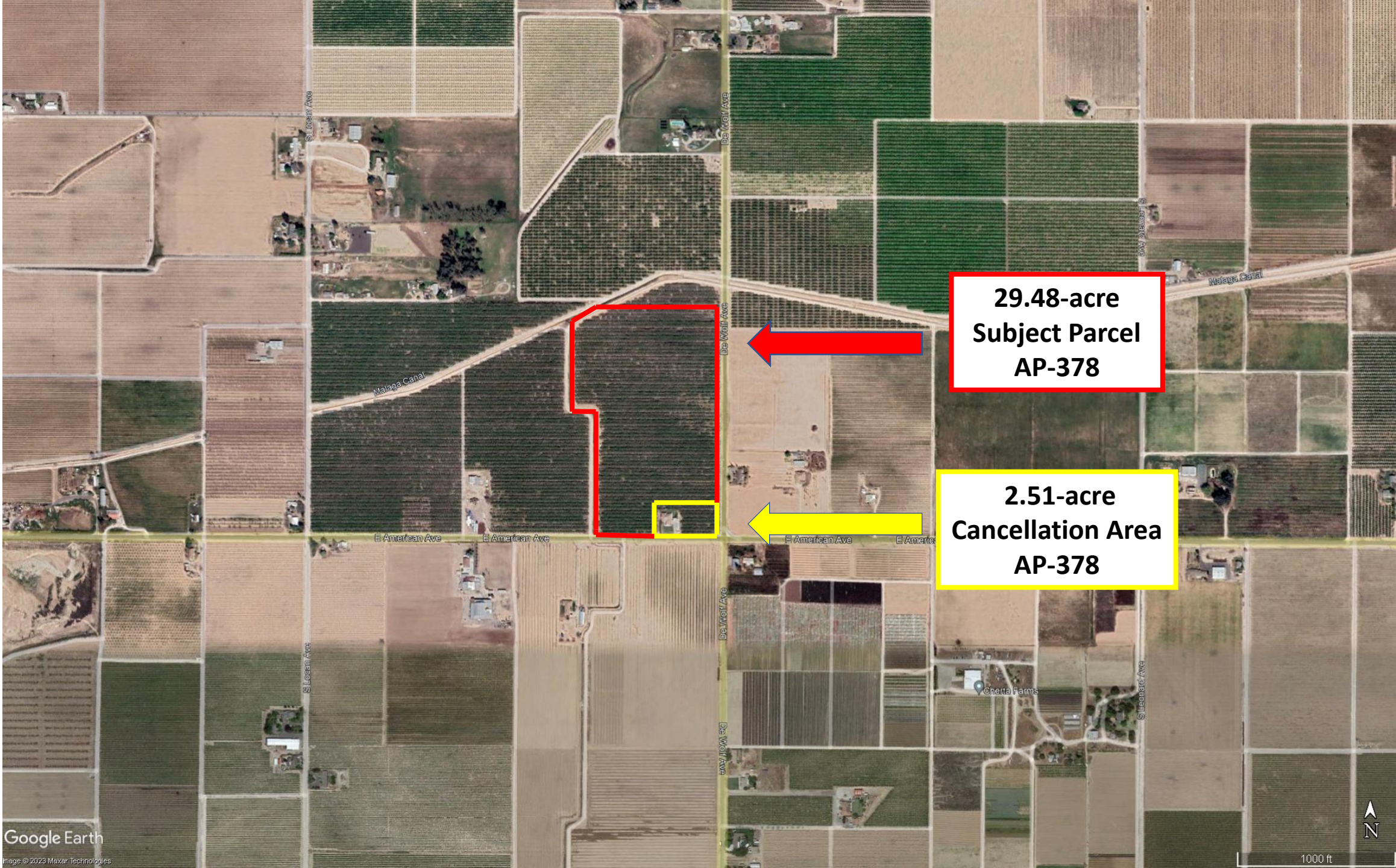
- FC - FIELD CROP
- GRZ - GRAZING
- ORC - ORCHARD
- SF# - SINGLE FAMILY RESIDENCE
- V - VACANT
- VIN - VINEYARD

LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning
Development Services Division



**29.48-acre
Subject Parcel
AP-378**

**2.51-acre
Cancellation Area
AP-378**

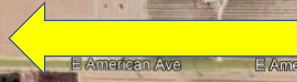
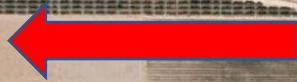


Exhibit Map

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA. FEBRUARY 9, 2022

Section 35, Township 14 South, Range 21 East, Mount Diablo Base and Meridian,
Fresno County, California

Map Prepared by:



Owner and Applicant:

Boparai Farms, a California general partnership
7916 East American Avenue
Fowler, CA 93625

Source of Data:

Record of Survey Recorded December 8th, 2006
in Book 51 of Record of Surveys at Page 67, FCR

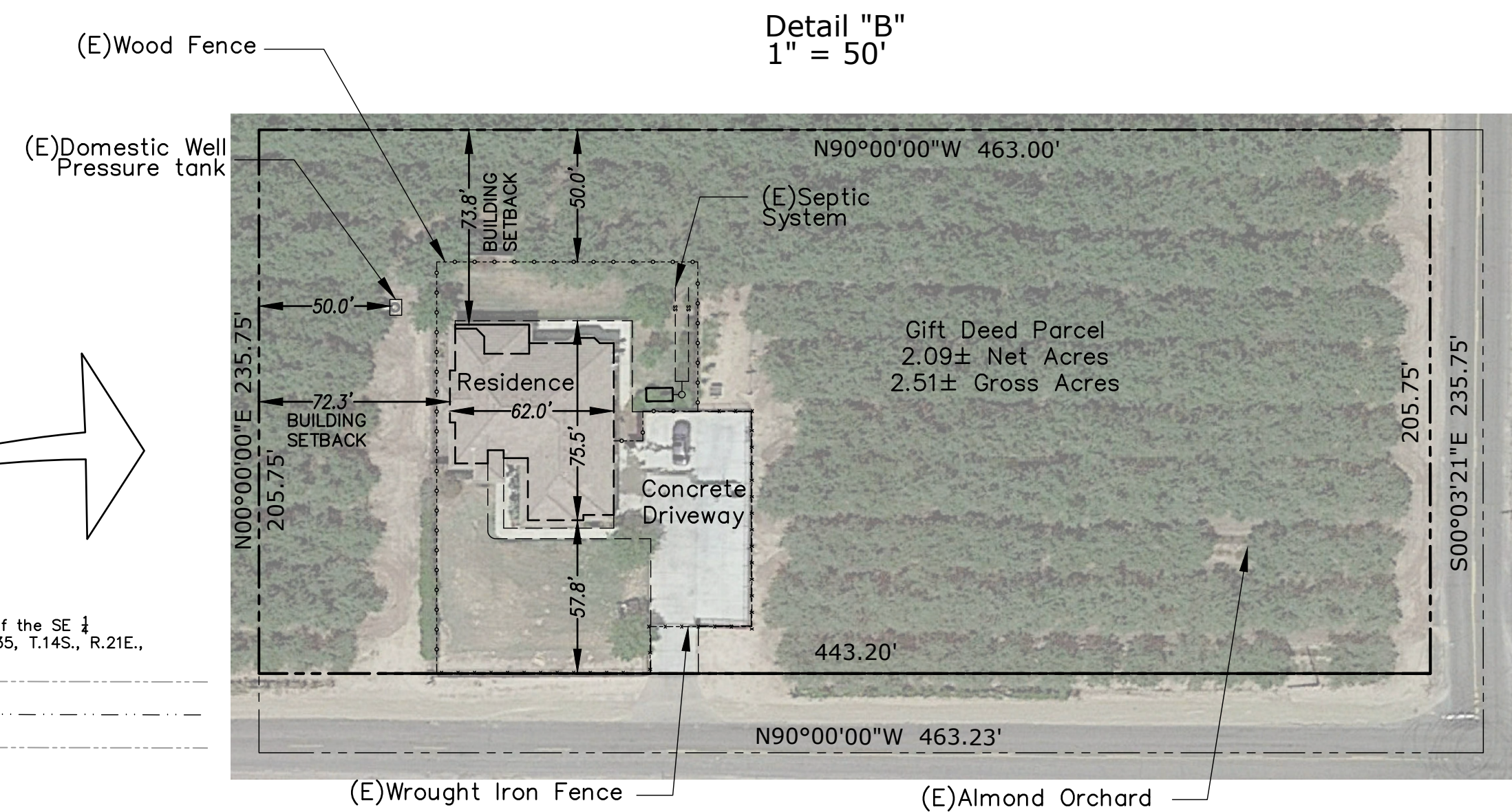
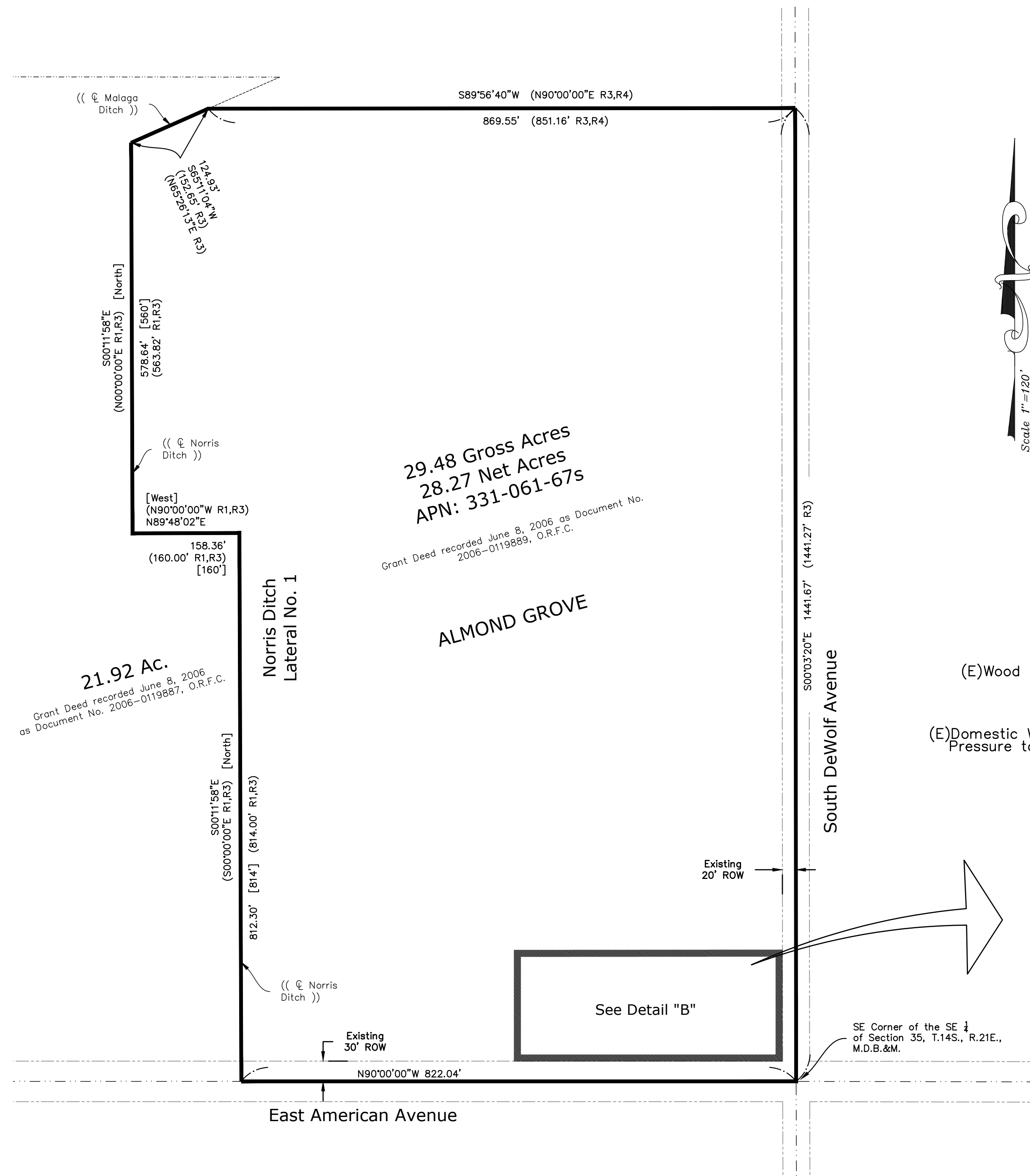
Total Parcel Area: Calculated per Record of Survey
map

Site Information:

Existing/Proposed Use: Agricultural

Existing Zoning: AE-20

APN: 331-061-67s



Attachment "E"

Attachment "F"



County of Fresno

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

Agricultural Land Conservation Committee Staff Report Agenda Item No. 2 April 12, 2022

SUBJECT: Review and make recommendation to the Board of Supervisors regarding petition for **PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 378 (RLCC NO. 1043)** to remove a 2.51-acre (gross) portion of a 29.48-acre (gross) parcel from the Williamson Act program to allow the 2.51 acres to be created as a separate parcel for residential use.

LOCATION: The subject parcel is located on the north side of E American Ave, between South Locan Ave and South De Wolf Ave, approximately two miles northeast of the nearest city limits of the City of Fowler (APN 331-061-67s) (Sup. Dist. 1).

OWNER/APPLICANT: Boparai Farms

REPRESENTATIVE: Dirk Poeschel Land Development Services, Inc.

STAFF CONTACT: Jordan Walton, Planner
(559) 600-9668

Mohammad Khorsand, Senior Planner
(559) 600-4230

RECOMMENDATION:

Staff does not believe that Findings No. 2 and 3 under Government Code Section 51282(b) can be made and therefore, recommends that the Agricultural Land Conservation Committee recommend that the Board of Supervisors deny the petition for partial cancellation of Agricultural Land Conservation Contract No. 378.

BACKGROUND:

The Agricultural Land Conservation Committee reviews petitions for cancellation of Agricultural Land Conservation Contracts for consistency of the petition with the purposes of the Williamson Act, pursuant to Section 51282(b) of the Government Code, and makes a recommendation to the Board of Supervisors to approve or deny the petition.

This petition was filed in conjunction with Zone Variance Application No. 4108 and associated Initial Study No. 8088, which proposes to allow creation of a 2.51-acre parcel from a 29.48-acre parcel for residential use. The subject parcel is located in the AE-20 (Exclusive Agricultural, 20-

acre minimum parcel size) Zone District and is designated as Agricultural in the County General Plan. The petition is assigned Revision to Land Conservation Contract (RLCC) NO.1043.

The Williamson Act Program limits the use of contracted parcels to commercial agricultural operations, compatible uses adopted by the Board of Supervisors, and certain qualified open space uses. The County's Williamson Act Guidelines require parcels 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 enrolled in the Williamson Act Program. The proposed 2.51-acre parcel does not meet the minimum parcel size to be enrolled in the Williamson Act program. Therefore, the applicant has submitted a petition to remove the 2.51-acre portion of the 29.48-acre parcel from the Williamson Act program through the cancellation process.

The 29.48-acre parcel is located on the north side of E American Ave, between South Locan Ave and South De Wolf Ave, approximately two miles northeast of the nearest city limits of the City of Fowler [see Location Map (Exhibit "A"), Existing Zoning Map (Exhibit "B"), Existing Land Use Map (Exhibit "C"), Aerial Photograph (Exhibit "D"), and proposed Variance Site Plan (Exhibit "E")].

DISCUSSION:

The Williamson Act program is a voluntary program whereby private landowners enter into a contract with local governments for the purpose of restricting the use of specific parcels of land to commercial agricultural uses for production of food or fiber. Certain land uses may be determined compatible on land enrolled in the Williamson Act program by the local government having jurisdiction over contracted land. In return, landowners receive property tax assessments that are lower than normal because the assessments are based on farming or qualified open space uses rather than the full unrestricted market value of land. The purpose of the Williamson Act is to provide an incentive to preserve agricultural land for production of food or fiber, at least for the duration of the contract, which is 10 or 20 years depending on the type of contract.

If a landowner desires to change the use of land that is restricted by a Williamson Act contract to uses other than commercial agricultural uses for production of food or fiber, the landowner can exit the contract by filing a Notice of Non-renewal of the contract on the subject parcel. Under this process, the remaining contract term (nine years in the case of an original term of ten years) is allowed to lapse, with the contract expiring at the end of the term. During the Nonrenewal process, the subject land will still be subject to contract restrictions, and the annual tax assessment increases incrementally each year until it is equivalent to unrestricted market value of the land upon expiration date of the contract. This would allow lands that have been placed under contract to continue to be used for production of food or fiber for the nine-year remainder of the contract term and the landowner will benefit from lower property tax assessment.

Cancellation of a Williamson Act contract is an option under limited circumstances and conditions and the Statute has provided provisions under which petitions for removal of a contract can be considered by the governing body having jurisdiction over the land. Processing a cancellation petition involves a comprehensive review of the petition to determine if a contract should be cancelled to allow the immediate establishment of a proposed alternative use, or if the land should remain in agricultural use until the contract on land for which a non-renewed has

been recorded expires. Approval of a cancellation petition is discretionary and requires the payment of a fee by the landowner equal to 12.5 percent of the full market value of the property to be removed from the contract.

Per Government Code 51282(a), a landowner may petition the Board of Supervisors for cancellation of a contract as to all or any part of a parcel. The Board may grant tentative approval for cancellation of the contract if the Board can make all of the findings listed under Government Code Section 51282(b).

Per Government Code Section 51282(b), cancellation of a contract is consistent with the provisions of the Land Conservation Act of 1965 if the Board can make all five findings listed under Government Code Section 51282(b). Staff's evaluation of the proposed petition against the required findings are discussed below:

1. *That the cancellation is for land on which a Notice of Nonrenewal has been served pursuant to Section 51245 of the Government Code.*

An executed Notice of Partial Nonrenewal for Williamson Act Contract No. 378 was accepted by the County Recorder on October 25, 2022 and was assigned Document No. 2022-0131955. Said Nonrenewal is for the proposed 2.51-acre parcel associated with this petition for Partial Cancellation.

Based on the fact stated above, Department staff believes that Finding No. 1 can be made.

2. *That the cancellation is not likely to result in the removal of adjacent lands from agricultural use.*

The soil of the 29.48-acre subject parcel is classified as Prime farmland according to the National Resource Conservation Service. The current landowner acquired the subject parcel in 2009 and the parcel is currently planted in almond trees. The subject parcel and the surrounding parcels are designated as Agricultural in the County General Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size), and are being actively farmed except for an adjoining parcel to the east of the subject parcel.

Areas of the County that are outside of the unincorporated communities are designated and zoned to accommodate farming and certain other land uses such as dairies, feedlots and poultry facilities that necessitate such operations to be established in sparsely populated areas of the County due to creation of dust, odor, flies as well as the need for application of herbicides and pesticides as part of the farming operation.

The proposed alternative use is to split a 2.51-acre portion of the 29.48-acre subject parcel that contains a house as a separate substandard residential parcel in an area of the County that is designated as Agricultural and Zoned AE-20 which requires a minimum parcel size of 20 acres. Approval of the proposed cancellation petition would allow creation of a substandard residential parcel that very likely be occupied by a non-farmer who is not tolerant of the inconveniences associated with farming or other agriculturally related uses such as dairies, feed lots, poultry operations, and

other similar animal confinement facilities that are allowed in areas of the County designated and zoned for such uses.

Substandard residential parcels in areas of the County designated and zoned for agricultural uses creates incompatibility between agricultural and residential land uses. This incompatibility would negatively impact farming and other agriculturally related uses and may eventually result in removal of adjacent lands from agricultural use.

Additionally, cancellation of the Williamson Act contract to create the proposed substandard residential parcel may set a precedent for other landowners to create similar substandard residential parcels in the area, which would compound the incompatibility between agricultural and residential land uses in an area of the County designated and zoned for farming and other agriculturally related uses.

Based on the above discussion, staff believes the proposed cancellation could result in the removal of adjacent lands from agricultural use and therefore, Finding No. 2 cannot be made.

3. *That the cancellation is for an alternative use that is consistent with the provisions of the County General Plan.*

The existing 29.48-acre parcel is designated as Agricultural in the County General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The Agricultural and Land Use Element of the General Plan sets goals and policies promoting long-term conservation of productive agricultural lands. General Plan Policy LU-A.1 states that the County shall maintain agriculturally designated areas for agricultural use and shall direct urban growth to cities and unincorporated communities. General Plan Policy LU-A.6 states that the County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture. General Plan Policy LU-A.7 states that the County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that such parcels would be less viable economic farming units and the resultant increase in residential density would increase the potential for conflict with normal agricultural practices on adjacent parcels. General Plan Policy LU-A.12 requires protection of agricultural activities from encroachment of incompatible uses. General Plan Policy LU-A.13 states that the County shall protect agricultural operations from conflicts with non-agricultural uses and protection of agricultural activities from encroachment of incompatible uses.

This project entails creation of a 2.51-acre substandard parcel for residential use. Finding No. 3 requires that the alternative use to be consistent with the County General Plan polices. The General Plan polices cited above, are aimed at maintaining agriculturally designated areas for agricultural use, to protect agricultural operations from conflicts with non-agricultural uses, to deny requests to create parcels less than the minimum parcel size because the increase in residential density would also increase the potential for conflict with normal agricultural practices on adjacent parcels, and to protect agricultural areas from encroachment of incompatible uses.

The County includes unincorporated communities that are planned to accommodate County residents who wish to reside in the unincorporated County areas without negatively impacting farming and other agricultural operations that are allowed in agricultural areas of the County.

Staff believes the proposed alternative use to create a substandard parcel for residential use in an area of the County that is designated and zoned for agricultural uses is inconsistent with the General Plan policies LU-A.1, LU-A.6, LU-A.7, LU-A.12, and LU-A.13 as discussed above.

Based on the above discussion, staff believes that the proposed alternative use is not consistent with the County General Plan policies, and therefore believes Finding No. 3 cannot be made.

4. *That the cancellation will not result in discontinuous patterns of urban development.*

The existing 29.48-acre parcel is located approximately two miles northeast of the nearest city limits of the City of Fowler in the unincorporated area of Fresno County. The proposal to create the proposed 2.5-acre parcel in and of itself does not result in a discontinuous pattern of urban development.

Based on the above discussion, Department staff believes Finding No. 4 can be made.

5. *That there is no proximate non-contracted land that is both available and suitable for the use to which it is proposed that the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.*

County staff generated a list of non-contracted parcels approximately 2.51 acres in size located within a 5-mile radius of the subject parcel and utilized online tools to determine whether the parcels are for sale. In this case, none of the approximately 2.51-acre parcels within a 5-mile radius were for sale.

Based on staff's research, none of the non-contracted parcels of similar size within a 5-mile radius were available for the alternative use, and therefore Finding No. 5 can be made.

ENVIRONMENTAL DETERMINATION:

Initial Study (IS) No. 8088 prepared for Zone Variance Application No. 4108 addresses the potential environmental impacts associated with the proposed project. The IS has been completed and was circulated for agency and public review on January 25, 2022 and is provided to the Committee with this staff report.

CONCLUSION:

Based upon staff's analysis of the proposed alternative use against the consistency Findings listed under Government Code Section 51282(b), staff does not believe that Findings No. 2 and 3 can be made, and therefore recommends that the Agricultural Land Conservation Committee

recommend that the Board of Supervisors deny the petition for partial cancellation of Agricultural Land Conservation Contract No. 378.

However, if the Committee believes that the required Findings can be made, the Committee needs to articulate how Findings No. 2 and 3 can be made and may recommend that the Board of Supervisors approve the partial cancellation of Agricultural Land Conservation Contract No. 378, subject to the following conditions:

1. The applicant shall obtain the necessary land use approvals to create the proposed 2.51-acre parcel.
2. The applicant shall pay the Cancellation Fee in the amount of \$18,750.00 as determined by the County Assessor and certified by the Board of Supervisors for issuance of a Certificate of Cancellation by the Board. The Cancellation Fee shall be paid, and a Certificate of Cancellation issued prior to recording the Parcel Map to create the proposed 2.51-acre parcel. If the Cancellation Fee is not paid within one year of issuance of the Tentative Certificate of Cancellation, the Cancellation Fee must be re-computed by the Assessor's Office and re-certified by the Board of Supervisors.

LOCATION MAP

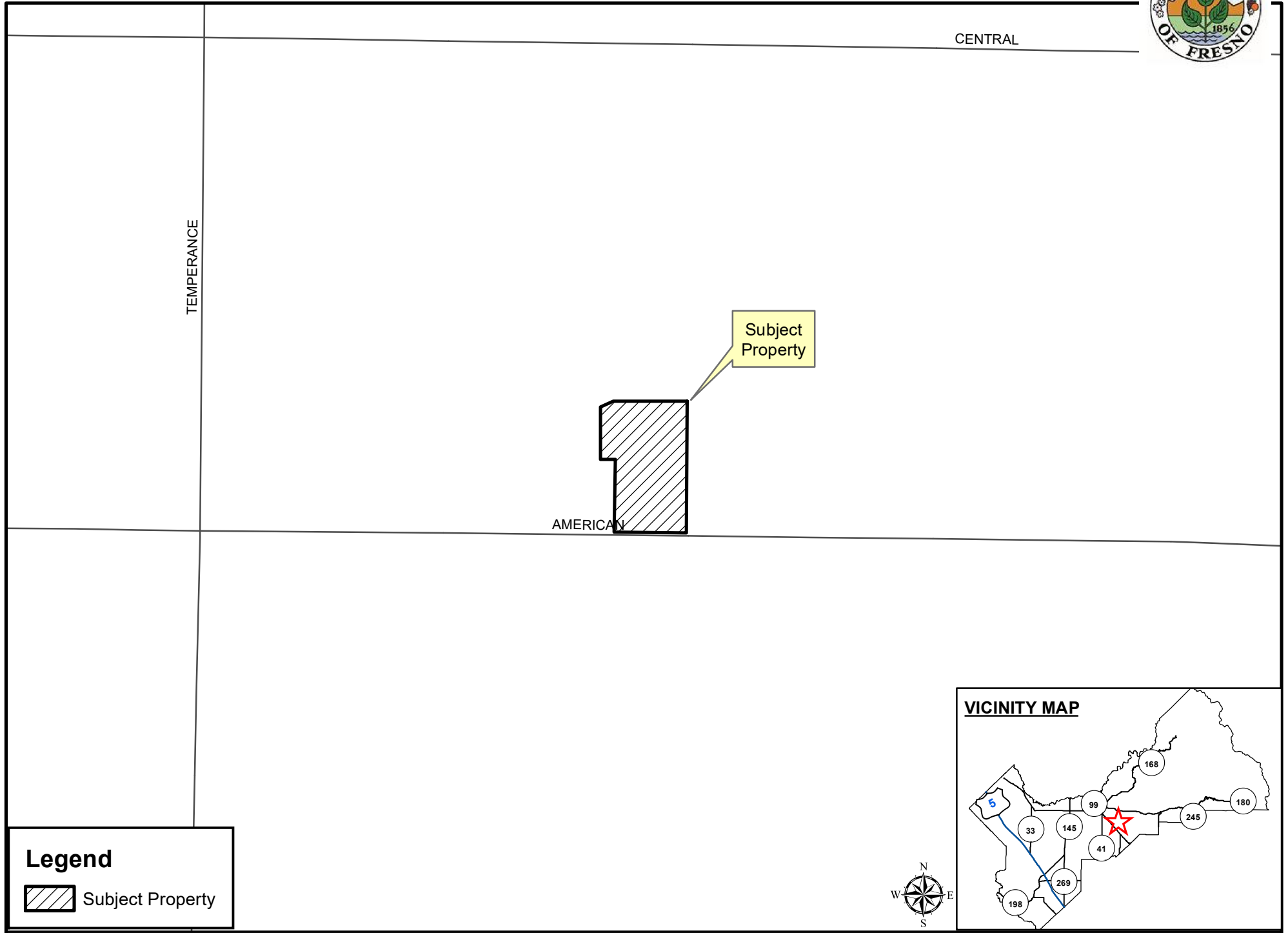
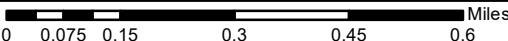
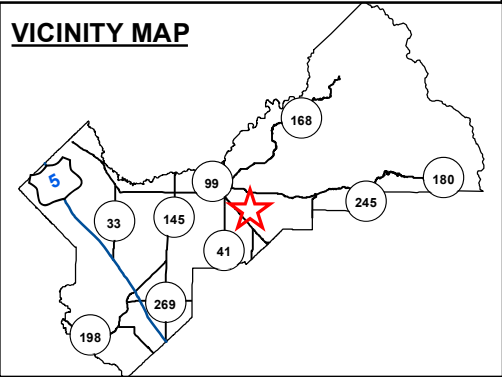


Exhibit "A"

Legend

 Subject Property

VICINITY MAP



EXISTING ZONING MAP

RLCC 1043

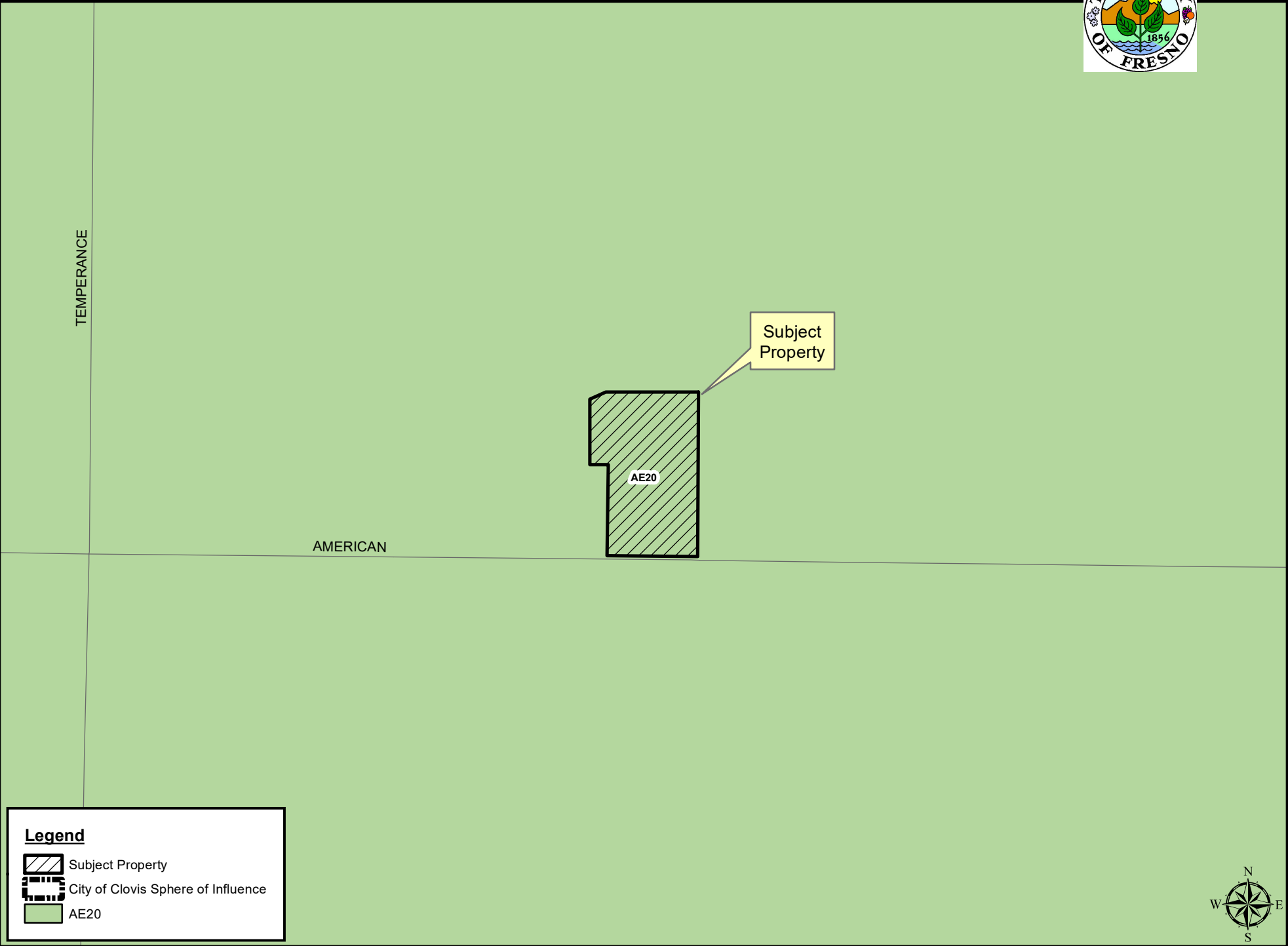





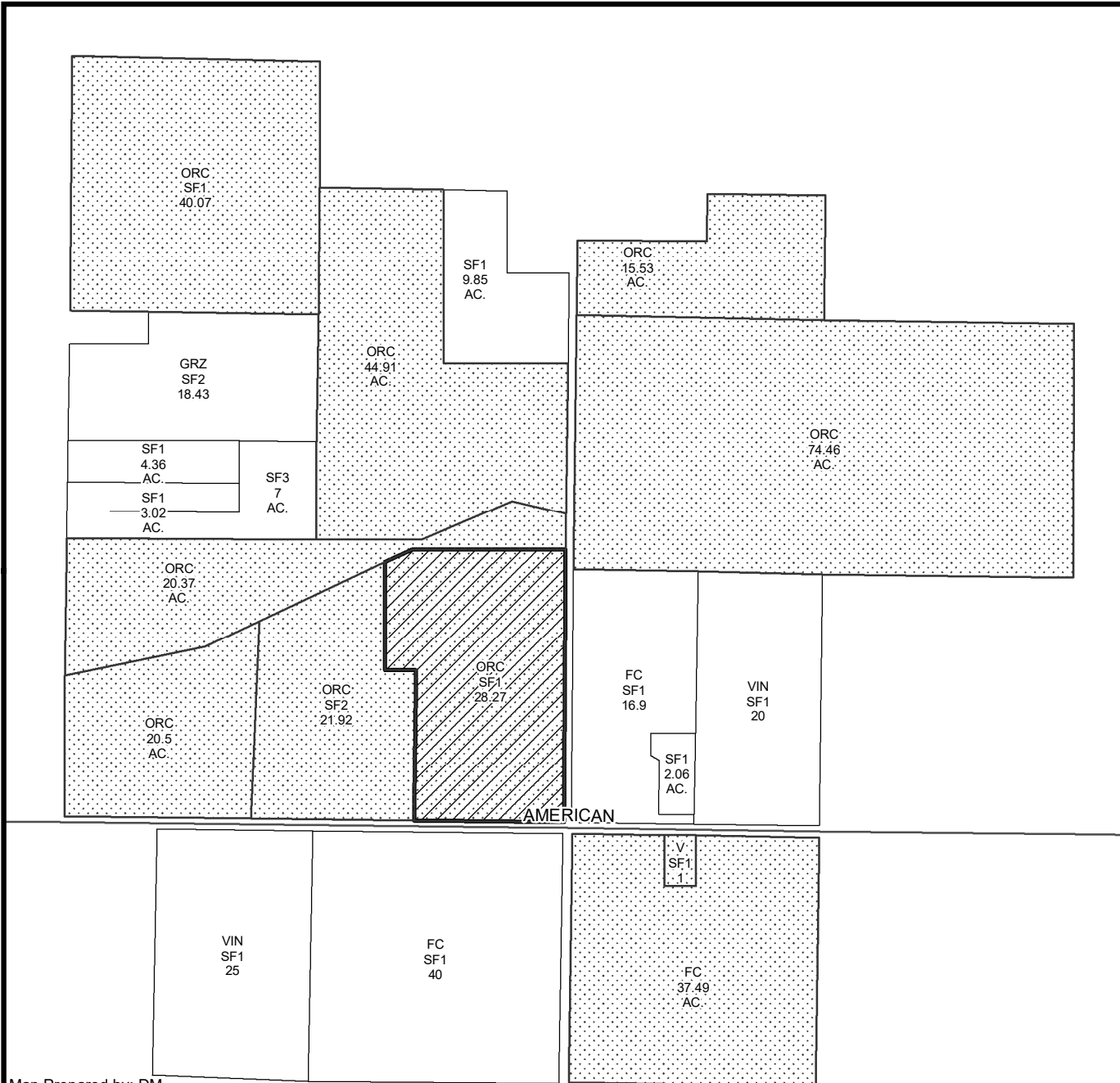
Exhibit "B"

Legend

-  Subject Property
-  City of Clovis Sphere of Influence
-  AE20



EXISTING LAND USE MAP

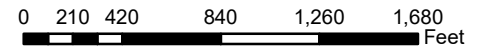


LEGEND

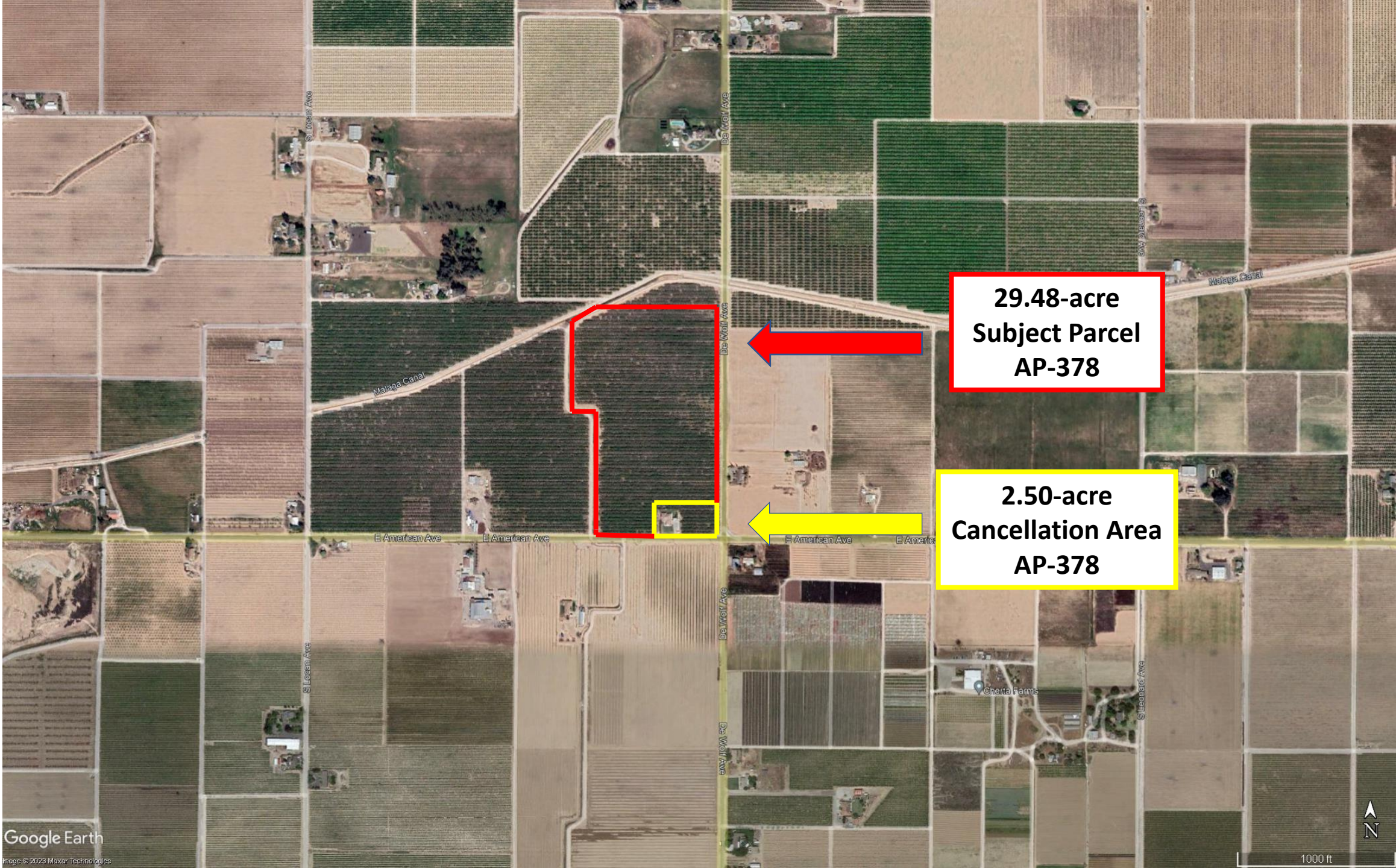
- FC - FIELD CROP
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- SF# - SINGLE FAMILY RESIDENCE
- V - VACANT
- VIN - VINEYARD

LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning
Development Services Division



**29.48-acre
Subject Parcel
AP-378**

**2.50-acre
Cancellation Area
AP-378**

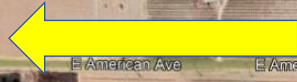
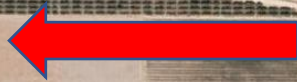


Exhibit "D"



Exhibit Map

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA. FEBRUARY 9, 2022

Section 35, Township 14 South, Range 21 East, Mount Diablo Base and Meridian,
Fresno County, California

Map Prepared by:



Owner and Applicant:

Boparai Farms, a California general partnership
7916 East American Avenue
Fowler, CA 93625

Source of Data:

Record of Survey Recorded December 8th, 2006
in Book 51 of Record of Surveys at Page 67, FCR

Total Parcel Area: Calculated per Record of Survey
map

Site Information:

Existing/Proposed Use: Agricultural

Existing Zoning: AE-20

APN: 331-061-67s

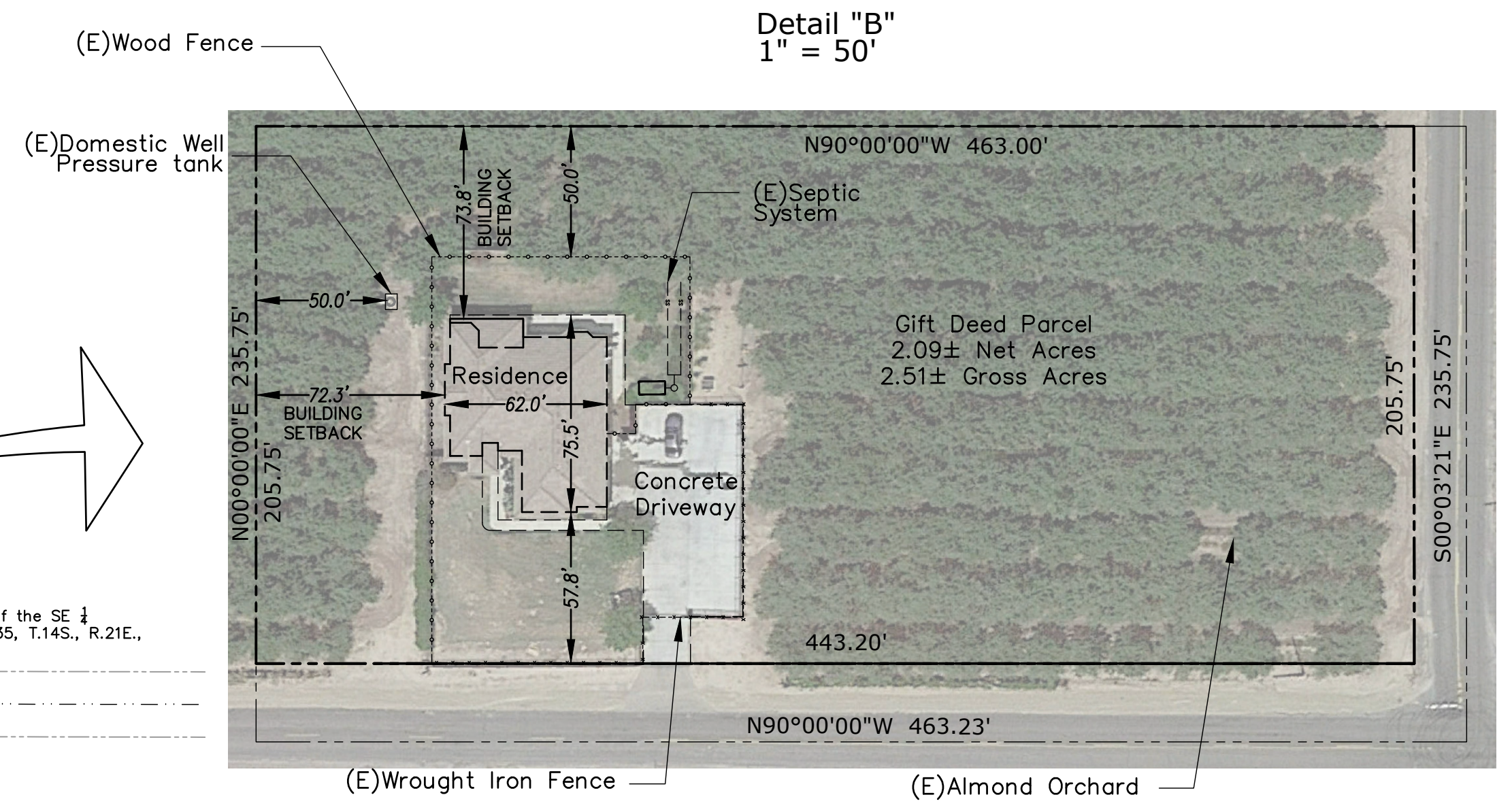
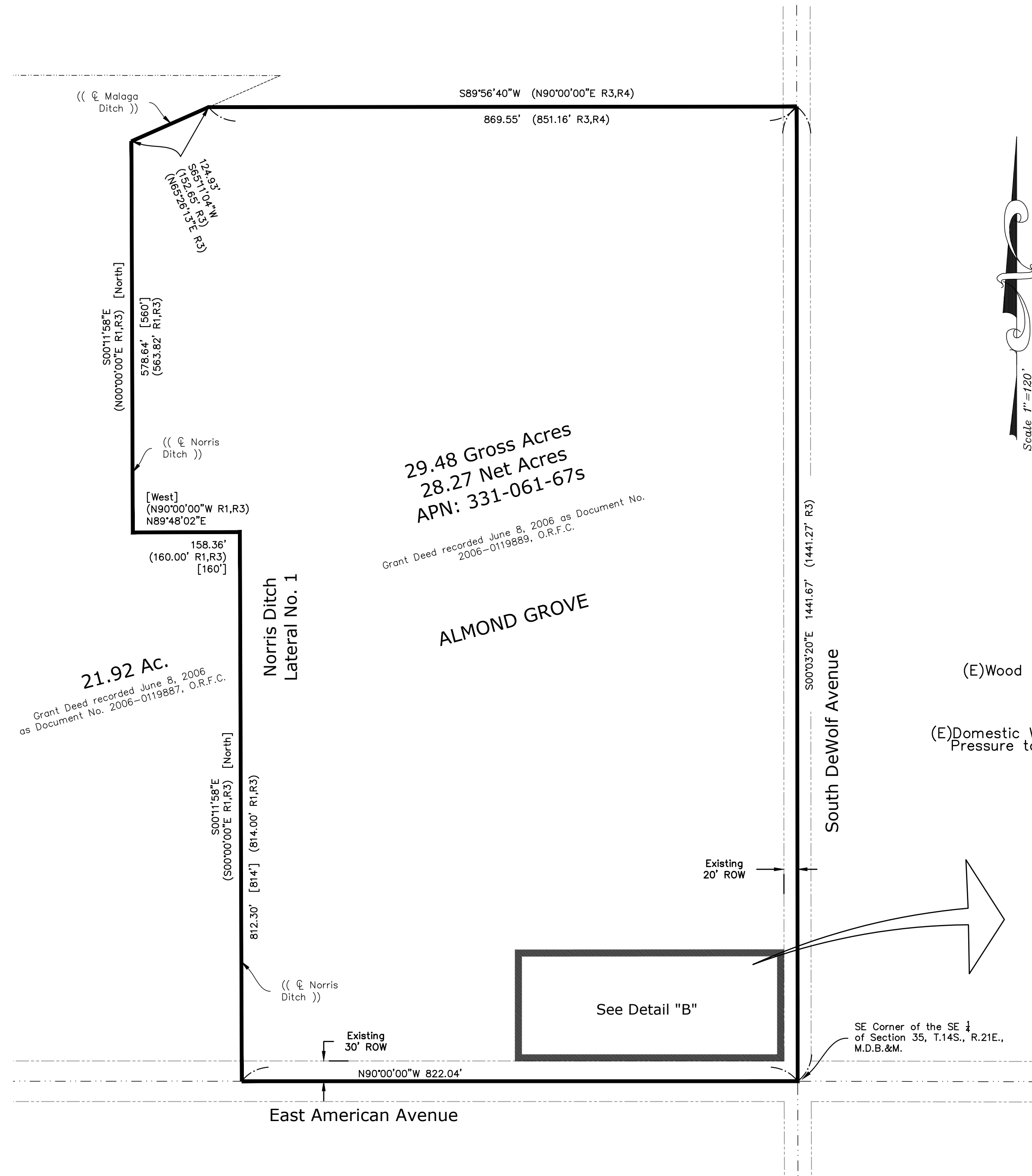


Exhibit "E"