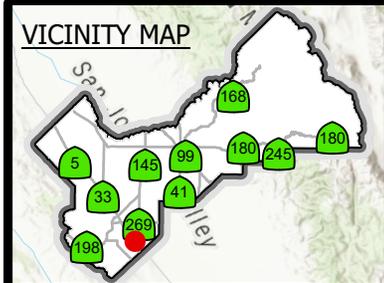
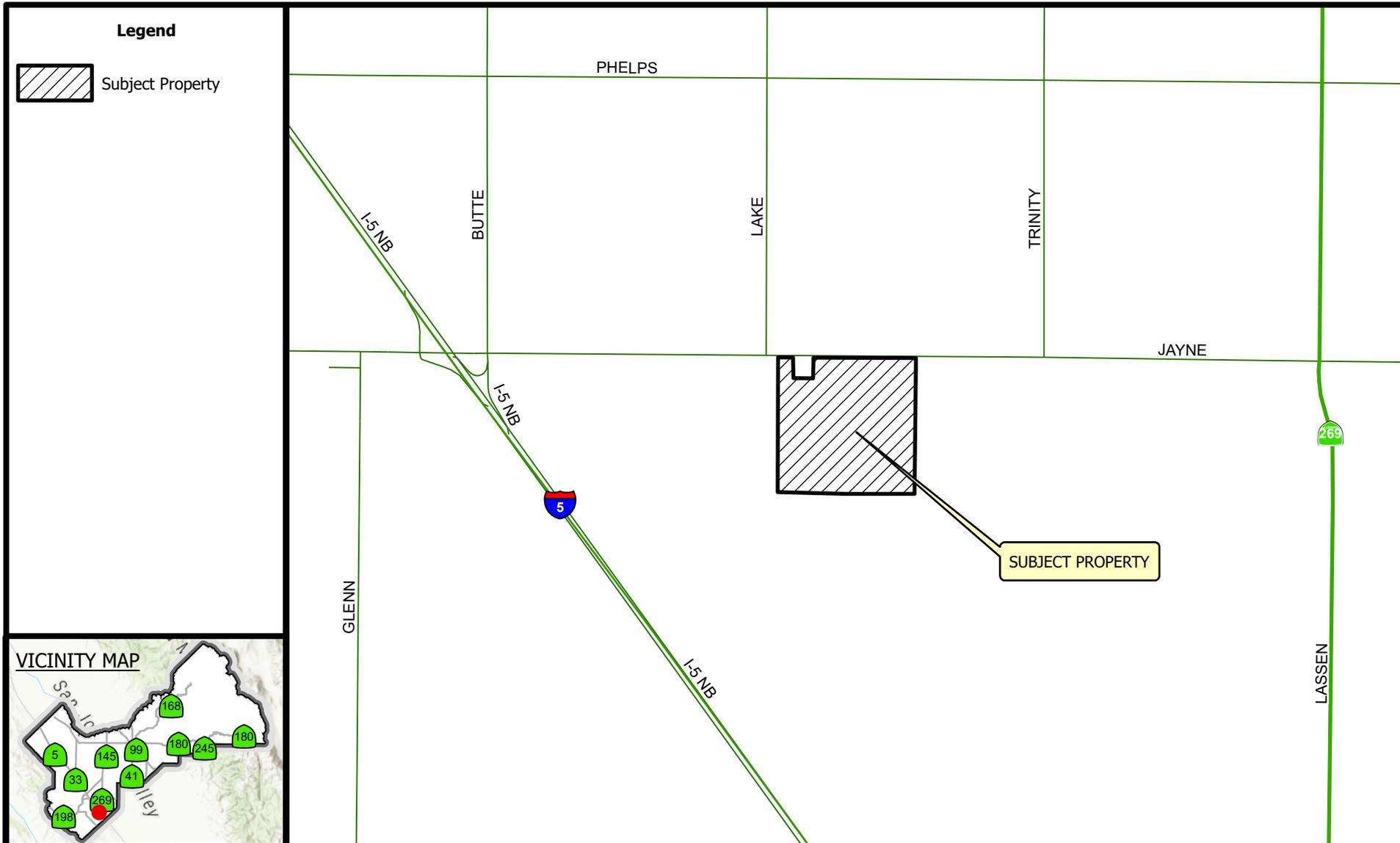


Attachment A

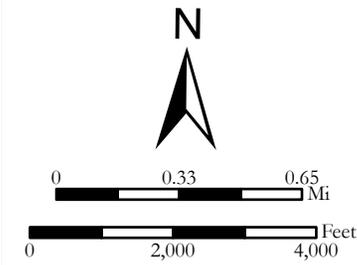


LOCATION MAP

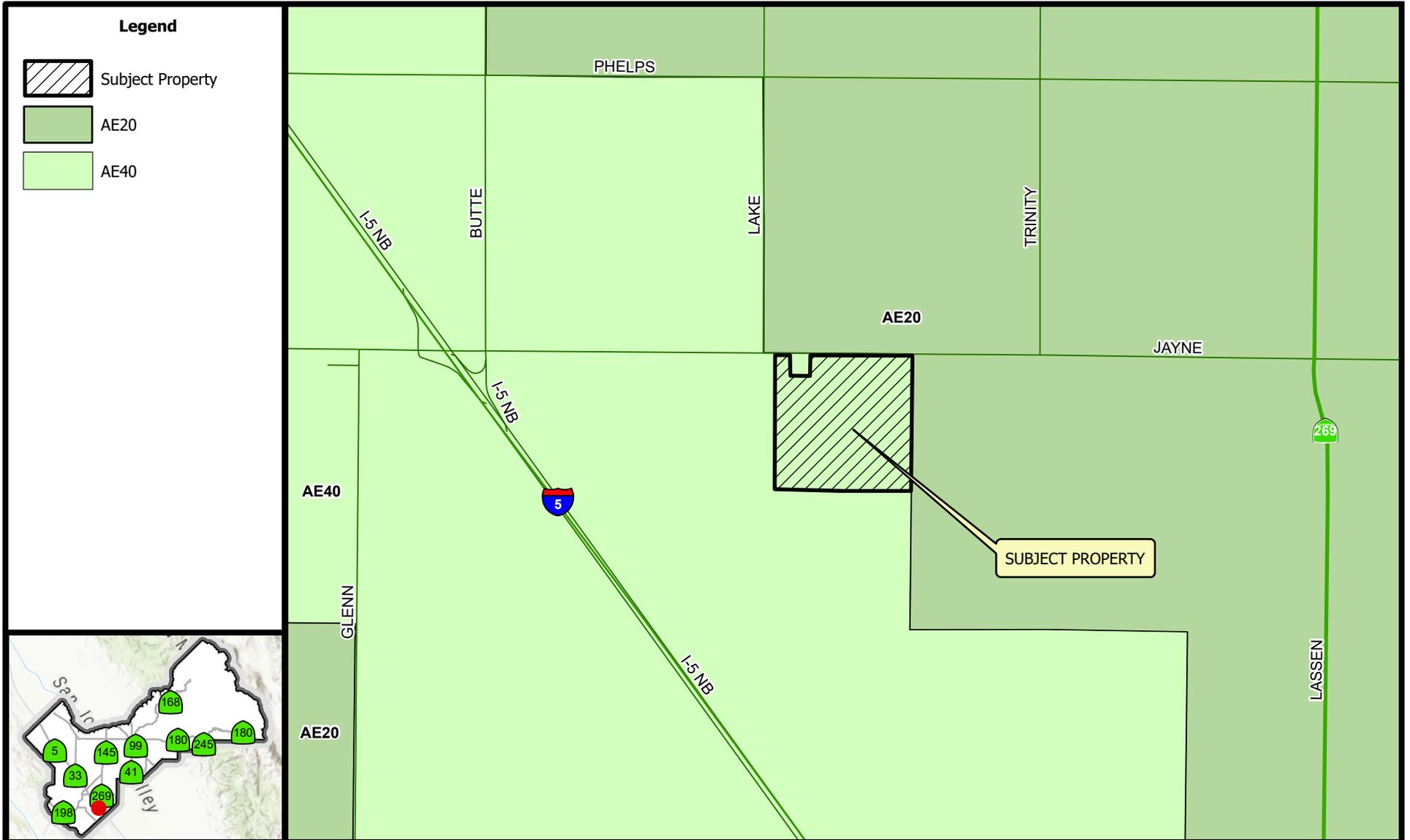
RLCC 1049

2023

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
Person Prepared by : chuwang
On Date : 11/16/2023

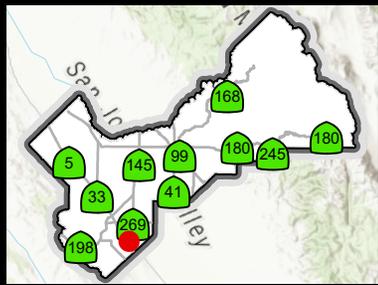


Attachment B



Legend

-  Subject Property
-  AE20
-  AE40

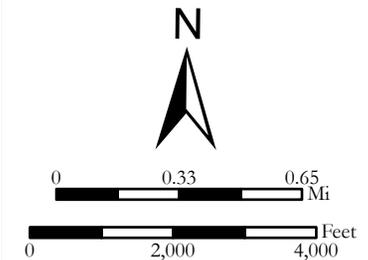


Existing Zoning Map

RLCC 1049
STR 4 - 21S / 17E

2023

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
Person Prepared by : chuang
On Date : 11/16/2023

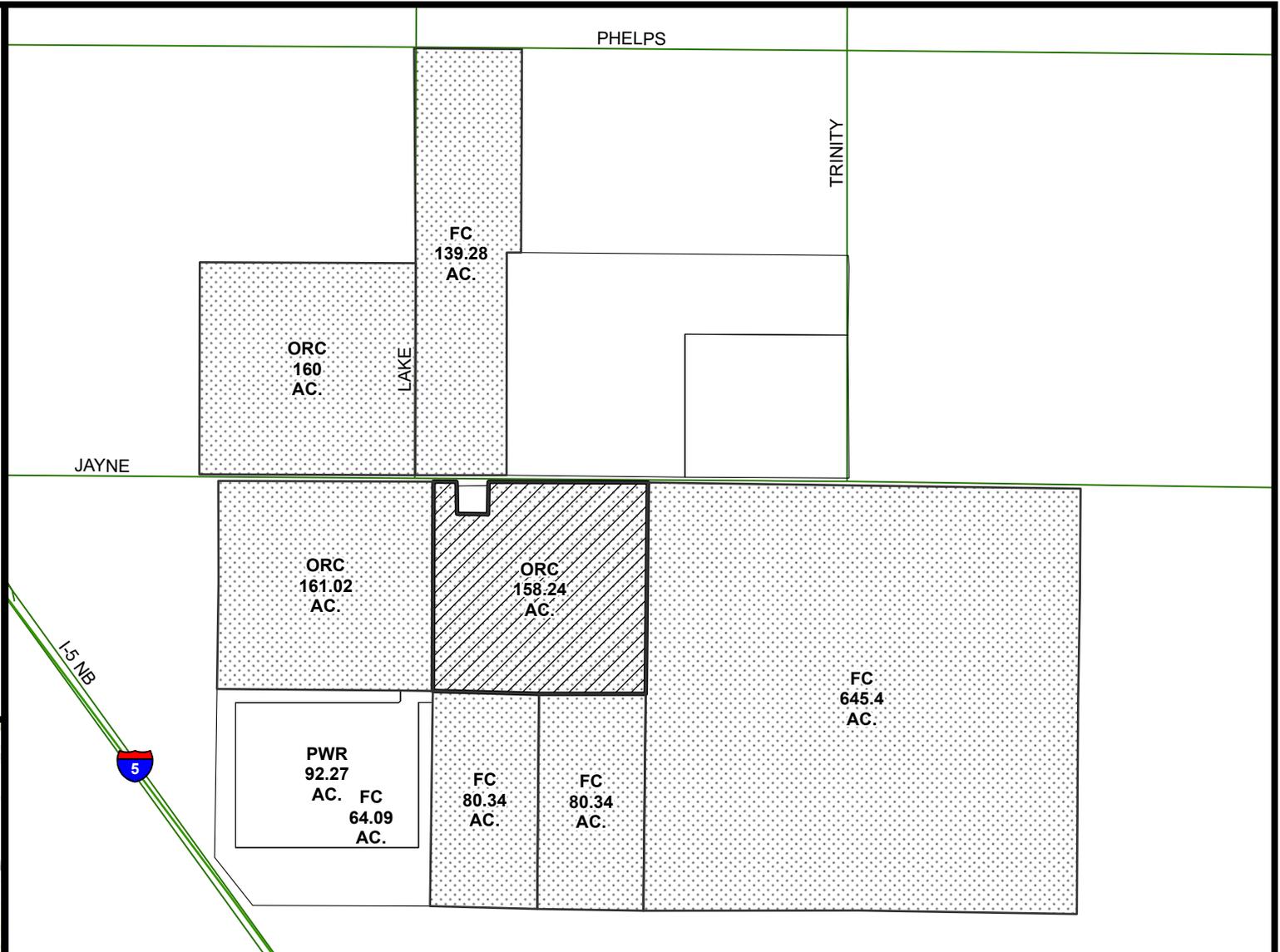
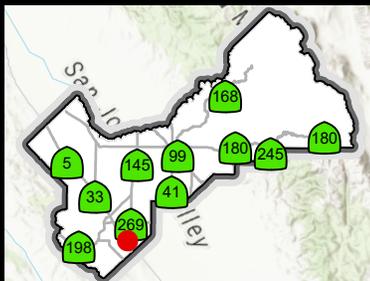


Attachment C

LEGEND:

-  Subject Property
-  Ag Contract Land

LEGEND
FC - FIELD CROP
ORC - ORCHARD
PWR - POWER GENERATION SITE
V - VACANT

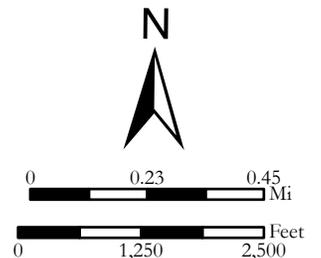


Existing Land Use Map

RLCC 1049

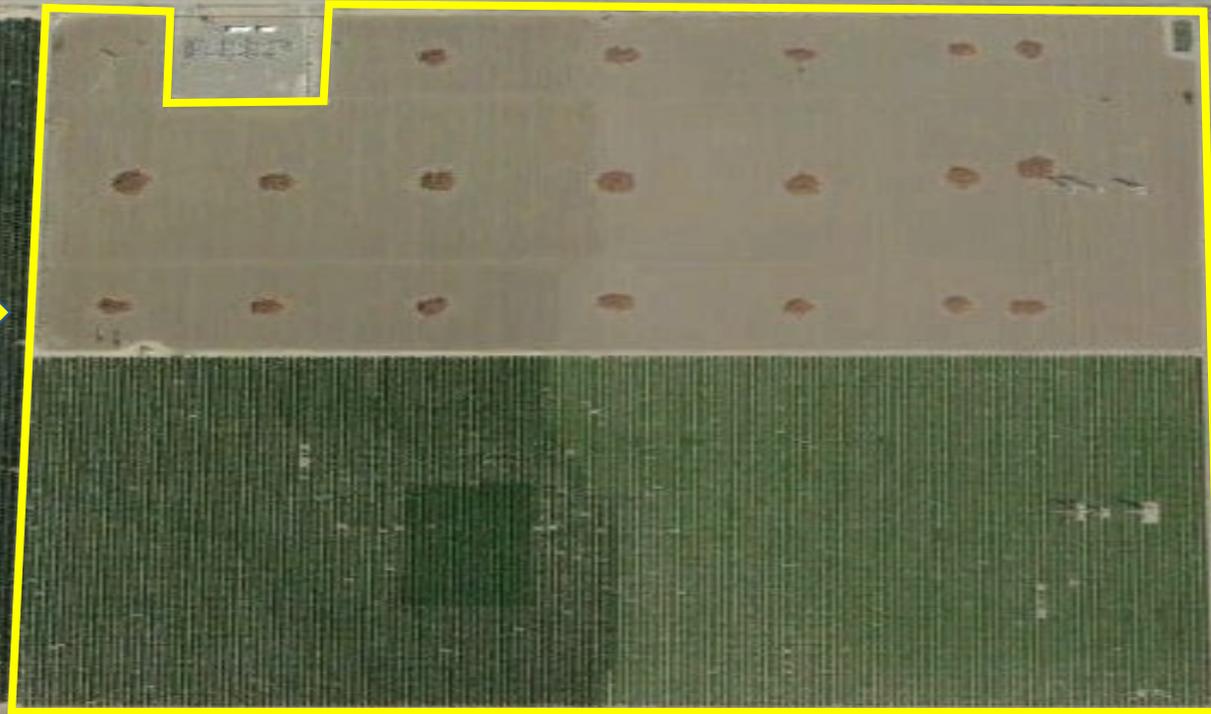
2023

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : chuvang
 On Date : 11/16/2023



Attachment D

160-acre
Cancellation
Area
AP 2068



Attachment F



INTER OFFICE MEMORANDUM

Fresno County Assessor's Office

DATE: February 20, 2024

TO: Fresno County Board of Supervisors

FROM: Paul Dictos, Assessor

Paul Dictos 3/13/24

SUBJECT: Cancellation Fees Portion of ALCC # 2068

Pursuant to Section 51283 (a) of the Government Code, the cancellation valuation of 158.24 acres, described in Exhibit A and further identified as Assessor's Parcel Number 085-040-58s, is hereby certified to be \$15,824,000.

The cancellation fees, as specified under Section 51283 (b) of the Government Code, would be twelve and one half percent of this figure, or \$1,978,000.

Attachment

Attachment F

Exhibit A

APN 085-040-58

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

THE NORTHEAST QUARTER OF FRACTIONAL SECTION 4, TOWNSHIP 21 SOUTH, RANGE 17 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION DEEDED TO PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION BY GRANT DEED RECORDED FEBRUARY 5, 2014, FILE NO. 2014-0015777, OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE EASTERLY 376.00 FEET OF THE WESTERLY 659.08 FEET OF THE NORTHERLY 405.00 FEET OF THE NORTHEAST ONE-QUARTER OF SAID FRACTIONAL SECTION 4.

EXCEPTING THEREFROM THE NORTHERLY 55.00 FEET THEREOF.

ALSO EXCEPTING THEREFROM ONE-HALF OF ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES SITUATED IN AND UNDER SAID LAND, AS RESERVED IN THE DEED FROM GRETCHEN DE LESPINASSE, FORMERLY MARGARETHE SUMPF TO GIFFEN, INC., A CALIFORNIA CORPORATION, DATED OCTOBER 17, 1969, RECORDED DECEMBER 17, 1969 AS DOCUMENT NO. 95332.

ALSO EXCEPTING THEREFROM ALL REMAINING OIL, GAS AND MINERALS AS RESERVED IN THE DEED FROM GIFFEN, INC. TO MORGAN MCCOLLOUGH, DATED MAY 30, 1974, RECORDED AUGUST 5, 1974 IN BOOK 6331 PAGE 186 OF OFFICIAL RECORDS, DOCUMENT NO. 58530.

CONTAINING 160 ACRES, MORE OR LESS.



DANIEL DRUMMOND L.S. 6333

MAY 11, 2023

DATED



Attachment G



County of Fresno

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

Agricultural Land Conservation Committee Staff Report Agenda Item No. 3 May 8, 2024

SUBJECT: Review and make recommendation to the Board of Supervisors regarding petition for **PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 2068 (RLCC NO. 1049)** to remove a 160.00-acre parcel from the Williamson Act program to establish a battery energy storage facility on the subject parcel as the alternative use.

LOCATION: The subject parcel is located on the south side of Jayne Avenue, between Interstate 5 and Highway 269, approximately 4 miles southwest of the nearest city limits of the City of Huron (APN 085-040-58S) (Sup. Dist.4).

OWNER/APPLICANT: Michael Dresick, Trustee

REPRESENTATIVE: Andrew Heymann, NextEra Energy Resources, LLC.

STAFF CONTACT: Alexander Pretzer, Planner
(559) 600-4205

Tawanda Mtunga, Principle Planner
(559) 600-4230

RECOMMENDATION:

Staff does not believe that Findings No. 2, No. 3, and No. 5 listed under Government Code Section 51282(b) can be made, and therefore recommends that the Agricultural Land Conservation Committee recommends that the Board of Supervisors deny the petition for partial cancellation of Agricultural Land Conservation Contract No. 2068.

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 for cancellation of the Williamson Act Contract No. 2068 was filed in conjunction with Unclassified Conditional Use Permit (UCUP) Application No. 3734 which proposes to develop the subject 160-acre parcel restricted by a Williamson Act contract as well as two 80.34-acre non-contracted parcels to the South of the subject 160-acre parcel into a battery

Attachment G

ALCC Agenda Item No. 3

May 8, 2024

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energy storage facility as the alternative use. The subject parcel subject to the Williamson Act contract is located in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District and is designated as Agricultural in the Fresno County adopted Coalinga Regional Plan. The Coalinga Regional Plan is consistent with the Fresno County General Plan. The petition is assigned Revision to Land Conservation Contract (RLCC) No. 1049

The Williamson Act Program limits land uses on contracted parcels to commercial agricultural operations and certain compatible uses adopted by the Board of Supervisors. The proposed battery energy storage facility is not a permitted or a compatible use of land enrolled in the Williamson Act program in Fresno County. Therefore, the applicant has submitted a petition to remove the 160-acre project site from the Williamson Act program through the cancellation process.

The 160-acre subject parcel is located on the south side of Jayne Avenue, between Interstate 5 and Highway 269, approximately 4 miles southwest of the nearest city limits of the City of Huron [see Location Map (Exhibit "A"), Existing Zoning Map (Exhibit "B"), Existing Land Use Map (Exhibit "C"), Aerial Photograph (Exhibit "D"), and proposed UCUP 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 the 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 file a notice of contract nonrenewal which allows the contract to expire at the end of the nine-year nonrenewal period. During the nine-year nonrenewal period, 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 state law has 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 nonrenewal has

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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.

The proposed petition is being processed under the provisions of Government Code Section 51282(a), which allows a landowner to petition the Board of Supervisors for cancellation of a contract as to all or any part of a parcel and 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 the findings listed under said Government Code Section. 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.*

On December 13, 2023, an executed Notice of Nonrenewal for Williamson Act Contract No. 2068 was accepted by the County Recorder for the 160.00 acres of land petitioned to be removed from the contract through RLCC No. 1049.

Based on the fact stated above, 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 subject 160-acre parcel is classified as Prime according to the National Resources Conservation Service. The subject parcel has been utilized as an orchard for production of citrus fruit. The parcels directly East and West of the subject parcel are actively farmed, the parcels directly North were previously removed from the Williamson Act contract and are being used as a solar generation facility and parcels directly South of the subject parcel are fallow land and are not under contract but are part of the proposed Unclassified Conditional Use Permit Application No. 3734.

The subject parcel receives an allocation of water from the Westland's Water District (District) for agricultural use. The District has stated that the applicant may be eligible to apply for and receive Municipal and Industrial water services.

The parcels surrounding the subject parcel are designated as Agricultural in the Fresno County adopted Coaling Regional Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size), and are being actively farmed except for a parcel to the north and a parcel to the southwest that are being utilized as solar generation facilities.

As previously mentioned, the subject 160-acre parcel has soil that is classified as "Prime" and receives irrigation water from the Westland's agricultural water service contract and therefore, the subject parcel is capable of being actively farmed, similar to other surrounding parcels. According to Government Code Section 51282(d), lack of

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landowner's interest in utilizing the subject parcel for agricultural use is not a sufficient reason for cancellation of the contract on a parcel. As previously noted, if a landowner wishes to change the use of his/her land the landowner can file a notice of contract non-renewal on the subject land which would allow land to continue to be used for agricultural uses until the contract expires.

Battery energy storage facilities are uses that are unrelated to farming and other agricultural uses for production of food or fiber that are allowed in the rural areas of the County that are designated and zoned for agricultural uses. As such, the proposed battery energy storage facility is not a use that is compatible with farming and other agricultural use. This land use incompatibility could result in the removal of adjacent lands from agricultural use. Moreover, removal of the subject parcel from the contract to allow the subject 160-acre parcel to be developed into a battery energy storage facilities, would set a precedent for similar petitions for removal of adjacent productive farmland from the contract to develop such parcels into solar electrical generation facilities or battery storage facilities as is evident from approval of the previous cancellation petitions thus compounding the loss of agricultural land in the area.

As stated in the Environmental Impact Report prepared for the proposed alternative use, this project is following a pattern established by other similar projects that have been approved in the vicinity of the subject parcel. As such, it is very likely that the cancellation of the Williamson Act Contract could result in other landowners submitting cancellation petitions for-removal of their lands from the Williamson Act due to the proximity to the PG&E substation as it can be seen from approval of previous cancellation petitions.

Based on the above discussion, staff believes the cancellation of the contract on the subject parcel 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 subject 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 County General Plan sets goals and policies promoting long-term conservation of productive agricultural lands.

Goal LU-A of the Agricultural and Land Use Element of the County General Plan promotes 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.

General Plan Policy LU-A.12 states that in adopting land use policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.

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Development of the subject parcel into a battery energy storage facility would allow encroachment of an incompatible use in an area designated and zoned for intensive farming and other agricultural related uses.

General Plan Policy LU-A.16 promotes the use of agricultural land preservation programs such as land trusts; conservation easements; Williamson Act contracts; the California Farmland Conservancy Program Fund; transfer of development rights, etc. to improve the competitive capabilities of farms and ranches, thereby ensuring long-term conservation of viable agricultural operations.

The cancellation petition proposes to remove a 160-acre parcel of land that has been enrolled in the Williamson Act program since 1970 to develop the parcel into a battery energy storage facility.

As previously stated, per Government Code Section 51282(d), the lack of the landowner's interest in utilizing the subject parcel for agricultural uses is not a sufficient reason for cancellation of the contract on a parcel of land. If the landowner is not interested in farming the subject parcel, the parcel could be sold or leased to an individual who is willing to continue farming the land.

Based on the above discussion, staff believes the proposed alternative use is not consistent with the County General Plan Goal LU-A. and policies LU-A.12 and LU-A.16 and therefore, Finding No. 3 cannot be made.

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

The 160-acre parcel is located approximately four miles southwest of the nearest city limits of the City of Huron. The proposed petition to remove the subject 160-acre parcel from the Williamson Act contract to develop the site into a battery energy storage facility does not constitute a pattern of discontinuous urban development.

Based on the above discussion, 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.*

Staff generated a list of non-contracted parcels approximately 160.00 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. Staff identified 15 non-contracted parcels located within a 5-mile radius. The alternative site analysis provided by the applicant in the Environmental Impact Report prepared for this project identified financial burdens associated with locating the project on alternative sites as the primary consideration as to why these non-contracted parcels were not suitable for the proposed alternative use. The analysis did not provide any analysis as to why the alternative non-contracted sites were not available or suitable for the proposed alternative use. The cost of transmitting the electricity produced by the solar electrical generation facility to the proposed battery

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energy storage facility does not establish the unsuitability of the identified non-contracted parcel to accommodate the proposed alternative use.

Based on staff's research 15 non-contracted parcels of similar size were potentially available and suitable for the proposed alternative use, and therefore Finding No. 5 cannot be made.

ENVIRONMENTAL REVIEW:

A Draft Environmental Impact Report (DEIR) No. 8189 that has been prepared for UCUP No. 3734, among other things, addresses the potential environmental impacts associated with the cancellation of the Williamson Act contract on the subject 160-acre parcel. The EIR has been completed and was circulated for agency review on September 20, 2023 and is provided to the Committee with this staff report.

OTHER REVIEWING AGENCIES:

County staff sent the proposed cancellation petition to the County Assessor's office for determination of the Cancellation Fee for the 160-acres subject to the proposed petition. The Cancellation Fee as determined by the Assessor's office is \$1,978,000.00 [See Assessor Memo (Exhibit F)].

CONCLUSION:

Based upon staff's analysis of the proposed cancellation petition against the Findings listed under Government Code Section 51282(b), staff does not believe that Findings No. 2, No. 3, and No. 5 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. 1152.

However, if the Committee believes that all of the required Findings under Government Code Section 51282(b) can be made, the Committee needs to articulate how Findings No. 2, No. 3, and No. 5 can be made and may recommend that the Board of Supervisors approve the cancellation of Agricultural Land Conservation Contract No. 2068, subject to the following conditions:

1. The landowner shall obtain the necessary land use approvals, including Unclassified Conditional Use Permit No. 3734, to construct and operate a battery energy storage facility on the subject parcel.
2. The applicant shall pay the Cancellation Fee in the amount of \$1,978,000.00 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 issuance of any grading or building permit for the battery energy storage facility. 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