



Inter Office Memo

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

DATE: May 18, 2017

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12649 - VARIANCE APPLICATION NO. 4016

APPLICANT/

OWNER: Mark Yang

REQUEST: Allow creation of a 2.42-acre parcel with 160 feet of public road frontage (minimum 165 feet required) and a 2.35-acre parcel with 160 feet of public road frontage (minimum 165 feet required) from an existing 4.77-acre parcel in the R-R-5 (Rural Residential, five-acre minimum parcel size) Zone District, and allow a 15-foot side-yard setback (20-foot minimum required) to accommodate an existing single-family residence on the proposed 2.35-acre parcel.

LOCATION: The subject property is located on the south side of Herndon Avenue, between McCall and Del Rey Avenues, approximately two miles northeast of the nearest city limits of the City of Clovis (10495 E. Herndon Avenue, 10499 E. Herndon Avenue) (SUP. DIST. 5) (APN 308-240-03).

PLANNING COMMISSION ACTION:

At its hearing of May 18, 2017, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Mendes and seconded by Commissioner Eubanks to adopt the required Findings for approval of a Variance, stating that Findings 1 and 2 could be made, as the subject parcel is approximately five acres amongst parcels that are approximately two to two-and-a-half acres in size, and approval would provide a substantial property right in that the property could be passed down to family members, and move to approve Variance No. 4016 subject to conditions listed in the Planning Commission Staff Report.

This motion failed on the following vote:

VOTING: Yes: Commissioners Mendes and Eubanks

No: Commissioners Borba, Chatha and Ede

Absent: Commissioners Abrahamian, Lawson, Vallis and Woolf

Abstain: None

RESOLUTION NO. 12649

A subsequent motion was made by Commissioner Borba and seconded by Commissioner Ede to deny Variance No. 4016 based on the inability to make Finding 1 as described in the Planning Commission Staff Report.

This motion passed on the following vote:

VOTING: Yes: Commissioners Borba, Ede and Chatha
 No: Commissioners Eubanks and Mendes
 Absent: Commissioners Abrahamian, Lawson, Vallis and Woolf
 Abstain: None

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

By:



William M. Kettler, Manager
Development Services Division

WMK:ksn
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Attachments

RESOLUTION NO. 12649

EXHIBIT A

Variance Application No. 4016

- Staff: The Fresno County Planning Commission considered the Staff Report dated May 18, 2017, and heard a summary presentation by staff.
- Applicant: The Applicant did not concur with the Staff Report and the recommended Conditions. He described the project and offered the following information:
- My parents purchased the existing parcel in 1984 and gave the property to me in 2001 through a Gift Deed.
 - In 2004, a second residence was permitted on the subject parcel and there are no plans to establish any additional residences on the proposed parcels.
 - I want to divide the existing property in half in order to retain my house and return half of the existing property with one of the existing homes to my parents.
 - There are no plans to sell the proposed parcels or transfer ownership to someone outside of our family.
- Others: No other individuals presented information in support of or in opposition to the application.
- Correspondence: No letters were presented to the Planning Commission in support of the application.
- Three emails received by staff, one listed as anonymous, in opposition to the application were presented to the Planning Commission.

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EXHIBIT "B"

ATTACHMENT
TO
AGENDA ITEM

FISCAL IMPACT STATEMENT

Variance Application No. 4016

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

Variance Application:	\$ 6,049.00 ¹
Health Department Review:	365.00 ²
Preliminary Environmental Review:	<u>259.00³</u>
Total Fees Collected	\$ <u>6,673.00</u>

¹ Includes project routing, coordination with reviewing agencies, preparation and incorporation of analysis into Staff Report.
² Review of proposal by the Department of Public Health, Environmental Health Division to provide comments.
³ Review proposal to provide appropriate California Environmental Quality Act (CEQA) Exemption and include documentation for project file.



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 4 May 18, 2017

SUBJECT: Variance Application No. 4016

Allow creation of a 2.42-acre parcel with 160 feet of public road frontage (minimum 165 feet required) and a 2.35-acre parcel with 160 feet of public road frontage (minimum 165 feet required) from an existing 4.77-acre parcel in the R-R-5 (Rural Residential, five-acre minimum parcel size) Zone District, and allow a 15-foot side-yard setback (20-foot minimum required) to accommodate an existing single-family residence on the proposed 2.35-acre parcel.

LOCATION: The subject property is located on the south side of Herndon Avenue, between McCall and Del Rey Avenues, approximately two miles northeast of the nearest city limits of the City of Clovis (10495 E. Herndon Avenue, 10499 E. Herndon Avenue) (SUP. DIST. 5) (APN 308-240-03).

OWNER/APPLICANT: Mark Yang

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

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Deny Variance Application No. 4016; 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. Assessor's Parcel Map
6. Applicant's Submitted Findings
7. Site Plan

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Northeast Rural Residential	No change
Zoning	R-R-5 (Rural Residential, five-acre minimum parcel size)	No change
Parcel Size	4.77 acres	2.42-acre parcel 2.35-acre parcel
Project Site	4.77-acre parcel; 20-foot-wide access easement; 2,000 square-foot single-family residence with 400 square-foot attached garage and septic system; 2,855 square-foot single-family residence with 737 square-foot attached garage and septic system; 375 square-foot storage building (identified as "Wood Shed" on Site Plan); one water well	<u>2.42-acre parcel:</u> 160 feet of public road frontage (minimum 165 feet required); 2,000 square-foot single-family residence with 400 square-foot attached garage and septic system; 375 square-foot storage building (identified as "Wood Shed" on Site Plan) <u>2.35-acre parcel:</u> 160 feet of public road frontage (minimum 165 feet required); 20-foot-wide access easement; 2,855 square-foot single-family residence with 737 square-foot attached garage and septic system; water well
Structural Improvements	2,000 square-foot single-family residence with 400 square-foot attached garage;	<u>2.42-acre parcel:</u> 2,000 square-foot single-family residence with 400

Criteria	Existing	Proposed
	2,855 square-foot single-family residence with 737 square-foot attached garage; 375 square-foot storage building (identified as "Wood Shed" on Site Plan)	square-foot attached garage; 375 square-foot storage building (identified as "Wood Shed" on Site Plan) <u>2.35-acre parcel:</u> 2,855 square-foot single-family residence with 737 square-foot attached garage
Nearest Residence	Approximately 24 feet east of the eastern property line	Approximately 24 feet east of the eastern property line of proposed 2.42-acre parcel
Surrounding Development	Residential and agricultural land uses dispersed throughout area	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential traffic	No change
Lighting	Residential lighting	No change
Hours of Operation	N/A	N/A

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

ENVIRONMENTAL DETERMINATION:

It has been determined pursuant to Section 15061.b.3 of the California Environmental Quality Act (CEQA) Guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 43 property owners within 1,320 feet of the subject property, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

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

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

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

BACKGROUND INFORMATION:

This proposal entails a request to allow creation of a 2.42-acre parcel and a 2.35-acre parcel from an existing 4.77-acre parcel where a five-acre minimum parcel size is required. Additionally, each proposed parcel will have 160 feet of road frontage, whereas a minimum 165 feet of road frontage is required. Further, an existing single-family residence that would be located on the proposed 2.35-acre parcel will encroach 5 feet into a required side-yard setback.

According to the Variance Findings provided for this proposal, the Applicant desires to create separate parcels for each of the existing single-family residences for estate planning purposes.

The existing 4.77-acre parcel was created as Lot No. 10 and Lot No. 11 of the Scranton Calimyrna Tract which was recorded on April 6, 1914. On June 8, 1960, the subject property and surrounding area were Zoned A-1 (Agricultural), which required a 6,000 square-foot minimum parcel size and at least 60 feet of road frontage at that time. Subsequently, on December 19, 1968, the A-1 Zone District was amended to require a 100,000 square-foot minimum parcel size, and was further amended on May 15, 1973 to require at least 165 feet of road frontage.

On March 8, 1977, the subject property and surrounding area was rezoned from A-1 to R-R (Rural Residential, two-acre minimum parcel size) by means of Amendment Application No. 2898, which was initiated by the County. Further, on August 14, 1978, the subject property and surrounding area was rezoned from R-R to R-R-5 (Rural Residential, five-acre minimum parcel size) by means of Amendment Application No. 3034, which was also initiated by the County based on concerns expressed by area residents regarding additional parcelization and groundwater overdraft.

On February 23, 1988, permits were issued to allow construction of a 2,000 square-foot single-family residence with 400 square-foot attached garage and septic system on the subject 4.77-acre parcel.

On August 11, 2004, the approval of Director Review and Approval (DRA) No. 3562 designated the existing 2,000 square-foot single-family residence as a permanent secondary residence on the subject 4.77-acre parcel, and authorized construction of a 2,855 square-foot single-family residence with 737 square-foot attached garage and septic system as the primary residence on said property. Subsequently, on November 18, 2004, building permits were issued for construction of the 2,855 square-foot single-family residence.

There have been no other Variance applications filed within a mile of the subject property to request deviations from the R-R-5 Zone District minimum parcel size requirement or setback requirements; however, there have been two other Variance applications filed within a mile of the subject property requesting reduced road frontage requirements in R-R Zone Districts. The following table provides a brief summary of each of those Variance requests, staff recommendations, and final actions:

Application/Request	Date of Action	Staff Recommendation	Final Action
VA No. 2892: Allow creation of a 5.8-acre parcel without road frontage and a 6.1-acre parcel without road frontage in the R-R-5 Zone District	2/14/1985	Deferred to Planning Commission	Approved by Planning Commission
VA No. 3068: Allow creation of 17 two-acre parcels without road frontage in the R-R Zone District	3/12/1987	Approval	Approved by Planning Commission

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

DISCUSSION:

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

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

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	<u>2.42-acre parcel:</u> Front (north property line): 129 feet Side (east property line): 41 feet Side (west property line): 42 feet Rear (south property line): 270 feet <u>2.35-acre parcel:</u> Front (north property line): 122 feet Side (east property line): 15 feet Side (west property line): 45 feet Rear (south property line): 240 feet	No (existing 2,855 square-foot single-family residence to be located on the proposed 2.35-acre parcel will encroach 5 feet into required side-yard setback) All other setback requirements satisfied
Parking	One parking space for each residence	<u>2.42-acre parcel:</u> Existing 400 square-foot attached garage	Yes

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
		<u>2.35-acre parcel:</u> Existing 737 square-foot attached garage	
Lot Coverage	No requirement	No requirement	N/A
Separation Between Buildings	Six feet minimum (75 feet minimum between human habitations and structures utilized to house animals)	<u>2.42-acre parcel:</u> N/A (no new development proposed) <u>2.35-acre parcel:</u> N/A (no new development proposed)	<u>2.42-acre parcel:</u> N/A (no new development proposed) <u>2.35-acre parcel:</u> N/A (no new development proposed)
Wall Requirements	No requirement	No requirement	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

Reviewing Agencies/Department Comments Regarding Site Adequacy:

Zoning Section of the Fresno County Department of Public Works and Planning: The R-R-5 Zone District requires at least 165 feet of road frontage for the creation of new parcels, and a 20-foot minimum side-yard setback is also required in the R-R-5 Zone District. Therefore, a Variance is required to allow exceptions to the Zoning Ordinance to create parcels with less than 165 feet of road frontage and to authorize a 15-foot side-yard setback for an existing single-family residence located on the proposed 2.35-acre parcel. Additionally, there are no permit records for the 375 square-foot storage building (identified as "Wood Shed" on Site Plan) located on the proposed 2.42-acre parcel. As such, construction plans for this unpermitted structure shall be submitted to the Department of Public Works and Planning for review and approval, and any required building permits shall be obtained for the unpermitted structure prior to recordation of the Parcel Map that is required to effect the parcelization, should the subject Variance request be approved. This mandatory requirement has been included as a Project Note.

Analysis:

In support of Finding 1, the Applicant states that two single-family residences have been established on the single 4.77-acre parcel, which could lead to sensitive legal issues in the future with regard to estate planning.

In support of Finding 2, the Applicant states that this Variance will allow separate ownership of each existing single-family residence. Additionally, the parcelization proposed through this Variance request is similar to existing parcelization in the surrounding area, such as the Blackhawk residential development.

With regard to Finding 1, issues pertaining to estate planning are matters of interpersonal circumstance and are not a physical characteristic of the subject property. Staff is unable to determine, through either the Applicant's Findings, existing property information or the proposed parcel configurations that an exceptional or extraordinary situation exists that supports the need for the requested Variance. The existing 4.77-acre parcel has flat topography, and no physical characteristics of the land are coterminous with the proposed property lines. Staff does acknowledge that prior to August 14, 1978 (rezoning), the subject property could have been divided into two parcels at least two acres in size as a matter of right.

With regard to Finding 2, staff acknowledges that there are other parcels in the vicinity of the proposal that are smaller than five acres, including the Blackhawk Country Estates residential subdivision (Tract No. 2803) which was authorized to have 17 two-acre lots without road frontage by means of VA No. 3068. However, a Variance for minimum parcel size was not required for Tract No. 2803, as said development is located in the R-R (Rural Residential, two-acre minimum parcel size) Zone District. Further, other existing parcels in the area that are similar to the subject proposal with regard to parcel size are either located in the R-R (Rural Residential, two-acre minimum parcel size) Zone District or were created prior to the current R-R-5 Zoning. Additionally, denial of this Variance request would not deprive the Applicant of any right enjoyed by other property owners in the R-R-5 Zone District, since all property owners in said District are subject to the same Development Standards. Further, interpersonal estate planning desires do not equate to a substantial property right, and the fact that two existing single-family residences are located on a single parcel does not interfere with interfamily care.

Noteworthy Recommended Conditions of Approval:

None.

Conclusion:

Findings 1 and 2 cannot be made.

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

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North:	40.00 acres	Two single-family residences	AE-20	2,018 feet north of the northern property line of proposed 2.35-acre parcel
South:	5.00 acres	Single-family residence	R-R-5	108 feet south of the southern property line of proposed 2.35-acre parcel
East:	4.77 acres	Single-family residence	R-R-5	24 feet east of the eastern

Surrounding Parcels				
				property line of proposed 2.42-acre Parcel
West:	4.88 acres	Single-family residence	R-R	189 feet southwest of the western property line of proposed 2.35-acre parcel

Reviewing Agencies/Department Comments:

Fresno County Fire Protection District (Fire District): The proposed parcelization shall comply with the California Code of Regulations Title 24 – Fire Code, and County-approved Site Plans shall be submitted to the Fire District for review and approval prior to recordation of the Parcel Map that is required to effect the parcelization, should the subject Variance request be approved. This mandatory requirement has been included as a Project Note.

Fresno County Department of Public Health, Environmental Health Division: It appears that each proposed parcel can accommodate individual septic systems meeting the mandatory setback requirements established in the California Plumbing Code and California Well Standards Ordinance. Building permit records indicate that the existing septic systems located on the proposed parcels were installed in 1988 and 2004. It is recommended that the Applicant consider having the existing septic tanks pumped and leach fields 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 systems. This recommendation has been included as a Project Note. At such time as the Applicant or future property owner(s) decide to construct a water well, the water well contractor will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division. This mandatory requirement has been included as a Project Note.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: Herndon Avenue is a County-maintained road classified as an Arterial. The minimum total width for an Arterial right-of-way is 106 feet. Herndon Avenue has a total existing right-of-way of 60 feet at the subject property, with 30 feet north and 30 feet south of the section line.

Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning: The subject property is located in a designated water-short area. A Shared Well Agreement shall be required prior to recordation of the Parcel Map that is required to effect the parcelization, should the subject Variance request be approved. This requirement has been included as a Condition of Approval.

Building and Safety Section of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Ten-foot by ten-foot corner cutoffs shall be maintained for sight distance purposes at any driveway accessing Herndon Avenue. This requirement has been included as a Project Note. According to FEMA FIRM Panel 2085H, the property is not subject to flooding from the 1%-chance storm (100-year storm).

Analysis:

In support of Finding 3, the Applicant states that this Variance proposal will not be harmful to the public welfare or injurious to other properties, as this proposal has been reviewed by the Fresno County Fire Protection District, which has no concerns regarding the Variance request. Additionally, both existing single-family residences are independent of each other, with the exception of a shared water well. Further, this Variance request will not affect an existing access easement located along the western side of the existing parcel, which is utilized to access a southerly-adjacent parcel not associated with this proposal.

With regard to Finding 3, if approved, the granting of this Variance request will authorize creation of a 2.42-acre parcel with an existing single-family residence located thereon, and a 2.35-acre parcel with an existing single-family residence located thereon. Additionally, each proposed parcel will have 160 feet of road frontage, whereas a minimum 165 feet of road frontage is required, and the existing single-family residence that would be located on the proposed 2.35-acre parcel will encroach 5 feet into the required 20-foot side-yard setback. The reductions in road frontage and lot size are not expected to adversely affect surrounding properties. Such uses are complimentary to and compatible with existing residential and agriculturally-related land uses in the vicinity of the proposal. Further, staff notes that a secondary residence could not be established on either of the proposed parcels as a matter of right.

Considering the existing nature of the residential land uses located on the proposed parcels, and the surrounding residential and agriculturally-related land uses, staff believes that there will be no adverse aesthetic impact and no adverse effects on surrounding properties if the Variance is granted. As such, staff believes that Finding 3 can be made.

Noteworthy Recommended Conditions of Approval:

Should the property owners desire to retain the shared water well to serve the two existing single-family residences, a Shared Well Agreement shall be required to be completed and approved by the Development Engineering Section of the Fresno County Department of Public Works and Planning prior to recordation of a subsequent Parcel Map to authorize the proposed parcelization.

Conclusion:

Finding 3 can be made.

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

Relevant Policies:	Consistency/Considerations:
General Plan Policy LU-E.3 (Rural Residential Development): County shall maintain two acres as the minimum permitted lot size, exclusive of all road and canal right-of-ways, recreation easements, permanent water bodies, and public or quasi-public common use areas.	<p>This proposal includes a request to allow creation of a 2.42-acre parcel and a 2.35-acre parcel from an existing 4.77-acre parcel in the R-R-5 (Rural Residential, five-acre minimum parcel size) Zone District, which is designated Northeast Rural Residential in the County General Plan.</p> <p>As the proposed parcels would each be larger than two acres, staff believes the proposal is consistent with this Policy.</p>

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy PF-C.17: County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include the following: A) determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in question; B) determination of the impact that use of the proposed water supply will have on other water users in Fresno County; and C) determination that the proposed water supply is sustainable or that there is an acceptable plan to achieve sustainability.</p>	<p>According to the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning, the subject property is located in a designated water-short area. However, each proposed parcel would have an existing single-family residence located thereon, and no additional development is proposed with this Variance request. Further, water sustainability for both residences was analyzed during the processing of DRA No. 3562 and no water-related concerns were identified through that discretionary land use application process. Additionally, a Shared Well Agreement shall be required prior to recordation of the Parcel Map that is required to effect the proposed parcelization, should the subject Variance request be approved. This requirement has been included as a Condition of Approval.</p> <p>Based on these factors, staff believes the proposal is consistent with this Policy.</p>

Reviewing Agencies/Department Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

Analysis:

In support of Finding 4, the Applicant states that this Variance request is compatible with General Plan Policy LU-E.3, as each proposed parcel would be larger than two acres in size. Additionally, staff from the Fresno County Department of Public Works and Planning reviewed this proposal and did not identify any issues with General Plan consistency.

With regard to Finding 4, staff acknowledges that this Variance request is compatible with General Plan Policy LU-E.3, as the subject property is designated Northeast Rural Residential in the General Plan, and each proposed parcel would indeed be larger than two acres. Further, there are no applicable General Plan Policies regarding the request for reduced road frontage or the request for side-yard setback encroachment. As such, although the proposed parcel size would be smaller than that permitted by the R-R-5 Zone District, in regard to the General Plan, staff believes that Finding 4 can be made.

As previously stated, a Variance for minimum parcel size was not required for the Blackhawk Country Estates residential subdivision (Tract No. 2803) located to the west of the subject parcel, as said development is located in the R-R (Rural Residential, two-acre minimum parcel size) Zone District, and other existing parcels in the area that are similar to the subject proposal with regard to parcel size are either located in the R-R (Rural Residential, two-acre minimum parcel size) Zone District or were created prior to the current R-R-5 Zoning.

Noteworthy Recommended Conditions of Approval:

None.

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

None.

CONCLUSION:

Based on the factors cited in the analysis, staff is unable to make Findings 1 and 2. Therefore, staff recommends denial of Variance No. 4016.

PLANNING COMMISSION MOTIONS:**Recommended Motion** (denial action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 4016; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (approval action)

- Move to determine that the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 4016, subject to the Condition and Notes listed below; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

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Variance Application No. 4016
Conditions of Approval and Project Notes

Conditions of Approval	
1.	Division of the subject property shall be in accordance with the Site Plan approved by the Planning Commission.
2.	Should the property owners desire to retain the shared water well to serve the two existing single-family residences, a Shared Well Agreement shall be required to be completed and approved by the Development Engineering Section of the Fresno County Department of Public Works and Planning prior to recordation of a subsequent Parcel Map to authorize the proposed parcelization.

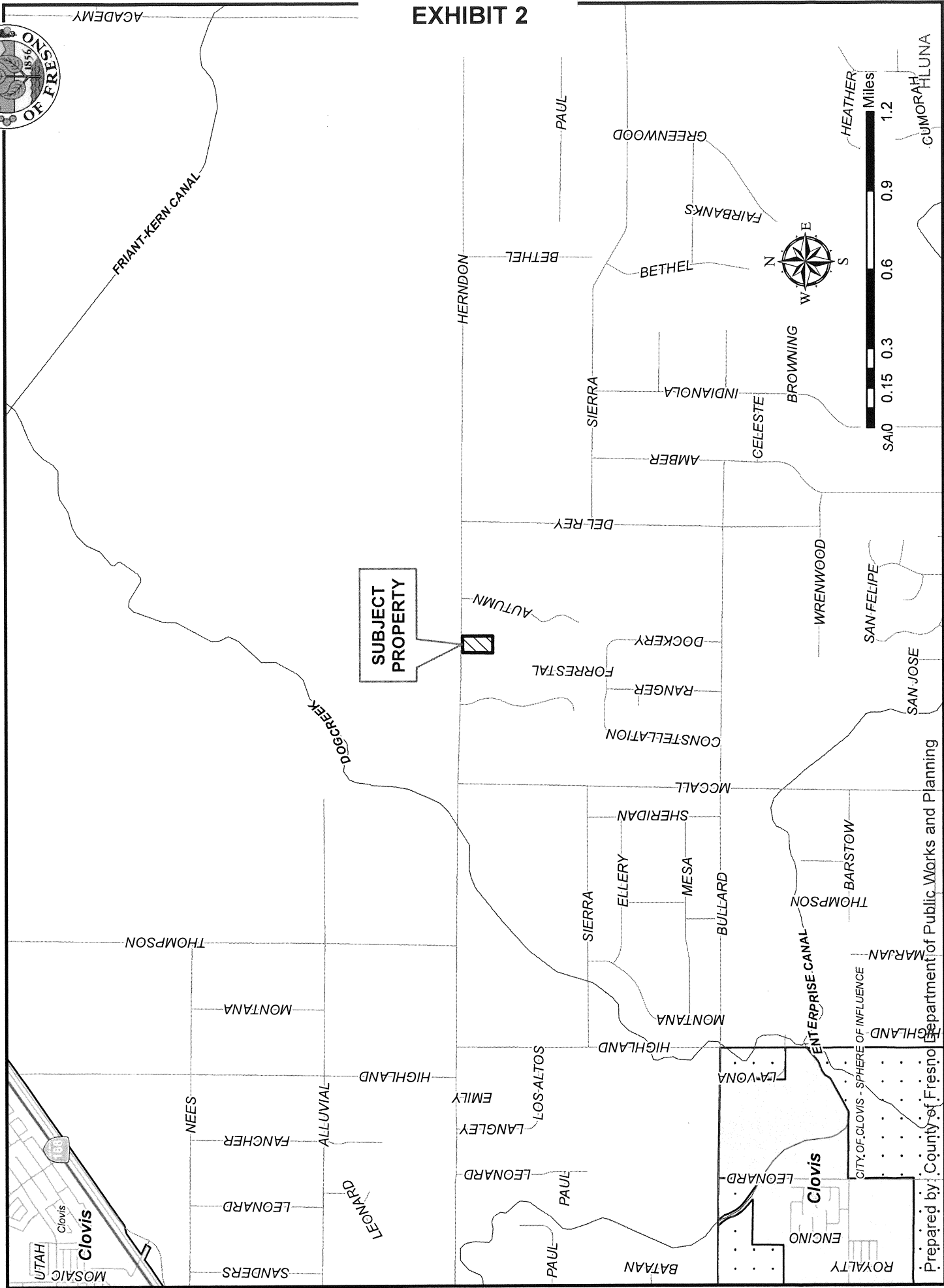
Conditions of Approval reference recommended Conditions for the project.

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 shall be filed to create the proposed parcels. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
2.	There are no permit records for the 375 square-foot storage building located on the proposed 2.42-acre parcel. As such, construction plans for the unpermitted structure shall be submitted to the Department of Public Works and Planning for review and approval, and any required building permits shall be obtained for the unpermitted structure prior to recordation of the Parcel Map that is required to effect the parcelization.
3.	Ten-foot by ten-foot corner cutoffs shall be maintained for sight distance purposes at any driveway accessing Herndon Avenue.
4.	The proposed parcelization shall comply with the California Code of Regulations Title 24 – Fire Code, and County-approved Site Plans shall be submitted to the Fresno County Fire Protection District (Fire District) for review and approval prior to recordation of the Parcel Map that is required to effect the parcelization.
5.	Building permit records indicate that the existing septic systems located on the proposed parcels were installed in 1988 and 2004. It is recommended that the Applicant consider having the existing septic tanks pumped and leach fields 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 systems.
6.	At such time as the Applicant or future property owner(s) decide to construct a water well, the water well contractor will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division.

LOCATION MAP



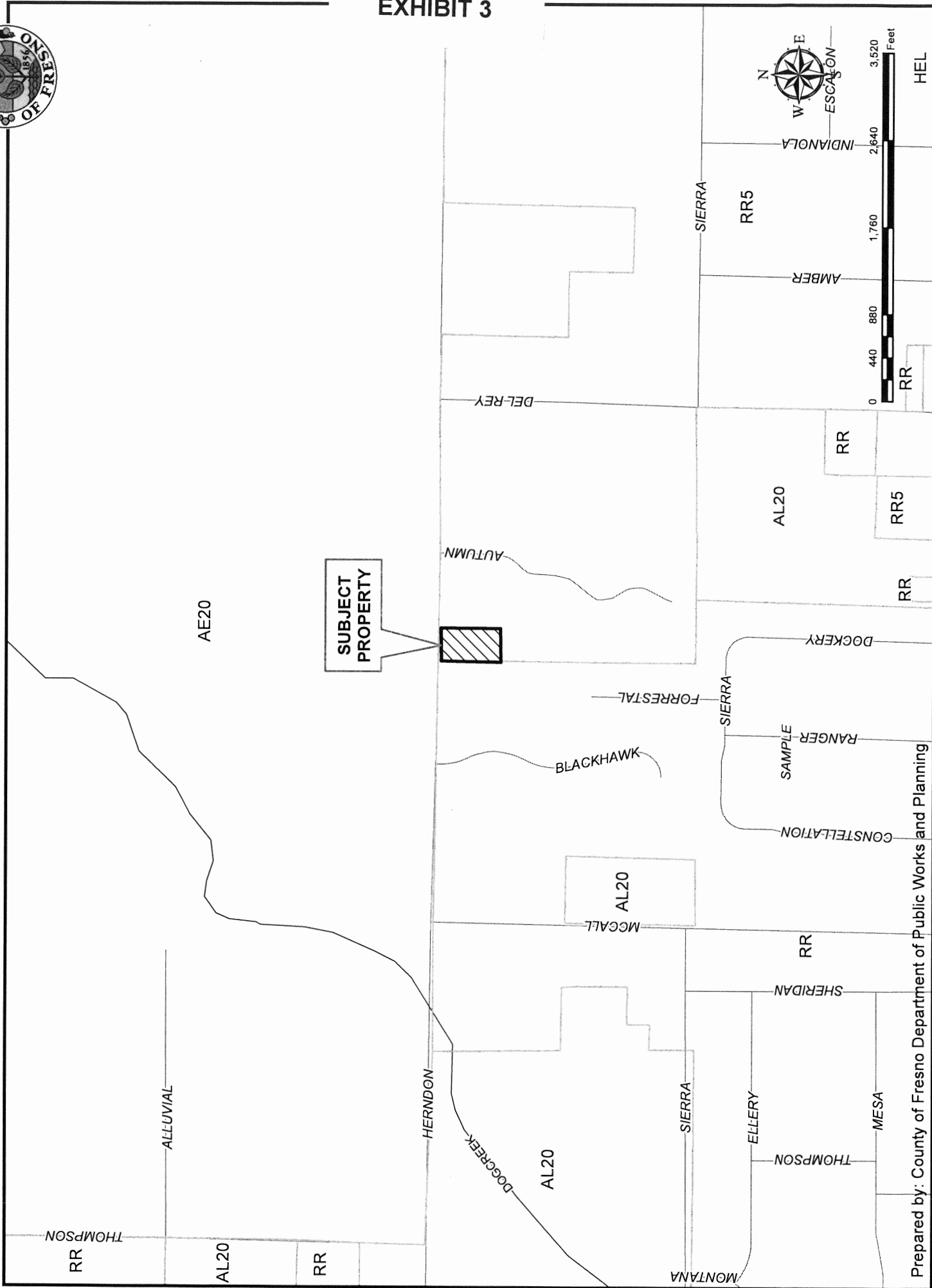
VA 4016



EXISTING ZONING MAP

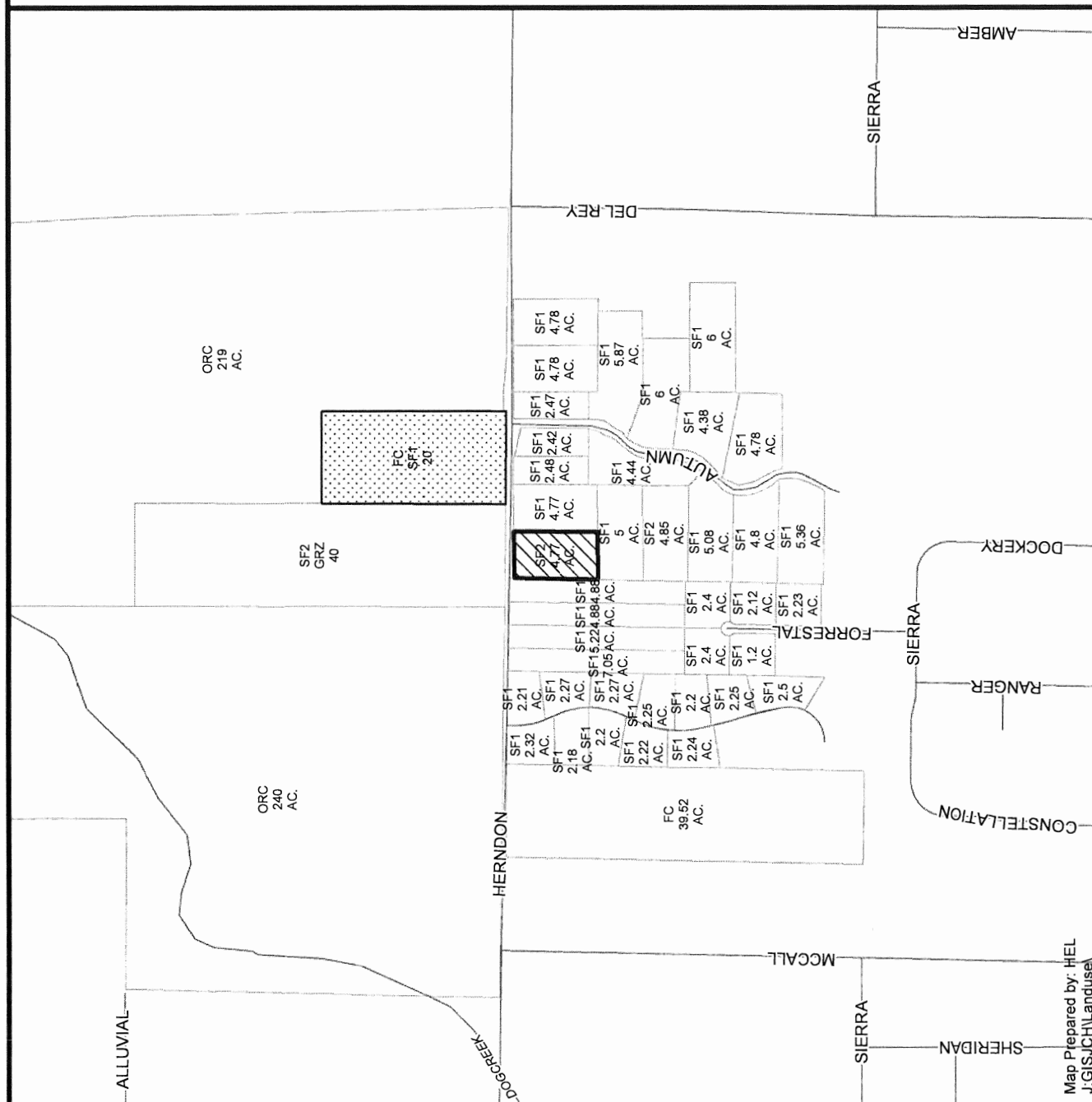


EXHIBIT 3



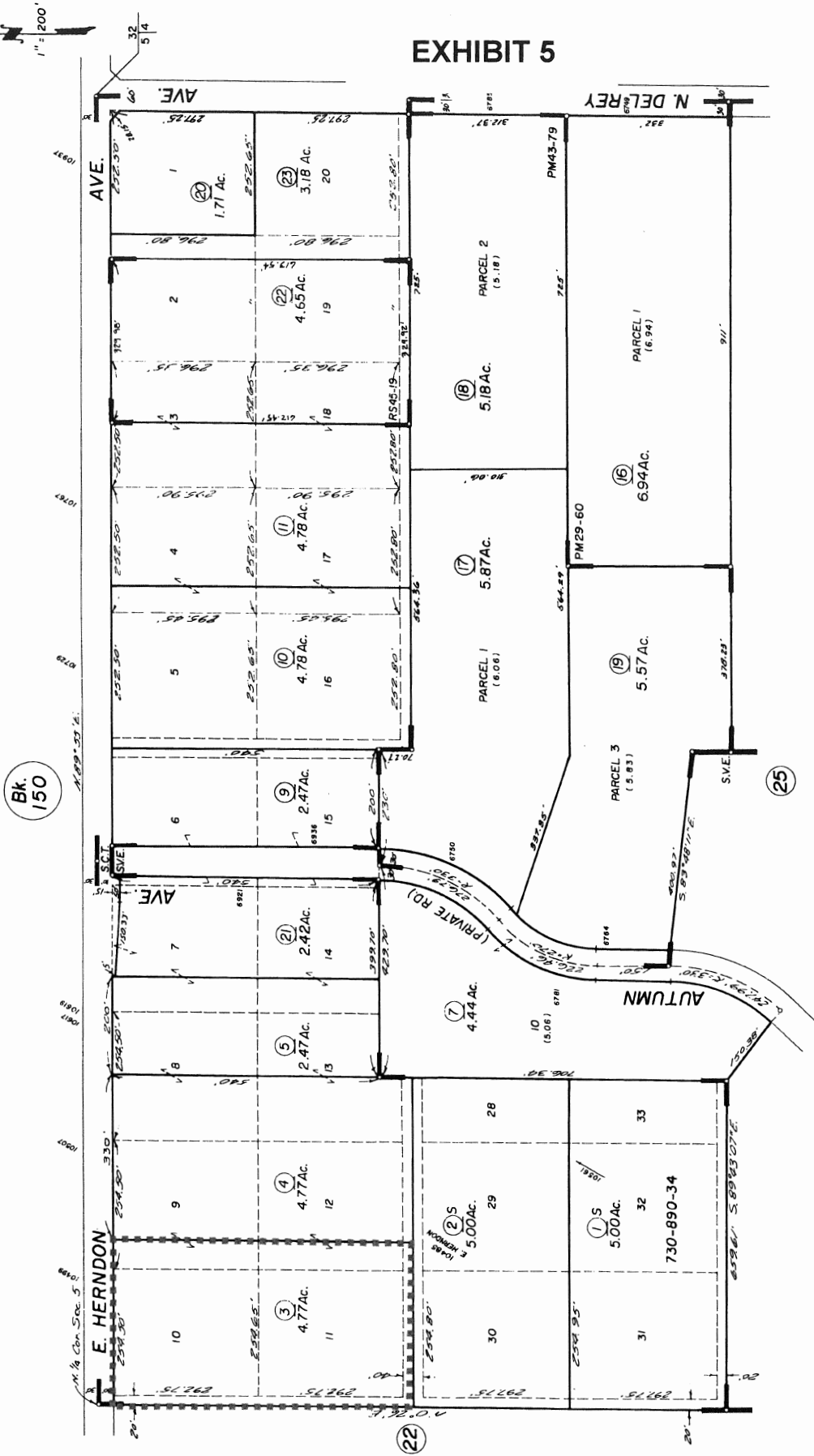
EXISTING LAND USE MAP

VA 4016



Map Prepared by: HEL
J:GIS\JCH\Landuse\

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



Scranton Calimyrna Tract - Plat Bk. 7, Pg. 32

Sierra View East, Tract No. 2241 - Plat Bk. 26, Pg. 1

Parcel Map No. 4591 - Bk. 29, Pg. 60

Parcel Map No. 6667, Bk. 43, Pg. 79

Record of Survey - Bk. 45, Pg. 19

Assessor's Map Bk. 308 - Pg. 24

County of Fresno, Calif.

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

EXHIBIT 6

Variance Request Proposed by Mr. Mark Yang

Applicant/Owner:

Mark A. Yang
10495 E. Herndon Ave.
Clovis, CA 93619

Property Location:

10495 and 10499 East Herndon
Clovis, CA 93619

APN: 308-240-03

Existing General Plan Land Use Designation/Zoning:

R-R 5

Request:

The applicant seeks approval of a variance to allow creation of a 2.42+/- acre and a 2.35+/- acre from a 4.77+/- acre parcel in the R-R Rural Residential zone without public road frontage. The project is consistent with all other property development standards.

Variance Findings:

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
 - The subject parcel is located at 10495 East Herndon Ave and 10499 East Herndon Avenue in the County of Fresno. One home was built in 1988 and the second home completed in 2005. The property was gifted to me, Mark Yang, in 2001 prior to the completion of the second home. In a traditional Hmong cultural family, the oldest son takes responsibility for his parents. As I am the eldest son of five sons, I took over the responsibility of the property after my father suffered from a stroke. As I watched my father take care of his own father whom resided in the parcel next to mine, I made the decision to build my own house next to the home my father lives in. As the years pass and my parents begin to age, there are the younger siblings to think about. The legalities of having two separate homes on one parcel with two owners is a sensitive issue. Real Estate is unlike most personal properties which can be separated and given to any individual. As I have my own home at 10495 East Herndon, should the home on 10499 East Herndon Avenue be given to any of my younger brothers, the property is still listed under one parcel, one APN number. It is my request that the parcel be divided into two equal half one parcel with different APN#, one parcel with the address 10495 E. Herndon Ave Clovis CA 93619 and the second parcel with the address 10499 E. Herndon Ave Clovis CA 93619.

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 stated, there are two homes on one parcel, with one APN number. Single family residences enjoy substantial right of ownership on a daily basis. Approval of the variance will allow separation of parcel to two owners, granting each owner with property rights and title rights. This subdivision will ensure no impact, financially or legally, to either owner.
- Approval of Variance will still be keeping with similar neighboring parcelization ranging from 1.71 acres to 6.94 acres. Neighboring Blackhawk Community has seventeen parcels ranging from 2.16 acres to 2.60 acres.

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.

- The proposed Variance does no harm to the public welfare nor is it injurious to the property or interest. The proposed Variance property is located within the Jurisdiction of the Fresno County Fire Protection District. The County Fire Protection District has been contacted and they have found no issues with the proposed Variance. Both residences are independent of the other in terms of addresses, septic tanks, propane systems, fencing, Pacific Gas and Electrical. Each home has separate driveways to enter. Both homes are currently sharing a well system. Approval will not impact easement road on property side of address 10495 East Herndon that leads to south neighboring properties.

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

- Under Policy LU-E.3, the County shall maintain two (2) acres as the minimum permitted lot size, exclusive of all road and canal rights-of-way, recreation easements, permanent water bodies, and public or quasi-public common use areas, except as provided for in policies LU-E.6 and LU-E.7. Approval of Variance will keep each parcel above the two (2) acres as minimum permitted lot size.
- I have met with Public Works & Planning staff to view the General Plan and there is no issue in the General Plan.

Property line

EXHIBIT 7

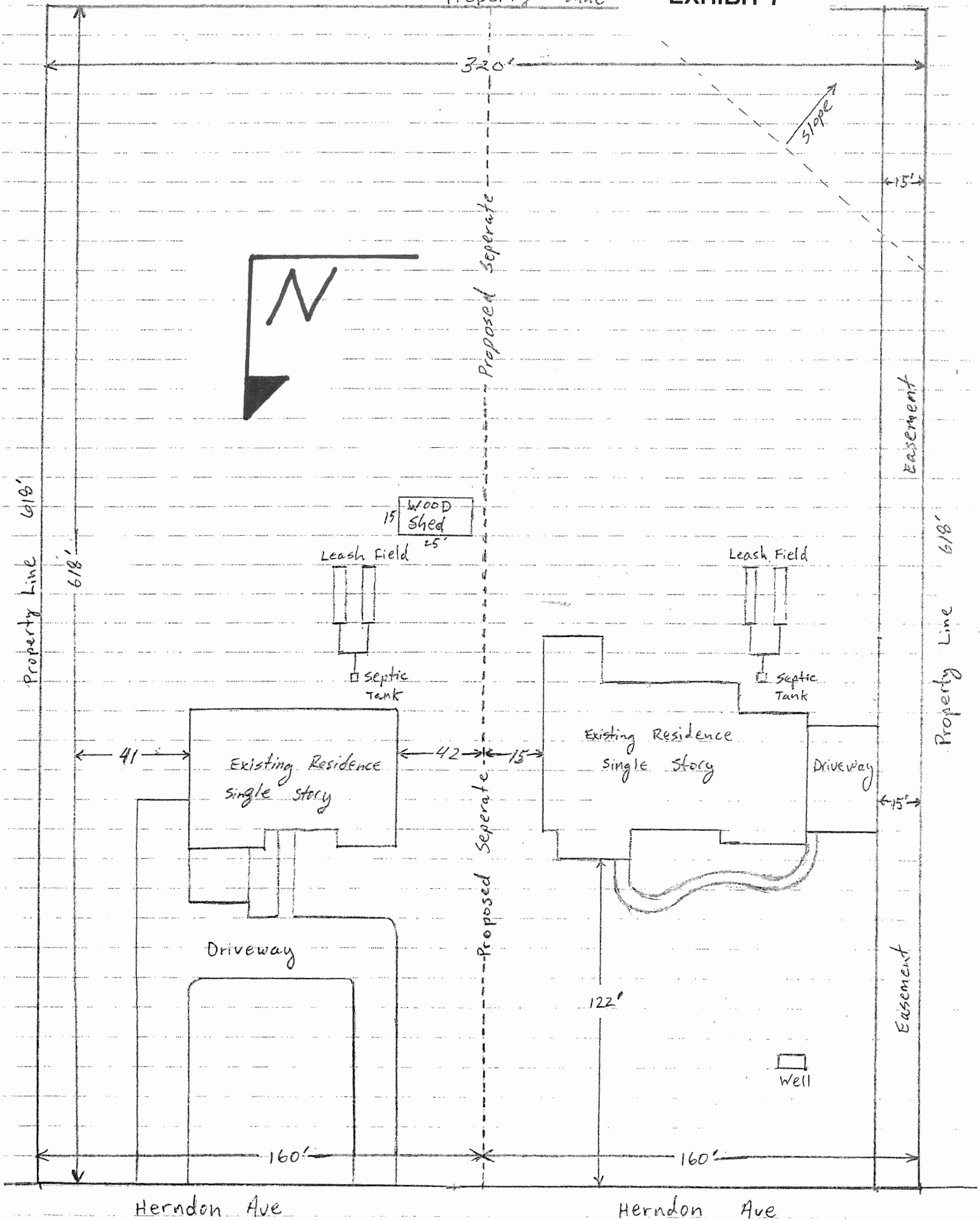


EXHIBIT C

VA4016 Late Opposition.txt

Yes thank you Mr. Chambers please share this text with the Commission under anonymous. Situation is of great concern for at least 4 maybe 5 neighbors on 5 acre parcels that are near the Vang property variance #4016. If approved it will have to be challenged. No water more houses would not be fair for those of us who have lived out here for over 50 years
Thanks in advance for your help.

VA 4016
RECEIVED
COUNTY OF FRESNO

MAY 17 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Chambers, Derek

From: Nichole Wicks <nwicksfam5@yahoo.com>
Sent: Wednesday, May 17, 2017 4:39 PM
To: Chambers, Derek

Oposise variance 4016-Vang

Sent from my iPhone

VA 4016
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COUNTY OF FRESNO

MAY 17 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Chambers, Derek

From: Don & Wanda Fellows <wlfdef@att.net>
Sent: Wednesday, May 17, 2017 4:47 PM
To: Chambers, Derek
Subject: Variance Application #4016

My husband and I live on the adjoining 5 acre parcel west of Mr. Mark Vang. We understand this variance will accommodate the building of two additional homes.

We strongly object to this action.

We have lived here since 1975, have drilled our water well deeper two times and finally had to move the well to the front of our property because of the lack of water.

Our neighbor, Robert Althoff, who lives west of us also objects to this action.

It is our belief that water for two additional homes is insufficient to accommodate these additions.

We sincerely request that the Planning Commission takes our objections into consideration and does not approve the variance.

Thank you

Donald and Wanda Fellows

10465 E Herndon

Clovis, CA.

Sent from my iPhone

VA 4016
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COUNTY OF FRESNO

MAY 17 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Variance Application No. 4016
Conditions of Approval and Project Notes

Conditions of Approval	
1.	Division of the subject property shall be in accordance with the Site Plan approved by the Planning Commission.
2.	Should the property owners desire to retain the shared water well to serve the two existing single-family residences, a Shared Well Agreement shall be required to be completed and approved by the Development Engineering Section of the Fresno County Department of Public Works and Planning prior to recordation of a subsequent Parcel Map to authorize the proposed parcelization.

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 shall be filed to create the proposed parcels. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
2.	There are no permit records for the 375 square-foot storage building located on the proposed 2.42-acre parcel. As such, construction plans for the unpermitted structure shall be submitted to the Department of Public Works and Planning for review and approval, and any required building permits shall be obtained for the unpermitted structure prior to recordation of the Parcel Map that is required to effect the parcelization.
3.	Ten-foot by ten-foot corner cutoffs shall be maintained for sight distance purposes at any driveway accessing Herndon Avenue.
4.	The proposed parcelization shall comply with the California Code of Regulations Title 24 – Fire Code, and County-approved Site Plans shall be submitted to the Fresno County Fire Protection District (Fire District) for review and approval prior to recordation of the Parcel Map that is required to effect the parcelization.
5.	Building permit records indicate that the existing septic systems located on the proposed parcels were installed in 1988 and 2004. It is recommended that the Applicant consider having the existing septic tanks pumped and leach fields 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 systems.
6.	At such time as the Applicant or future property owner(s) decide to construct a water well, the water well contractor will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division.

Variance Application 4016 - Mark Yang

June 19, 2017

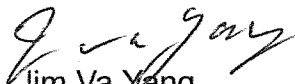
To: Board of Supervisor

I am writing this letter in support of the variance application submitted by Mark Yang to create two parcel from his existing 4.77 acres parcel.

I own 4.77acres directly east to the property being proposed for two parcel split. If the proposal is approved, it would not affect my property.

Please consider Mark Yang variance application for approval.

Sincerely,


Jim Va Yang
(559)285-4533

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JUN 26 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Fresno County Board of Supervisors
2221 Tulare Street
Fresno, CA 93721

SUBJECT: PROPOSED VARIANCE APPLICATION 4016 – MARK YANG – 10495 E. HERNDON
AVENUE

Dear Board Members:

I reside at 10437 E. Herndon Ave which is located near the above property.

I am aware of Mr. Yang's variance request to allow the creation of two parcels of less than the 5
acres minimum size required.

I support Mr. Yang's requested variance. This is based on my conversations with Mr. Yang and
his commitment to not build additional dwellings on the properties if the variance is granted.

Please feel free to contact me if you have any questions.

Sincerely,

Robert Althoff

A handwritten signature in cursive script, appearing to read "Robert Althoff", is written over a horizontal line.

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JUN 26 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Fresno County Board of Supervisors
2221 Tulare Street
Fresno, CA 93721

SUBJECT: PROPOSED VARIANCE APPLICATION 4016 – MARK YANG – 10495 E. HERNDON AVENUE

Dear Board Members:

I reside at 10561 E. Herndon which is located near the above property.

I am aware of Mr. Yang's variance request to allow the creation of two parcels of less than the 5 acres minimum size required.

I support Mr. Yang's requested variance. This is based on my conversations with Mr. Yang and his commitment to not build additional dwellings on the properties if the variance is granted.

Please feel free to contact me if you have any questions.

Sincerely,

Linda Waring 6/23/17
Armed L. Waring 6/23/17

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JUN 26 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Fresno County Board of Supervisors
2221 Tulare Street
Fresno, CA 93721

SUBJECT: PROPOSED VARIANCE APPLICATION 4016 – MARK YANG – 10495 E. HERNDON
AVENUE

Dear Board Members:


I reside at 6575 N. Autumn which is located near the above
property.

I am aware of Mr. Yang's variance request to allow the creation of two parcels of less than the 5
acres minimum size required.

I support Mr. Yang's requested variance. This is based on my conversations with Mr. Yang and
his commitment to not build additional dwellings on the properties if the variance is granted.

Please feel free to contact me if you have any questions.

Sincerely,

Samuel Quan 

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JUN 26 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Fresno County Board of Supervisors
2221 Tulare Street
Fresno, CA 93721

SUBJECT: PROPOSED VARIANCE APPLICATION 4016 – MARK YANG – 10495 E. HERNDON AVENUE

Dear Board Members:

I reside at 10465 E. Herndon Ave which is located near the above property.

I am aware of Mr. Yang's variance request to allow the creation of two parcels of less than the 5 acres minimum size required. In addition, I previously expressed my opposition to the proposed variance request.

Please accept this letter as a formal withdrawal of that opposition. This is based on my conversations with Mr. Yang and his commitment to not build additional dwellings on the properties if the variance is granted.

Please feel free to contact me if you have any questions.

Sincerely,

Donald and Wanda Fellows





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JUN 26 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION