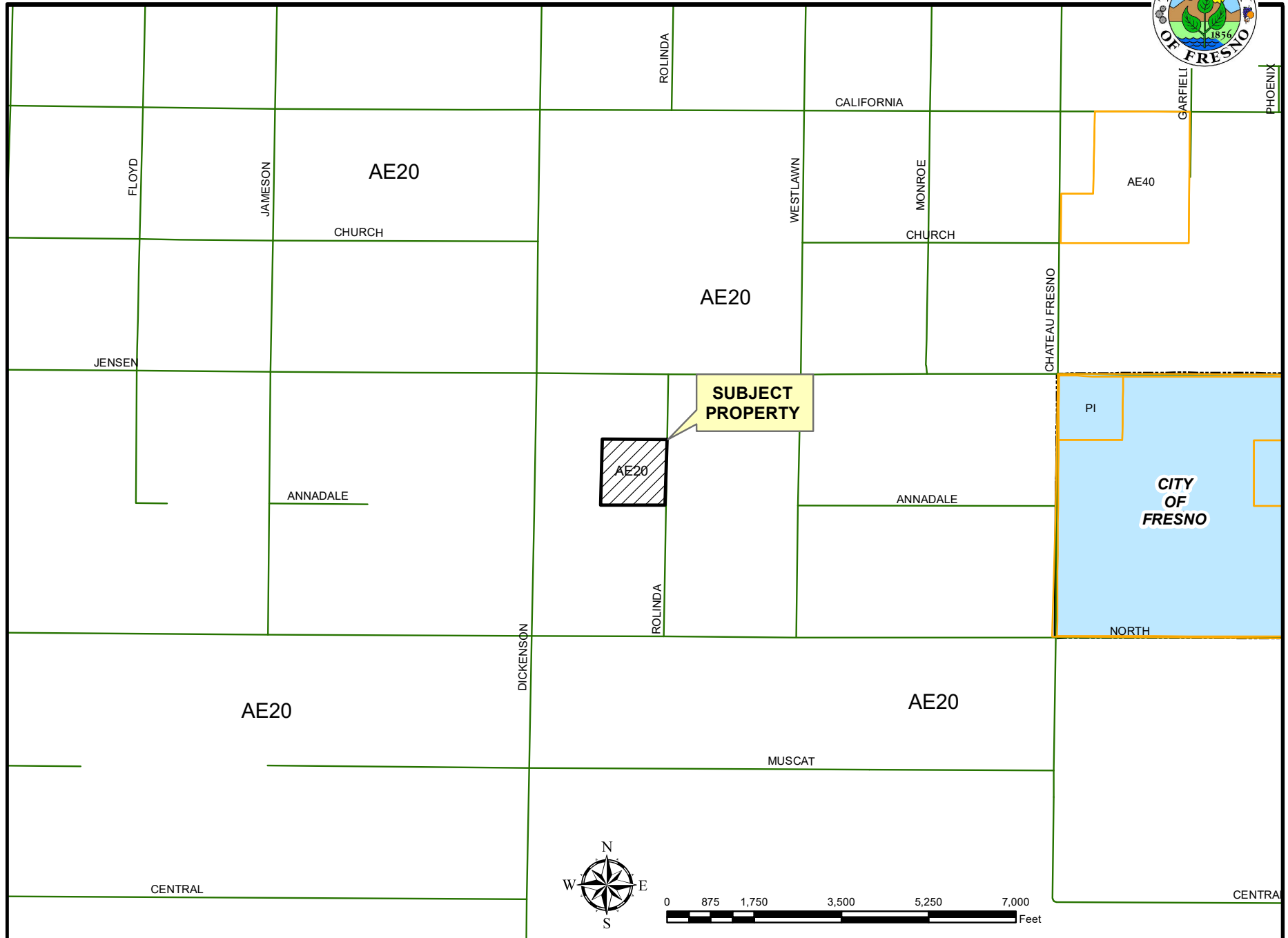
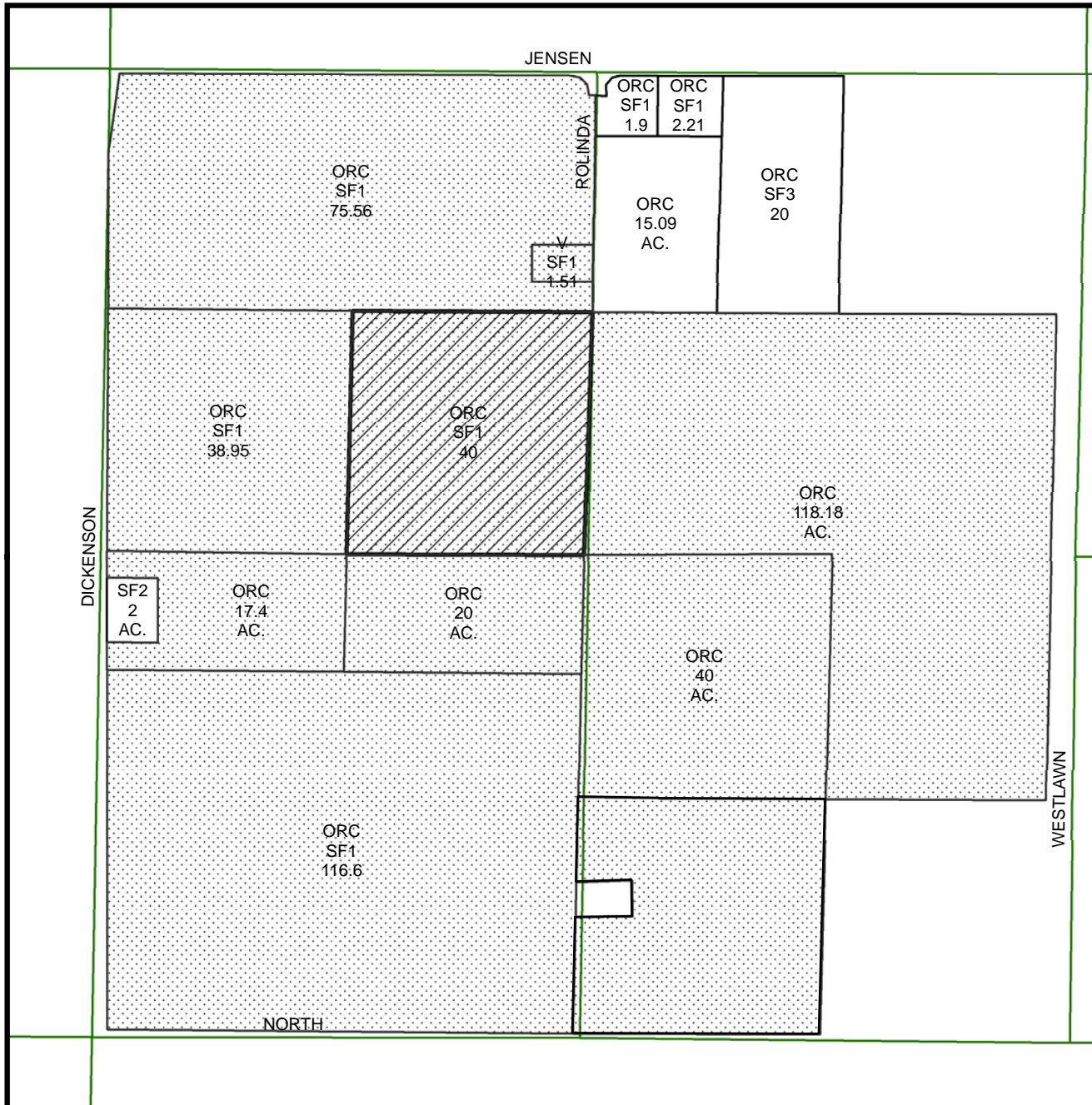


EXISTING ZONING MAP



ATTACHMENT B

EXISTING LAND USE MAP



LEGEND	
ORC - ORCHARD	
SF# - SINGLE FAMILY RESIDENCE	
V - VACANT	

LEGEND:

-  Subject Property
-  Ag Contract Land




0 212.5 425 850 1,275 1,700 Feet

Department of Public Works and Planning
Development Services Division

Untitled Map


Write a description for your map.

Legend

 2253 S Rolinda Ave

**40.00-acre
Subject Parcel
AP-3342**



2253 S Rolinda Ave 

**1.18-acre
Cancellation Area
AP-3342**



Google Earth

© 2020 Google

S Rolinda Ave



1000 ft



County of Fresno

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

Agricultural Land Conservation Committee Staff Report Agenda Item No. 3 September 9, 2020

SUBJECT: Review and make recommendation to the Board of Supervisors regarding petition for **PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 3342 (RLCC NO. 1009)** to remove a 1.18-acre portion of a 40.00-acre parcel from the Williamson Act program to allow the 1.18 acres which contains a house to be created as a separate parcel through a zone variance and a mapping application for residential use as an alternative use of the 1.18-acre parcel.

LOCATION: The existing parcel is located on the west side of Rolinda Avenue, between Jensen Avenue and North Avenue, approximately seven miles west of the nearest city limits of the City of Fresno (Sup. Dist. 1) (APN 025-041-37s).

OWNER/APPLICANT: C & A Farms, LLC

REPRESENTATIVE: Jeffrey T. Roberts

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

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. 3342.

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 of the Government Code, and makes a recommendation to the Board of Supervisors to approve or deny the petition.

The existing parcel is located on the west side of Rolinda Avenue, between Jensen Avenue and North Avenue, approximately seven miles west of the nearest city limits of the City of Fresno

[see Location Map (Exhibit "A"), Existing Zoning Map (Exhibit "B"), Existing Land Use Map (Exhibit "C"), and Aerial Photograph (Exhibit "D")].

This Petition for Partial Cancellation was filed in conjunction with Variance (VA) Application No. 4084 and associated Initial Study (IS) Application No. 7811, which propose to allow the creation of a 1.18-acre parcel from an existing 40.00-acre parcel located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

The Williamson Act Program limits land uses on contracted parcels to commercial agricultural operations, compatible uses adopted by the Board of Supervisors, and certain qualified open space uses. Further, on May 25, 2004, the Board of Supervisors revised the County's Williamson Act Guidelines to require parcels to have at least 20 acres of prime soil and an active agricultural operation or at least 40 acres of sub-prime soil and an active agricultural operation to be eligible to remain in the Williamson Act Program. The proposed 1.18-acre parcel does not meet the 20-acre minimum parcel size to be eligible to be enrolled in the Williamson Act Program and must be removed from the Williamson Act Program through the cancellation process.

DISCUSSION:

The Williamson Act program is a voluntary program whereby private landowners enter into 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.

A Williamson Act Contract is an enforceable restriction pursuant to Article 13, Section 8 of the California Constitution and §51252. Williamson Act Contracts are not intended to be cancelled, and in fact, cancellation is reserved for unusual "emergency" situations. Therefore, the nine-year nonrenewal process has been identified as the legally preferred method for terminating a Williamson Act Contract. The Supreme Court of California has stated that cancellation is not appropriate where the objectives served by cancellation could be served by nonrenewal [*Sierra Club v. City of Hayward* (1981) 28 Cal.3d 840, 852-853]. The State Attorney General's Office has opined that cancellation is impermissible "except upon extremely stringent conditions" [62 Ops. Cal. Atty. Gen. 233, 240 (1979)]. The Attorney General has also opined that nonrenewal is the preferred contract termination method, as stated: "If a landowner desires to change the use of his land under contract to uses other than agricultural production and compatible uses, the proper procedure is to give notices of nonrenewal pursuant to Section 51245" [54 Ops. Cal. Atty. Gen 90, 92 (1971)].

Landowners or local governments may exit the contract by filing a Notice of Nonrenewal of the contract. 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 at the end of the Nonrenewal period. This would allow lands that have been placed under contract to continue to be used for production of food and fiber for the nine-year remainder of the contract term and the landowner to benefit from lower property tax assessments.

As was mentioned above, cancellation of a contract is reserved for unusual "emergency" situations and the nine-year nonrenewal process has been identified as the legally preferred method for terminating a Williamson Act Contract. To address those unusual "emergency" circumstances, 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 establishment of a proposed alternative use, or if the land should remain in agricultural use for the duration of the contract. 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 in question.

The proposed petition is being processed under the provisions of Government Code Section 51282(a)(1), which allows the Board of Supervisors to grant tentative approval for cancellation of a 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 of 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.*

An executed Notice of Partial Nonrenewal for Williamson Act Contract No. 3342 was accepted by the County Recorder on August 7, 2020 and was assigned Document No. 2020-0102319. Said Nonrenewal is for the proposed 1.18-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.*

On May 25, 2004, the Board of Supervisors revised the County's Williamson Act Guidelines to require parcels to have at least 20 acres of prime soil and an active agricultural operation or at least 40 acres of sub-prime soil and an active agricultural operation to be eligible to remain in the Williamson Act Program. The existing 40.00-acre parcel contains soil classified as Prime Farmland on the California Department of Conservation Important Farmland Map. The current property owner acquired the existing 40.00-acre parcel in 2016 and has utilized the parcel for cultivation of almonds. Additionally, neighboring parcels are designated as Agricultural in the County General

Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size), and are actively farmed.

The size of the proposed 1.18-acre parcel precludes its qualification to be enrolled in the Williamson Act Program and a Notice of Partial Nonrenewal for Williamson Act Contract No. 3342 has been executed and provided to the County Recorder's Office for recordation. However, with respect to Finding No. 2, staff believes substandard parcels that are created for residential purposes will likely interfere with agricultural operations on surrounding parcels that are designated and zoned for production of food and fiber, and may potentially result in removal of adjacent or neighboring lands from agricultural use. Moreover, it may set a precedent for other landowners to create similar residential parcels in the area, which will compound the incompatibility between the agricultural and residential use of lands located in an area of the County designated and used for agricultural operations.

Based on the above discussion, Department staff believes the cancellation may 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.*

This Petition for Partial Cancellation has been filed in conjunction with Variance (VA) Application No. 4084 and associated Initial Study (IS) Application No. 7811, which propose to allow the creation of a 1.18-acre parcel from an existing 40.00-acre parcel located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

The existing 40.00-acre parcel is designated as Agricultural in the County General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The Agriculture 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.

This project entails creation of a 1.18-acre parcel to be used exclusively as a homesite parcel. Staff believes the proposed alternative use is a non-agricultural residential use of a parcel located in an agricultural area of the County designated and zoned for production of food and fiber. The County includes unincorporated communities that are planned for residential, commercial, industrial and institutional uses. As discussed under Finding No. 2, neighboring parcels are designated as Agricultural in the County

General Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size), and are actively farmed. It should be noted that allowing creation of the proposed parcel to contain the existing residence would likely allow a new residential unit on the 38.82-acre remainder parcel. Establishing a residential homesite in an agricultural area of the County may potentially have significant impacts on surrounding farming operations. Further, the proposed 1.18-acre parcel size is not consistent with General Plan Policies LU-A.6 and LU-A.7.

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

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

As discussed under Finding No. 3, this Petition for Partial Cancellation has been filed in conjunction with Variance (VA) Application No. 4084 and associated Initial Study (IS) Application No. 7811, which propose to allow the creation of a 1.18-acre parcel from an existing 40.00-acre parcel located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The proposed 1.18-acre parcel is for a residential use not associated with any agricultural operation. However, the subject property is located approximately seven miles west of the nearest city limits of the City of Fresno, and therefore staff believes this proposal does not represent 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.*

Department staff generated a map and list of non-contracted parcels approximately 1.18 acres in size located within a 5-mile radius of the existing parcel and sent letters to the owners of these non-contracted parcels requesting that said owners notify Department staff if their parcels are for sale. Policy Planning Unit staff was not contacted by any of the landowners within the five-mile radius about the availability of their parcels for the proposed use.

Based on staff's inquiry, none of the owners of non-contracted parcels of similar size were interested in selling their parcel to be used for the alternative use, and therefore Finding No. 5 can be made.

ENVIRONMENTAL DETERMINATION:

Initial Study (IS) No. 7811 prepared for Variance (VA) Application No. 4084 addresses potential environmental impacts associated with the cancellation of the contract. The IS has been completed and was circulated for agency review on August 12, 2020.

OTHER REVIEWING AGENCIES:

As of January 1, 2001, Government Code Section 51284.1(a) requires notification to be provided by the County to the Director of the State Department of Conservation (the Director) once a cancellation petition has been accepted as complete. Under Government Code Section 51284.1(c), the Director's comments, if provided, are required to be considered by the Board of Supervisors before acting on the proposed cancellation.

The petition was forwarded to the California Department of Conservation (DOC) on August 4, 2020. Staff allows at least 30 days for the DOC to provide comments. In this case, the DOC has not provided comments regarding the petition.

CONCLUSION:

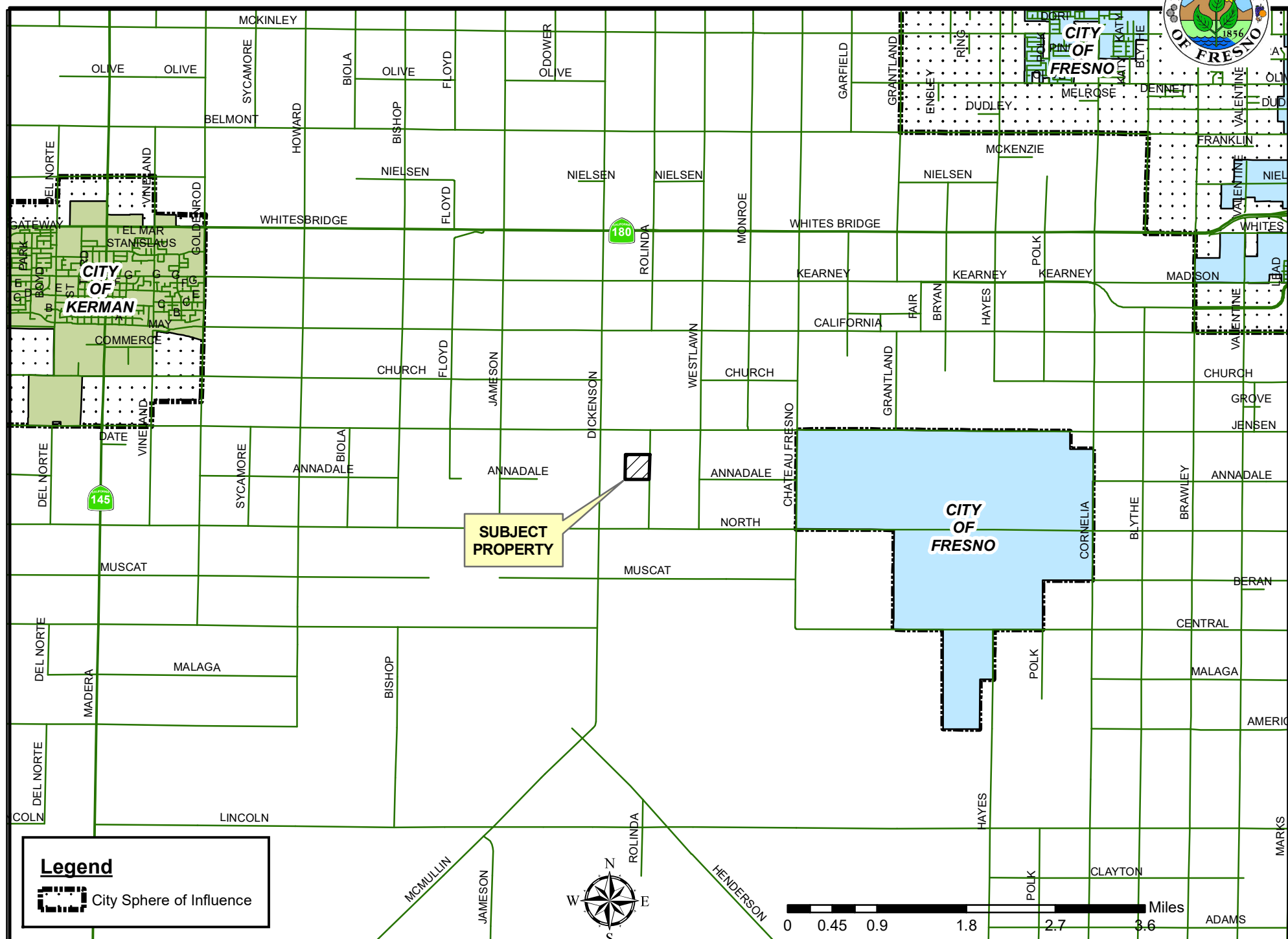
Based upon staff's analysis of the proposed alternative use against the consistency Findings listed under Government Code Section 51282(b), staff does not believe that Findings No. 2 and 3 can be made, and therefore recommends that the Agricultural Land Conservation Committee recommend that the Board of Supervisors deny the petition for partial cancellation of Agricultural Land Conservation Contract No. 3342.

However, if the Committee believes that the required Findings can be made, the Committee needs to articulate how each of the Findings can be made and may recommend that the Board of Supervisors approve the partial cancellation of Agricultural Land Conservation Contract No. 3342, subject to the following conditions:

1. The landowner shall obtain the necessary land use approvals (Zone Variance and Parcel Map) to create the proposed 1.18-acre parcel.
2. The applicant shall pay the Cancellation Fee 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 1.18-acre parcel.

DC:

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EXISTING ZONING MAP

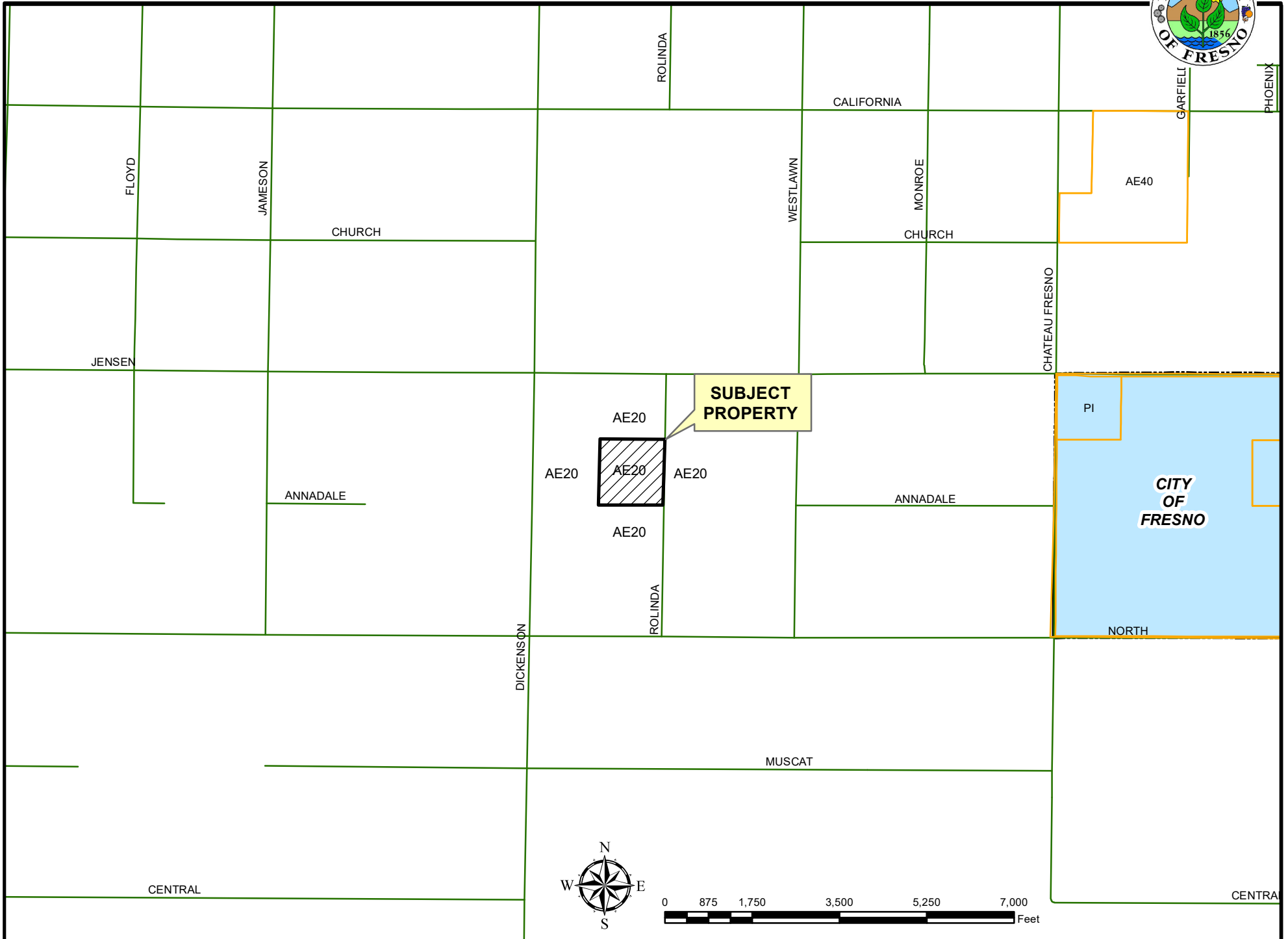
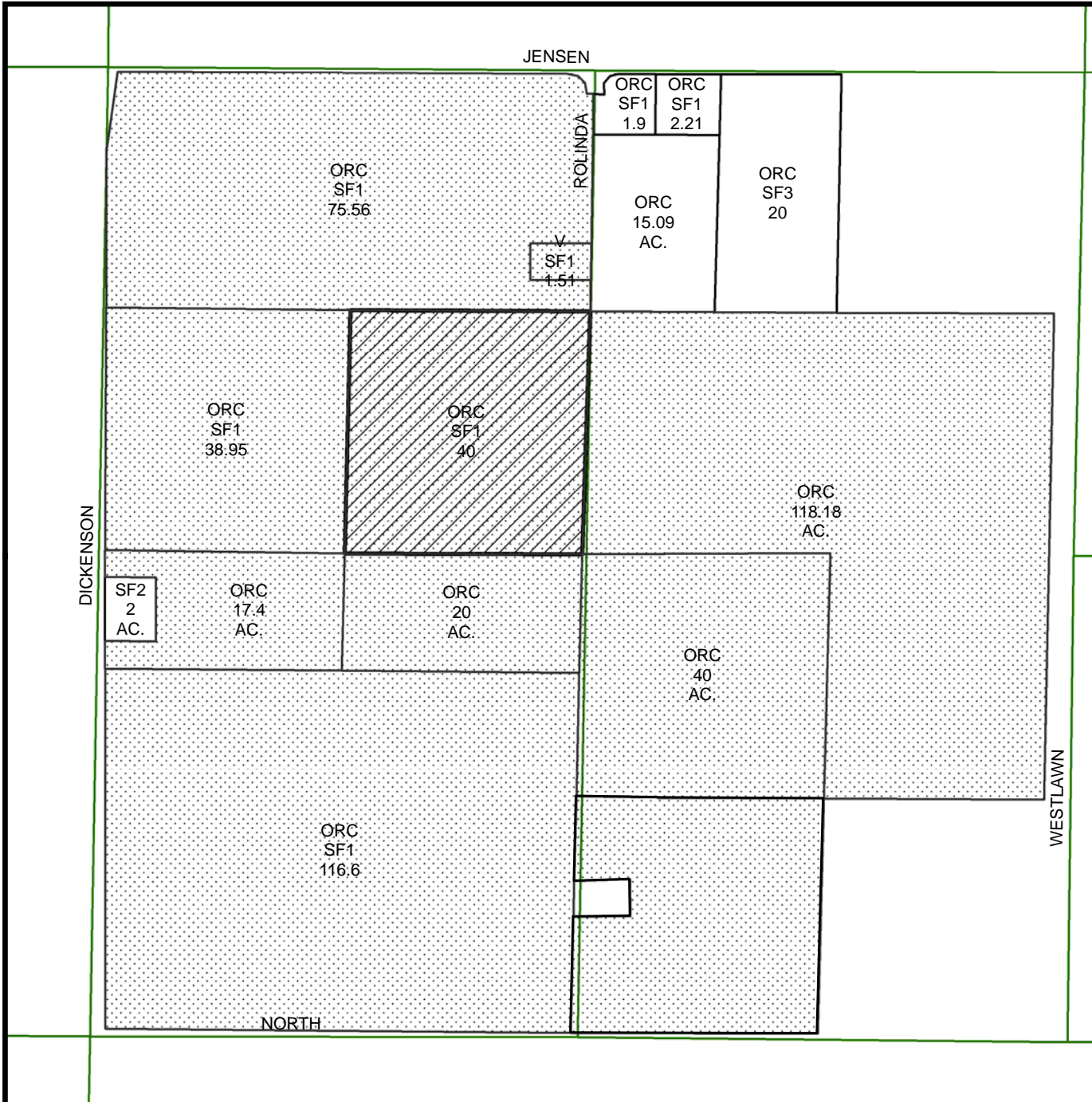


EXHIBIT B

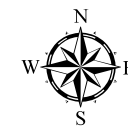
EXISTING LAND USE MAP



LEGEND	
ORC - ORCHARD	
SF#- SINGLE FAMILY RESIDENCE	
V - VACANT	

LEGEND:

- Subject Property
- Ag Contract Land




0 212.5 425 850 1,275 1,700 Feet

Department of Public Works and Planning
Development Services Division

Untitled Map


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Legend

 2253 S Rolinda Ave

**40.00-acre
Subject Parcel
AP-3342**



2253 S Rolinda Ave 

**1.18-acre
Cancellation Area
AP-3342**



Google Earth

© 2020 Google

S Rolinda Ave



1000 ft

EXHIBIT D

ATTACHMENT F

Mr. David Jessen
2191 S. Rolinda Ave.
Fresno, CA 93706

Supervisor Brian Pacheco
2281 Tulare St., Rm # 301
Fresno, CA 93721

Dear Mr. Pacheco,

We received a Notice of Public Meeting Fresno County Agricultural Land Conservation Committee regarding property next to us to consider Partial Cancellation of Agricultural Land Conservation Contract NO. 3342 (RLCC NO. 1009) to remove a 1.18 acre portion of a 40 acre parcel from the Williamson Act program. The APN # is 025-041-37s. This meeting was on September 9, 2020 in the Fresno County Farm Bureau office. It was voted 5-0 against allowing the zone variance. The next meeting to take up this issue will be with the Fresno County Board of Supervisors. We spoke with Kelly and after she got clarification from the division manager of Capital Projects, we are on the notification list. As we understand, the list is from the clerk's office to the board office. Once the item is placed on the board agenda we request to be notified of the details immediately.

Thank you,

A handwritten signature in black ink, appearing to read "David Jessen", with a stylized flourish at the end.

David Jessen

Cc: Congressman Jim Costa