



County of

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVE WILCOX, DIRECTOR

Planning Commission Staff Report Agenda Item No. 3 October 10, 2024

SUBJECT: Variance No. 4076

Allow creation of two substandard parcels, a 2.00-acre parcel and a 30.22-acre parcel from an existing 32.22-acre parcel that is dual zoned with the AL-20 (AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District and the R-C-40 (Resource Conservation, 40-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the south side of Rainbow Avenue, approximately 1,204 feet west of its nearest intersection with Riverbend Avenue and is approximately 1.37 miles northeast of the nearest city limits of the City of Sanger (APNs: 333-021-91 & 92) (746 S. Rainbow Ave.) (Sup. Dist. 5).

OWNER: Gerdts Family Trust (Marvin H. Gerdts and Janice B. Gerdts)

APPLICANT: Dirk Poeschel, Land Development Services, Inc.

STAFF CONTACT: Alyce Alvarez, Planner
(559) 600-9669

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Deny Variance Application No. 4076 based on the analysis of the required findings in the Staff Report; 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. One-Mile Radius Map of Variances
6. Site Plans and Detail Drawings
7. Variance Findings
8. Summary of Initial Study No. 7677
9. Negative Declaration
10. Photos

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agricultural and Open Space per the Kings River Regional Plan	No change
Zoning	AL-20 (Limited Agricultural, 20-acre minimum parcel size) and R-C-40 (Resource Conservation, 40-acre minimum parcel size)	No change
Parcel Size	32.22 acres	Parcel "A": 2.00 acres Parcel "B": 30.22 acres
Project Site	N/A	N/A
Structural Improvements	Agriculture Related Storage Buildings	No change
Nearest Residence	Approximately 75 feet	No change
Surrounding Development	Agricultural and Residential	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A

Criteria	Existing	Proposed
Traffic Trips	Agricultural	No change
Lighting	N/A	N/A
Hours of Operation	N/A	N/A

EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION:

None

ENVIRONMENTAL ANALYSIS:

The proposed substandard parcel was required to be removed from the Williamson Act Contract via cancellation as it did not meet the minimum parcel size to remain under contract. Conflict with a Williamson Act Contract is subject to CEQA under Appendix G: Section 4.2 Agriculture and Forestry resources. Initial Study No. 7677 was prepared for the project by County staff in accordance with the provisions of the California Environmental Quality Act (CEQA). A Notice of Intent to adopt the Mitigated Negative Declaration was published on March 21, 2024. On July 9, 2024, the Board of Supervisors unanimously approved the cancellation petition and the Adopted a Negative Declaration prepared for the project based on the Initial Study. The Cancellation has been completed and recorded. A summary of the Initial Study and the adopted Negative Declaration is included as Exhibits 8 and 9.

PUBLIC NOTICE:

Notices were sent to 25 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PUBLIC COMMENT:

No public comments were received as of the date of preparation of this report.

PROCEDURAL CONSIDERATIONS:

A Variance Application may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 860.5.060 are made by the Planning Commission.

The decision of the Planning Commission on a Variance Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission’s action.

An appeal to the Planning Commission’s decision on a Variance can only be submitted by the Applicant, the County, or an owner of property within 300 feet of the site.

BACKGROUND INFORMATION:

The 32.22-acre site is currently developed with an orchard over a majority of the parcel. Exhibit 3 attached to this Staff Report identifies the dual zone district boundaries. Lot Line Adjustment No. 08-17 resulted in the current parcel configuration of 32.22 acres.

In addition to the subject application, there have been eight (8) other Variance applications within one mile of the subject property. The following table provides a brief summary of these Variance applications and their final actions. However, these Variances do not establish a precedent or inferred property right, each Variance request must be considered under their own

merits.

Application/Request	Date of Action	Staff Recommendation	Final Action
VA 2708: Recognize three 5-acre created parcels in the AE-20 Zone District.	June 10, 1982	Deferred to Planning Commission	PC Approved
VA 2995: Allow creation of a 0.52-acre parcel having a width and frontage of 128 (165 feet required) feet, a depth of 143 feet (170 feet required), and a side yard setback of 14 feet (20 feet required) from a 29.32-acre parcel of land in the AE-20 Zone District.	April 24, 1986	Approval	PC Approved
VA 3315: Allow creation of a 2.50-acre parcel without public road frontage (165 feet required) from a 20-acre parcel of land.	March 28, 1991	Approval	PC Approved
VA 3703: Allow creation of a 2.5-acre gift deed parcel without public road frontage from a 27.70-acre parcel in the AL-20 Zone District.	July 12, 2001	Approval	PC Approved
VA 3782: Allow creation of two 4.9-acre parcels and a 5.2-acre parcel from an existing 15-acre parcel in the R-C-40 Zone District.	July 1, 2004	Denial	PC Approved
VA 3881: Allow the creation of two 4.9-acre parcels and a 5.2-acre parcel from an existing 15-acre parcel in the R-C-40 Zone District (same	June 10, 2010	Denial	PC Approved with modified Conditions

Application/Request	Date of Action	Staff Recommendation	Final Action
parcel as VA 3782).			
VA 3883: Allow creation of two parcels less than the minimum required parcel size allowed in the R-C-40 and AL-20 Zone District as result of the Property Line Adjustment between two existing parcels (includes subject parcel).	July 17, 2008	Denial	PC Approved
VA 4015: Allow the creation of an 8.66-acre parcel and an 8.67-acre parcel from an existing 17.24-acre parcel in the AE-20(c) Zone District.	April 27, 2017	Denial	PC Approved with modified Conditions
VA 4040: Allow the division of a 107-acre parcel to create a 96-acre parcel and an 11-acre parcel in the AL-20 and O Zone Districts.	April 12, 2018	Denial	PC Approved

REQUIRED FINDINGS:

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

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	AL-20 Front: 35 feet Side: 20 feet Rear: 20 feet R-C-40 Front: 35 feet Side: 20 feet Rear: 20 feet	No change	Y

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Parking	N/A	N/A	Y
Lot Coverage	AL-20: No requirement R-C-40: For lots 10 acres or larger, permitted buildings and structures shall not exceed one percent (1%)	No change	Y
Space Between Buildings	No requirement	No change	Y
Wall Requirements	No requirement	No change	Y
Septic Replacement Area	100% replacement area	No change	N/A
Water Well Separation	Septic Tank: 100 feet Disposal Field: 100 feet Seepage Pit: 150 feet	No change	Y

Reviewing Agency/Department Comments Regarding Site Adequacy:

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

Finding 1 Analysis:

In support of Finding 1, the Applicant has referenced the State Government Code Section 65906 which states in part that “*Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification*” and asserts that because the subject property has three distinct geographical type, the top level (table), a lower level (river bottom), and a sloping hill (bluff) that divides the two levels, that this meets the criteria. While Staff acknowledges that the site is configured as described, this non-rectangular and tiered topography is similar to other varied parcel shapes and topography in the surrounding area, and the topography does not preclude the use of the property for the intended use allowed in the Zone district, it has been previously farmed and can continue to do so. The Applicants indicate that they intend to transition from plum orchards to pistachio orchards and site problems with maneuvering pistachio harvesting equipment. The Applicants desire to change agricultural use or processes is not a unique situation of the property and not a relevant basis for a Variance.

Recommended Conditions of Approval:

None

Finding 1 Conclusion:

Finding 1 is not recommended as the topography of the parcel is not unique to the area and is not a valid exceptional or extraordinary circumstance or condition of the property not common to other parcels in the area with the same zoning.

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

Reviewing Agency/Department Comments:

No comments specific to Finding 2 were expressed by reviewing Agencies or Departments.

Finding 2 Analysis:

In support of Finding 2, the Applicant asserts that “Granting the Variance does not constitute a grant of special privilege as a homesite on a 32.2 +/--acre parcel would be allowed but for the split zoning.” Contrary to the applicants’ assertions, the existing site can by right be developed with single-family residence, and a second dwelling could be developed under a Directors Review and Approval application.

The existence of smaller parcels in the area is not a basis for a Variance, while there are substandard size parcels in the area, they also are precluded from further division due to the size limitation. The substandard parcels previously created by approval of a Variance request, did not create a property right issue as each Variance request must be considered under its own merits. Therefore, Staff does not believe there is a substantial property right at risk that this Variance request would be needed to preserve the right to develop the property as allowed by the ordinance.

Recommended Conditions of Approval:

None.

Finding 2 Conclusion:

Finding 2 cannot be made as there is not a substantial property right at risk that the requested Variance would preserve.

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	58 acres	Field Crop and Single-Family Residence	AE-20	Approximately 650 feet
	3.01 acres	Field Crop and Single-Family Residence	AL-20	

	Size:	Use:	Zoning:	Nearest Residence:
	4.63 acres	Field Crop	AL-20 and R-C-40	
South	41.47 acres	Grazing	AL-40	Approximately 570 feet
East	41.47 acres	Grazing	AL-40	Approximately 110 feet
West	15.44 acres	Field Crop	R-C-40	Approximately 510 feet

Reviewing Agency/Department Comments:

No comments specific to Finding 3 were expressed by reviewing Agencies or Departments.

Finding 3 Analysis:

In support of Finding 3, the Applicant states that the proposed Variance will not be detrimental to the public welfare. The Variance site is adjacent to Rainbow Avenue therefore, no additional easements or right-of-way are needed to access the property. The proposed home site would not conflict with the continued agricultural operation of the remaining agricultural acreage nor any adjacent parcels. Although the Variance site has been approved to be removed from the Williamson Act, agricultural production from the subject site would still occur. The Applicant also intend to preserve the bluff in its natural state, allowing wildlife and existing plants and trees to thrive in their habitat.

While the impact of this singular Variance may not constitute a materially detrimental impact, Staff notes that the creation the separate legal non-conforming parcels has the potential to increase residential density in the area by potentially allowing an additional single-family residence on each parcel through the Director Review and Approval process. Cumulatively this and other such increases in residential density has the potential to conflict with adjacent agricultural operations in the area, The minimum acreage requirement of the AE-20 Zone district is intended to arrest this parcellation pattern and limit the potential conflicts between residential agricultural activities. However, the limited scale of this individual request by itself is not a significant material detriment to properties in the vicinity.

Recommended Conditions of Approval:

None.

Finding 3 Conclusion:

Finding 3 can be made as the limited scale of this individual request by itself is not a significant material detriment to properties in the vicinity.

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

Relevant Policies:	Consistency/Considerations:
General Plan Policy LU-A.6: <i>The County shall maintain twenty (20) acres as the minimum permitted parcel size in</i>	Inconsistent. The Variance would allow creation of a 2.00-acre parcel and a 30.22-acre parcel in the AL-20 Zone District, which

<p>Relevant Policies:</p> <p><i>areas designated Agriculture, except as provided in Policies LU-A.9, LU-A.10 and LU-A.11. The County may require parcel sizes larger than twenty (20) acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.</i></p>	<p>Consistency/Considerations:</p> <p>has a minimum parcel size of 20 acres. The creation of a 2.00-acre parcel in the AL-20 Zone District is inconsistent with Policy LU-A.6. Further, the proposed project does not qualify for an exception under Policies LU-A.9, LU-A.10, or LU-A.11:</p> <ul style="list-style-type: none"> • Policy LU-A.9: The lot is not for a financing parcel, gift lot, or owned by the property owner prior to the date the policies were implemented. • Policy LU-A.10: The proposed parcel is not proposing development of an agricultural commercial center. • Policy LU-A.11: The proposed parcel is not proposing development of an oil and gas exploration and extraction operation.
<p>General Plan Policy LU-A.7:</p> <p><i>The County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that these parcels are less viable economic farming units, and that the resultant increase in residential density increases that potential for conflict with normal agricultural practices on adjacent parcels. Evidence that the affected parcel may be an uneconomic farming unit due to its current size, soil conditions, or other factors shall not alone be considered a sufficient basis to grant an exception. The decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.</i></p>	<p>Inconsistent. The Variance proposal requests to allow creation of a 2.00-acre parcel in the AL-20 Zone District and a 30.22-acre parcel in the AL-20 and RC-40 Zone District. The AL-20 Zone District requires a minimum 20-acre parcel size; therefore, the proposal is not consistent with General Plan Policy LU-A.7.</p>
<p>PF-C.16 Water Supply Evaluation <i>The County shall, prior to consideration of any discretionary project related to land use, require a water supply evaluation be conducted. The evaluation shall include the following:.....</i></p>	<p>Consistent. The County's Water and Natural Resources Divisions, analysis has determined that the proposed Variance will not have a significant impact on water resources.</p>

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning:

The subject parcel is designated as Agricultural and Open Space in the Kings River Regional Plan. The existing parcel is enrolled in the Williamson Act Program under Contract No. 5834. Pursuant to the Fresno County Williamson Act Program Guidelines, parcels that are enrolled in the program are required 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 in the Williamson Act Program.

The proposed parcels did not qualify to remain in the program and were removed from the program through the contract cancellation process. The cancellation has since been completed and recorded on September 17, 2024.

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

Finding 4 Analysis:

In support of Finding 4, the Applicant states that the Fresno County General Plan and related Zoning Ordinance allows for a variety of uses to occur in agriculturally zoned properties including the ability for landowners to create home sites. The proposed Variance will not change or adversely impact the agricultural production of the subject property. Granting the proposed Variance is a logical consequence of allowing home sites in the AL-20 Zone District and will continue the objective of the General Plan. The Applicant states that the vast majority of agricultural production will continue while wildlife habitat will be left undisturbed. The Applicant proposes to build a single-family residence that will occupy vacant land near the bluff edge.

A petition for Partial Cancellation of Williamson Act Contract No. 5834 was filed with the Policy Planning Unit and was approved by the Board of Supervisors on July 9, 2024. The partial cancelation has been completed and recorded. In their approval of the cancelation the Board made the required finding for consistency with the General Plan; and in order for the Board to take that action they also considered the initial study prepared for the project which indicates the projects consistency with the County General Plan and other land use policies is a less than significant.

Recommended Conditions of Approval:

None

Finding 4 Conclusion:

Finding 4 can be made as the project has been considered by the Board of Supervisors and deemed consistent with the General Board.

SUMMARY CONCLUSION:

The tiered topography, dual zoning or existence of other small parcels in the area are not a basis for granting a Variance.

Based on the factors cited in the analysis, the required Findings No. 1 and 2 for granting the Variance Application are not recommended to be made:

- There are no exceptional or extraordinary circumstances or conditions applicable to the property;
- The Variance is not 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; and

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that based on the analysis in the Staff Report required Findings 1 and 2 cannot be made and move to deny Variance No. 4076; and
- Direct the Secretary to prepare a Resolution documenting the Commission's Action.

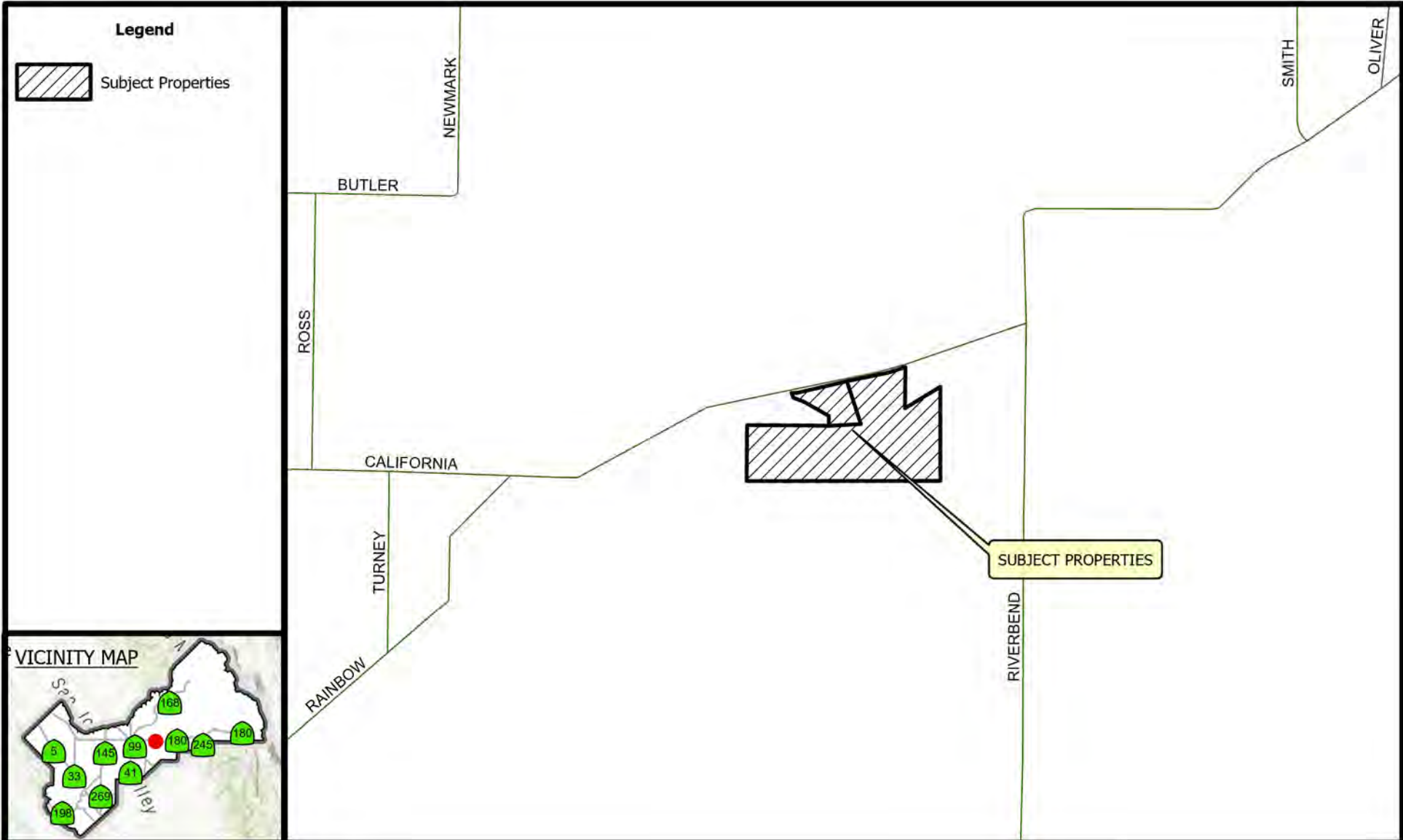
Alternative Motion (Approval Action)

- Move to adopt the Negative Declaration prepared for Initial Study No. 7677; and
- Move to determine required Findings can be made (state basis for making the Findings) and move to approve Variance No. 4076, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

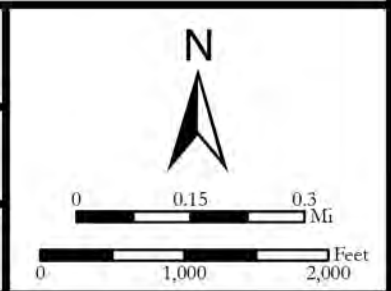
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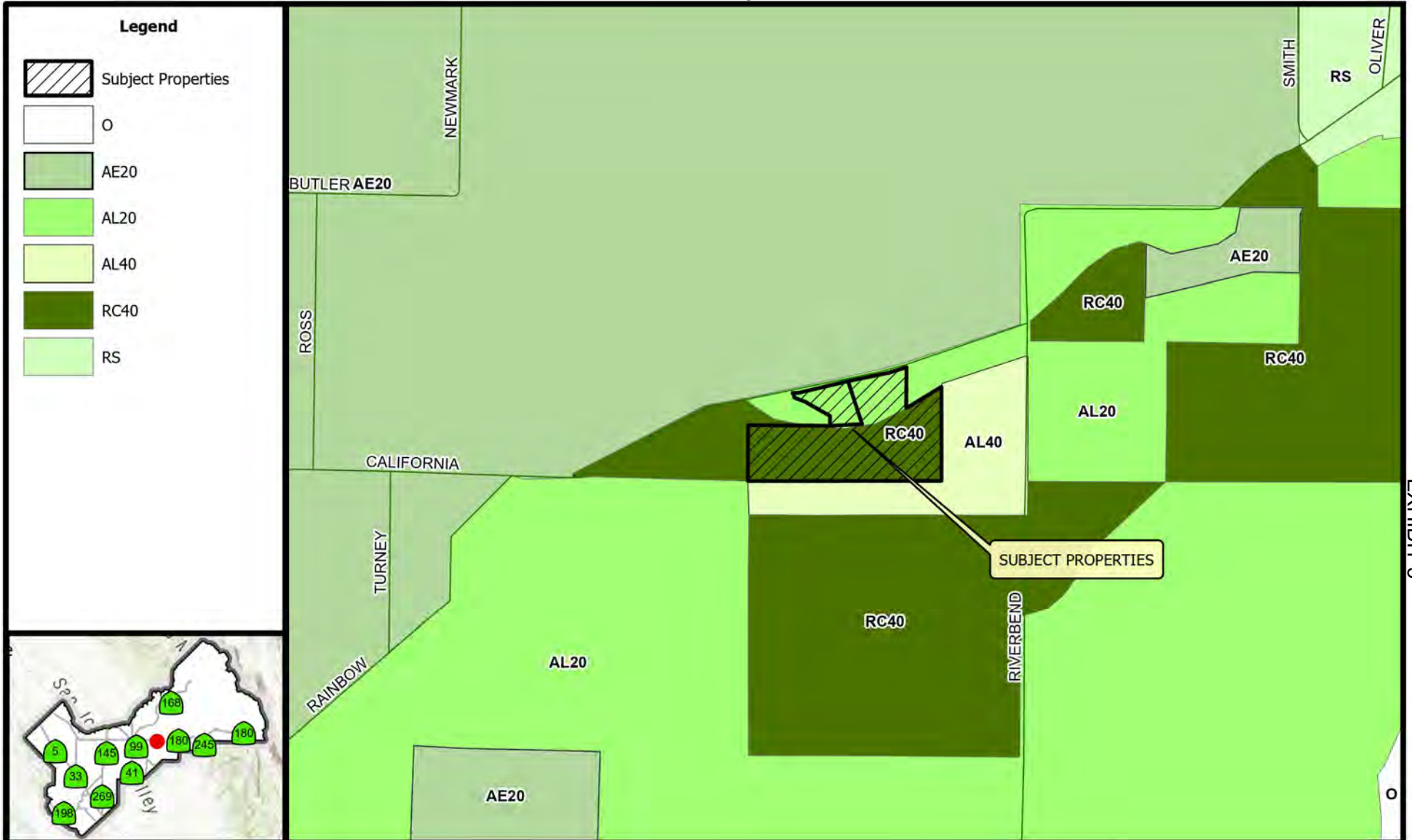


LOCATION MAP

VA 4076 | **2024**

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : chuang
 On Date : 10/2/2024





Existing Zoning Map

VA 4076
STR 7 - 14S / 23E

2024

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
Person Prepared by : chuang
On Date : 10/2/2024

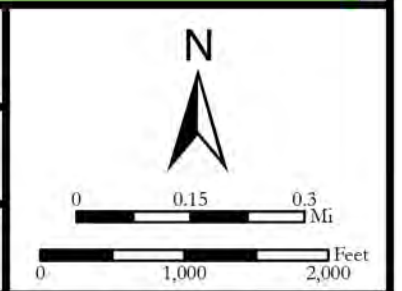




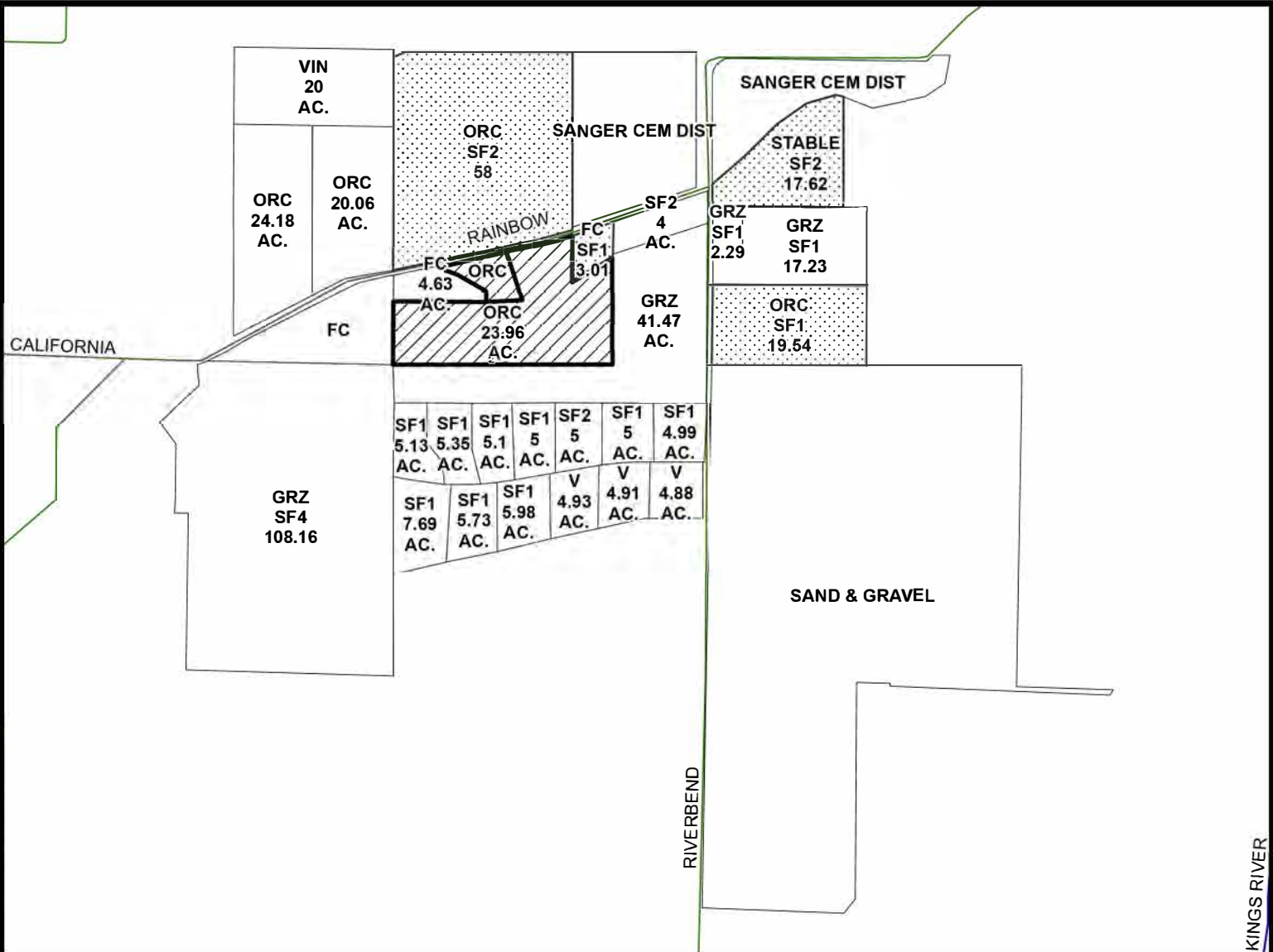
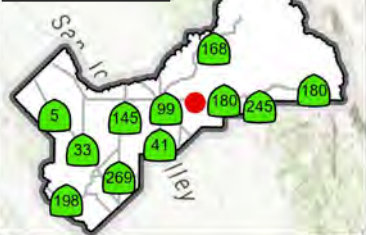
EXHIBIT 3

LEGEND:

-  Subject Properties
-  Ag Contract Land

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

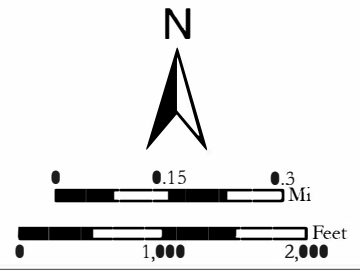
VICINITY MAP






Existing Land Use Map

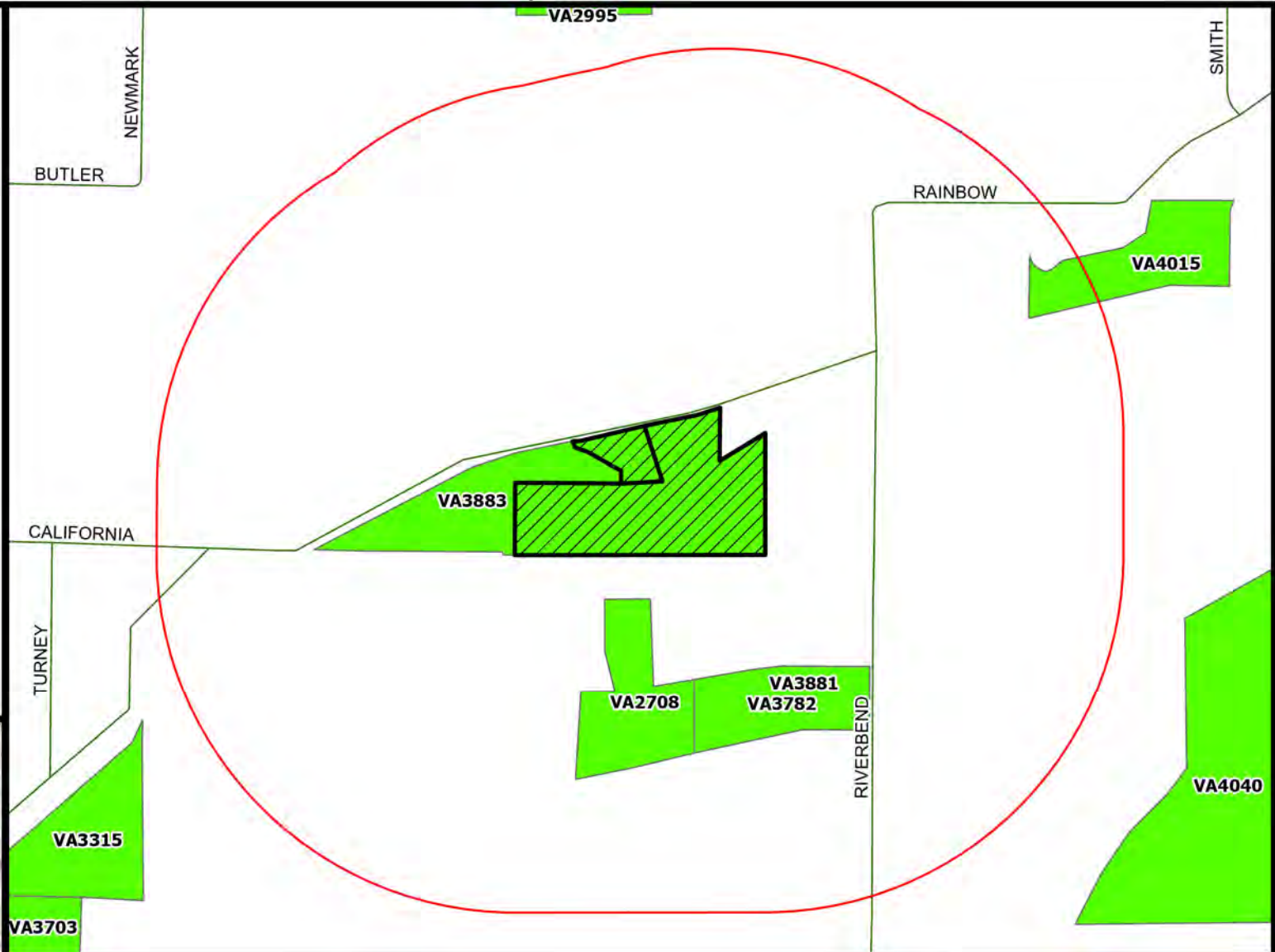
VA 4076 **2024**

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : chuwang
 On Date : 10/2/2024



Legend

-  Half Mile Buffer
-  Subject Properties
-  LU Permits



Proximity Map

VA 4076

2024

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : chuang
 On Date : 10/2/2024

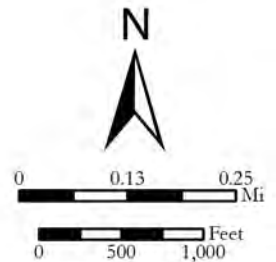


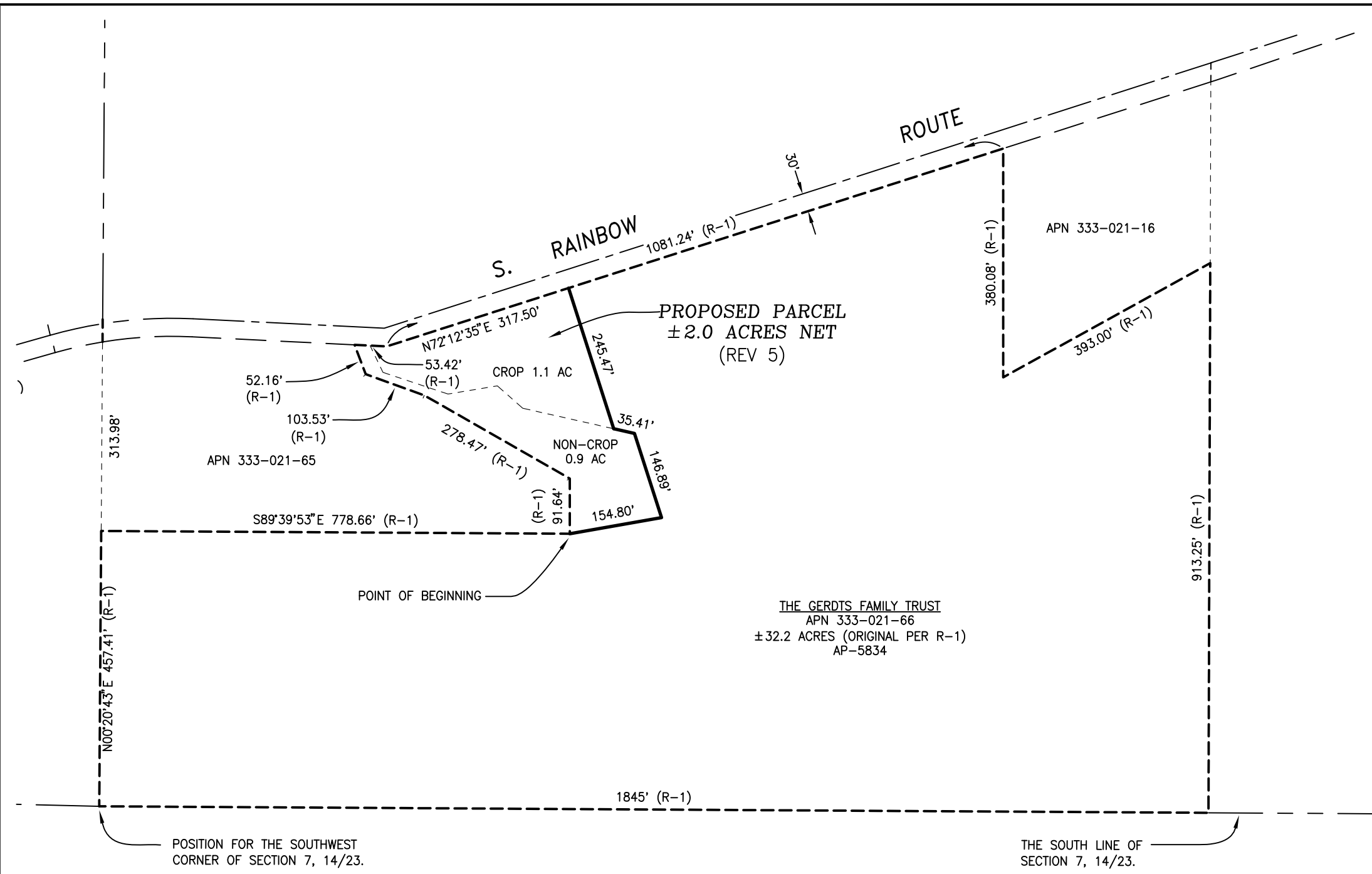
EXHIBIT 5

EXHIBIT 6

SITE PLAN VARIANCE APP. No. 4076

PRE-APPLICATION REVIEW No. 39698
AGRICULTURAL PRESERVE-5834

BEING A PORTION OF THE SOUTHWEST 1/4 OF
SECTION 7, T. 14 S., R. 23 E., M.D.B.M.
IN THE COUNTY OF FRESNO,
STATE OF CALIFORNIA



LEGEND:

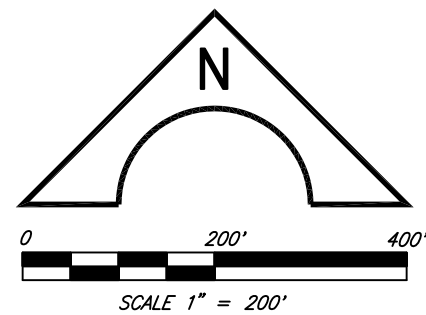
- SECTION LINE.
- - - - - RIGHT OF WAY.
- EXIST. PROPERTY LINE.
- NEW PROPERTY LINE.

NOTE: THERE ARE NO STRUCTURES, WELLS, OR SEPTIC SYSTEMS ON THE SUBJECT PARCEL.

(R-1) RECORD DATA PER DOCUMENT No. 2008-0156863, RECORDED ON NOV. 10, 2008, OFFICIAL FRESNO COUNTY RECORDS.

RECORD OWNERS:

THE GERDTS FAMILY TRUST
MARVIN H. GERDTS & JANICE B. GERDTS (TRUSTEES)
APN 333-021-66



PROJECT INFORMATION			
NAME: GERDTS SITE PLAN		CLIENT: KERRY GERDTS	
TWP, RNG, SEC: 142307 MDB&M	COUNTY OF: FRESNO	STATE OF: CALIFORNIA	

	DATE OF SURVEY	N/A
	ESP JOB No.	19049
	DRAWN BY	6335
	DRAWN DATE	6/28/2019
	REV. 1	7/11/2019
	REV. 2	10/19/2020
REV. 4	06/23/2021	
REV. 5	08/02/2022	

ESP SURVEYING
2598 N. MIAMI AVE.
FRESNO, CA
Tel. 559.442.0883
Fax 559.442.0884
www.espls.com

EXHIBIT 6

VARIANCE APPLICATION FINDINGS
Mr. Kerry V. Gerdts/Gerdts Family Trust

Owner:

The Gerdts Family Trust
Marvin H. & Janice B. Gerdts
700 S. Rainbow Ave.
Sanger, CA 93657

Mr. Jerry Page
1000 Rainbow Rt.
Sanger, CA 93657

Applicants:

Gerdts Family Trust 333-021-66

Mr. Jerry Page 314-070-69

Property Location:

746 S. Rainbow Rd.
Sanger, CA 93657

Existing Zone Designation:

AL-20 & RC-40

Existing Plan Land Use Designation

Agriculture (above bluff) & Resource Conservation (below bluff)

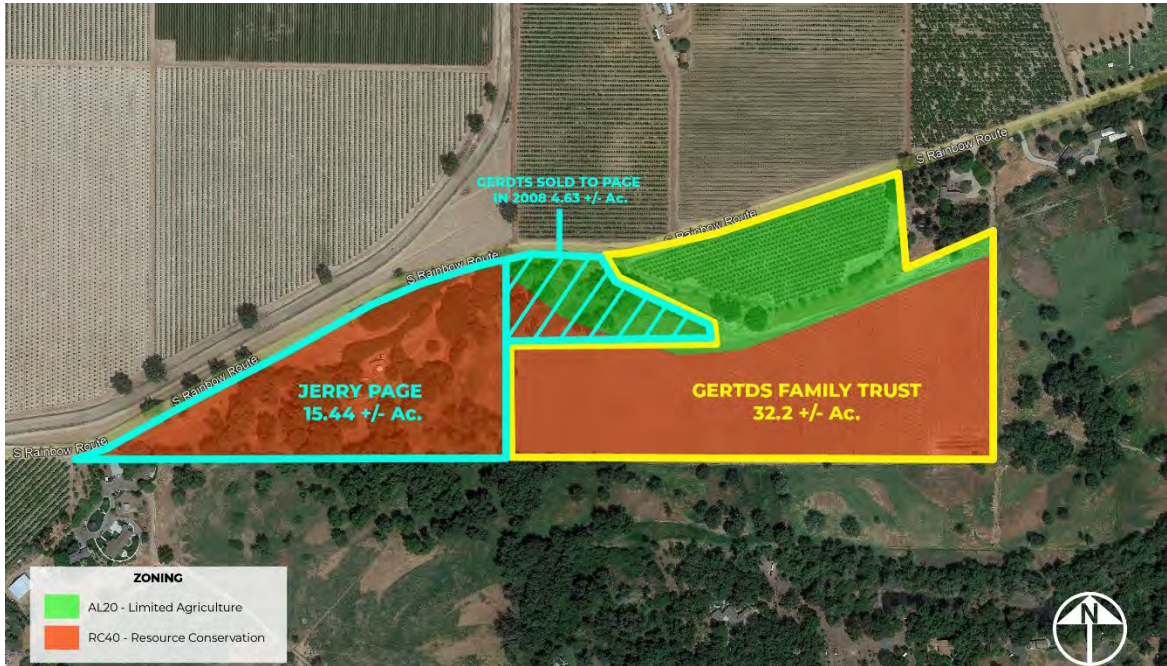
Request:

Approve a Variance to allow the creation of a 2.0 +/- acre homesite for Mr. Kerry Gerdts, son of Marvin and Janice Gerdts, from an existing 32.2 +/- acre parcel (area per a recorded deed) located in the AL-20 Zone and re-approve Variance No. 3883 creating a 4.64 +/- acre parcel which expired from the Gerdts property. Please see the attached site plan prepared by ESP Surveying, Inc.

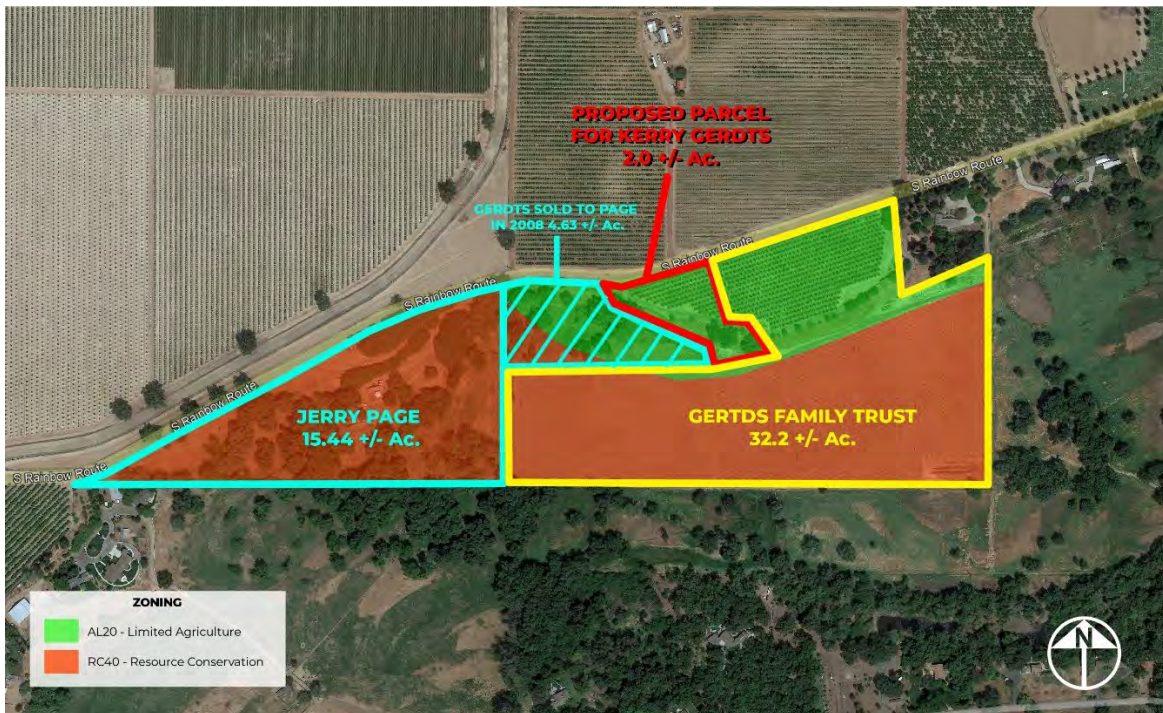
Background:

Please see the attached site plan of the subject property prepared by ESP Surveying, Inc. The subject site and associated farm were purchased by the Gerdts Family in 1971. The property has

been in continuous tree fruit production since its purchase. The applicant is transitioning from plum orchards to pistachios. The farm and proposed homesite is for the owner's son Kerry Gerdts. The property has three elevations levels and two zoning designations (AL-20 and RC-40). The two zone classifications are separated by a steep bluff. For reference, please see images below.



Aerial of Page & Gerdts Parcels Existing Zoning



Aerial of Proposed Parcel for Kerry Gerdts

Gerdts Family Trust to Son Kerry Gerdts

The 32.2 +/- acre farm acreage was determined by ESP Surveying, Inc. The proposed 2.0 +/- acre homesite for Mr. Kerry Gerdts would be removed from Williamson Act Contract No. 5834. The Marvin & Janice Gerdts farm contains a shop building and two equipment sheds, but no residences. These structures are not within the homesite proposed for Mr. Kerry Gerdts.

The applicant desires to have his son proximate to assist the Gerdts family more efficiently operating the Gerdts' family farm. Mr. Kerry Gerdts sought to purchase an existing home proximate to the subject site but no available homesites met the applicant's purchase criteria. County staff received no affirmative responses to sell property not encumbered by a Williamson Act contract from nearby property owners.

The western boundary of the subject 32.2 +/- acre Gerdts parcel has sharp angular bluff face that prohibits farming of this area and maneuvering mechanical pistachio harvesting equipment.

Government Code Title 7, Article 3. Administration section 65906 of state planning law states that Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including *size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.*

The proposal meets the Variance approval criteria of the law. The subject site has three topographically distinct areas. The top area of approximately 6.65 +/- acres is zoned AL-20 (Limited Agriculture) with a 20-acre minimum lot size. The bluff area creates a 10' to 30' deviation in elevation from the top area of the subject site to the bottom area of the site.



Street View Illustrating Bluff Slope

As mentioned above, the bottom area is physically segregated from the top area from 10' to 30' and is within a flood prone area. Due to that *physical circumstance*, the lower area is zoned RC-40 (Resource Conservation) and is 23.71 +/- acres in size. The RC zone prohibits residential uses due to the potential for flooding. But for this physical division of the site, the entire site would be zoned AL-20 and the proposed homesite would be allowed as the request would comply with the 20-acre minimum lot size of the dominant parcel for the creation of a homesite.

The Gerdts and Page parcels are under Williamson Act Contract No. 5834. Mr. Marvin Gerdts and Mr. Jerry Page's properties entered into the contract on February 4, 1974, when the property was zoned AL-20. Subsequently, on November 16, 1982, the Board of Supervisors zoned a 23.71 +/- acre portion of the Gerdts property to RC-40 creating two zone districts on the same parcel under one ownership, depicted in the previous images. The rezoning of the subject parcels removed the Gerdts' right to create a homesite on the AL-20 portion because that portion was substandard in size (less than 20 acres). Further, zoning a 23.17 +/- acre portion of the site to RC-40 also eliminated the right to a homesite in that zone district. These two changes had an adverse impact on the Gerdts benefits from the Williamson Act agreement with Fresno County.

The site's grade difference generally coincides with the property's AL (Limited Agriculture) Zone District which requires a 20-acre parcel to create a homesite and the RC-Resource Conservation Zone District which does not allow homesites due to the potential for flooding. Nonetheless, the applicant's parcel totals 32.2 +/- acres. Therefore, the proposed Variance would allow Mr. Kerry Gerdts to enjoy the advantages of a homesite on his own property, a right enjoyed by others.

Gerdts to Page

Mr. Page purchased his 15.44 +/- acre parcel in approximately 1990 and has farmed it continuously since. The Page 15.44 +/- acre parcel entered into Williamson Act Contract No. 114 on February 27, 1968.

Page and Gerdts have worked cooperatively as neighboring farmers over decades. On July 17, 2008, the County Planning Commission approved Variance No. 3833 allowing the creation of a 4.63 +/- acre parcel from the Gerdts property to be merged with the Page property of 15.44 +/- acres. The purpose of that variance was to allow a 4.63 +/- acre portion of the Gerdts Family Trust Land to become part of the Page property as it was unfarmable by Gerdts or anyone else due to its radical slopes. Variance No. 3833 expired without execution of the necessary lot line adjustment procedure. The subject proposal seeks to re-approve Variance No. 3833. As contemplated, Page continues to use the 4.63 +/- acres and completed the transaction with Gerdts years ago for the land.

As previously mentioned, when Marvin and Janice Gerdts entered into their Williamson Act contract in 1974, the Gerdts property was under one zone district. When the Gerdts site was bifurcated by two zone districts creating the RC-40 that has no right for a homesite and making the AL-20 insufficient in size to have a homesite, the right to create a homesite like other properties was taken from the Gerdts family.

Finding 1:

There are exceptional or extraordinary circumstances or conditions applicable to the property involve which do not apply generally to other property in the vicinity having the identical zoning classification.

The Gerdts Family Trust Property has three distinct topographic types detailed below.

The Top Area

Please see the attached photos of the *top area* of the subject site. The top area encompasses 6.65 +/- acres and is zoned AL-20. This area is under ag production with plumbs and has access to S. Rainbow Route Road. The top area shares the flat topography of the remaining portion of the property to the north and represents approximately 26% of the property. However, the top area is less than 20 acres so that portion of the property does not qualify for a homesite.

The Bluff Area

Please see the attached photos of the *bluff area* of the subject site. The bluff area physically divides the property due to its steep slopes ranging from 10' to 30'. Oak trees thrive in this area and they will not be disturbed. Due to these slopes, this area cannot be farmed.

The Bottom Area

Please see the attached photos of the *bottom area* of the subject site. The bottom area is zoned as RC-40 and encompasses 24.17 +/- acres. The proposed Variance will not remove any land from agricultural production in this area of the subject site.

The applicant has evaluated a range of lot configurations to reduce the potential impacts to his agricultural operations to the extent feasible. Of the proposed 2.0 +/- acre homesite, 0.9 +/- acres are either bluff area or existing service roads *not* in agricultural production. In other words, 45% of the proposed homesite is not in agricultural production.

Finding 2:

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

GERDTS

Other property owners under like zoning have the right to construct a home on their property. A homesite on one's own land is a basic property right. The proposed Variance is necessary to allow the applicant to create the proposed homesite on his 32.2 +/- acre parcel which is 12 acres over the minimum lot size to create a homesite in normal conditions in this zone district. There are no homes on the subject parcel.

Granting the Variance does not constitute a grant of *special privilege* as a homesite on a 32.2 +/- acre parcel would be allowed but for the split zoning. When Marvin and Janice Gerdts entered into their Williamson Act contract in 1974, the Gerdts property was under one zone district. The Gerdts site was bifurcated when the County zoned the lower portion of the site to RC-40, which created two zone districts on the parcel and the right to create a homesite like other properties was taken from the Gerdts family. That zoning action of the County represents a unique circumstance justifying approval of the proposed Variance.

Creation of the proposed homesite allows the applicant to protect his property like other property owners with like kind lot sizes. Increased security risk of vandalism to the applicant's farm and the enhanced farming efficiency living on his land. The applicant's father owns the parcel immediately to the north and the applicant seeks to be near him and his mother to provide care.

PAGE

Approval of Variance No. 3833 determined the creation of a 4.6 +/- acre parcel from Gerdts to Page allowed a substantial property right to sell unproductive agricultural property to an adjacent neighbor.

Finding 3:

If granted, would the requested variance be detrimental to the public welfare or injurious to property or improvements in the area to which the property is located?

Granting the proposed Variance will not be detrimental to the public welfare of surrounding properties for the following reasons:

- a) The proposed Gerdts home site nor the Page merger would not conflict with the continued agricultural operation on the remaining agricultural acreage nor adjacent acreage.
- b) The proposed Gerdts homesite is outside of the mapped flooding area so no flooding issues should occur.
- c) After the Gerdts homesite creation, the remaining 30.2 +/- acres is a viable farming unit.
- d) As they have historically done, Gerdts and Page will preserve the bluff in its natural state, allowing wildlife and oak trees to thrive in their natural habitat.
- e) Gerdts and Page propose to voluntarily prohibit the creation of another homesite on either of their respective properties. Gerdts will voluntarily prohibit the creation of a second residence (granny house) on the proposed 2.0 +/- acre homesite. These voluntary conditions will eliminate any possibility that the proposal will result in the removal of adjacent land from agricultural use or create other adverse impacts to agriculture.
- f) Soils in the area do not pose limits to septic disposal and water production on both the Gerdts and Page farms has been historically good.

Finding 4:

The granting of such a Variance will not be contrary to the objective of the General Plan.

Simply, Gerdts sold to Page 4.63 +/- acres that was not farmable to merge with adjacent Page farm. That sale required a Variance which was previously approved. Marvin and Janice Gerdts desire to give their son a homesite to assist in managing their farm and make it more convenient for their son to care for them.

The Fresno County General Plan and related zoning ordinance allow for a variety of uses to occur in agriculturally zoned properties. Included is the ability of landowners to create home sites. The proposed Variance will not change or adversely affect the agricultural production capability of either the Gerdts or the Page properties. Both the Gerdts and the Page parcels have adequate land for viable farming production.

As stated above, Mr. Gerdts evaluated a range of lot configurations to reduce the potential impacts on his agricultural operations to the extent feasible. Of the proposed 2.0 +/- acre homesite, 0.9 +/- acres are either bluff area or existing service roads *not* in agricultural production. In other words, 45% of the proposed homesite is not in agricultural production.

No homesite exists on the subject Gerdts property. The applicant also proposes to voluntarily prohibit the creation of another homesite on the remaining 30.2 +/- and to also prohibit the creation of a second residence (granny house) on the proposed 2.0 +/- acre homesite. These voluntary conditions will eliminate any possibility that the proposal will result in the removal of adjacent land from agricultural use or create other adverse impacts to agriculture.

For these reasons, the proposed Variance will not conflict with the policies of the Fresno County General Plan.



County of Fresno

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

EVALUATION OF ENVIRONMENTAL IMPACTS

- APPLICANT:** Kerry Gerdts
- APPLICATION NOS.:** Initial Study Application No. 7677 and Variance Application No. 4076-R
- DESCRIPTION:** Reduce the minimum parcel size within the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District to allow the creation of an approximately 2.0-acre parcel from an existing 27.51-acre parcel that is dual zoned AL-20 and R-C-40 (Resource Conservation, 40-acre minimum parcel size).
- LOCATION:** The subject parcel is located on the south side of Rainbow Avenue, approximately 1,204 feet west of its nearest intersection with Riverbend Avenue, and is approximately 1.37 miles northeast of the nearest city limits of the City of Sanger (APN 333-021-66) (SUP. DIST. 5).

I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

- A. Have a substantial adverse effect on a scenic vista; or
- B. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

FINDING: NO IMPACT:

No scenic vista or scenic resource has been identified on or near the project site. According to Figure OS-2 of the Fresno County General Plan, there are no scenic roadways fronting the project site.

- C. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Based on the Applicant's Findings and description of the project, a single-family residence could be proposed on the created parcel at a later date. The remainder portion of the parcel will continue to be utilized for agricultural purposes. If the Variance application is approved, development of both parcels can occur in the future that can degrade the existing visual character or quality public views of the site and its surroundings, but will not have a substantial impact as the underlying zone districts only allow certain uses by right, with additional more intensive uses allowed subject to a discretionary land-use permit. Per the Applicant, there are three separate areas of the project site. An at-grade area even with Rainbow Avenue, a sloping bluff, and a below-grade area. The property is utilized as an agricultural operation improved with orchards. The proposed parcel will be located at the at-grade area fronting Rainbow Avenue. Therefore, based on the proposed development from the Applicant, and future development of the site subject to the Zoning Ordinance, a less than significant impact is seen.

- D. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject application will not directly create a new source of light or glare. The project would allow the creation of a new parcel from the existing parcel and will allow both parcels to be developed. The Applicant has stated that development of the new parcel towards a homesite will occur which can create a new source of lighting. Based on the project proposal, and the mention of development of a single-family residence, the project is not expected to be a source of substantial light of glare which would adversely affect day or nighttime views in the area. The project is seen as having a less than significant impact.

II. AGRICULTURAL AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology in Forest Protocols adopted by the California Air Resources Board. Would the project:

- A. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use; or

- B. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The existing parcel is enrolled in the Williamson Act Program under Contract No. 5834. Pursuant to the Fresno County Williamson Act Program Guidelines, parcels that are enrolled in the Program are required 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 in the Williamson Act Program. The proposed 2.0-acre parcel does not qualify to remain in the Program and must be removed from the Program through the contract cancellation process. A recommendation for cancellation from the Agricultural Land Conservation Committee and/or approval of the cancellation from the Board of Supervisors is required to allow the subject proposed parcel to cancel their Williamson Act Contract.

- C. Conflict with existing zoning for forest land, timberland or timberland zoned Timberland Production; or
- D. Result in the loss of forest land or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

The project site is not located in forest land, timberland, or timberland zoned Timberland Production. The project will not result in the loss of forest land or conversion of forest land to non-forest use.

- E. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed parcel split will not involve changes to the existing environment that could result in conversion of Farmland to non-agricultural use. The subject parcel is actively farmed; however, the Applicant has indicated that the proposed parcel may be improved with a single-family residence. The remainder of the proposed parcel would still be utilized for agricultural production and would not substantially change the nature of the use or affect surrounding parcels.

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:

- A. Conflict with or obstruct implementation of the applicable Air Quality Plan; or

- B. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a Federal or State ambient air quality standard?

FINDING: NO IMPACT:

The project is to allow creation of a parcel under the minimum parcel size standard of the underlying zone district from an existing parcel. The project will not conflict with or obstruct implementation of the applicable Air Quality Plan and will not result in a cumulatively considerable net increase of any criteria pollutant.

- C. Expose sensitive receptors to substantial pollutant concentrations; or
- D. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

FINDING: NO IMPACT:

The project site is currently utilized as an agricultural operation with the property improved with orchards. Per the Applicant, the created parcel may be improved with a single-family residence. Both the agricultural operation and the potential single-family residence are not uses that are associated with substantial pollutant generation and will not expose sensitive receptors to substantial pollutant concentrations. The project will not result in other emissions adversely affecting a substantial number of people.

IV. BIOLOGICAL RESOURCES

Would the project:

- A. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

FINDING: NO IMPACT:

According to the California Natural Diversity Database, the project site is not located within any reported occurrence areas of a special status species. The proposal is to create a new parcel from an existing parcel. The subject parcel is actively being farmed. The Applicant has stated that the created parcel may be improved with a single-family residence with the remainder parcel continuing to be used for agricultural purposes. Based on current conditions, the parcel experiences disturbance that would deter special status species from inhabiting the subject parcel. In considering current conditions, the project proposal, and potential future development, the project will not substantially adversely affect any special status species directly or through habitat modification.

- B. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- C. Have a substantial adverse effect on state or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the National Wetlands Inventory, the subject parcel is located along the boundaries of identified wetlands. Although the subject parcel is located near the identified wetlands, the proposed parcel will not have an adverse effect on the wetland as the parcel is separated by a grade difference and potential development is subject to the setbacks of the underlying zone district. Also, it appears that the identified wetland occurs on the adjacent parcel, Fresno County requires that drainage of a parcel be confined so as not to drain on neighboring properties. Based on these factors, the project is not expected to adversely affect any identified wetlands. There are no riparian or other sensitive natural community identified on or near the subject parcel.

- D. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

FINDING: NO IMPACT:

The project will not interfere substantially with the movement of any native resident or migratory fish or wildlife species. No native resident or migratory wildlife corridor or native wildlife nursery site has been identified on the subject parcel. The subject parcel is currently being utilized for agricultural purposes and disturbance of the site has deterred wildlife species from inhabiting the site.

- E. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?

FINDING: NO IMPACT:

The project will not conflict with any local, state, or federal policies or ordinances protecting biological resources. The project also will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan.

V. CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5; or
- B. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; or
- C. Disturb any human remains, including those interred outside of formal cemeteries?

FINDING: NO IMPACT:

The project proposes to create a parcel from an existing property. The property is currently utilized for agricultural and has experienced ground disturbance from the agricultural use. As no historical or archaeological resources has been identified on or near the project, and considering past ground disturbing activities related to the existing agricultural use, no impact is seen on Cultural Resources.

VI. ENERGY

Would the project:

- A. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; or
- B. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

FINDING: NO IMPACT:

The project proposes to create a parcel from an existing parcel. The project will not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resource as there is not project construction or operation proposed. The Applicant has stated that a single-family residence could be built at a later date. If a single-family residence is built, the residence will be required to abide by the California Building Code which include meeting energy efficiency standards. Therefore, the project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

VII. GEOLOGY AND SOILS

Would the project:

- A. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?

FINDING: NO IMPACT:

According to the Earthquake Zone Application administered by the California Department of Conservation, the proposed parcels are not located within a rupture of a known earthquake fault. Additionally, per Figure 9-3 of the Fresno County General Plan Background Report (FCGPBR), the parcel is not located near any other identified Earthquake Hazard Zones.

2. Strong seismic ground shaking?
3. Seismic-related ground failure, including liquefaction?

FINDING: NO IMPACT:

According to Figure 9-5 of the FCGPBR, the subject parcel is not located in an area identified as being in a probabilistic seismic hazard area. Based on this, the project site not likely to be subject to strong seismic ground shaking or seismic-related ground failure due to the strong seismic shaking.

4. Landslides?

FINDING: NO IMPACT:

According to Figure 9-6 of the FCGPBR, the project site is not located in identified Landslide Hazard areas.

- B. Result in substantial soil erosion or loss of topsoil?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project proposal requests creation of a parcel from an existing parcel. The existing parcel is actively farmed. The Applicant per the submitted findings indicate that the proposal 2.0-acre parcel is intended to still be farmed, but also be utilized as a homesite. In considering the Applicant's intent, development of the proposed parcel will result in loss of topsoil. Although a loss of topsoil is considered with development of the parcel, development will be subject to the most current building code standards, which will reduce developmental impacts resulting from the loss of topsoil. The project will not result in substantial soil erosion.

- C. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Existing terrain of the project site includes an area level with public right-of-way, a bluff, and a lower level at the bottom of the bluff. The proposed parcel will consist of a portion of the street level area and the bluff, and does not contain any portion of the lower level. Development of the subject site is subject to the current building code and will reduce any impacts development may have if located on or near the bluff. Reviewing agencies and departments did not express concern to indicate that the soil of the project site is unstable or would become unstable as a result of the project.

- D. Be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

FINDING: NO IMPACT:

Per Figure 7-1 of the Fresno County General Plan Background Report (FCGPBR), the subject parcel is not located in identified Expansive Soil areas.

- E. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project proposal is specifically to create a parcel with no development being included with this proposal. The Applicant has indicated that the subject proposal would be utilized for the existing agricultural operation and for a future homesite. If the proposed parcel were to be developed, the project site would be subject to building permits including for any proposed septic system or alternative waste water disposal system. No reviewing agencies and departments indicated that the subject site would not be able to adequately support the use of septic tanks or alternative waste water disposal systems.

- F. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

FINDING: NO IMPACT:

There are no identified unique paleontological resource or unique geologic feature identified on the project site.

VIII. GREENHOUSE GAS EMISSIONS

Would the project:

- A. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or

- B. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project proposal will allow creation of a substandard parcel and a remainder parcel. The Applicant has indicated that the proposed parcel will be utilized as a home site, but currently, there are no plans for development of the site. The project proposal will not directly generate greenhouse gas emissions, but if development of the parcel were to occur, by-right uses under the Limited Agricultural (AL) Zone District are not expected to generate greenhouse gas emissions that would have a significant impact on the environment. Additional uses subject to land-use permits would address impacts related to the proposed use. The San Joaquin Valley Air Pollution Control District (SJVAPCD) has been given the opportunity to review and provide comments on the project. There were no expressed concerns from SJVAPCD to indicate that the project proposal would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gas emissions.

IX. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- A. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or
- B. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

FINDING: NO IMPACT:

The project proposal is to allow creation of a substandard parcel from an existing 27.51-acre parcel. The existing parcel is actively farmed. The proposal will not create a significant hazard to the public through the transport, use, or disposal of hazardous materials, nor will it create a significant hazard to the public or environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

- C. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

FINDING: NO IMPACT:

The project site does not emit hazardous emissions or handle hazardous materials and is not located within one-quarter mile of an existing or proposed school site.

- D. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.0 and, as a result, would it create a significant hazard to the public or the environment?

FINDING: NO IMPACT:

Per a NEPAssist report generated for the project site, there are no hazardous material sites located on or near the project site.

- E. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

FINDING: NO IMPACT:

The project site is not located within an airport land use plan or within two miles of a public airport or public use airport.

- F. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- G. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concerns to indicate that the project would impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. The project will not expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

X. HYDROLOGY AND WATER QUALITY

Would the project:

- A. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality; or
- B. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

FINDING: NO IMPACT:

The Water and Natural Resources Division and the State Water Resources Control Board did not express concerns that the project proposal would violate water quality standards or waste discharge requirements, nor were concerns expressed to indicate

that the project would substantially decrease groundwater supplies or interfere with groundwater recharge. The project proposes to create a substandard parcel from an existing 27.51-acre parcel. There is no development of the site being proposed that is directly linked to the Variance request. Any development that would occur if the Variance request is approved would be subject to permits and review that will address water usage.

- C. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on or off site?
1. Result in substantial erosion or siltation on- or off-site;
 2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?
 3. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
 4. Impede or redirect flood flows?

FINDING: NO IMPACT:

The project proposes to create a substandard parcel from the existing 27.51-acre parcel. There is no development being proposed directly with the Variance request. The project will not result in the altering of drainage patterns of the site or alter any course of a stream or river. The project will not result in substantial erosion or siltation. The rate or amount of surface runoff will not increase from the project proposal. Per Fresno County standards, stormwater runoff should not be drained across property lines and be kept onsite. There are no planned stormwater drainage systems that service the project area. The project will not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems and will not provide additional sources of polluted runoff. Per FEMA FIRM Panel 2140H, the project site is not subject to flooding from the 100-year storm, therefore the project will not impede or redirect flood flow.

- D. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

FINDING: NO IMPACT:

Per FEMA FIRM Panel 2140H, the project site is not subject to flooding from the 100-year storm. There are not bodies of water near the project site that would indicate the site is at increased risk from tsunami or seiche zones.

- E. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concern with the project to indicate that the proposal would conflict with or obstruct implementation of a water quality control plan or sustainable management plan.

XI. LAND USE AND PLANNING

Would the project:

A. Physically divide an established community?

FINDING: NO IMPACT:

The project proposal will not physically divide an established community.

B. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Development in Fresno County is required to be consistent with the Fresno County General Plan. Goal LU-A reads "To promote 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." This goal relates to the environmental impacts of the loss of farmland and is supported by the following policies:

- LU-A.6: The County shall maintain twenty acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9, LU-A.10, and LU-A.11. The County may require parcel sizes larger than twenty (20) acres, based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.
- LU-A.7: The County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that these parcels are less viable economic farming units and that the resultant increase in residential density increases the potential for conflict with normal agricultural practices on adjacent parcels...the decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.

The above-mentioned policies are intended to address the environmental concern that an increase in the number of homesite parcels and general decrease in parcel size in Fresno County could lead to a conversion of productive agricultural land.

This application is not consistent with the above policies because the proposed 2.0-acre parcel does not qualify for any of the exemption under Policy LU-A.9 (financing parcel; gift to family to assist with farming; or ownership prior to adoption of AE-20 Zoning), LU-A.10 (agricultural commercial center), or LU-A.11 (resource recovery location). However, these policies are codified in the Fresno County Zoning Ordinance under Section 816.5.A, where this Variance application is requesting relief from the 20-acre minimum parcel size.

The subject parcel is enrolled in the Williamson Act Program. The proposed substandard parcel does not qualify to remain in the Williamson Act Program and must be removed from the Program through the contract cancellation process. A Notice of Non-Renewal has been filed by the Applicant for the proposed parcel as a requirement for cancellation. The Agricultural Land Use Committee will determine if the requested early cancellation of the Contract should be granted and make a recommendation to the Board of Supervisors for a final decision. If the cancellation request is not granted, the Variance request will not be effective, since the proposed parcel would not meet the minimum acreage requirements for the Contract. This application is for a Variance from the minimum parcel size required by the Zone District; however, no Variance is available in regard to the Williamson Act.

If the cancellation request is approved, the contract will be cancelled, and the property owner will no longer be limited to compatible uses stated under the Williamson Act. The parcel would be allowed to split into the proposed 2.0-acre parcel. No immediate development is associated with the application, but the property owners would no longer be obligated to maintain the existing agricultural operation and would be permitted to develop the proposed parcel following approval of the Variance application and mapping application.

Although the project proposal is in conflict with the identified policies, this is not considered to be a significant environmental impact as the nonrenewal of the contract establishes a 10-year wind-down period during which time that applicant is still subject to the terms of the agreement. The Applicant has already filed for non-renewal, so the contract will end either through the early cancellation process or through expiration of the last day of December 29, 2029. The loss of 2.0 acres of active farmland on this parcel is not a significant loss of agricultural resources and has a less than significant impact on conflict with plans and policies adopted to avoid an environmental effect.

XII. MINERAL RESOURCES

Would the project:

- A. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
- B. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local General Plan, Specific Plan or other land use plan?

FINDING: NO IMPACT:

According to Figure 7-7 of the Fresno County General Plan Background Report (FCGPBR) the project site is not located on or near any identified mineral resource locations. Additionally, the project proposal does not directly indicate development of the project site that would result in the lost of availability of a known mineral resource or resource recovery site.

XIII. NOISE

Would the project result in:

- A. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- B. Generation of excessive ground-borne vibration or ground-borne noise levels?

FINDING: NO IMPACT:

The project proposes to create a 2.0-acre parcel from an existing 27.51-acre parcel. There is no development or proposed use involved with this project that would result in generation of substantial noise levels, ground-borne vibrations, or ground-borne noise levels. Existing land uses for the surrounding area are agricultural or residential in nature. The subject parcel is utilized for orchard cultivation and does not produce noise in excess of the standard noise generation associated with agricultural uses.

- C. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or

FINDING: NO IMPACT:

The project site is not located within two miles of a private airstrip, airport land use plan, public airport or public use airport.

XIV. POPULATION AND HOUSING

Would the project:

- A. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?; or
- B. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

FINDING: NO IMPACT:

The project proposal will not result in substantial population growth, nor does it propose any development that would induce substantial population growth. The project site is utilized for agricultural cultivation with no residence onsite. The project proposes to split the subject parcel into two parcels and will not displace people or housing.

XV. PUBLIC SERVICES

Would the project:

- A. Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities, or the need for new or physically-altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

- 1. Fire protection;

FINDING: NO IMPACT:

The Fresno County Fire Protection District (FCFPD) reviewed the subject application and did not express concerns to indicate that the proposal would result in adverse impacts on service ratios, response times, or other performance objectives.

- 2. Police protection;

- 3. Schools;

- 4. Parks; or

- 5. Other public facilities?

FINDING: NO IMPACT:

Reviewing agencies did not express concerns to indicate that the project would result in impacts on service ratios, response times, or other performance objectives to the listed services.

XVI. RECREATION

Would the project:

- A. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or

- B. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

FINDING: NO IMPACT:

The project will not result in an increase use of existing neighborhood and regional parks or other recreational facilities and will not require the construction or expansion of recreational facilities.

XVII. TRANSPORTATION

Would the project:

- A. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concern to indicate that the proposal conflicts with a program, plan, ordinance or policy addressing the circulation system.

- B. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

FINDING: NO IMPACT:

There is no increase in traffic trip generation or vehicle miles traveled associated with the project proposal. The project site is currently utilized for agricultural cultivation with traffic generation associated with the agricultural operation. There is no direct development proposed with the project. Potential development of the site associated with by-right uses of the underlying zone district are not expected to conflict with or be inconsistent with CEQA Guidelines.

- C. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?; or
- D. Result in inadequate emergency access?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concerns regarding the design features of the project or regarding emergency access to indicate that the project will result in hazards or inadequate emergency access.

XVIII. TRIBAL CULTURAL RESOURCES

Would the project:

- A. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

FINDING: NO IMPACT:

Per Assembly Bill 52 (AB 52) participating California Native American Tribes were notified of the subject application and given the opportunity to enter into consultation with the County on discussing the presence of tribal cultural resources on or near the project site. No participating California Native American Tribe expressed concern with the project proposal. Additionally, the subject parcel has historically been in agricultural use and has experienced ground disturbance resulting from the use. There is no development directly associated with the subject application. Therefore it can be seen that the project does not have an impact on tribal cultural resources.

XIX. UTILITIES AND SERVICE SYSTEMS

Would the project:

- A. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years; or
- C. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; or
- D. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or

- E. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

FINDING: NO IMPACT:

The project proposes to create a 2.0-acre parcel from an existing 27.51-acre parcel. There is no development proposed with this project, although the Applicant indicates that future residential development may occur. Future residential development would be subject to all applicable federal, state, and local standards. As there is no development directly involved with the subject application, the project will not require the relocation or construction of water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities. The subject site has been historically utilized for agricultural purposes. There is no direct development proposed with this application, therefore no change in water usage will occur. The project will not produce wastewater, therefore no impact will occur on capacity. Solid waste generation will not increase as a result of the project, therefore the project will comply with federal, state and local management and reduction statutes and regulation.

XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- A. Substantially impair an adopted emergency response plan or emergency evacuation plan, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; or
- C. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- D. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

FINDING: NO IMPACT:

According to the 2007 Fresno County Fire Hazard Severity Zones in LRA Map by the California Department of Forestry and Fire Protection (Cal Fire), the project site is not located in or near a state responsibility area or land classified as very high fire hazard severity zone. According to the map, the project site is located on or near area designated as being a moderate severity zone. If future development of the site were to occur, development would be subject to applicable fire and building code standards. The project will not result in adverse impacts associated with wildfires.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

- A. Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

FINDING: NO IMPACT:

Based on the project scope, no proposal for new development associated with the application, and current agricultural use, the project does not have the potential to substantially degrade the quality of the environment or reduce the habitat of a fish or wildlife species.

- B. Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

FINDING: NO IMPACT:

There are no cumulatively considerable impacts identified from the analysis of the subject proposal.

- C. Have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: NO IMPACT:

There were no identified environmental effects that could substantially cause adverse effects on human beings.

CONCLUSION/SUMMARY

Based upon the Initial Study prepared for Variance Application No. 4076, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Air Quality, Cultural Resources, Energy, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire.

Potential impacts related to Aesthetics, Agricultural and Forestry Resources, Biological Resources, Geology and Soils, Greenhouse Gas Emissions, and Land Use Planning have been determined to be less than significant.

A Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, street level, located on the southwest corner of Tulare and "M" Street, Fresno, California.

ER

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EXHIBIT 9

File original and one copy with: Fresno County Clerk 2221 Kern Street Fresno, California 93721		Space Below For County Clerk Only. CLK-2046.00 E04-73 R00-00	
Agency File No: IS 7677	LOCAL AGENCY NEGATIVE DECLARATION	County Clerk File No: E- 2020080064	
Responsible Agency (Name): Fresno County	Address (Street and P.O. Box): 2220 Tulare St. Sixth Floor	City: Fresno	Zip Code: 93721
Agency Contact Person (Name and Title): Elliot Racusin Planner	Area Code: 559	Telephone Number: 600-4245	Extension: N/A
Project Applicant/Sponsor (Name): Kerry Gerdts	Project Title: Variance Application No. 4076-R		
Project Description: Reduce the minimum parcel size within the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District to allow creation of an approximately 2.0-acre parcel from an existing 27.51-acre parcel that is dual zoned AL-20 and R-C-40 (Resource Conservation, 40-acre minimum parcel size).			
Justification for Negative Declaration: Based upon the Initial Study prepared for Variance Application No. 4076, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Air Quality, Cultural Resources, Energy, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire. Potential impacts related to Aesthetics, Agricultural and Forestry Resources, Biological Resources, Geology and Soils, Greenhouse Gas Emissions, and Land Use Planning have been determined to be less than significant. A Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, street level, located on the southwest corner of Tulare and "M" Street, Fresno, California.			
FINDING: The proposed project will not have a significant impact on the environment.			
Newspaper and Date of Publication: Fresno Business Journal – 4/29/2021		Review Date Deadline: Planning Commission – TBD	
Date: 4/29/2021	Type or Print Signature: David Randall Senior Planner	Submitted by (Signature): Thomas Kobayashi Planner	

State 15083, 15085

County Clerk File No.:202110000088

**LOCAL AGENCY
MITIGATED NEGATIVE DECLARATION**

EXHIBIT 10
Existing Bluff Slope



EXHIBIT 10

Existing Farm Service Road



Existing Entry Site Visibility

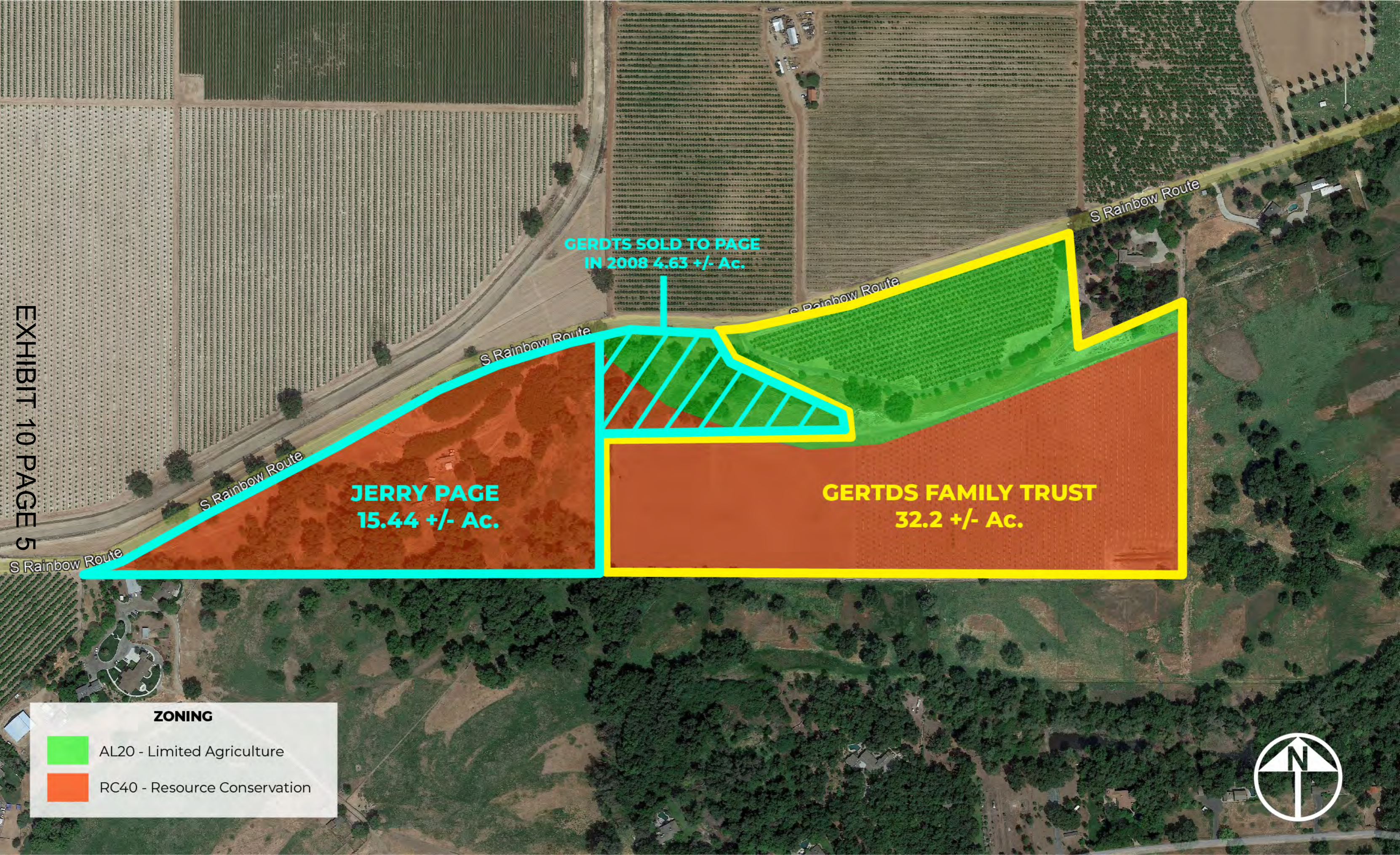


746 S Rainbow Route

EXHIBIT 10 PAGE 4

TOP OF BLUFF
BLUFF FACE
BOTTOM OF BLUFF
PROPOSED PARCEL FOR KERRY GERDTS







GERTDS SOLD TO PAGE
IN 2008 4.63 +/- Ac.

JERRY PAGE
15.44 +/- Ac.

GERTDS FAMILY TRUST
32.2 +/- Ac.

ZONING

-  AL20 - Limited Agriculture
-  RC40 - Resource Conservation





**PROPOSED PARCEL
FOR KERRY GERDTS
2.0 +/- Ac.**

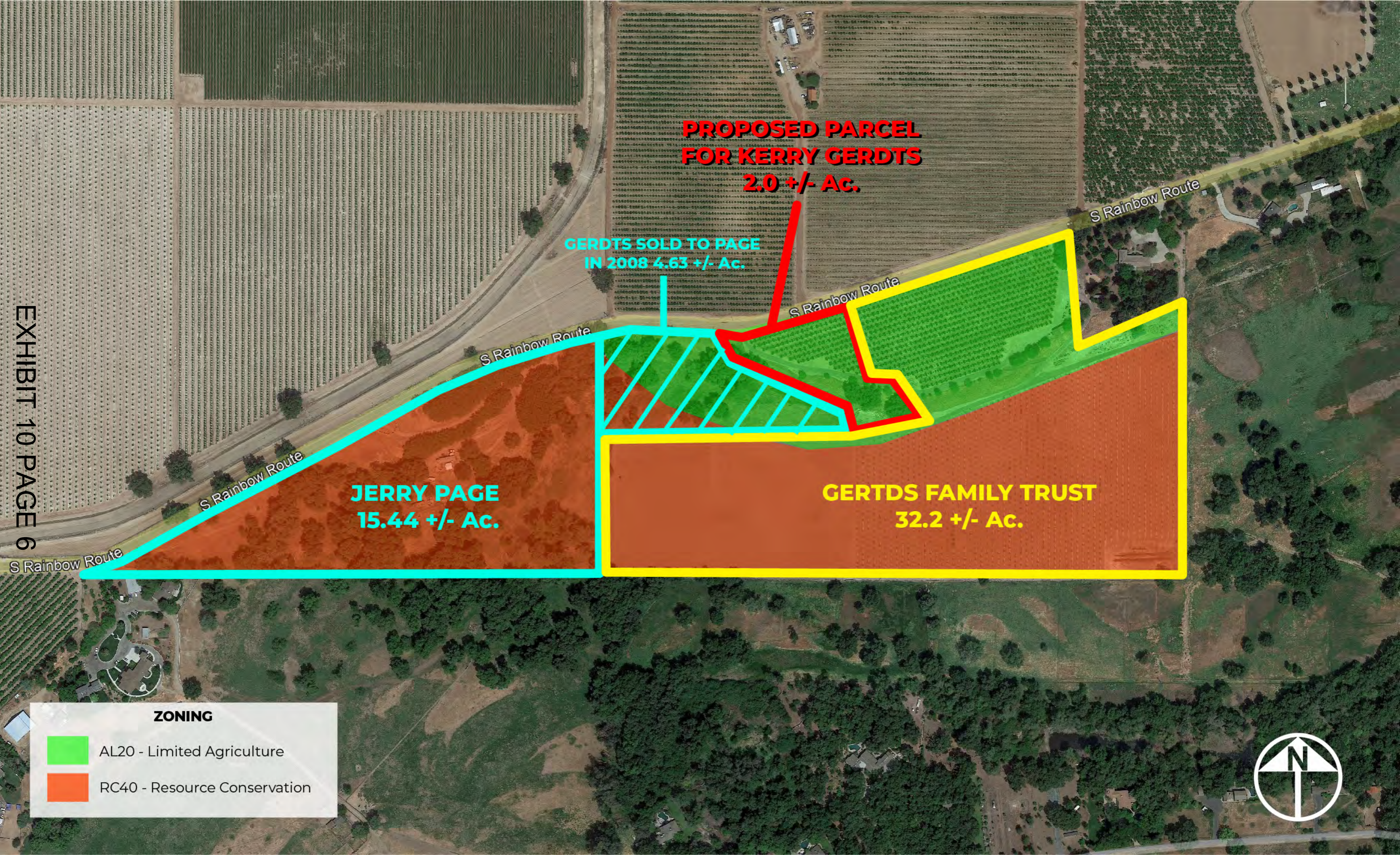
**GERDTS SOLD TO PAGE
IN 2008 4.63 +/- Ac.**

**JERRY PAGE
15.44 +/- Ac.**

**GERTDS FAMILY TRUST
32.2 +/- Ac.**

ZONING

-  AL20 - Limited Agriculture
-  RC40 - Resource Conservation



**PROPOSED PARCEL
FOR KERRY GERDTS**

2.0 +/- Ac.

**GERDTS SOLD TO PAGE
IN 2008 4.63 +/- Ac.**

S Rainbow Route

S Rainbow Route

BLUFF AREA

BLUFF AREA

**JERRY PAGE
15.44 +/- Ac.**

**GERTDS FAMILY TRUST
32.2 +/- Ac.**

ZONING



-  AL20 - Limited Agriculture
-  RC40 - Resource Conservation



EXHIBIT 10 PAGE 7