



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 4 November 14, 2024

SUBJECT: Variance Application No. 4153 & Environmental Review No. 8430

Allow for the creation of a 7.64 substandard parcel, from an existing 21.51-acre parcel with a condition to submit a Property Line Adjustment Application to meet the minimum lot size requirements of the AE-20 (Exclusive Agricultural, 20-acre minimum) Zone District from the balance of APN 314-120-52 and 314-120-65S and waive development standards to allow for a 12-foot side yard setback for the existing shade structures where a 20 foot side yard setback is required within the AE-20 Zone District. If approved, a mapping procedure will follow.

LOCATION: The subject parcel is located on the north side of King Canyon Road, approximately 1.7-miles from the City of Sanger. (APN: 314-120-52) (10386 E. Kings Canyon Road) (Sup. Dist. 5).

OWNER Dumax Properties, LLC

APPLICANT: James Maxey, CEO

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

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Deny Variance Application No. 4153 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. Zoning Map
4. Land Use Map
5. Variance Map
6. Site Plans
7. Applicant's Variance Findings
8. Photos

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agricultural	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.	No change
Parcel Size	21.51 acres	Parcel A: 7.64-acres Parcel B: Approximately 24.60-acres pending a PLA Application
Project Site	Plant Nursery on the southeast section of the parcel, and an Almond Orchard covering the remainder of the parcel.	Split the parcel into two parcels – one substandard parcel for the Plant Nursery and the second parcel for the Almond Orchard.
Structural Improvements	Mobile Home, Metal Storage Building, Green House Structures, and Shade Structures.	No change
Nearest Residence	500 feet east of the subject parcel.	No Change
Surrounding Development	Agricultural	No change

EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N**ENVIRONMENTAL ANALYSIS:**

It has been determined pursuant to Article 5: Review for Exemption, Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines: The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no

possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA

PUBLIC NOTICE:

Notices were sent to 12 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 comment was 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 877-A are made by the Planning Commission. If approved a separate mapping procedure to legally create the two proposed lots would be required.

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.

BACKGROUND INFORMATION:

This item was previously denied by the Planning Commission on December 14, 2023. The applicant filed an appeal of the Planning Commission's decision and appeared before the Board at the March 19, 2024 Board hearing. The applicant at the meeting requested that the item be continued to a date uncertain. The Board made a motion to continue the item and refer it back to the Planning Commission.

The Applicant's subsequently amended their application. The current Variance request proposes to allow the division of the parcel currently containing 21.51-acres, into a 7.64-acre substandard parcel (which will operate the plant nursery) and an approximate 24.60-acre parcel (which will operate the almond orchard) pending a Property Line Adjustment Application with an adjacent parcel to the north (APN 314-250-65S) also owned by Dumax Properties LLC. In addition, (see Exhibit 6 Pages 2 & 3) the Variance is requesting to reduce the required 20-foot side yard setback to 12 feet to accommodate an existing metal building. If this Variance is approved, it is the intention of the property owner to operate each business separately under different ownerships.

The subject parcel is 21.51-acres in size and has been developed with a mobile home, metal storage building, three shade structures, three green houses, two water wells - one for agriculture and the other for domestic water, and a septic system. The remainder of the property is planted with almond orchards. The parcel is also operating a plant nursery for growing plants and trees to sell for landscaping distribution. The subject parcel is not enrolled under a Williamson Act Contract.

According to available records there have been one variance request within one mile of the subject property for substandard size lots.

Application/Request	Staff Recommendation	Final Action	Date of Action
VA 4014 – Creation of a five-acre parcel from an existing 19.68-acre parcel	Denial	Planning Commission Approved	January 12, 2017

	Current Standard:	Proposed Configuration:	Is Standard Met (y/n):
Setbacks	<u>AE-20</u> Front: 35 feet Side: 20 feet Rear: 20 feet	Parcel A Front: 5.9 feet Side: 12 feet Rear: 20 feet	No - Front yard setback is legal nonconforming as a result of the installation of Highway180
Parking	As per Zoning Ordinance Section 855.I	No changes	Yes
Lot Coverage	No requirement	No changes	Yes
Separation Between Buildings	No requirement for residential or accessory structures, excepting those used to house animals which must be located a minimum of 40 feet from any human-occupied building.	No changes	Yes
Wall Requirements	No requirement	No changes	Yes
Septic Replacement Area	100 percent of the existing system.	No change	Yes
Water Well Separation	Building sewer/ septic tank: 100 feet Disposal Field: 100 feet	No change	Yes

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.**

Reviewing Agency/Department Comments related to Finding 1:

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's findings state that "the use of the (*property*) will remain the same; two owners are splitting their operations which requires separate parcels."

Finding 1 states that a variance is applicable where there are exceptional or extraordinary circumstances/conditions applicable to the property. The applicant's financial business interest, personal, social, or financial advantages are not valid justifications for granting a variance as they are not related to a unique feature or circumstance of the property. The property enjoys the same opportunities and limitations as other properties with the same zoning in the surrounding area. To grant a variance based on a person's circumstances rather than the property's features/circumstances is to grant a special privilege to the person, which is prohibited by state law.

Recommended Conditions of Approval:

None.

Finding 1 Conclusion:

As the variance is based on personal business concerns and not on the features of the property Finding 1 cannot be made. Staff was unable to identify any exceptional or extraordinary physical features or circumstances particular to the subject parcel warranting the granting of the variance.

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 Agencies/Department Comments related to Finding 2:

No comments specific to the preservation of a substantial of a substantial property right were expressed by reviewing Agencies or Departments.

Finding 2 Analysis:

In support of Finding 2, the Applicant's findings state the creation of the two parcels "is necessary to maintain the enjoyment of the two existing businesses; a greenhouse and landscape business will be operated by a different firm."

The applicant does not provide any relevant evidence to suggest that the Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

The term "Substantial Property Right" as it relates to granting a variance means the reasonable ability to utilize the property for the uses allowed by the zoning. There is no right to divide the parcel to meet the Applicant's business needs, in conflict with the development standards of the

Zone district. The property is being used for the uses allowed by the zoning and per the Applicant's statements will continue to be operated in the same manner.

Recommended Conditions of Approval:

None.

Finding 2 Conclusion:

Finding 2 cannot be made, as denial of this Variance would not deprive the Applicant of utilizing the property for the uses allowed in the AE-20 Zone District.

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	34.68 acres	Orchard	AE-20	N/A
South	139.62 acres	Orchard	AE-20	N/A
East	22.44 acres	Field Crops	AE-20	N/A
West	22.30 acres	Orchard	AE-20	N/A

Reviewing Agency/Department Comments:

No comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

Finding 3 Analysis:

In support of Finding 3, the Applicant's Findings state that the granting of the Variance will not be detrimental to the public welfare or injurious to property or improvements in the vicinity.

In regard to Finding 3, it is the intention of the Applicant, if this Variance is approved, to divide the existing parcel into two smaller parcels. The applicant indicates that there would be no change in operation or use of the land other than ownership.

While the impact of this singular variance may not constitute a materially detrimental impact, staff notes that the creation of two parcels has the potential to increase residential density in the area by allowing an additional single-family residences by right on the new parcels and a 2nd residence through a Director Review and Approval on the new parcels. 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 due to the limited scale of this individual request, the application does not present 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:
<p>General Plan Goal LU-A: <i>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.</i></p>	<p>Inconsistent: 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.</p>
<p>General Plan Policy LU-A.6: <i>The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9 and LU-A.10. 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>Inconsistent: The proposed parcel creation is not consistent with this Policy. There are exceptions allowed subject to certain criteria. In this instance, the application either did not meet the criteria or elected not to choose one of the available options for creating a substandard sized parcel.</p>
<p>General Plan Policy LU-A.7: <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 the 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</i></p>	<p>Inconsistent: The proposed parcel division is not consistent with Policy LU-A.7 as it would create one substandard sized parcel.</p> <p>The creation of a parcel less than 20 acres in the AE-20 Zone District would be inconsistent with Policy LU-A.7 and set a precedent for parcellation of farmland into smaller parcels which are economically less viable farming units and could potentially allow additional single-family homes on the proposed parcels. Such increase in the area, as noted by Fresno County Department of Agriculture, may conflict with normal agricultural practices on adjacent properties.</p>

Relevant Policies:	Consistency/Considerations:
<i>negative incremental and cumulative effects such land divisions have on the agricultural community.</i>	
General Plan Policy LU-A.12: <i>In adopting land use policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.</i>	Inconsistent: The creation of a parcel less than 20 acres in the AE-20 Zone District would be inconsistent with Policy LU-A.12 as smaller parcels could potentially allow a higher density residential area which is inconsistent with the compatibility of the AE-20 zone district.
General Plan Policy LU-A.14: <i>The County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agriculture land and the mitigation be required were appropriate.</i>	Consistent: In this case, productive agricultural land would not necessarily be converted, rather it would be reallocated between the two subsequent parcels, with the majority of the of the land to be located on proposed parcel B.

Reviewing Agency Comments:

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

Policy LU-A.6: The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9, LU-A.10, 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.

Policy 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. 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.

Regarding Policies LU-A.6 and LU-A.7, approval of VA Application No. 4153 and associated ER Application No. 8430 would result in the creation of a substandard parcel. The proposed 7.00-acre substandard parcel would be used for a landscaping business and the balance as an orchard. The proposed zone variance application will result in creation of a substandard parcel in an area of the County that is designated as Agricultural and Zoned AE-20, Exclusive Agricultural with 20-acre minimum parcel size.

Therefore, the proposed Variance application is not consistent with General Plan Policies LU-A.6 and LU-A.7.

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 “The proposed adjustment is allowable under the current county code (which requires a variance). The proposed adjustment will not affect the existing use of the site, which is already consistent with the General Plan.”

The Applicant’s assertion that a Variance in itself makes the project consistent with the General Plan is incorrect. The table above details how the proposal is inconsistent with the General Plan Policies.

The General Plan Policy LU-A.9 does contain provisions which allow for the creation of substandard-sized lots for the creation of home site parcels, subject to certain specific criteria. This application does not meet the required criteria listed under Policy LU-A.9 to allow creation of a substandard size lot, nor is it the applicant’s stated intent to do so.

Finding 4 Conclusion:

Finding 4 cannot be made as the project would be contrary to General Plan Goal LU-A, Policies LU-A.6, LU-A.7, LU-A.12, and LU-A.14 in the General Plan.

OVERALL SUMMARY:

The slight amendment of the application from what the Planning Commission previously considered, which results in only one of the two parcels being below the minimum 20-acre size requirement, does not change the reasons Staff recommended denial and the Planning Commission previously denied the Variance application.

This application is still based on the Applicant’s stated need in facilitating a personal business interest to separate the two current agricultural operations on the property. The existence of business concerns, personal desires or personal circumstance does not qualify as a basis for granting a variance. Granting of the variance without a qualified basis could be construed as inconsistent with Government code section 65906 and County Code Section 19.040.030-B which prohibits granting of unqualified variances and states in part “...shall constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity of the affected property.”

Based on the factors cited in the analysis, the required Findings for granting the Variance Application cannot be made as 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 the application is contrary to the goals and policies of the General Plan.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that required Findings 1, 2, & 4 cannot be made as stipulated in the Staff Report and move to deny Variance Application No. 4153 and
- Direct the Secretary to prepare a Resolution documenting the Commission’s action.

Alternative Motion (Approval Action)

- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance Application No. 4153, 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.

AP:jp

G:\4360Devs&PIn\PROJSEC\PROJDOCS\VA\4100-4199\4153\Staff Report\2024\SR VA 4153 Staff Report.docx

EXHIBIT 1

Variance Application (VA) No. 4153 & Environmental Review No. 8430
 Conditions of Approval and Project Notes

Conditions of Approval	
1.	Development shall be substantially consistent with the site plan (Exhibit 6) as approved by the Planning Commission.
2.	Existing Farm Metal Storage Building and Existing Shade Structures must be permitted or removed before approval of Variance can be considered valid.
3.	A special inspection is required to verify removal and proper abandonment of an existing septic system before approval of Variance can be considered valid.
4.	Prior to approval and acceptance of the Tentative Parcel Map, a Property Line Adjustment Application shall be submitted and approved for parcels that meet the minimum lot size requirements of the AE-20 Zone District from the balance of APN 314-120-52 and from APN 314-120-65S.

Conditions of Approval reference recommended Conditions for the project.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Any work performed within the County road right-of-way will require an encroachment permit.
2.	The end of curbed/taper edge of any existing or future access driveway approach should be set back a minimum of 5 feet from the property line
3.	Any existing or future entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site and shall not swing outward.
4.	A 10 foot x 10 foot corner cut-off should be improved for sight distance purposes at any existing driveway accessing Kings Canyon Road if not already present.
5.	A grading permit or voucher is required for any future grading proposed with this application.
6.	As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.


Notes	
7.	If approved, the subdivision will require a that a Tentative Parcel Map be prepared in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. The Tentative Parcel Map application shall expire two years after the approval of said Tentative Parcel Map.
8.	Upon approval and acceptance of the Tentative Parcel Map and any Conditions imposed thereon, a Final Parcel Map shall be prepared and by a Professional Land Surveyor or Registered Civil Engineer authorized to practice Land Surveying in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. Recordation of the Final Parcel Map shall take place within two years of the acceptance of the Tentative Parcel Map unless a Map extension is received prior to the expiration date of the approved Tentative Parcel Map. Failure to record the Final Parcel Map prior to the expiration of said Tentative Parcel Map may void the Parcel Map application.

AP:jp

G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4100-4199\4153\Staff Report\2024Conditions for Variance.docx

EXHIBIT 2

Legend

 Subject Property

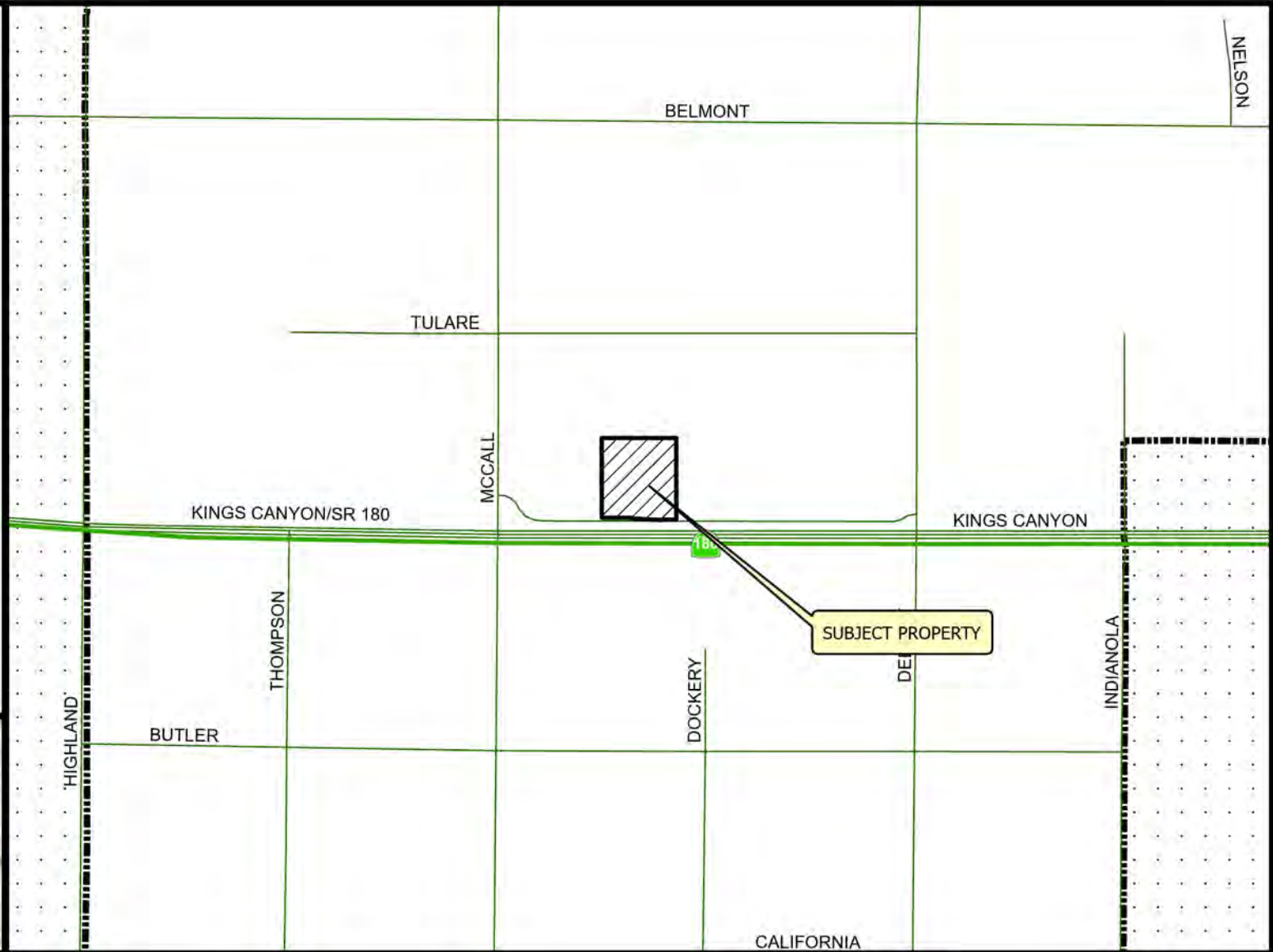
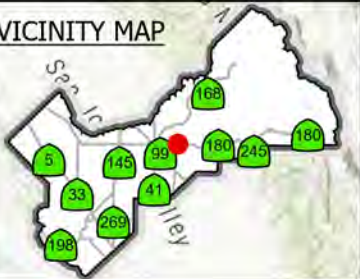


EXHIBIT 2

VICINITY MAP

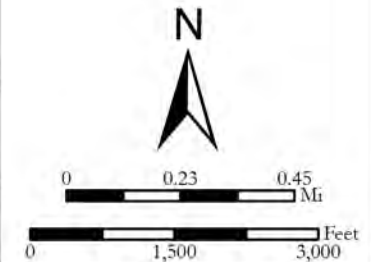


LOCATION MAP

VA4153

2023

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
Person Prepared by : chuang
On Date : 7/20/2023



Legend

-  Subject Property
-  City Sphere of Influence
-  C6
-  AC
-  AE20
-  AE40
-  C2

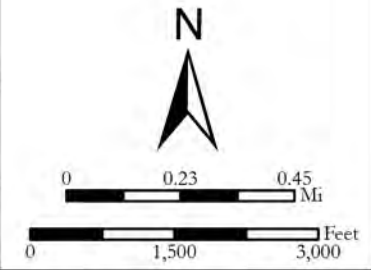


Existing Zoning Map



VA4153
STR 5 - 14S / 22E

2023

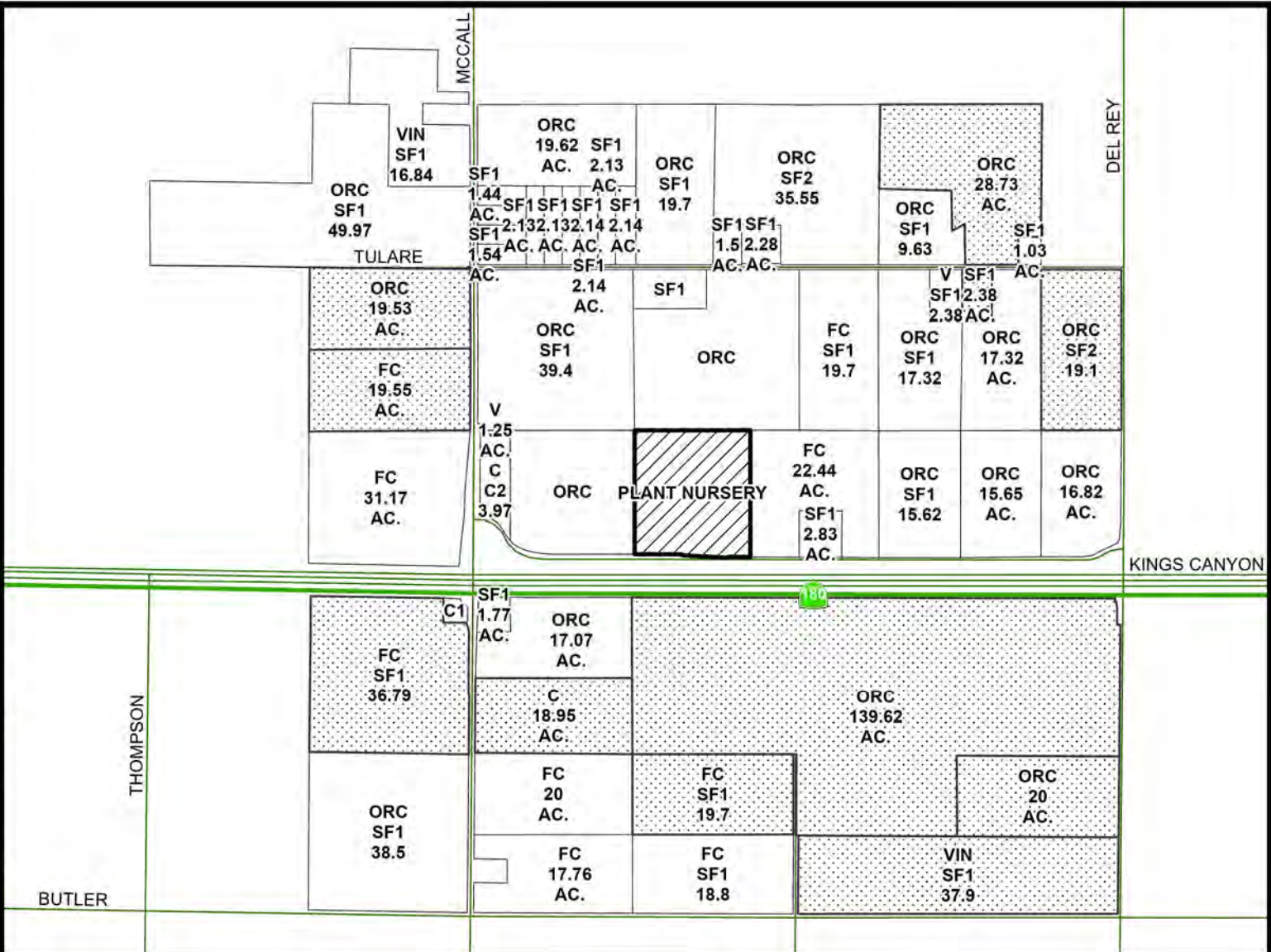
Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
Person Prepared by : chuang
On Date : 7/20/2023



LEGEND:

-  Subject Property
-  Ag Contract Land

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

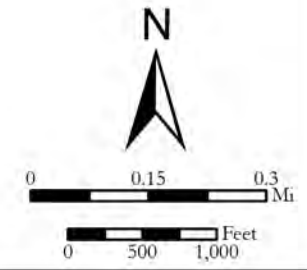


Existing Land Use Map



VA4153

2023

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : chuang
 On Date : 7/20/2023



Legend

-  Half Mile Buffer
-  Subject Property

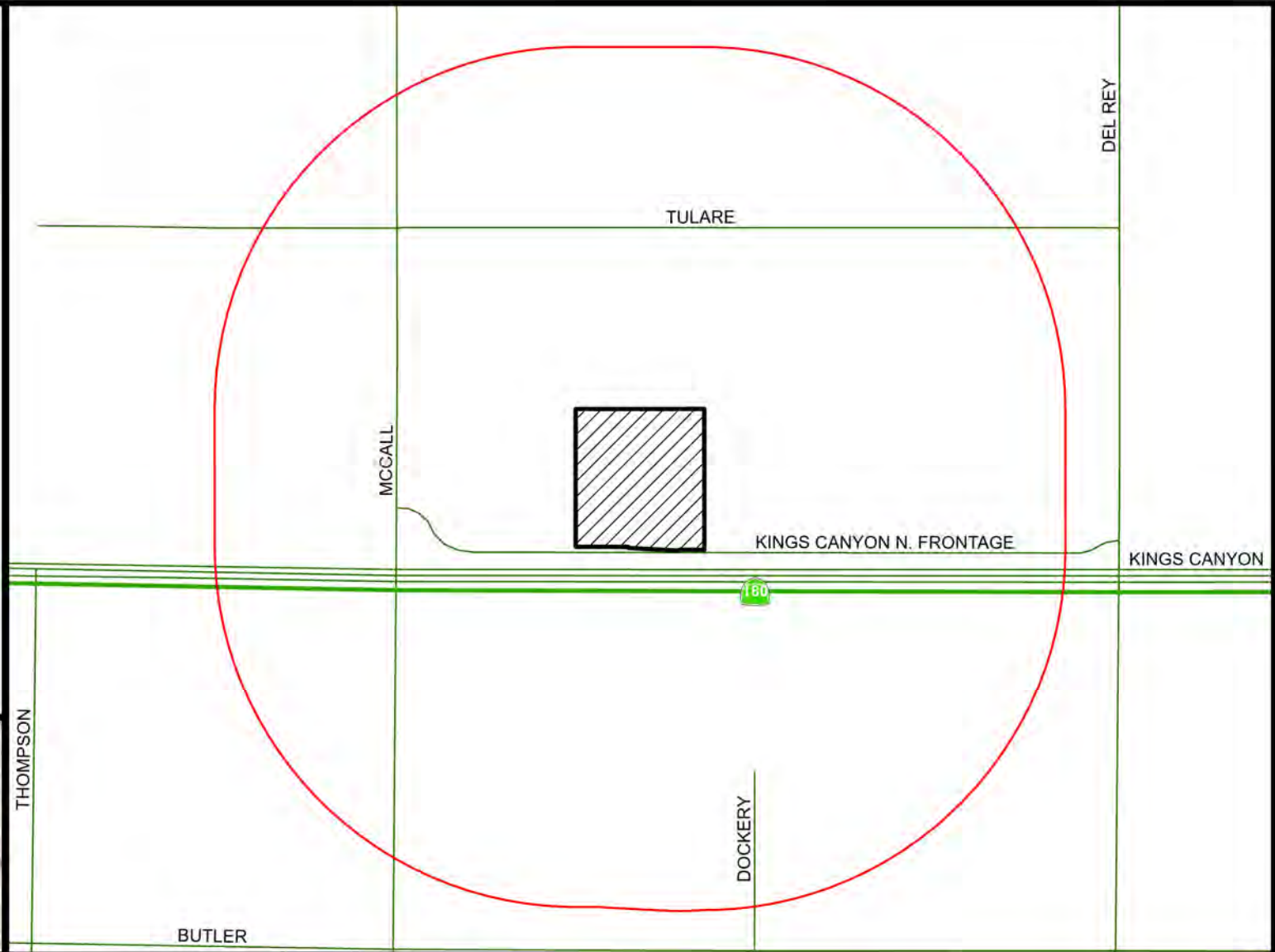


EXHIBIT 5



Proximity Map

VA4153

2023

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : chuang
 On Date : 7/20/2023

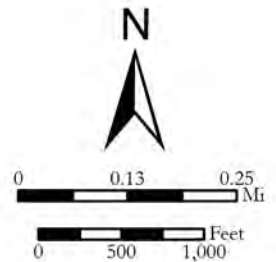
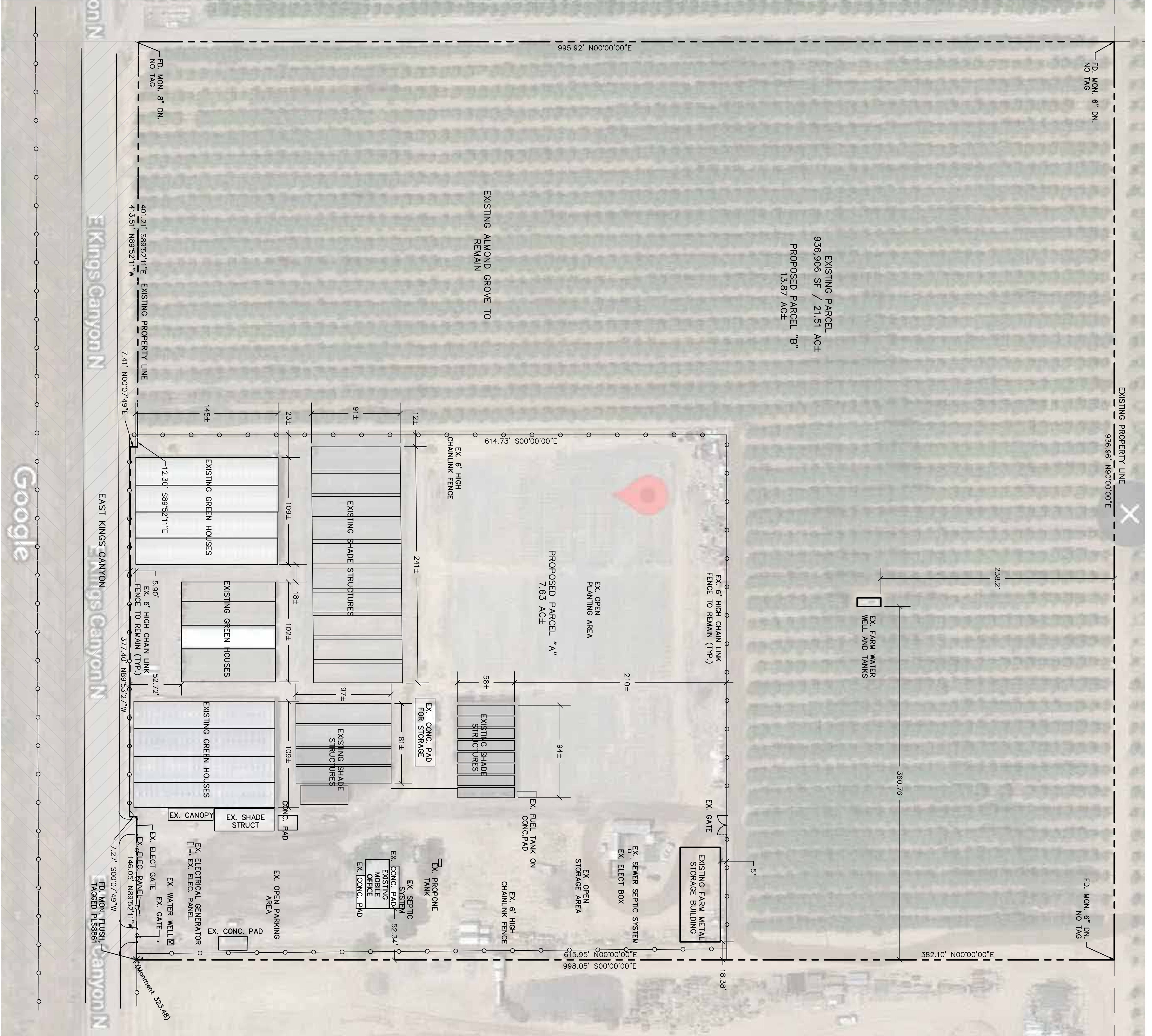


Exhibit 6

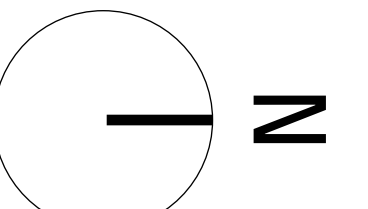


VICINITY MAP

APN: 314-120-525
 Address: 10386 E. Kings Canyon Rd. Sanger, CA 93657
 Site Area: 21.51 ± Ac. Existing Parcel
 Proposed Parcel Area: 7.00 ± Ac.
 Existing Use: Agriculture
 General Plan Designation: Agriculture
 Zoning: AE-20 (Exclusive Agricultural, 20 acre min.)
 Source of Water: Existing Domestic & Agricultural Well
 Source of Sewer: Existing Septic
 Source of Gas: Propane Tank
 Sources of Electricity: Electric Panel
 Solid Waste: Waste Management Company
 Storm Drainage:
 Site Owner: Dumax Properties, LLC
 Applicant: James Maxey
 Applicant Representative:
 Dirk Poeschel
 Land Development Services, Inc.
 923 Van Ness Avenue, Suite 200
 Fresno, CA 93721
 (559) 445-0374

N 45° 53' 08" E		BEARING AND DISTANCE PER SAID REFERENCED TITLE REPORT	
FG	FINISH GRADE	DI	DRAIN INLET
FL	FLOW LINE	PP	POWER POLE
GB	GRADE BREAK	OH	OVER HEAD
IE	INVERT ELEVATION	SMH	SANITARY SEWER MANHOLE
EG	EXISTING GRADE	W.M.	WATER METER
FH	FIRE HYDRANT	SD	STORM DRAIN
HP	HIGH POINT	FDC	FIRE DEPT. CONNECTION
TF	TOP OF FOOTING	BFP	BACK FLOW PREVENTOR
FEN	FENCE	TSB	TRAFFIC SIGNAL BOX
CB	CATCH BASIN		
BW	BACK OF WALK		
LP	EDGE OF SWALE OR GUTTER	(E)	EXISTING
TC	TOP OF CURB	w	WATER VALVE
TG	TOP OF GRATE	T	TELEPHONE
TW	TOP OF WALL	TP	TRANSFORMER PAD
FS	TOP OF SLAB	E B	ELECTRICAL BOX
(E)	EXISTING	GV	GAS VALVE
H	WALL HEIGHT	U R	UTILITY RISER
RD	ROOF DRAIN	U B	UTILITY BOX
C/P	CONCRETE MEETS PAVEMENT	U V	UTILITY VALVE
G	CONCRETE	U B	UTILITY BOX
GUTTER	GUTTER	U V	UTILITY VALVE
PAD	DIRT PAD	G S	GAS SERVICE TO BUILDING
FF	FINISHED FLOOR		
D	DIRT		
P	FINISHED PAVEMENT ELEVATION		
SLB	SLAB		
SW	STREET LIGHT BOX		
---	EXISTING PROP. LINE		
---	PROPOSED PROP. LINE		
- - - -	EASEMENT LINE		
- - - -	EXISTING 10" SEWER MAIN		
---	WATER SERVICE		
---	STORM DRAINAGE PIPE		
---	STORM DRAIN INLET		
⊗	WATER VALVE		
⊕	WATER METER		
⊙	FIRE HYDRANT		
⊛	TREE		
→	DIRECTION OF FLOW		
Ⓜ	STORM DRAIN MANHOLE		
Ⓜ	SANITARY SEWER MANHOLE		

NOTE:
 THIS DRAWING IS FOR INFORMATION PURPOSES ONLY. NO FIELD SURVEYING WAS CONDUCTED FOR THIS PROJECT. THE DIMENSIONS AND BEARINGS SHOWN ON THIS DRAWING ARE THE RESULT OF THE FIELD SURVEYING CONDUCTED BY DIRK POESCHEL AND HIS ASSOCIATES, INC. FOR ANY OTHER PURPOSES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE DIMENSIONS AND BEARINGS SHOWN ON THIS DRAWING. DIRK POESCHEL AND HIS ASSOCIATES, INC. SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS THAT MAY OCCUR AS A RESULT OF THIS DRAWING BEING USED FOR ANY PURPOSES OTHER THAN THE INTENDED PURPOSES.



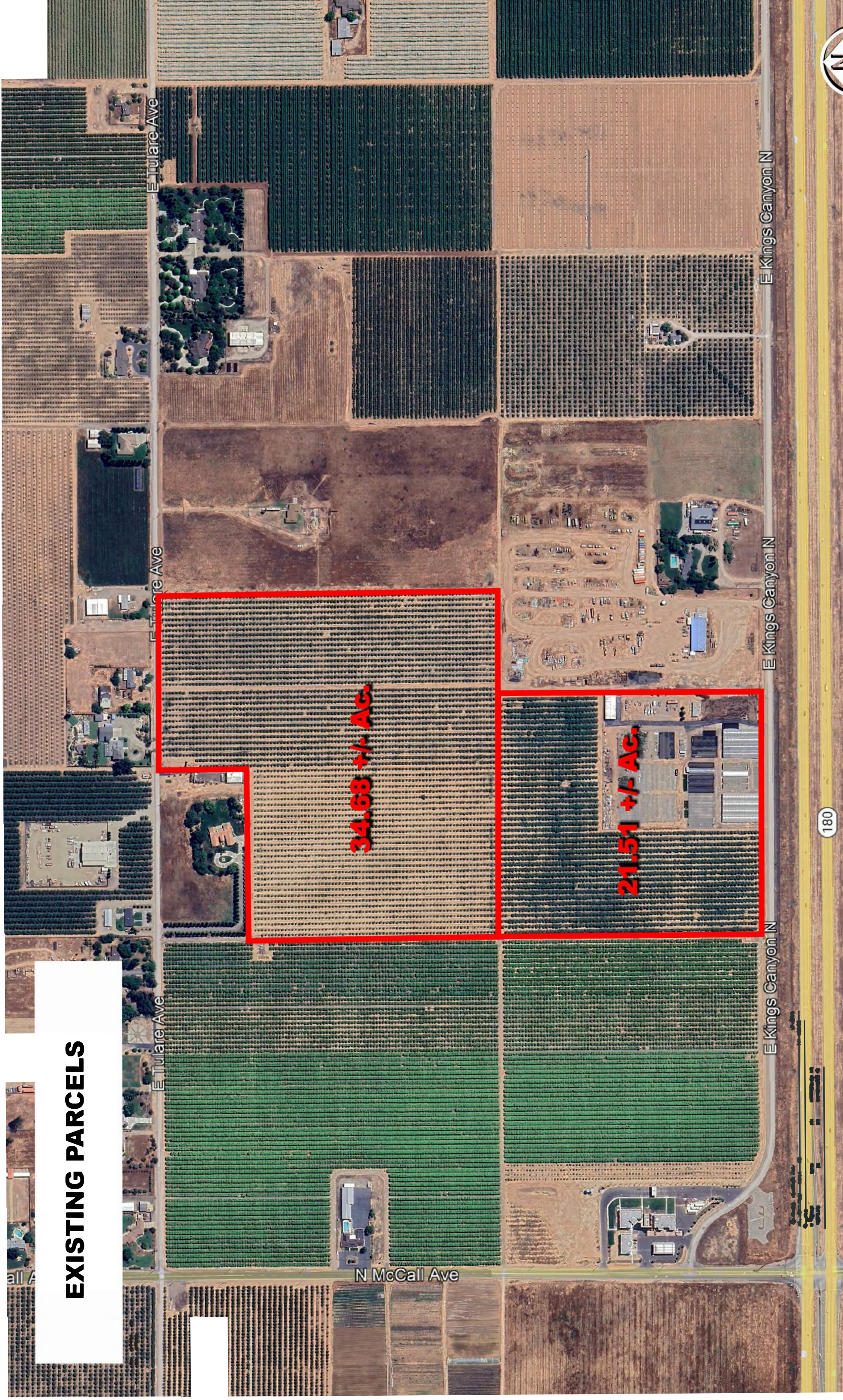
SITE PLAN
 Dumax Properties, LLC
 10386 E. Kings Canyon Rd.
 Sanger, CA 93657

DIRK POESCHEL
 Land Development Services, Inc.
 923 Van Ness Avenue #200, Fresno, California 93721
 559 / 445-0374 Fax: 559 / 445-0551

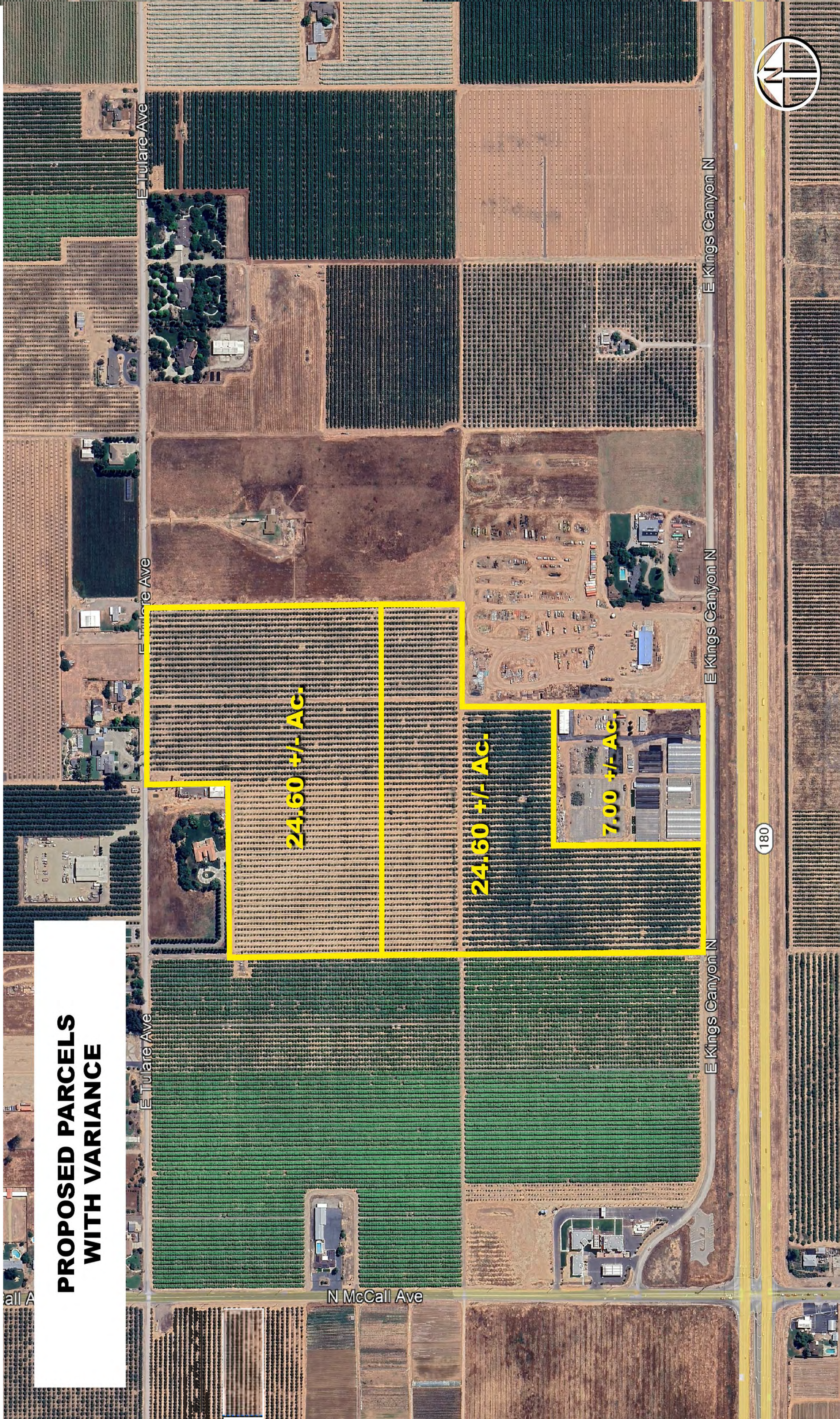


DRAWN BY: M. Sperta
 PROJECT NO:
 DRAWN:
 REVISIONS:
 SHEET NO.: 1
 OF 1 SHEETS

EXISTING PARCELS



**PROPOSED PARCELS
WITH VARIANCE**



VARIANCE APPLICATION FINDINGS

**Dumax Properties, LLC./Mr. James Maxey
June 25, 2024**

Owner/Applicant:

Dumax Properties, LLC.
c/o Mr. James Maxey
4671 E. Edgar Ave.
P.O. Box 12051
Fresno, CA 93776
jmaxey@jdfood.com

Representative:

Dirk Poeschel Land Development Services, Inc.
c/o Mr. Dirk Poeschel, AICP
923 Van Ness Ave., Suite 200
Fresno, CA 93721

Property Location:

Generally located on the north side of SR 180 east of McCall Ave.

APNs:

APN 314-120-65s, 314-120-52s

Existing General Plan Land Use Designation/Zoning:

Agriculture/AE-20 (Exclusive Agriculture, with 20-acre minimum)

Request:

Grant a Variance to allow the creation of a 7+/- acre parcel in the AE-20 Zone District.

Background:

Reference is made to the site plan of the subject property and its improvements prepared by the applicant. The subject 21.51+/- acre parcel is a legal parcel owned by Dumax Properties, LLC. The 7+/- acres proposed for creation has been developed with a mobile office, metal storage building, three shade structures, three green houses, two water wells (one for agriculture and the other for domestic water) and a septic system. The 7+/- acres is currently being utilized as a wholesale plant nursery for growing plants and trees to sell for domestic landscaping distribution. Horticulture is an allowed use in the AE (Exclusive Agricultural) zone district. The remainder 13.87+/- acres of the 21.51+/- acre parcel is planted with almonds.

The applicant also owns the 34.68+/- acre parcel immediately north of the subject 21.51+/- acre parcel. As a condition of the proposed Variance, the applicant will adjust the parcel lines between the 21.51+/- acre parcel and his 34.68 +/- acre parcel creating two, 24.60+/- acre parcels. In addition, the sale of the seven-acre nursery site will be subject to a voluntary deed restriction between the seller and the buyer that no home be built on that parcel unless allowed by the Fresno County Zoning Ordinance thereby eliminating any potential conflict between residential and agricultural uses.

The subject parcel is not enrolled in the Williamson Act.

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 zone classification.

The project is located in an area characterized by a substantial number of parcels smaller than the required 20-acre minimum lot size. Of the 47 parcels identified on Exhibit 4 the *Existing Land Use Map (VA 4153)*, 36 parcels are 20 acres or less in size with 19 parcels being under 10 acres or less in size.

As described above, the applicant will adjust the parcel lines between the 21.51+/- acre parcel and his 34.68 +/- acre parcel creating two, 24.60+/- acre parcels. In addition, the sale of the seven-acre nursery site will be subject to a voluntary deed restriction between the seller and the buyer that no home be built on that parcel unless allowed by the Fresno County Zoning Ordinance thereby eliminating any potential conflict between residential and agricultural uses.

All of the proposed uses are allowed in the AE-20 zone district.

Finding 2:

Would this variance grant a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is located?

The applicant has a right to be granted the same ability to use his property as others have under the same AE-20 zone district in the vicinity of the subject property. As stated above, the applicant will continue to use the subject properties for allowed agricultural uses.

The proposed Variance will allow the existing agricultural uses of the subject properties to remain as it has for many years.

The purpose of the Variance is to allow the nursery to finance improvements making the use more productive. No public policy or social good is enhanced by prohibiting the applicant from owning the parcel on which the nursery is located.

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 of the Variance will not be detrimental to the public welfare or injurious to property or improvements in the vicinity. As stated above, it is the intention of the applicant, if this Variance is approved, to create two, 24.60+/- acre parcels. In addition, the sale of the seven-acre nursery site will be subject to a voluntary deed restriction between the seller and the buyer that no home be built on that parcel unless allowed by the Fresno County Zoning Ordinance thereby eliminating any potential conflict between residential and agricultural uses.

No new wells are required to implement the subject Variance. Further, the subject parcel is not within a water-short area so the potential for impacts to neighboring wells is minimal.

The minimum acreage requirement of the AE-20 zone district is intended to prohibit parcellation that creates potential conflicts between residential agricultural activities. However, as voluntarily conditioned, no such conflicts between residential and agricultural uses will occur. Also, creation of the nursery parcel will allow that individual parcel owner, unincumbered by others, to finance improvements making the use more productive.

Finding 4:

If granted, would the requested variance be in conflict with established general and specific plans and policies of the county?

The purpose of the 20-acre minimum lot size is to prohibit the creation of parcels that cannot effectively produce an agricultural product and eliminate conflicts between residential and agricultural uses.

The proposed Variance will not adversely affect the agricultural viability of the two, 24.60+/- acre parcels or the existing nursery. The Variance will not result in the remaining parcels diminishing in agriculture productivity. Further, the proposed Variance will allow creation of the nursery parcel which will allow that individual parcel owner, unincumbered by others, to finance improvements making the use more productive.

The project is consistent with General Plan Goal LU-A as it does not promote the *long-term conservation of productive agricultural lands and...does accommodates agriculturally related activities that support the viability of agriculture and further the County's economic development goals*. The project is also consistent with General Plan Policy LU-A.6 requiring the County to maintain twenty (20) acres as the minimum permitted parcel size in areas designated for Agriculture, *...as the project helps ensure the viability of agricultural operations. No change in agricultural operations will occur*. In fact, the proposed Variance will allow creation of the nursery parcel which will allow that individual parcel owner, unincumbered by others, to finance improvements making the use more productive.

The project is also consistent with General Plan Policy LU-A.7: because it *does not set a precedent for parcellation of farmland into smaller parcels which are economically less viable farming units* as the seven acre parcel is presently economically viable as a nursery. The Variance will not allow additional single-family homes on the proposed 7+/- acre parcel which could conflict with normal agricultural practices on adjacent properties.

The project is consistent with General Plan LU-A.12 as it protects *agricultural activities from encroachment of incompatible land uses and consistent with General Plan Policy LU-A.14*: as the project is not converting productive ag land to a non-agricultural use. Further, the existing nursery is an allowed use in the Exclusive Agricultural Zone District.

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

[https://dplds.sharepoint.com/shared documents/current clients/maxey, james - variance - 24-01/variance findings.docx](https://dplds.sharepoint.com/shared%20documents/current%20clients/maxey,%20james%20-%20variance%20-%2024-01/variance%20findings.docx)

EXHIBIT 8



























