



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 5 December 10, 2020

SUBJECT: Variance Application No. 4059

Allow the creation of a 16,186 square-foot parcel (Parcel 1) and two 7,075 square-foot parcels (Parcel 2 & Parcel 3) from an existing 0.69-acre parcel in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District; reduce the required lot width of Parcel 1 to 121 feet, and Parcel 2 and Parcel 3 to 60.5 feet (165 feet required); reduce the required lot depth of Parcel 1 to 133.6 feet, and Parcel 2 and Parcel 3 to 116.9 feet (170 feet required) and allow 25 feet front yard setback for Parcel 2 and Parcel 3 (35 feet required).

LOCATION: The project site is located on the north side of E. Belmont Avenue, on the northeast corner of its intersection with N. Fine Avenue, approximately 690 feet east of the nearest city limits of the City of Fresno. (4955 E. Belmont Avenue) (SUP. DIST. 3) (APN 456-184-06).

OWNER: Laurencio and Leticia Villa
APPLICANT: Laurencio Villa

STAFF CONTACT: Ejaz Ahmad, Planner
(559) 600-9669

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Deny Variance No. 4059; 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. Belmont Gardens No. 2 Tract Map
6. Proposed Parcel Configuration (Site Plan)
7. Approved Variances within One-Mile radius (Map)
8. Applicant’s Variance Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Table 1

Criteria	Existing	Proposed
General Plan Designation	Office Commercial in the County-adopted Roosevelt Community Plan	No change
Zoning	AL-20 (Limited Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	0.69-acre <i>Note: The parcel size standard is not currently met.</i>	Parcel 1: 15,489 square feet Parcel 2: 7,364 square feet Parcel 3: 7,364 square feet <i>Note: Variance required</i>
Structural Improvements	Single-family residence, garage, carport, arbor, shed	Parcel 1: Single-family residence, garage, carport, shed, arbor Parcel 2: None Parcel 3: None
Nearest Residence	Approximately 55 feet from the nearest parcel boundary	No change
Surrounding Development	Fully developed single-family residential neighborhood	No change

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

ENVIRONMENTAL ANALYSIS:

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

PUBLIC NOTICE:

Notices were sent to 102 property owners within 600 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

A Variance (VA) may be approved only if the four Findings specified in the Fresno County Zoning Ordinance, Section 877-A 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.

BACKGROUND INFORMATION:

The subject parcel was originally created through Belmont Gardens No. 2 subdivision map recorded on May 3, 1937 (Exhibit 5). With the exception of four larger parcels proposed along Olive Avenue, the majority of parcels created by this map were between 120 and 122 feet in width and each was mapped at 300.6 feet in depth. Some road right-of-way was dedicated when the map was recorded, but some roads were marked for 'future dedication', resulting in current-day lot depths as low as 250 feet for parcels which have not yet been subdivided. A number of parcel divisions (which did not require approval of a variance) have been approved in this area since the adoption of the original map.

The existing 121.2-foot wide and 250.6-foot deep, 0.69-acre parcel does not conform to the 20-acre minimum parcel size or 165-foot width required in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District. The subject property was originally zoned R-A (Single-Family Residential Agricultural) in April 27, 1948 which had a minimum parcel size of 6,000 square-feet. The northern portion of the parcel was then rezoned to R-1 on September 29, 1980, which also has a 6,000 square-foot minimum parcel size. Then, the entirety of the parcel was rezoned to the AL-20 Zone District on September 21, 1993. This change was made on behalf of the County of Fresno in conjunction with updates to the Roosevelt Community Plan.

The current development on the property pre-dated the zone change and does not meet the required setbacks for the AL-20 Zone District. A single-family residence is situated on the southern side of the parcel, and the northern portion of the property is undeveloped. If the proposed Variance and subsequent mapping procedure are approved, the residence would be included in a substandard 16,186 square-foot parcel (Parcel 1) with a lot width of 121.1 feet (165 feet required) and depth of 133.6 feet (170 feet required). The 14,150 square-foot portion of the existing parcel with two proposed parcels (Parcel 2 and Parcel 3) would have a lot depth of 116.9 feet and a lot width of 60.5 feet, so neither the required width nor depth would be met.

In addition to the subject application, there have been 9 other Variance applications within one mile of the subject property that have requested the waiver of parcel size, setbacks, or lot depth. The table in Exhibit 7 provides a brief summary of these Variance applications and final actions. However, none of the Variances were in an AL-20 Zone District, and hence, not pertinent to the basis for a Variance.

REQUIRED FINDINGS:

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

Such a 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.

Table 3

	Current Standard:	Proposed Configuration:	Is Standard Met (y/n):
Setbacks	Front: 35 feet Side: 20 feet Street Side: 35 feet Rear: 20 feet <i>Note: The front, side, and street side standards are not currently met.</i>	<p><u>Parcel 1:</u> The existing front, side, street side, and rear yard setbacks will be maintained. <i>Note: The existing improvements pre-date 1958</i></p> <p><u>Parcel 2 & Parcel 3:</u> Front: 25 feet (Min. 35 feet required. R-1-B zone district standard apply)</p> <p>Side: 5 feet (Min. 5 feet required. R-1 zone district standard apply)</p> <p>Street Side: 10 feet (Min. 10 feet required. R-1 zone district standard apply)</p> <p>Rear: 20 feet (Min. 20 feet required. R-1-B zone district standard apply)</p>	<p>Yes.</p> <p>No. Variance is required to allow a 25-foot front yard for Parcel 2 and Parcel 3.</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Lot Dimensions	Lot width: 165 feet Lot depth: 170 feet	<u>Parcel 1:</u> Width: 121.1 feet Depth: 133.6 feet	No. Variance required

	Current Standard:	Proposed Configuration:	Is Standard Met (y/n):
		<u>Parcel 2 & Parcel 3:</u> Width: 60.5 feet Depth: 116.9 feet	No. Variance required
Parking	No Requirement	No Requirement	N/A
Lot Coverage	No Requirement	No Requirement	N/A
Separation Between Buildings	No Requirement	No Requirement	N/A
Wall Requirements	No Requirement	No Requirement	N/A
Water Well Separation	The existing residence receives city services. There are no wells or septic systems onsite.	N/A	N/A

Table 4

AL-20 Parcel in Vicinity			
Property (Assessor Parcel Number)	Area (sq. ft.)	Width (in feet)	Depth (in feet)
<i>Existing (456-184-06)</i>	30,360	121.15	250.6
<i>Proposed (456-184-06)</i>	16,186	121.15	133.6
	7,075	60.5	116.94
	7,075	60.5	116.94
456-184-07	30,360	121.15	250.6
456-184-13	18,224	121.09	150.5
456-184-14	13,110	121.22	108.15
456-184-20	18,223	121.08	150.5
456-183-10	15,831	121.5	130.3
456-183-12/13	18,304	121.22	151
456-183-21	7,054	60	117.57
456-183-22	7,642	65	117.57
456-183-23	16,117	121.18	133

Analysis Finding 1 and 2:

In support of Findings 1 and 2, the Applicant states that the proposed parcels are consistent with the size, shape and depth of other parcels within the surrounding neighborhood which are smaller than the required 20-acre minimum lot size for AL-20 zone; the subject 0.69-acre parcel cannot be used for agriculture due to size and conflict with adjacent residential uses; the office commercial of the parcel is not desirable due to the area not connecting with major thoroughfares. Furthermore, variances have been granted to other properties in the area; setbacks for the proposed parcels are consistent with the City of Fresno designation for the property of medium density residential in the RS-4 zone; and AL-20 setback standards would not allow adequate area for development on the parcels. Considering these factors, the

Applicant states he has a right to develop the parcels consistent with the project neighborhood character, density and the adopted City of Fresno General Plan including the fact that the office commercial use of the parcel would place an unfair and unnecessary economic burden on the applicant to develop the lot.

In order to make Findings 1 the exceptional circumstances must apply generally to other property in the vicinity having the identical zoning.

The subject parcel is not unique to the parcels in the vicinity, it is the exact size of the adjacent parcel and larger than the other 8 parcels in the vicinity. None of these parcels have received variances in the past; their smaller size most likely represents development that occurred previously when the property was zoned R-1 or R-A. Comparisons to other zones or the City of Fresno's standards is not relevant as the zoning ordinances only allows for comparisons to other properties in the vicinity having the identical zoning as the grounds for permitting a Variance.

In order to make Findings 2, the consideration of a substantial property right only applies to parcels in the vicinity having the identical zoning. There are 10 parcels, in this cluster of AL-20 Zoning. The surrounding parcels with residential Zoning are not relevant in granting the Variance. The 10 parcels are listed in Table 4 above and shown on Exhibit 3. The adjacent parcel is undeveloped. The remaining parcels have been developed with residences, there are no commercial or office uses currently developed in this zoning (see Exhibit 4) as supported by the Roosevelt Community Plan. Below is a listing of the requested variances from Lot Dimensions and setbacks along with a comparison to the other nine (9) parcels with AL-20 Zoning in the vicinity of the project.

Requested reduced lot size (20 acres required)

- 16,186 square-foot (Parcel 1)
- 7,075 square-foot (Parcel 2)
- 7,075 square-foot (Parcel 3)

Of the 9 other parcels in this vicinity zoned AL-20

- 1 is the adjacent vacant parcel the same 30,000 sq. ft. size of the applicant's parcel,
- 2 are small 7,500 sq. ft. parcels like the proposed parcels 2 & 3
- 6 are 13,000 – 18,000 sq. ft. parcels similar to the proposed parcel 1.

Requested reduced lot width (165 feet required)

- 121 feet (Parcel 1)
- 60.5 feet (Parcel 2)
- 60.5 feet (Parcel 3)

Of the 9 other parcels in this vicinity zoned AL-20

- 2 are 60-65 Feet wide
- 7 are 121 feet wide

Requested reduced lot depth (170 feet required)

- 133.6 feet (Parcel 1)
- 116.9 feet (Parcel 2)
- 116.9 feet (Parcel 3)

Of the 9 other parcels in this vicinity zoned AL-20

- 1 is the adjacent vacant parcel the same 250-foot depth as the applicant's existing parcel,
- 8 other parcels range from 108 to 150 feet in depth.

Requested reduced front yard setback (35 feet required)

- 25 feet (Parcel 2)
- 25 feet (Parcel 3)

Setbacks on the existing residents of the 9 other parcels in this vicinity zoned AL-20 have the same 35 foot set back requirement. There has been no variances on these lots previously granted for a reduced setback. While we do not have information on the actual measurements of the existing residences, the properties could have been developed previously while zoned R1 at a 20-foot setback.

It is apparent from the above listed comparison that all the parcels, except for the adjacent vacant parcel of the same size, have dimensions commensurate with the applicants proposed development of the three smaller parcels.

Recommended Condition of Approval:

None

Conclusion Finding 1 and 2:

Based on the above analysis and considering the lack of an exceptional or extraordinary circumstance finding 1 cannot be made. Due to the similar lot dimensions between the majority of the surrounding properties with the same AL-20 zoning staff believes Findings 2 can be made.

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

Table 5

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence*:
North:	0.16-acre	Single Family Residential	R-1 (NB)	55 feet
West:	0.17-acre	Single Family Residential	AL-20	62 feet
	0.3-acre	Single Family Residential		85 feet
South:	0.36-acre	Single Family Residential	R-1B (NB)	116 feet
East:	0.69-acre	Vacant	AL-20	N/A

*As measured from the nearest property line of the subject parcel to the nearest part of a residence

Reviewing Agencies/Department Comments:

City of Fresno Fire Department: Four sets of all site/building plans for residential development shall be submitted for the Fire Department’s review.

City of Fresno Traffic Planning: Garages and/or carports shall be set back a minimum of 40 feet from Belmont Avenue (Arterial Road) right-of-way and a minimum of 20 feet from White and Fine Avenues (Local Roads) rights-of-way.

City of Fresno Development and Resources Management Department: No concerns with the proposal. The property is identified as Medium Density Residential in the City's General Plan which allows up to 12 units per acre.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Belmont Avenue is a County-maintained road classified as an arterial with an existing 50-foot right-of-way north of section line from Fine Avenue to Willow Avenue. The minimum width for an arterial road right-of-way is 50 feet north of section line. This section of Belmont Avenue from Fine Avenue to Willow Avenue, has an Average Daily Traffic (ADT) of 4,700 vehicles, pavement width of 31.5 feet, and is in very good condition.

Fine Avenue is a County-maintained road classified as local with an existing 30-foot right-of-way east of center line, Belmont Avenue to White Avenue. The minimum width for a local road right-of-way east of center line is 30 feet. This section of Fine Avenue from Belmont Avenue to White Avenue has an ADT of 200, pavement width of 25.9 feet, and is in fair condition.

White Avenue is a County-maintained road classified as local with an existing 30-foot right-of-way south of center line, Fine Avenue to Willow Avenue. The minimum width for a local road right-of-way south of center line is 30 feet. This section of Fine Avenue from Belmont Avenue to White Avenue has an ADT of 200, pavement width of 32.2 feet, and is in fair condition.

An Engineered Grading and Drainage Plan may be required to show how additional storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties. A grading permit/voucher shall be required for any grading that has been done without a permit or proposed with this application. On-site turnarounds are required for vehicles leaving the site to enter Belmont Avenue (arterial road) in a forward motion. Direct access to Belmont Avenue shall be limited to one common point. No new access points are allowed without prior approval, and any existing driveway shall be utilized.

Zoning Division of the Fresno County Department of Public Works and Planning: No permit records for any existing structures on the property. Based on Assessor Residential Building Records all structures are Pre-1958.

Road Maintenance & Operations (RMO) Division of the Fresno County Department of Public Works and Planning: A 30-foot by 30-foot corner cutoff shall be provided at the intersection of Belmont Avenue and Fine Avenue, if not existing and a 20-foot by 20-foot corner cutoff shall be provided at the intersection of Fine Avenue and White Avenue. An encroachment permit shall be obtained from the RMO Division for any work done within the road right-of-way.

Fresno County Department of Public Health, Environmental Health Division: The Fresno County Noise Ordinance and the City's municipal code shall be adhered to regarding elevated noise levels due to construction. 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 a licensed contractor. Should any underground storage tank(s) be found during construction, an Underground Storage Tank Removal Permit shall be secured from the Health Department.

Fresno Metropolitan Flood Control District: No on-site retention of storm water runoff required provided the developer can verify to the County of Fresno that runoff can be safely conveyed to the Master Plan inlet(s). Drainage from the site shall be directed to White Avenue, Fine Avenue and/or Belmont Avenue. Site Plan Review Section; Water and Natural Resources Division; Building and Safety Section and Water and Natural Resources and Design Divisions of the Fresno County Department of Public Works: No comments on the project.

Analysis Finding 3:

In support of Finding 3, the Applicant states that granting the proposed Variance will not be detrimental to surrounding properties because the proposed parcels will have public streets frontage consistent with the existing neighborhood development patterns and the setback development standards comparable to the City of Fresno standards. Also, the parcels will be served by community water and community sewer.

Regarding Finding 3, staff notes that setback requirements often provide privacy, safety from fire hazard, and consistency within a neighborhood. Because development on Parcel 1 is pre-existing, any new development on Parcel 2 and Parcel 3 would be able to accommodate for the position of the structures and design of new buildings to maintain privacy.

As previously discussed, the existing improvements on Parcel 1 are not required to be approved by this Variance, because they were constructed at a time when the setback standards were met for the parcel (or before setback standards were established). The existing shed that abuts the rear property line and a garage that sits 10 feet from the rear property line are more than 100 feet from the front property line and can remain within 20 feet rear yard setback without a Variance per the exception granted by County Ordinance Section 817.5-E.3. a, b and c. However, the Applicant has recently indicated that the shed will be removed from the property.

The setback standards of the R-1 and R-1-B Zone Districts apply to parcels of less than 5 acres in the AL-20 Zone District. In this case, R-1 Zone District setback standards for lot width and R-1-B Zone district setback standards for lot depth would apply on Parcel 2 and Parcel 3. These parcels would meet the setbacks required of the R-1 and R-1-B Zone Districts (10 feet street side yard, 5 feet interior side yard, and 20 feet rear yard) without a Variance. However, a Variance would be required to allow 25 feet front yard setback (35 feet needed in the R-1-B Zone District) for Parcel 2 and Parcel 3. While the proposed 25-foot front yard setback would not align with the existing 35-foot setback along White Avenue for single family development, the future development on the parcels could present an adverse impact due to the misalignment of the front yards. However, this impact is reduced since the proposed parcels would be located at an intersection, where variation in alignment would be less noticeable.

Staff notes that City services are present and accessible from the subject property; the small size of the existing parcel and surrounding parcels allows these services to be economically provided, which is not universally true in the AL-20 Zone District. Bakman Water District and the City of Fresno have confirmed that water and sewer services can be provided to the proposed parcels.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1

Conclusion Finding 3:

Based on the above analysis, Finding 3 can be made

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

Table 6

Relevant Policies General Plan:	Consistency/Considerations:
<p>Policy LU-A.6: The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agricultural, 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.</p>	<p>This Variance is not consistent with the policy as it would allow the creation of three parcels with less than one half-acre, and the subject property is zoned AL-20, with a 20-acre minimum parcel size requirement. 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"> - 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. - LU-A.10: The request is not to allow for the development of an agricultural commercial center. - LU-A.11: The request is not to allow the recovery of mineral resources, oil, or gas.
<p>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 parcels 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.</p>	<p>The Variance request proposes to create three parcels smaller than 20 acres in an area designated as Agricultural and zoned AL-20. As such, this proposal is not consistent with General Plan Policy LU-A.7.</p>
<p>Policy LU-G.7: Within the spheres of influence and two (2) miles beyond, the County shall promote consultation between the cities and the County at the staff level in the early stages of preparing general urban services.</p>	<p>The subject property is located within a County Island in the City of Fresno. The City has indicated that community sewer is available to serve the proposed parcels. Community water is also available from a private water company to serve the parcels. Additionally, the property is in a developed residential neighborhood improved with curb & gutter and paved streets. The City has declined annexation of the area at this time.</p>
<p>Policy PF-C. 17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation.</p>	<p>The project is not in a water-short area. The currently developed Parcel 1 is connected to community water system maintained by Bakman Water Company. Any future</p>

Relevant Policies General Plan:	Consistency/Considerations:
	residential development on the proposed Parcel 2 and Parcel 3 will connect to the same system, which is confirmed to be available for the parcels.

Reviewing Agencies/Department Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject property is designated as Office Commercial in the Roosevelt Community Plan and is within the City of Fresno Sphere of Influence. Policies LU-A.6 and LU-A.7 state that the County shall maintain 20 acres as the minimum permitted parcel size and generally deny requests to create parcels less than the minimum size specified in areas designated Agriculture. Policy LU-G.7 states that within the spheres of influence and two (2) miles beyond, the County shall consult with the City in the early stages of preparing general urban services. Policy PF-C.17 states that adequate water supply shall be provided for the proposal.

There are no other Williamson Act or General Plan issues regarding this project.

Analysis Finding 4:

In support of Finding 4, the Applicant states that the subject parcel is within the City of Fresno Sphere of Influence and is planned for medium density residential development; is an in-fill lot within an urban area and will have no impact to agriculture; is supported by the city and the county for lower urban service delivery costs and substantial environmental and community health benefits. Further, the parcel is not suited for office commercial use due to location in a residential neighborhood and the lack of area connectivity with major thoroughfare. The Applicant also states that the proposal is consistent with the character of the neighborhood, adhere to the city's vision for the property for residential development, and is consistent with city, county, and regional planning goals.

Regarding Finding 4, staff determined that the subject parcel is zoned for AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District while other parcels in the vicinity are zoned for residential uses. Review of the Roosevelt Community Plan indicates that the zoning is consistent with the existing land use designations: the parcels with R-1 Zoning are designated for Low Density Residential and Medium Density Residential and the parcels with AL-20 Zoning are designated for Office Commercial. The Limited Agricultural Zone District is intended to allow continued agricultural uses in areas which are designated for more intensive development until such time as that land is annexed to a city and can be served by community sewer and water services.

The Roosevelt Community Plan has a stated objective to “concentrate new office development along the proposed Freeway 180 corridor (an area bounded by Freeway 41 on the west, Olive Avenue to the north, Clovis Avenue on the east, and Belmont Avenue on the south) and Clovis Avenue between E. McKinley and E. Jensen Avenues,” and also contains several policies regarding the designation and this parcel specifically:

- Policy 5.02 (f): The Office Commercial designation along the north side of Belmont Avenue between Winery and Willow Avenues generally extends to a depth halfway between Belmont and White Avenues for only those properties with frontage on Fine Avenue.

- Policy 5.02(g): Property designated for Office Commercial uses fronting on Kings Canyon Road and Belmont Avenue which abut areas planned for or developed with single-family residential uses should have a single-story height limitation and should be subject to the setback and landscaping requirements of residential development.

This application essentially proposes to allow the setbacks of the R-1 and R-1-B Zone District for the proposed parcels; however, the parcel is designated for eventual commercial use and the proposed use in this case is residential. In addition, the project is proposing to allow the creation of three parcels with less than 20 acres in an area of agricultural zoning where 20 acres is the minimum parcel size, presenting a conflict with County General Plan Policies restricting the establishment of parcels with less than the minimum parcel size in areas designated for Agriculture.

Staff would like to acknowledge that the City of Fresno General Plan designates this area for residential development. This proposal would not be inconsistent with the City's General Plan designation; however, since the property is currently under the jurisdiction of the County, staff is unable to make Finding 4.

Recommended Conditions of Approval:

None.

Conclusion Finding 4:

Finding 4 cannot be made.

PUBLIC COMMENT:

None.

SUMMARY ANALYSIS/CONCLUSION:

As noted earlier, the subject parcel is designated Office Commercial for professional and general office development in the County-adopted Roosevelt Community Plan which makes the approval of a Variance difficult. Alternatively, the Applicant could file an application to rezone the property concurrently with an application for a General Plan Amendment (GPA), to change the use designation from Office Commercial to Medium Density Residential, and the parcel zoning from the AL-20 to the R-1 Zone District. By doing so, the proposed parcel division would then be allowed by right. This would be a preferable solution, as the Variance cannot be supported in that the project is not a unique circumstance and is not consistent with the General Plan. Staff therefore recommends denial of Variance No. 4059.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance No. 4059; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine that the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 4059; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

EA:im

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Variance Application No. 4059
Conditions of Approval and Project Notes

Conditions of Approval	
1.	The subsequent mapping application shall be in substantial compliance with the Site Plan (Exhibit 6) as approved by the Planning Commission.
2.	The existing shed on the property (Parcel 1) shall be removed as part of the required mapping application.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	This Variance will expire one year from the date of approval unless the required mapping application to create the parcels is filed in substantial compliance with the Conditions and Project Notes and in accordance with the Parcel Map Ordinance. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant a maximum of two one-year extensions of time.
2.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create a 4.30-acre parcel and two 4.75-acre parcels. The Map shall comply with the requirements of Title 17.72.
3.	Review for compliance with fire and life safety requirements for the building interior and its intended use are reviewed by both the Fire Department and the Building and Safety Section of Fresno County when a submittal for building plan review is made as required by the California Building Code by the architect or engineer of record for the building.
4.	Per the Development Engineering Section of the Fresno County Department of Public Works and Planning: <ul style="list-style-type: none"> • An Engineered Grading and Drainage Plan may be required to show how additional storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties. • A grading permit/voucher shall be required for any grading that has been done without a permit or proposed with this application. • On-site turnarounds are required for vehicles leaving the site to enter Belmont Avenue (arterial road) in a forward motion. Direct access to Belmont Avenue shall be limited to one common point. • No new access points are allowed without prior approval, and any existing driveway shall be utilized.
5.	Per the Road Maintenance & Operations Division of the Fresno County Department of Public Works and Planning: <ul style="list-style-type: none"> • A 30'X30' corner cutoff shall be provided at the intersection of Belmont Avenue and Fine Avenue • A 20'X20' corner cutoff shall be provided at the intersection of Fine Avenue and White Avenue. • An encroachment permit shall be obtained for any work done within the road right-of-way of County of Fresno.
6.	Per the Fresno County Department of Public Health, Environmental Health Division:

EXHIBIT 1

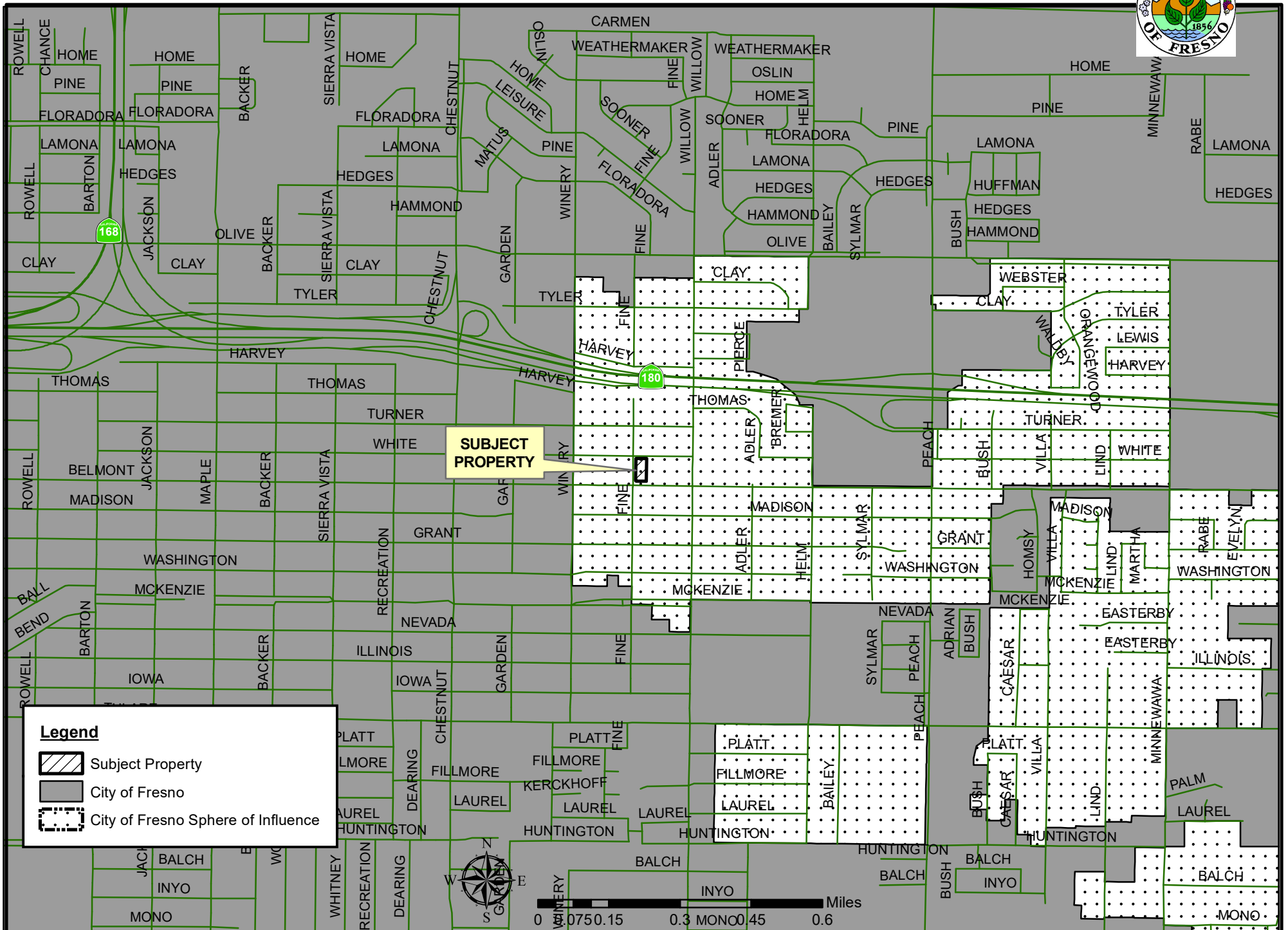
Notes	
	<ul style="list-style-type: none">• The Fresno County Noise Ordinance and the City's municipal code shall be adhered to regarding elevated noise due to construction.• As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.• Should any underground storage tank(s) be found during construction, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Health Department.
7.	Per the City of Fresno Traffic Planning, garages and/or carports shall be set back a minimum of 40 feet from Belmont Avenue (Arterial Road) right-of-way and a minimum of 20 feet from White and Fine Avenues (Local Road) rights-of-way.
8.	No on-site retention of storm water runoff required provided the developer can verify to the County of Fresno that runoff can be safely conveyed to the Master Plan inlet(s). Drainage from the site shall be directed to White Avenue, Fine Avenue and/or Belmont Avenue.

EA

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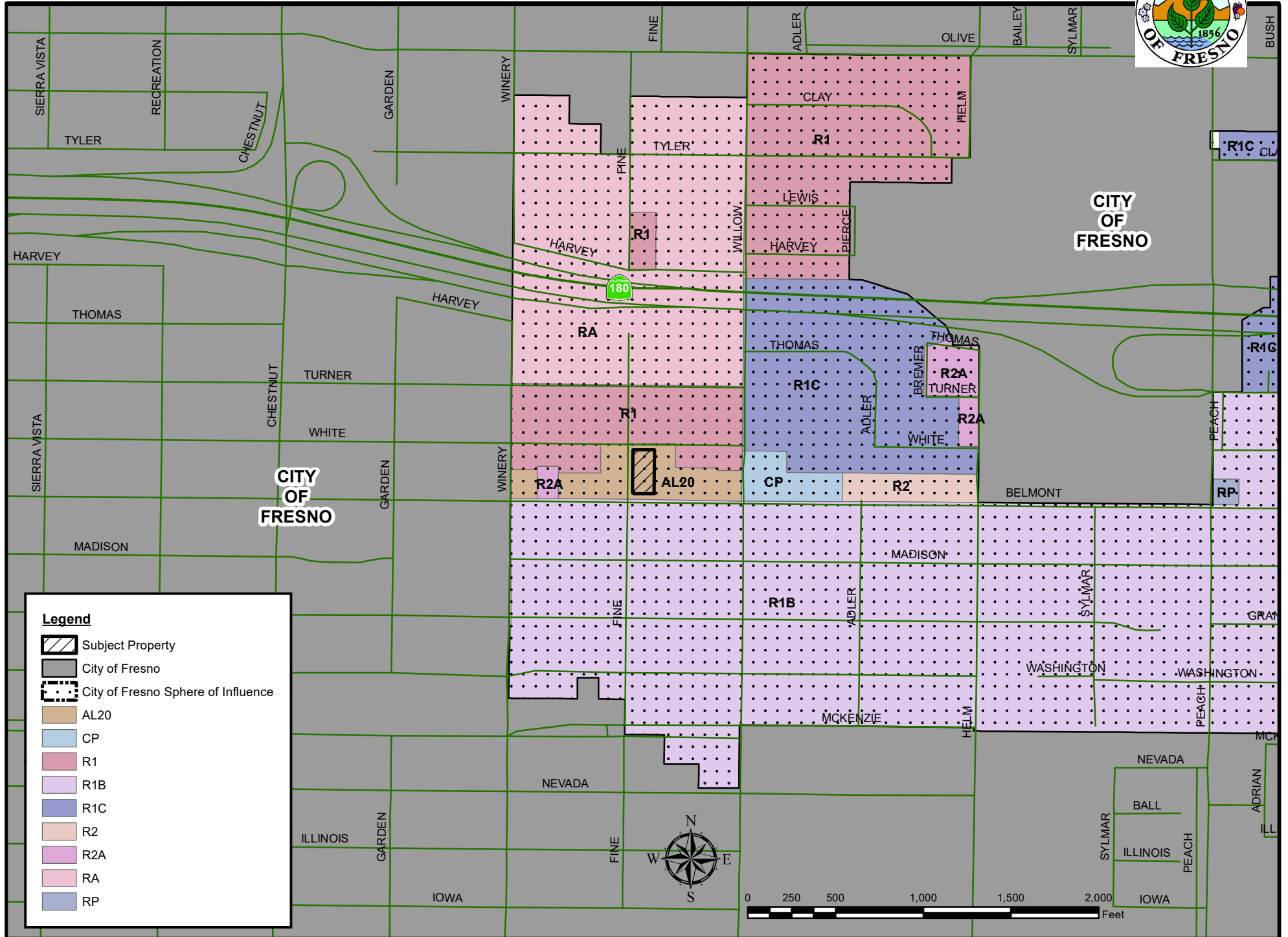
LOCATION MAP

VA 4098



EXISTING ZONING MAP

EXHIBIT 3



Legend




- Subject Property
- City of Fresno
- City of Fresno Sphere of Influence
- AL20
- CP
- R1
- R1B
- R1C
- R2
- R2A
- RA
- RP

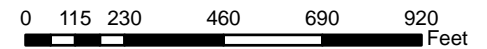
EXISTING LAND USE MAP



LEGEND	
RG	RESIDENTIAL GROUP FACIL
AP1	APARTMENT
C	COMMERCIAL
C#	COMMERCIAL
CHU	CHURCH
CP#	OFFICE COMM./PROF
SCH	SCHOOL
SF#	SINGLE FAMILY RESIDENCE
V	VACANT

LEGEND:

-  Subject Property
-  City of Fresno
-  Fresno Sphere of Influence



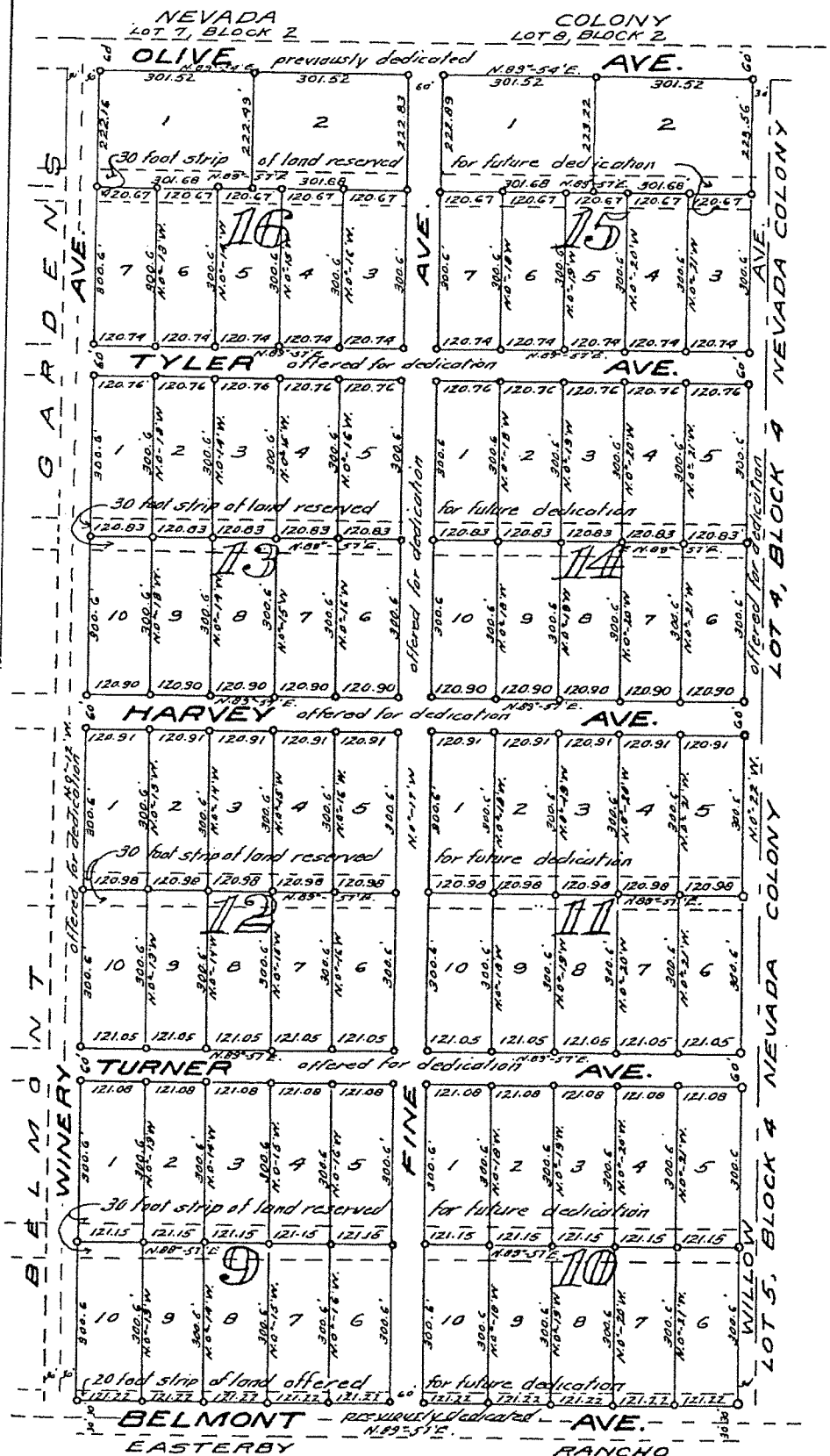
Department of Public Works and Planning
Development Services Division

EXHIBIT 5

LOCATED IN T. 13 S., R. 21 E., M. D. B 4 M.
FRESNO COUNTY

SURVEYED AND PLATTED FEBRUARY 1937 BY

Scale of Map 20.



State of California }
City and County of San Francisco } 3-5

On this 10th day of March 1937,
I, Notary Public in and for the County of Fresno, State of California, do hereby certify that the foregoing is a true and correct copy of the original plat as the same appears on file in my office, known to me.

Thousand nine hundred and thirty seven
Notary Public in and for the County of Fresno, State of California, do hereby certify that the foregoing is a true and correct copy of the original plat as the same appears on file in my office, known to me.

N

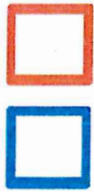
EXHIBIT 6

PROJECT DATA
 ADDRESS: 4955 E. Belmont Ave
 APN: 456-184-06
 WATER: COMMUNITY
 WASTE: COMMUNITY
 GAS: PG&E
 OWNER: Laurencio Villa

NOTE: County rear setback is 20 ft., same as proposed.

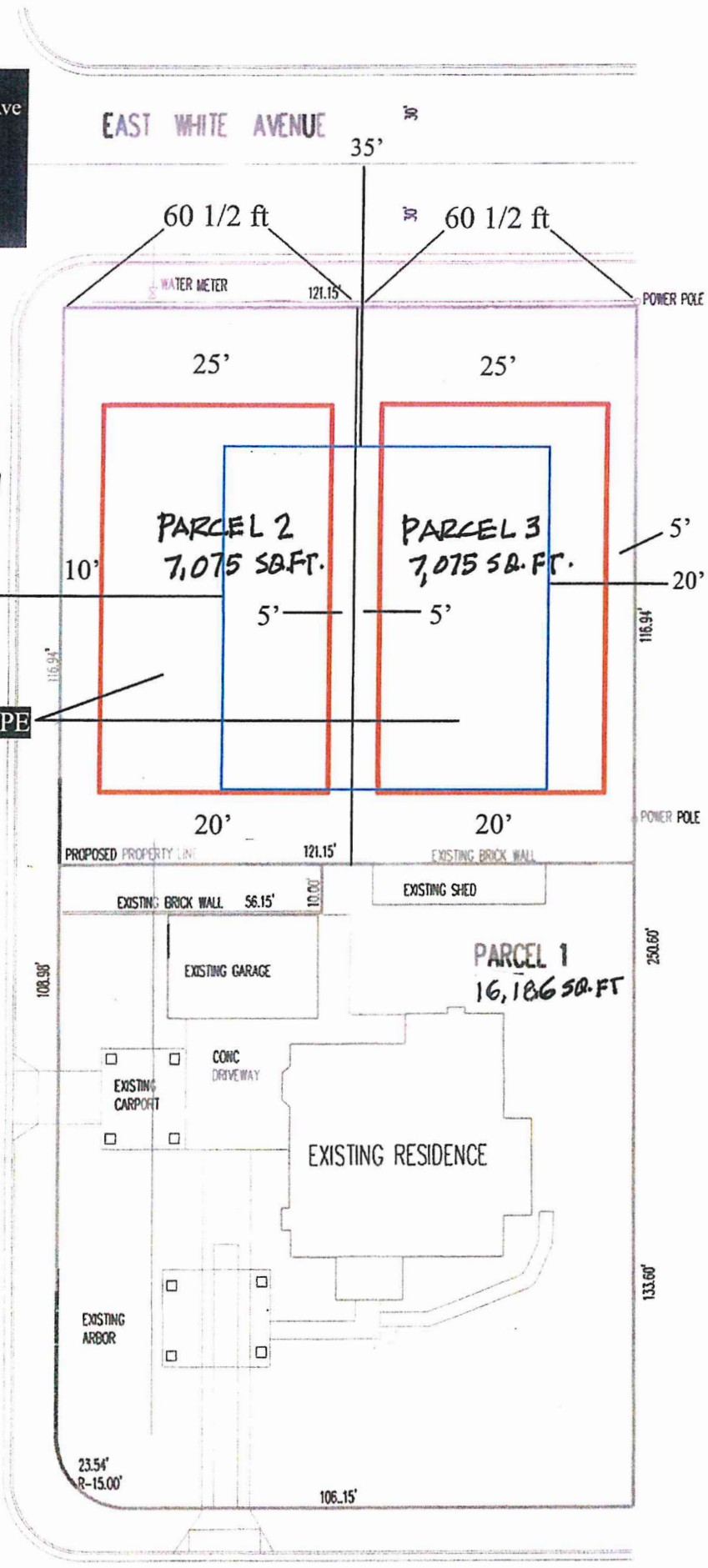
Proposed curb & gutter

BUILDING ENVELOPE



Proposed Setbacks

County Setbacks



EAST BELMONT AVENUE



APPROVED VARIANCES WITHIN A ONE MILE RADIUS

VA 4059

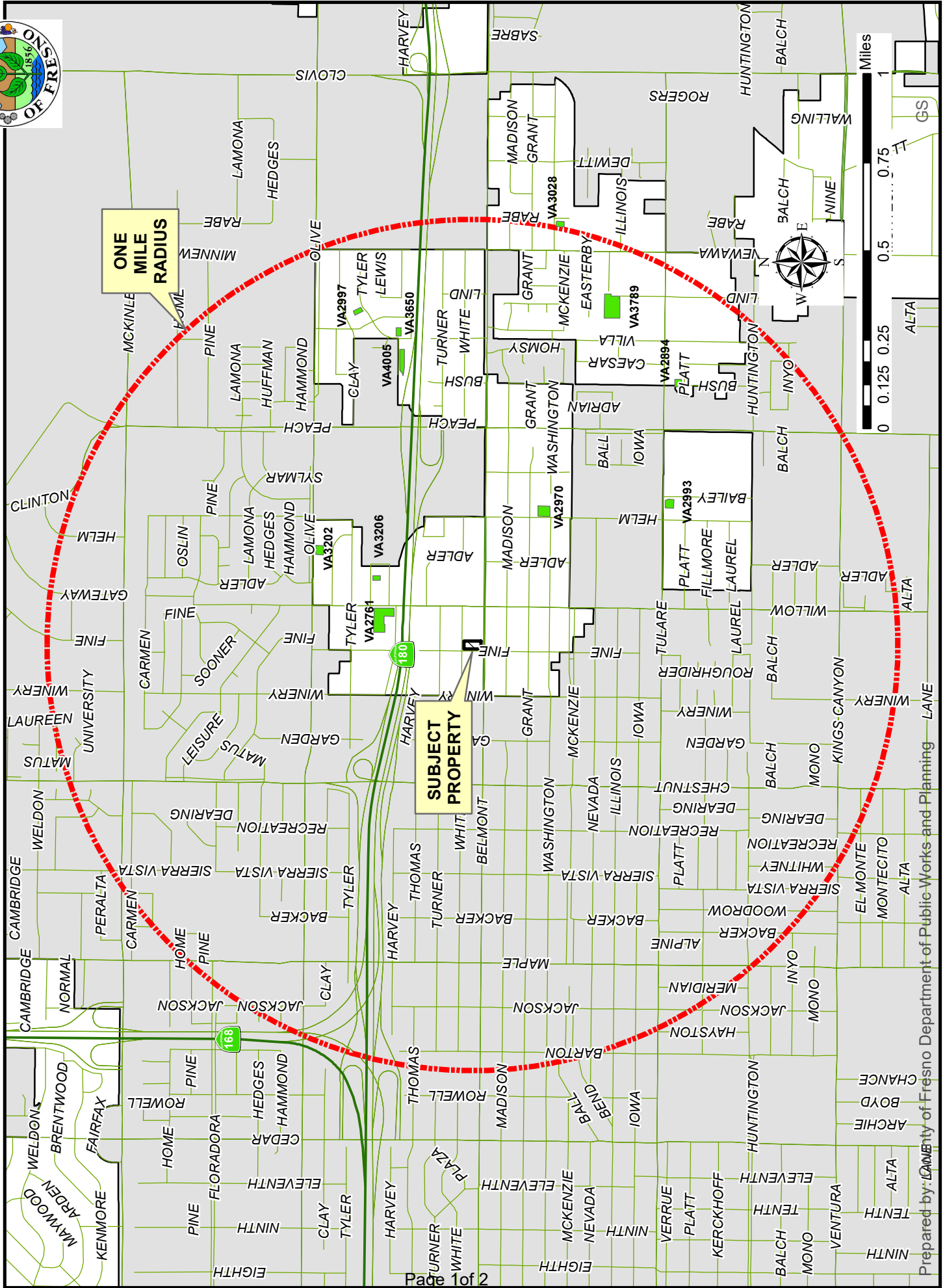


Table 2

Application/Request:	Date of Action:	Staff Recommendation:	Final Action:
VA No. 3789: Allow the creation of two parcels, 43,342 and 35,720 square feet in size, with 79.51 feet and 58.5 feet of public road frontage respectively (110 feet required), and a lot width of 95 feet for the 35,720 square-foot parcel (110 feet required) from an existing 1.81 acre parcel of land in the R-1-AH (Single-Family Residential, 20,000 square feet minimum parcel size) District.	August 19, 2004	Denial	Approved by the Planning Commission
VA No. 3206: Allow a 21.5-foot front yard setback (minimum 25 feet required) for expansion of an existing residence on a 7,630 square-foot parcel of land in the R-1 (Single-Family Residential, 6,000 square-foot minimum lot size) Zone District.	August 15, 1989	Approval	Approved by the Planning Commission
VA No. 3202: Allow a 54-foot front yard setback (25 feet maximum), a 19-foot rear yard setback (20 feet required), and 55-foot lot width (60 feet required) in the R-1 District.	May 25, 1989	Approval	Approved by the Planning Commission
VA No. 3028: Allow a 5-foot side yard setback (7 feet required) in the R-1-C District.	September 11, 1986	Denial	Approved by the Planning Commission
VA No. 2997: Allow a 12-foot front yard setback (25 feet required) in the R-1-C Zone District.	April 24, 1986	Denial	Approved by the Planning Commission
VA No. 2993: Allow a 6-foot high fence within the required 20-foot front yard setback, and a 10-foot street side yard setback in the R-1 Zone District.	April 10, 1986	Denial	Denied by the Planning Commission
VA No. 2894: Allow a 25-foot front yard setback and 7-foot side yard setback in the R-A Zone District.	January 24, 1985	Denial	Approved by the Planning Commission
VA No. 2970 (with Amendment Application No. 3437): Rezone a 27,750 square foot parcel from R-1-B to R-1 and allow a lot width of 50 feet (60 feet required)	December 5, 1985 (PC); January 14, 1986 (BOS)	Denial	Denied by the Planning Commission; appeal denied by the Board
VA No. 2761: Allow two parcels to have 120 feet of road width and allow one 21,600 square-foot parcel in the R-A Zone District	March 10, 1983	Approval	Denied by the Planning Commission

VARIANCE FINDINGS

Laurencio & Leticia Villa

August 25, 2020

VA4059

Owner:

Laurencio & Leticia Villa
4944 E. Turner Ave.
Fresno, CA 93727

Applicant:

Same as above

Representative:

Dirk Poeschel Land Development Services, Inc.
923 Van Ness Ave., Suite 200
Fresno, CA 93721
559-445-0374

Property Location:

The project site is located on the north side of E. Belmont Ave., on the northeast corner of its intersection with N. Fine Ave. approximately 670+/- ft. east of the city limits of the City of Fresno.

APN:

APN-456-184-06

Existing Zone Designation:

AL-20 (Fresno County land use designation)

Existing General Plan Land Use Designation:

Office Commercial

Request:

Grant a Variance to allow the creation of two 0.16+/- acre parcels, and a remainder 0.37+/- acre parcel from an existing 0.69+/- acre parcel in the AL-20 Zone.

Background:

The site is zoned AL-20 Limited Agriculture, 20 acre minimum. The AL District is intended *to reserve and hold certain lands for future urban use by permitting limited agriculture and by regulating those more intensive agricultural uses which, by their nature, may be injurious to non-agricultural uses in the vicinity or inconsistent with the express purpose of reservation for future urban use.*

The subject property is within the City of Fresno's Sphere of Influence. The subject application was referred to the City of Fresno for annexation with Fresno declining annexation. The project was then allowed to be processed by Fresno County subject to various adopted plans and policies. The subject property is designated in the City of Fresno's general plan for *medium density residential* uses.

Finding 1:

Does the strict application of the Zoning Ordinance deprive this property of privileges enjoyed by other properties in the vicinity and in an identical zoning district due to special circumstances applicable to the property, including its size, shape, topography, location or surroundings?

The location of the existing single-family residence forward on the lot can accommodate the two proposed parcels that are consistent with the surrounding neighborhood in size, shape, and depth. Please see the attached map depicting existing similar sized lots in the neighborhood. The project is located on a 0.69+/- acre parcel among other smaller, larger, and similar-sized parcels. All parcels proximate to the subject site are smaller than the required 20-acre minimum lot size for the AL-20 zone.

The existing home has value but cannot be economically converted to accommodate the county planned office commercial uses so it will remain as it contributes to the neighborhood residential character. A solid wall exists that functionally separates the existing home from the two proposed lots. A shed exists on the parcel that is over 150 ft. from E. Belmont Ave. The proposed Variance will not change this physical bifurcation of the property.

All other proximate neighborhood uses are residential not office commercial. Therefore, the Variance is necessary to preserve the applicant's ability to comply with the existing residential character of the neighborhood.

A review of the allowed uses in the AL-20 Zone clearly indicates the focus of new uses are agriculturally based. Such agricultural uses would be impractical on this property due to its size and conflict with adjacent residential uses.

It is noted other Variances have been granted in the vicinity of the subject property.

The project site is an infill property, located in an existing residential neighborhood and is not located on a predominant street. Fine Ave. has no north or south connectivity as it terminates at

State Route 180. These unique site characteristics eliminate viable office commercial uses on the property.

The area of the subject site was offered to the City of Fresno for annexation, in which the City declined. A Supervising Planner with the City of Fresno's Planning and Development Department confirmed that the City of Fresno considers the site designated for *medium density residential* uses. The Planner also confirmed that the City of Fresno RS-4 and RS-5 zones would be consistent with the proposed land revision. The Planner also confirmed that proposed lots width, depth, etc. were consistent with the City of Fresno designation for the property of *medium density residential* in either the RS-4 or RS-5 zone. The applicant has a right to develop his property consistent with its neighborhood character, density and the adopted City of Fresno General Plan.

The AL-20 zone requires a 35 ft. front yard, a 20 ft. side yard and a 35 ft. corner lot side yard with rear yard requirements are 20 ft. for the interior lot and 35 ft. for the corner lot. The AL-20 standards are atypical of the neighborhood. Due to the parcel's size, shape, existing improvements and location at the residence, utilizing the AL-20 zone development standards would provide inadequate area for the proposed residences or the county planned office commercial use of the property placing an unfair and unnecessary economic burden on the applicant to develop the lot.

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 proposed Variance will not grant a special privilege because the proposed parcels are consistent in size with the surrounding neighborhood are designated for the medium density residential uses in the City of Fresno's adopted General Plan.

The subject property along with the surrounding neighborhood are located in the City of Fresno's Sphere of Influence. The subject property is approximately 670+/- ft. east of the Fresno City limits. The Sphere of Influence is a formal plan agreed to by the city and county that the city should control development. The City of Fresno and County of Fresno both agreed the property should be in the city which is the very reason the project is within the city's Sphere of Influence. Eventually the property will be annexed into the city.

Various policies support this type of infill development. The applicant has the right to develop his property consistent with those policies and subject to city standards. As stated previously, a Supervising Fresno City Planner confirmed that the proposed lots width, depth, etc. were consistent with the City of Fresno designation for the property of *medium density residential* in either the RS-4 or RS-5 zone. The RS-4 zone is the *least* intense out of the two compatible city zones and was chosen by the applicant to assure development compatibility.

As described above, the AL-20 zone requires a 35 ft. front yard, a 20 ft. side yard and a 35 ft. corner lot side yard. Rear yard requirements are 20 ft. for the interior lot and 35 ft. for the corner lot. The AL-20 standards are atypical of the site’s neighborhood and would not allow adequate area for the proposed residences or the county planned office commercial use of the property therefore, placing an unfair and unnecessary economic burden on the applicant to develop the lot.

The proposed setbacks for the subject property are consistent with and greater than the City of Fresno RS-4 zone requirements. Please see the comparison matrix of development standards below:

	RS-4	Proposed	County
Front	13 ft.	25 ft.	35 ft.
Rear	10 ft.	20 ft.	20 ft.
Interior Side	6 ft./4 ft.	5 ft.	20 ft.
Street Side	10 ft.	10 ft.	35 ft.

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 surrounding properties for various reasons. The site is improved with one single-family residence, garage, carport, arbor, and shed. The existing home has frontage, including its driveway on E. Belmont Ave., which is a public road of adequate width and pavement to serve the proposed home site. The proposed parcels will also have frontage, including their driveways on E. White Ave., consistent with the existing development patterns. East White Ave. is a public road of adequate width and pavement.

No variations in setback development standards are required from city standards. The subject site will be served by community water services and sewer. A *will serve* letter from Bakeman Water District has been provided to the applicant. Therefore, no adverse impacts to groundwater will occur.

The site is also served by the Fresno Metropolitan Flood Control District; therefore, erosion and flooding issues will not occur. The applicant will install curb and gutter around all 3 parcels.

The two proposed lots will yield two new homes of greater value than most of the surrounding homes. This investment represents a positive influence on this neighborhood.

Developing infill sites eliminates the need to expand the City of Fresno’s Sphere of Influence. A variety of advantages to developing infill sites are further discussed in Finding 4.

The requirement of sidewalks to be constructed for the subject property is inappropriate as none of the surrounding properties are equipped with sidewalk. The applicant will construct curb and gutter around the three parcels consistent with the surrounding neighborhood improvements.

Finding 4:

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

The project is within the Sphere of Influence of the City of Fresno that plans the site to be developed to *medium density residential* uses. Over the past decades, the city and county has relied on the *Joint Resolution on Metropolitan Planning* to direct urbanization to the city consistent with the city's plan for a given area. A summary of the *Joint Resolution on Metropolitan Planning* is provided below.

The RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF FRESNO AND THE CITY OF FRESNO, regarding the Joint Resolution on Metropolitan Planning. ARTICLE IV, entitled DEVELOPMENT of that memorandum, states: *the parties expressly find that the provisions of this article relating to boundaries, development standards and zoning requirements...B, Are necessary to ensure that development within the city sphere of influence occurs in a manner that reflects the city's concurrence and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere.*

ARTICLE IV section D, 4.1 of said memorandum establishes various conditions by which the County may approve discretionary permits within the city's Sphere of Influence. As specified, the project must be referred to the city and the city must agree to annex the property. Should the city decline annexation which occurred in this matter, the county may process the application for development permits consistent with the *most recently adopted city* general plan or community plan and consistent with the County's general plan policies provided that:

- a. That the development is *orderly and does not result in the premature conversion of agricultural lands; and,*
- b. That the COUNTY shall require compliance with all applicable development standards specified in CITY plans and codes as the Effective Date of this Restated MOU and charge fees to the developer reflecting the increased administrative and implementing costs, if any, where such costs are due to CITY standards that are more stringent than the COUNTY's.
- c. Based on conversations with City of Fresno Planning staff confirmed that the City of Fresno does *not* utilize the community plans to determine land-use. Said community plans have "*not been updated for many years*".

According to Section 1504-B-4 of the City of Fresno General plan, "*In the event of a conflict between the general plan and any applicable operative plan, the General Plan shall control.*" Please see attached Section 1504-B-4 of said ordinance.

As for consistency with the County General Plan, a major goal of the county plan is to direct intensive urban development to the cities. On Page 9 entitled *Urban Centered Growth ...directing most new growth to the incorporated cities or Goal LU-A-1 and shall direct urban growth away from valuable agricultural lands to cities unincorporated communities in areas planned for such development were public facilities and infrastructure are available.*

The property is in an urbanized area and will have no effect on agricultural productivity. The proposition that the property is a viable farming unit and that an increase in residential density increases the potential for conflict with normal agricultural practices on adjacent parcels is not based on the area's development pattern. Review of the macro neighborhood indicates no farming is occurring proximate to the property. Obvious economic and practical considerations create this reality.

The project must be considered *infill* as it is surrounded by urban development. *Infill* development is supported by the city and the county for a variety of reasons such as lower urban service delivery costs and substantial environmental and community health benefits. These infill advantages are substantial according to the Environmental Protection Agency Study entitled *INVESTING IN INFILL DEVELOPMENT* published by the office of Sustainable Communities, Smart Growth Program that stated, "Finally, cities eager to reap the environmental, economic, and social benefits of infill development are changing regulations and policies to encourage and facilitate it".

Fresno County Farm Bureau and others coauthored the *Landscape of Choice* and determined infill:

- Reduced consumption and conversion of agricultural and natural land to urban uses.
- Lowered housing costs as a result of greater efficiency in the utilization of infrastructure.
- Improved feasibility of regional transit systems such as light rail.
- Stronger sense of community and neighborhood.
- Revitalized urban centers and retention of infrastructure investments in the urban core.
- Improved delivery of public services and emergency response; and
- Attracted new businesses due to improved quality of life.

The project is not an office commercial site. The project site is within an existing residential neighborhood. Fine Ave. is a local street of residences and does not have the visibility or connectivity required for a successful office commercial use. Therefore, imposing the county's plan for office commercial uses on the subject site is not viable and would be in conflict with the surrounding residential neighborhood.

The proposed use is consistent with the character of the neighborhood and should be evaluated in light of the fact that the AL-20 Zone held this property for urbanization. The proposal implements the city's vision for the property. The infill nature of the proposal is consistent with many city, county, and regional planning goals and has many private and public benefits.