

AGENDA ITEM NO.	1	I
COUNCIL MEETING	5-7-09	
APPROVED BY		
		
DEPARTMENT DIRECTOR		
CITY MANAGER		

May 7, 2009

FROM: PATRICK N. WIEMILLER, Director 
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director 
Public Works Department/Engineering Division

SUBJECT: ADOPT A RESOLUTION ACCEPTING AN IRREVOCABLE OFFER TO DEDICATE A PUBLIC STREET EASEMENT ALONG THE SOUTHWEST CORNER OF HERNDON AVENUE AND GOLDEN STATE BOULEVARD, APN 504-140-11, FROM PROPERTY OWNED BY GEORGE AND CYNTHIA BROWN AND CAROLINE HINSHAW (COUNCIL DISTRICT 2)

KEY RESULT AREA

Customer Satisfaction

RECOMMENDATIONS

It is recommended that Council adopt the attached resolution and accept the irrevocable offer to dedicate a public street easement and right of way along the southwest corner of Herndon Avenue and Golden State Boulevard. The 17,294 square foot dedication is to be used for a street easement from property owned by George H. and Cynthia C. Brown and Caroline Hinshaw.

EXECUTIVE SUMMARY

In 1996 the City and Burger Duo Property Development II, LLC, entered into an Irrevocable Offer to Dedicate Real Property along the southwest corner of Herndon and Golden State. The offer is to remain open until such time as the City Council adopts a resolution accepting or rejecting it, and at this time the City needs to accept the offer to accommodate construction of the street improvements along the southwest corner of Herndon and Golden State. A copy of the recorded irrevocable offer is designated as Exhibit "A".

The acceptance of this street easement dedication along with two fee simple parcel acquisitions and a railroad license agreement will provide the additional street right of way needed to develop dedicated left and right turn lanes in each direction, two through traffic lanes in each direction, a bike path and the construction of traffic signals for the project on Herndon Avenue between Weber Avenue and Freeway 99.

REPORT TO THE CITY COUNCIL

**Resolution Accepting Irrevocable Offer to Dedicate Public Street Easement
Southwest Corner of Herndon Avenue and Golden State Boulevard**

May 7, 2009

Page 2

KEY OBJECTIVE BALANCE

The proposed dedication provides for Customer Satisfaction by dedicating street easements to provide for the placement of utilities and the construction of the permanent street improvements. Financial Management will be realized by the acceptance of the dedication of the property at a funding level that has no impact to the City's General Fund.

BACKGROUND

Beginning in 1995, the Public Works Department began the process to plan improvements to the Herndon Avenue and Golden State intersection to improve traffic movement and reduce delays at the intersection. The property owner at the southwest corner of the intersection was in the process of making improvements under CUP 95-61. The Developer and the City agreed to an irrevocable offer of Dedication of Real Property for the street easements to be deferred until such time as it is needed to make the improvements to the intersection. The offer is to remain open until such time as the City Council adopts a resolution accepting or rejecting it, and at this time the City needs to accept the offer to accommodate construction of the street improvements along the southwest corner of Herndon and Golden State.

FISCAL IMPACT

No specific expenditure or revenue will result from this dedication.

PNW/SLM/PC/eam
Adopt Reso Acct Irrevoc Offer Ded Str Esmt SW Cor Herndon-Golden St 5-7-09

Attachment: Exhibits "A"

Recording Requested By:
Public Works Department
City of Fresno
No Fee-Govt. Code Sections
6103 and 27383

RECORDED IN OFFICIAL RECORDS OF
FRESNO COUNTY, CALIFORNIA
AT 45 MIN PAST 11A M

DEC 26 1996

FRESNO COUNTY, CALIFORNIA
WILLIAM C. GREENWOOD, County Recorder

REYNA RODRIGUEZ
BY DEPUTY RECORDER

FEE
\$

Name
Street
Address
City &
State

When Recorded Mail to:
Public Works Department
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3623

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 504-090-16

NOTICE OF

PW-96-13275A

IRREVOCABLE OFFER TO DEDICATE REAL PROPERTY

Burger Duo Property Development II, LLC, GRANTORS, hereby GRANT to the City of Fresno, a municipal corporation, GRANTEE, an easement and right-of-way for public street purposes over, under, through, and across that certain real property situated in the City of Fresno, County of Fresno, State of California, described as follows:

SEE EXHIBIT "A"
(Attached)

TOGETHER WITH any and all appurtenant vehicular access rights adjacent to Herndon Avenue over, along, and across all the above described real property.

This offer to dedicate is irrevocable, as authorized by Section 66475, et seq., of the Government Code, shall be binding on the grantor, the heirs, assigns, and successors of the grantor, and shall continue in effect until the Council of the City of Fresno adopts a resolution accepting or rejecting the offer. The City does not intend to accept the offered dedication at this time, but wishes to have this conveyance recorded so that interested persons will have notice of the City's interest in the property offered for dedication. Acceptance of this Irrevocable Offer to Dedicate shall not be deemed to be an acceptance of the offer to dedicate so as to complete the dedication at this time but is merely accepting the document for the purposes of having it recorded.

C-95-61
15-A-6956
96-088

BURGER DUO PROPERTY DEVELOPMENT II, L.L.C.

By: Catherine M. Schneider
Catherine M. Schneider, Member

Date: 12-13-96

BY: Gregory C. Schneider
GREGORY C. SCHNEIDER, MEMBER

⊕

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of Fresno

On Dec. 13, 1996, before me, Janice Westbrook
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Catherine M. Schneider and Gregory C. Schneider

personally known to me -- OR -- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.
Janice Westbrook
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Irrevocable Offer to Dedicate Real Property
Document Date: 12-13-96 Number of Pages: 3

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name Catherine M. Schneider

- Individual
- Corporate Officer Title(s): _____
- Partner -- Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____

946500.kmu.notary.cht 

Signer's Name Gregory C. Schneider

- Individual
- Corporate Officer Title(s): _____
- Partner -- Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____

Top of Thumb here

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California
County of Fresno

On _____ before me, _____
(DATE) (NOTARY PUBLIC)

personally appeared, _____
NAME(S) OF SIGNERS

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

OPTIONAL SECTION

TOP OF THUMB

- INDIVIDUAL(S)
- CORPORATE OFFICER(S)

TITLE(S)

- PARTNERS Limited General
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIANSHIP/CONSERVATOR

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(ES)

TOP OF THUMB

FOR CITY OF FRESNO USE ONLY

CERTIFICATE OF ACCEPTANCE (Officer)

In accordance with Section 27281 of the Government Code, this is to certify that the interest in real property conveyed hereby is accepted by the undersigned officers on behalf of the Council of the City of Fresno pursuant to authority conferred by Resolution No. 92-219A of said Council, adopted June 9, 1992 and the grantee consents to the recordation thereof by its duly authorized officer.

Director of Public Works
ACCEPTED

By _____ Date _____
DEPUTY

APPROVED AS TO DESCRIPTION:

By _____ Date 12/17/96
DEPUTY



Checked by _____ Date 9/18/96

CERTIFICATE OF ACCEPTANCE (Council)

In accordance with Section 27281 of the Government Code, this is to certify that the interest in real property conveyed by this instrument to the City of Fresno, a municipal corporation, is hereby accepted by order of the Council of the City of Fresno made on the date hereafter set forth and the grantee consents to the recordation thereof by its duly authorized officer.

Date of Council order: _____ 19____

City Clerk _____
DEPUTY

By _____ Date _____
DEPUTY

Chief Administrative Officer

By _____ Date _____
DEPUTY

APPROVED AS TO FORM:

City Attorney _____

By _____ Date _____
DEPUTY

APN: 54-090-16

EXHIBIT "A"

ALL THAT PORTION OF LOT 22 OF THE MAP OF HERNDON LANDS, SUBDIVISION NO. 1 AS RECORDED IN BOOK 7 OF PLATS, PAGE 23, FRESNO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF SAID LOT 22, THENCE SOUTH 33°05'00" WEST, ALONG THE NORTHWESTERLY LINE OF SAID LOT 22, A DISTANCE OF 11.38 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF NORTH GOLDEN STATE BOULEVARD AS PREVIOUSLY DEDICATED BY INSTRUMENT NO. 6083, RECORDED MARCH 2, 1937, IN BOOK 1564, PAGE 140, OFFICIAL RECORDS OF FRESNO COUNTY AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG THE NORTHWESTERLY LINE OF SAID LOT 22, SOUTH 33°05'00" WEST, A DISTANCE OF 338.62 FEET TO THE MOST NORTHERLY CORNER OF LOT 59 OF J.C. FORKNER FIG GARDENS SUBDIVISION NO. 10, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 10 OF PLATS AT PAGES 37 AND 38, FRESNO COUNTY RECORDS; THENCE LEAVING SAID NORTHWESTERLY LINE, SOUTH 56°52'00" EAST, ALONG THE NORTHEASTERLY LINE OF SAID LOT 59, A DISTANCE OF 37.84 FEET TO THE HERNDON AVENUE OFFICIAL PLAN LINE ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 1 OF PRECISE PLANS AT PAGES 10 THRU 37, FRESNO COUNTY RECORDS; THENCE NORTH 37°30'16" EAST, ALONG SAID PLAN LINE, A DISTANCE OF 340.88 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF NORTH GOLDEN STATE BOULEVARD, SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY WITH A RADIUS OF 2950.00 FEET, A RADIAL TO SAID POINT BEARS NORTH 32°37'32" EAST; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°14'44", AN ARC DISTANCE OF 64.13 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 17,294 SQUARE FEET, A LITTLE MORE OR LESS.

C-95-61
96-088
15-A-6956



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WEST HERNDON AVENUE (G STREET)

TRUE POINT OF BEGINNING

35'

R=2950.00'
Δ=01°14'44"
L=64.13'

POINT OF COMMENCEMENT
NORTHERLY CORNER, LOT 22

S33°05'00"W

338.62'

S33°05'00"W
11.38'

S56°52'00"E
37.84'

HERNDON AVENUE OFFICIAL PLAN LINE
VOLUME 1 OF RECORD OF PRECISE PLANS,
PAGES 10 THROUGH 37, F.C.R.
DOC. NO. 60454

N32°37'32"E
RADIAL

R=2950.00'
Δ=01°45'12"
L=90.27'

N37°30'16"E

340.88'

R=2950.00'
Δ=00°30'28"
L=26.14'

HERNDON LANDS
SUBDIVISION NO. 1
VOLUME 7 OF PLATS, PAGE 23, F.C.R.

242.85'

PREVIOUSLY DEDICATED AS
RECORDED MARCH 2, 1937
IN BOOK 1564, PAGE 140.
O.R.F.C.

NORTH GOLDEN STATE BLVD.
(NORTH MOTEL DRIVE, & STATE HIGHWAY 99)

R=4950.00'
Δ=00°11'44"
L=16.89'

S33°05'00"W

339.97'

J. C. FORKNER FIG GARDENS SUBDIVISION NO. 10
VOLUME 10 OF PLATS, PAGES 37 & 38, F.C.R.

LOT 59

L 350.00'

312.16'

N56°52'00"W

LOT 57

LOT 58

NORTH



INDICATES ACCESS RIGHTS TO BE RELINQUISHED



INDICATES AREA TO BE DEDICATED FOR PUBLIC STREET PURPOSES

SCALE: 1"=60'



ACCT NO. FILE NO. PROD. NO.	CITY OF FRESNO	DEPARTMENT OF PUBLIC WORKS RAYMOND G. SALAZAR DIRECTOR		
REF. & REV. C 95-61 96-088 PLAT 1342 COUNTY OPL SER. NO. 40	PORTION OF LOT 22 HERNDON LANDS SUBDIVISION NO. 1 TO BE DEDICATED FOR PUBLIC STREET PURPOSES	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"> CONST. ENG. CITY DESIGN ENG. DR. BY L.A.P. CM. BY DATE 9-18-96 SCALE: AS NOTED </td> <td style="width: 50%;"> APPROVED OFFICE ENG. SHEET NO. 1 OF 1 SHEETS 15-A-6956 </td> </tr> </table>	CONST. ENG. CITY DESIGN ENG. DR. BY L.A.P. CM. BY DATE 9-18-96 SCALE: AS NOTED	APPROVED OFFICE ENG. SHEET NO. 1 OF 1 SHEETS 15-A-6956
CONST. ENG. CITY DESIGN ENG. DR. BY L.A.P. CM. BY DATE 9-18-96 SCALE: AS NOTED	APPROVED OFFICE ENG. SHEET NO. 1 OF 1 SHEETS 15-A-6956			

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RECORDING REQUESTED BY

Public Works Department
City of Fresno
No Fee-Gov't Sections
6103 and 27383

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When Recorded, Mail To:

City Clerk
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3623

SPACE ABOVE THIS LINE FOR RECORDERS USE

APN 504-140-11

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO,
CALIFORNIA, ACCEPTING
AN IRREVOCABLE OFFER TO DEDICATE A PUBLIC STREET EASEMENT
ALONG THE SOUTHWEST CORNER OF HERNDON AVENUE AND
GOLDEN STATE BLVD.

WHEREAS, in 1996 the City and Burger Duo Property Development II entered into an Irrevocable Offer to Dedicate Real Property, recorded December 26, 1996 as Document No. 1996-0169459, Official Records of Fresno County (the "Offer"); and

WHEREAS, the property to be dedicated is along the south west corner of Herndon and Golden State, and is commonly known as 6729 North Golden State Blvd., Assessor's Parcel Number 504-140-11 (the "Subject Property"); and

WHEREAS, a copy of the Offer is designated as Exhibit "A" which is attached and incorporated by reference; and

WHEREAS, the Offer is to remain open until such time as the City Council adopts a resolution accepting or rejecting it and, at this time, the City needs to accept the Offer to accommodate construction of street improvements along Herndon Avenue and Golden State Blvd.

WHEREAS, the City proposes to widen and improve the intersection of Herndon Avenue and Golden State Blvd. by the installation of left turn lanes, through lanes each direction and dedicated right turn lanes in addition a pedestrian / bike path will be constructed along Herndon.

In addition, other improvements will include modifying and/or providing new traffic signals, as well as curb, gutter and sidewalk improvements (the "Project"); and

WHEREAS, for this segment of the Project that affects the Subject Property the Design Services Division of the City Department of Public Works has designed the street widening on Herndon Avenue and Golden State Blvd and Federal Financing has been authorized to participate in the project under Federal Project No. CML 5060 (122); and

WHEREAS, the Project has been environmentally assessed. A Mitigated Negative Declaration has been issued for the project. The Mitigated Negative Declaration was filed with Fresno County Clerks office on May 14, 2007, with this number E200710000241. Caltrans completed a Categorical Exemption under the National Environmental Protection Act (NEPA) review in June, 2007. The City adopted the CEQA and NEPA determinations on April 07, 2009.

NOW, THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY AS FOLLOWS:

1. The City of Fresno hereby adopts this Resolution accepting the Offer to dedicate an easement and right of way for public street purposes over, under, through, and across the real property described in an Irrevocable Offer to Dedicate Real Property recorded December 26, 1996 as Document No. 1996-0169459, Official Records of Fresno County.
2. That the real property described in attached Exhibit "B" and shown on attached Exhibit "C" is hereby dedicated as an easement and right of way for public street purposes.
3. Nothing contained in this resolution shall be deemed or interpreted by any party to cause any interest created in the public pursuant to this resolution to ripen into any title, interest right of the public against or adverse to the rights of the City of Fresno nor shall this resolution limit, restrict or modify the exemption of public property to title by prescription as defined with California Civil Code Section 1007.
4. The Clerk of the City of Fresno shall certify to the passage of the resolution and attest thereto under the seal of the City of Fresno.
5. The City Engineer shall cause a City deed number to be assigned to the resolution and shall cause the resolution to be recorded in the Office of the Recorder of the County of Fresno, California. The original resolution shall be returned to the City Clerk after recordation and a certified copy thereof shall be filed in the Public Works deed file.

* * * * *

CLERKS CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the forgoing Resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2009.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2009
Mayor Approval/No Return: _____, 2009
Mayor Veto: _____, 2009
Council Override Vote: _____, 2009

REBECCA E. KILSCH
City Clerk

By: _____ Deputy

APPROVED AS TO FORM:

CITY ATTORNEY'S OFFICE
JAMES C. SANCHEZ

BY: 
Deputy *BLADY*

APN 504-140-11

EXHIBIT "B"

ALL THAT PORTION OF LOT 22 OF THE MAP OF HERNDON LANDS, SUBDIVISION NO. 1 AS RECORDED IN BOOK 7 OF PLATS, PAGE 23, FRESNO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

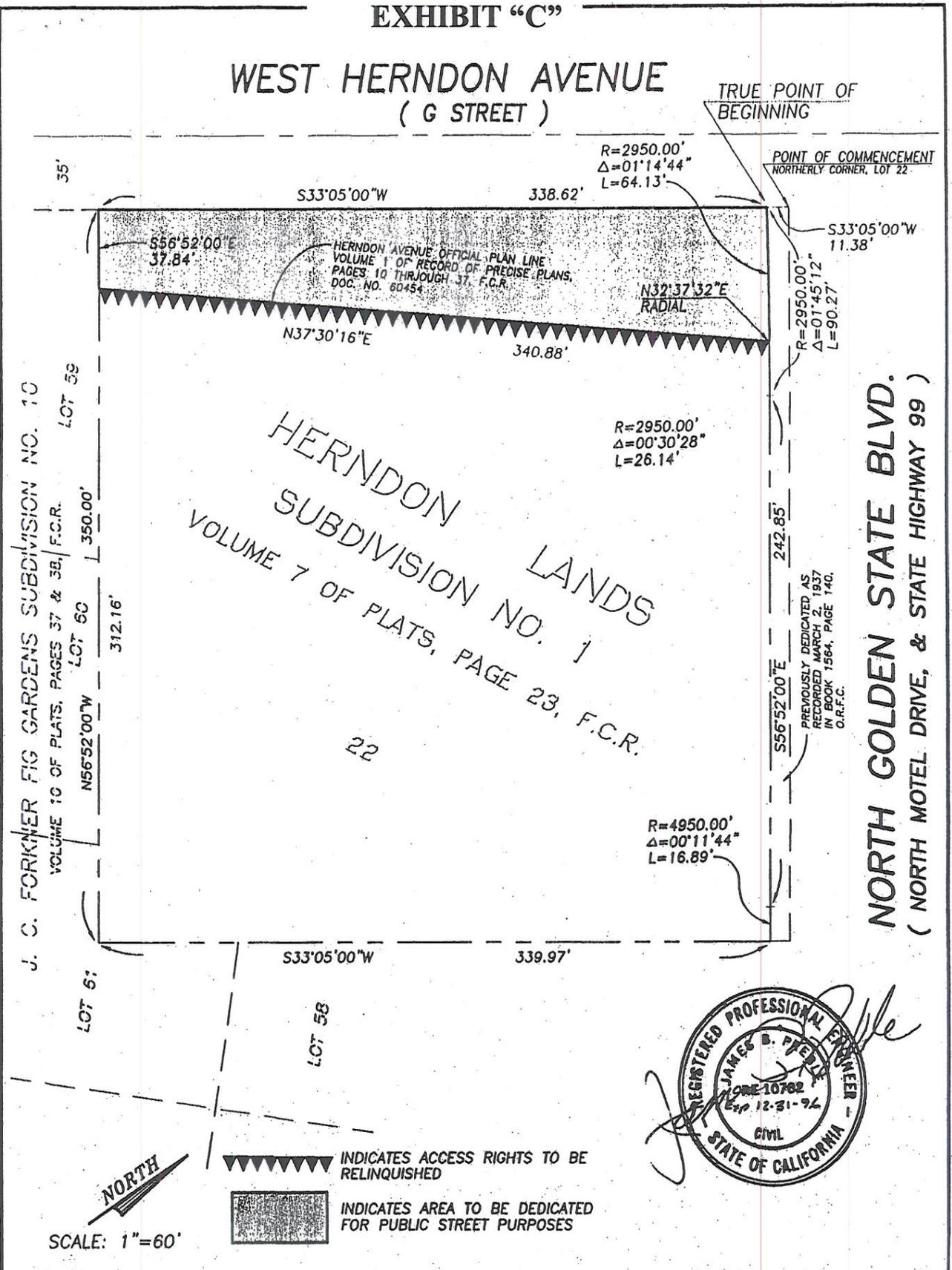
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CONTAINING 17,294 SQUARE FEET, A LITTLE MORE OR LESS.

C-95-61
96-088
15-A-6956

EXHIBIT "C"

WEST HERNDON AVENUE
(G STREET)



J. C. FORKNER FIG GARDENS SUBDIVISION NO. 10
VOLUME 10 OF PLATS, PAGES 37 & 38, F.C.R.

HERNDON LANDS
SUBDIVISION NO. 1
VOLUME 7 OF PLATS, PAGE 23, F.C.R.

NORTH GOLDEN STATE BLVD.
(NORTH MOTEL DRIVE, & STATE HIGHWAY 99)

NORTH
SCALE: 1"=60'

INDICATES ACCESS RIGHTS TO BE RELINQUISHED
INDICATES AREA TO BE DEDICATED FOR PUBLIC STREET PURPOSES



ACC'T NO. FILE NO. PROG. NO.	CITY OF FRESNO	DEPARTMENT OF PUBLIC WORKS RAYMOND G. SALAZAR	DIRECTOR
REF. & REV. C 95-61 96-088 PLAT 1342 COUNTY OPL SER. NO. 40	PORTION OF LOT 22 HERNDON LANDS SUBDIVISION NO. 1 TO BE DEDICATED FOR PUBLIC STREET PURPOSES		CONSTR. ENG. CITY DESIGN ENG. DR. BY L.A.P. CH. BY DATE 9-18-96 SCALE: AS NOTED
		APPROVED OFFICE ENG.	SHEET NO. 1 OF 1 SHEETS 15-A-6956