



# REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VIII-B  
COMMISSION MEETING 4-21-10

April 21, 2010

FROM: JERRY D. BISHOP, Assistant Director  
Planning and Development Department

KEITH BERGTHOLD, Assistant Director  
Planning and Development Department

BY: MIKE SANCHEZ, Planning Manager  
Planning Division

APPROVED BY

*John M. Deegan*  
DEPARTMENT DIRECTOR

SUBJECT: CONSIDERATION OF VARIANCE APPLICATION NO. V-09-010 AND  
ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO. V-09-010

## RECOMMENDATION

Upon consideration of staff evaluation, it can be concluded that the proposed Variance Application No. V-09-010 is appropriate for the project site. Therefore, staff recommends that the Planning Commission take the following actions:

1. APPROVE the environmental finding of Environmental Assessment No. V-09-010, a determination of a Categorical Exemption, Class 32, Infill, with no exceptions issued February 22, 2010.
2. DENY the appeal and UPHOLD the action of the Planning and Development Department Director approving Variance Application No. V-09-010 subject to the following:
  - a. Development shall comply with Exhibits A dated January 27, 2010 and E-1 through E-3 dated November 30, 2010.

## EXECUTIVE SUMMARY

Variance Application No. V-09-010 requests authorization to allow a 35-foot front yard setback from the required 50-foot front yard setback; and a five-foot side yard (north property line) setback and seven-foot, nine inch setback (south property line) from the required 15 foot side yard setback to allow for the construction of a 5,600 square foot custom home on a 36,000 square-foot lot. The subject site is zoned R-1-EH (*Single Family, Residential Estate-Horses*) zone district and is planned for low density residential planned land use.

The Planning and Development Department Director approved Variance Application No. V-09-010 on February 26, 2010. In accordance with the Special Permit Procedures of the Fresno Municipal Code, a notice of granting of the variance application was mailed to surrounding property owners with one appeal being received. The appellant, Jim Burden, filed an appeal on March 8, 2010. The appellant contends that the required side yard setbacks of 15 feet should be maintained. Staff is recommending the Director's decision approving the variance application be upheld and the appeal be denied.

**PROJECT INFORMATION**

PROJECT	Variance Application No. V-09-010 requests authorization to allow a 35-foot front yard setback from the required 50 feet; and a five-foot side yard (north property line) setback and seven-foot, nine inch setback (south property line) from the required 15 feet to allow for the construction of a 5,600 square foot custom home on a 36,000 square-foot lot.
APPLICANT	Oliver Ezenwugo 625 East Keats Avenue Fresno, CA 93710
LOCATION	North side of West Bullard Avenue between Van Ness and Forkner Avenues.  6040 North Sequoia Drive. APN: 406-091-42  <b>(Council District 2, Councilmember Borgeas)</b>
SITE SIZE	36, 392 square feet (0.8 acre)
LAND USE	Existing - Vacant  Proposed - A 5,600 square foot two-story custom single family residence.
ZONING	R-1-EH ( <i>Single Family, residential Estate-Horses</i> ) zone district
PLAN DESIGNATION AND CONSISTENCY	Variance Application No. V-09-010 is proposed in accordance with the 2025 Fresno General Plan, and the Bullard Community Plan. The plans designate the site for low density residential planned land use. The existing R-1-EH zone district is consistent with this designation.
ENVIRONMENTAL FINDING	A Finding of Categorical Exemption was filed on February 22, 2010.
PLAN COMMITTEE RECOMMENDATION	This project was not considered by the District 2 Committee. Adjacent homeowners were sent notification of the granting of Variance and subsequent public hearing notice.
STAFF RECOMMENDATION	Staff recommends the Planning Commission deny the appeal and uphold the action of the Planning and Development Department Director subject to the conditions described above, and approve the related environmental finding for this project.

**BORDERING PROPERTY INFORMATION**

	<b>Planned Land Use</b>	<b>Existing Zoning</b>	<b>Existing Land Use</b>
<b>Northeast</b>	Low Density Residential	<b>R-1-EH</b> <i>Single Family Residential Estates-Horses</i>	Estate Size Single Family Home
<b>Southeast</b>	Low Density Residential	<b>R-1-AH</b> <i>Single Family Residential - Horses</i>	Estate Size Single Family Home
<b>Southwest</b>	Low Density Residential	<b>R-1-EH</b> <i>Single Family Residential Estates-Horses</i>	Estate Size Single Family Home
<b>Northwest</b>	Low Density Residential	<b>R-1-EH</b> <i>Single Family Residential Estates-Horses</i>	Estate Size Single Family Home

**ENVIRONMENTAL FINDING**

The project was found to be exempt under Section 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines. A Categorical Exemption for Variance Application No. V-09-10 was issued on February 22, 2010. Section 15332/Class 32 exempts from the provisions of CEQA, construction of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations given that the site is planned and zoned for commercial office planned land uses, (b) the proposed development occurs within city limits on a project site of approximately 0.80 acre, which is less than the five acre maximum, and is surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare, or threatened species, which would be negatively impacted given that the site is relatively flat and is surrounded by urban uses, (d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, given that the conditions of approval will restrict uses that may be obnoxious to neighbors and the Public Works Division has reviewed the proposed project and has determined that the adjacent street is capable of handling the estimated traffic generated by the proposal, and (e) the site can be adequately served by all required utilities and public services.

**BACKGROUND / ANALYSIS**

The applicant, Cesar Rodriguez, on behalf of Oliver Ezenwugo, has filed Variance Application No. V-09-10 requesting an encroachment of 15 feet into the required 50-foot front yard setback; 10 feet and 7 feet 3 inches into the required 15 foot side yard setback (north and south property lines respectively). The request would facilitate the development of a proximate 5,600 square foot, two-story, custom single family residence) on a 36,394 square foot dog legged shaped lot. The subject property is zoned R-1-EH (Single Family residential Estates – Horses) and is designated for low density residential land uses by the 2025 Fresno General Plan and Bullard Community Plan. The R-1-EH zone district has setback requirements of 50 feet (front), 15 feet (side) and 20 feet (rear). Adopted plans and polices dictate that large estate size homes be developed in the immediate area in accordance with the Bullard Community Plan and Van Ness-Forkner Land Use Policy Plan. The present day lotting patterns are a result of these polices, including the subject site which was created though Parcel Map No. 78-04. While the size of the subject lot is under the required minimum (37,500 square feet) by over 100 square feet, it was determined that ultimate development of the site

would still meet the intent of the controlling documents of the Bullard Community Plan and the Van Ness Forkner Land Use Policy Plan.

The proposed development is located in an established estate lot size neighborhood. The lot is a slight curvilinear, dog leg shaped lot located within a cul-de-sac street. The peculiarity of the lot configuration stems from a remnant development of a previous parcel map. This resulted in a 30-foot by 170-foot strip of land that was attached to a standard estate size lot of 270 feet by 117 feet which created a dogleg type of lot. The front yard encroachment of 15 feet into the required 50-foot front yard setback would be for a Porte Cochere feature which has a circular drive approach associated with it and measures 13 feet by 15 feet and would have no habitable living space. The side yard encroachments (5 feet on the north and 7 feet 9 inches on the south) would consist of typical design features of a home that cannot be accommodated due to the configuration of the lot as described above. A review of surrounding properties revealed that some of the existing custom homes requested and received approval for deviations in setback requirements to accommodate certain custom features of their respective homes.

The development will provide a desirable infill opportunity on a lot with a proposed custom home that will be a compatible fit with the surrounding neighborhood. The subject site has remained vacant for several years partly due to its unusual shape coupled with the fact development would require some type of immense landscaping plan for the remnant portion that fronts North Sequoia Avenue.

The uses surrounding the subject site are primarily developed with large lot custom single family residences.

## **LAND USE PLANS AND POLICIES**

### **2025 Fresno General Plan**

Variance Application No. V-09-010 is proposed in accordance with the 2025 Fresno General Plan. Some of the policies and objectives applicable to this project are as follows:

*C-9-h Policy:* Support low density residential uses only in those areas where there are established neighborhoods with semi-rural or estate characteristics.

The subject property is located within a cul-de-sac street that was created through Parcel Map No. 78-04 and was part of a larger remnant agricultural property. Adopted plans and policies for this area call for large estate size residential development. Parcel Map No. 78-04 was found to be consistent with these controlling policies. These lots were created large enough to accommodate low density residential development that would be compatible with the surrounding neighborhood.

### **Bullard Community Plan**

The subject site is designated for low density residential planned land use for over 40 years dating back to the Van-Ness-Forkner Land Use Policy Plan. While many of these properties were at one time agriculture in nature, these properties have essentially developed into large estate size lots featuring custom single family homes or private gated communities. The proposed development is consistent with the goals and policies of this plan by providing for a safe, clean, and aesthetically neighborhoods free from excessive traffic and noise. In addition, the project implements the diversity of housing types and housing opportunities to meet the needs of ages and incomes.

## **DIRECTOR'S ACTION ON VARIANCE**

The Planning and Development Department Director took action on February 26, 2010, to approve Variance Application No. V-09-010. In accordance with Government Code Section 65091 (Planning and Zoning Law) and the Special Permit Procedure of the Fresno Municipal Code, a notice of granting of the variance application was mailed to surrounding property owners within 350 feet of the subject property. The special permit does not become effective until 15 days from the date the special permit is granted in order to allow time for any interested parties to file an appeal. One appeal was subsequently filed within the 15 day appeal period. The appellant, Jim Burden, property owner to the immediate north of the subject property filed his appeal on March 8, 2010.

## **ANALYSIS OF THE APPEAL LETTER**

In response to the Planning and Development Director's approval of Variance Application No. V-09-010, Jim Burden, property owner to the immediate north of the subject property filed an appeal on March 8, 2010.

Issue No. 1: The appellant believes that the 15-foot required side yard setback should be maintained and the proposed encroachment up to five feet of the north property line is not in keeping with the neighborhood. No comments were received with respect to the encroachment into the front yard setback nor the side yard setback to the south.

Response: The property owner is proposing to developed a 5,600 square-foot, two-story, custom single family residence. All existing lots within this cul-de-sac can be categorized as custom residential homes. The proposed encroachment on the north property line would be five feet, the part of the proposed residence that this consists of is small storage room (approximately 40 square feet) that essentially acts as an architectural feature to the home. The portion of the proposed home that is closest to the north property line is 17 feet, and consists of the garage. This particular portion of the house nearly coincides with the front portion of the home to the north, the appellant's home, which is setback at 100 feet from the front property line. The appellant' southern side yard setback is 13 feet, six inches, which was approved by a Minor Deviation. Furthermore, there are two other homes within this cul-de-sac that have had minor deviations approved for a ten percent encroachment into a required setback area. In addition, the southern setback area of the appellants property is characterized tall mature trees that act as an aesthetic buffer to the subject property located directly south.

It is the opinion of staff that the proposed encroachment's into the required setback areas are justified and would not be detrimental to surrounding properties. The appellant's letter also states that after meeting with the property owner regarding their concerns, there was an agreement by the property owner to re-design the home in compliance with the setback standards. The project applicant's has indicated to staff that there was no such agreement made and it was the owner's intent to pursue the matter as proposed.

## **VARIANCE APPLICATION REVIEW FINDINGS**

No special permit may be issued unless it is found that the privilege exercised under the permit, as it may be conditioned, conforms to the findings of Section 12-405-A-1 of the Fresno Municipal Code. Based upon analysis of this variance application, staff concludes that all of the required findings can be made for the application as follows.

<b>FINDINGS PER FRESNO MUNICIPAL CODE SECTION 12-405-A-1</b>	
<i>a. Because of special circumstances (other than monetary hardship) applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges (not including the privilege of maintaining a nonconforming use or status) enjoyed by other property in the vicinity and in an identical zoning district.</i>	
Finding a:	The proposed development is located in an established estate lot size neighborhood. The lot is a slight curvilinear, dog leg shaped lot located within a cul-de-sac street. The peculiarity of the lot configuration stems from a remnant development of a previous parcel map. This resulted in a 30-foot by 170-foot strip of land that was attached to a standard estate size lot of 270 feet by 117 feet which created a dogleg type of lot. The front yard encroachment of 15 feet into the required 50 foot setback would be for a Porte Cochere feature which has a circular drive approach associated with it and measures 13 feet by 15 feet and would have no habitable living space. The proposed side yard encroachments (5 feet on the north and 7 feet 9 inches on the south) would consist of typical design features of a home that cannot be accommodated due to the configuration of the lot as described above.
<i>b. The grant of variance will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone district in which the property is situated.</i>	
Finding b:	The granting of this variance application would not constitute a special privilege because the subject site and other properties have applied for deviations from setback requirements as a result of their custom home construction. Existing plans and policies call for estate size homes in the area and as such may require innovation design techniques to meet certain requirements. The approval of this variance will include landscaping to improve the appearance of the property, especially the remnant portion of the L-shaped lot which has become an attractive nuisance.
<i>c. The grant of variance will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located.</i>	
Finding c:	The approval of this variance application will not be detrimental to the public welfare or injurious to property or improvements in the area. The custom home design is a compatible fit with adjacent properties all of which are developed with custom homes. Many of the existing homes have encroachments into the required side yard setback areas.
<i>d. The grant of variance will not be in conflict with established general and specific plans and policies of the city.</i>	
Finding d:	The proposed project is consistent with the objectives and goals of the Fresno 2025 General Plan and the Bullard Community Plan, which call for low density development for estate sized lots that maintain the integrity of the Van Ness-Forkner Neighborhood located in northwest Fresno.
<i>e. The grant of a variance from existing development standards will encourage infill development within designated inner city areas as defined by 12-105-1.</i>	
Finding e:	The granting of the variance would encourage the development of the subject infill property given that the site is last remaining undeveloped lot in this cul-de-sac area.

The proposed development is compatible with applicable general plan and community plan goals, policies, and implementation measures intended to provide for the efficient use of natural resources and public facilities; the provision of necessary services close to residential areas that require these services, and the construction of adequate public improvements. Based upon the applicability of adopted development standards and plan policies, it is concluded that Variance Application No. V-09-

REPORT TO THE PLANNING COMMISSION

Variance Application No. V-09-010

April 21, 2010

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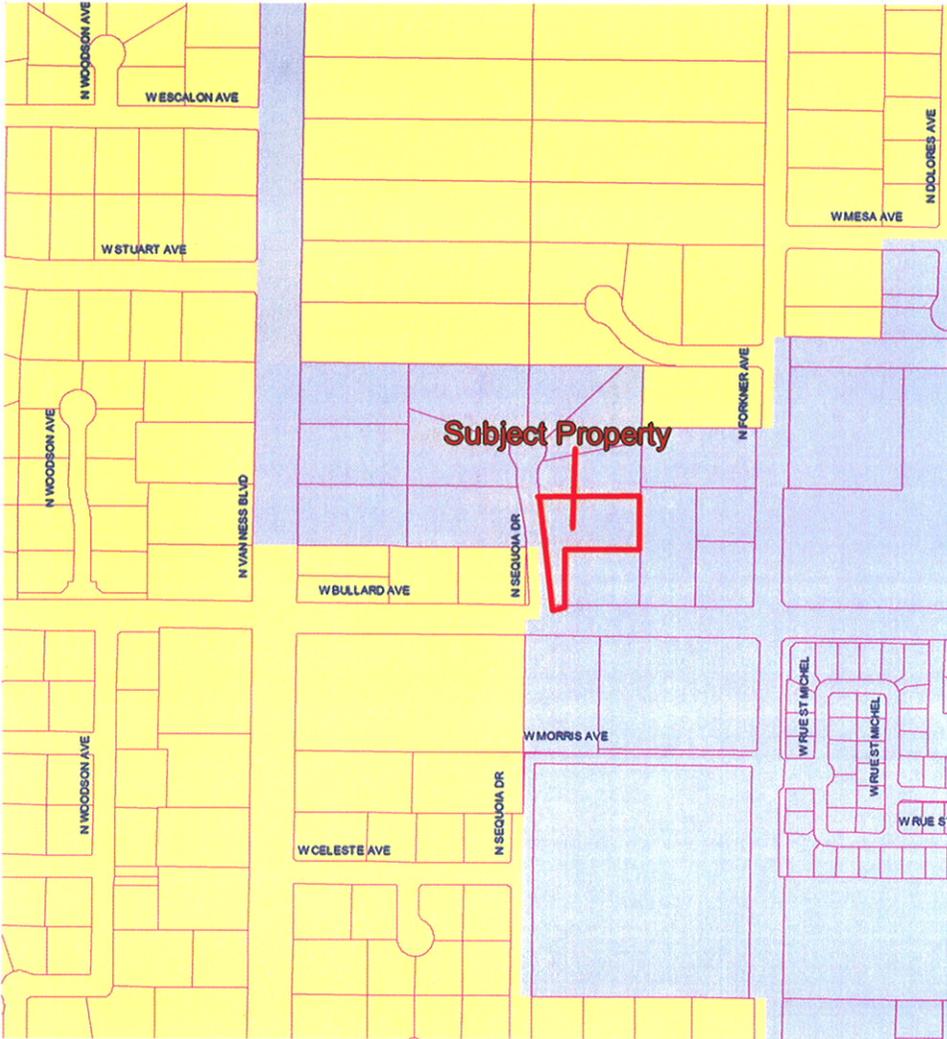
010 will further promote the achievement of the planned urban form and land use objectives of the 2025 Fresno General Plan and the Bullard Community Plan without negatively impacting the unique characteristics of the area.

Attachments:

- Vicinity Map
- 2008 Aerial Photograph of site
- Existing Zoning Map
- Planned land use map
- Noticing Map (350-foot radius)
- Elevations
- Site Plan Exhibit
- Appeal letter from James Burden dated March 8, 2010
- Environmental Assessment No. V-09-010 dated February 22, 2010

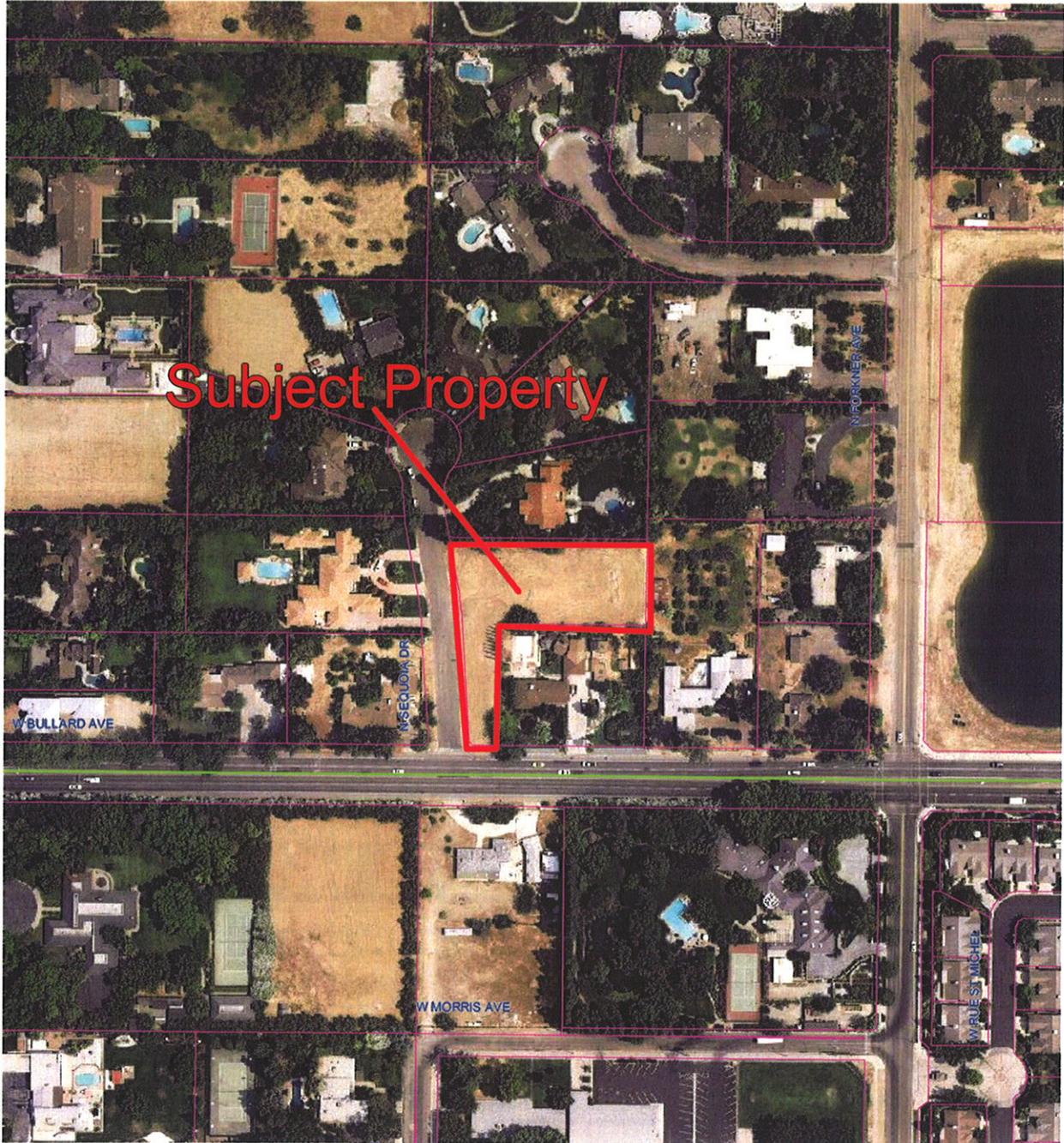
Vicinity Map

V-09-10



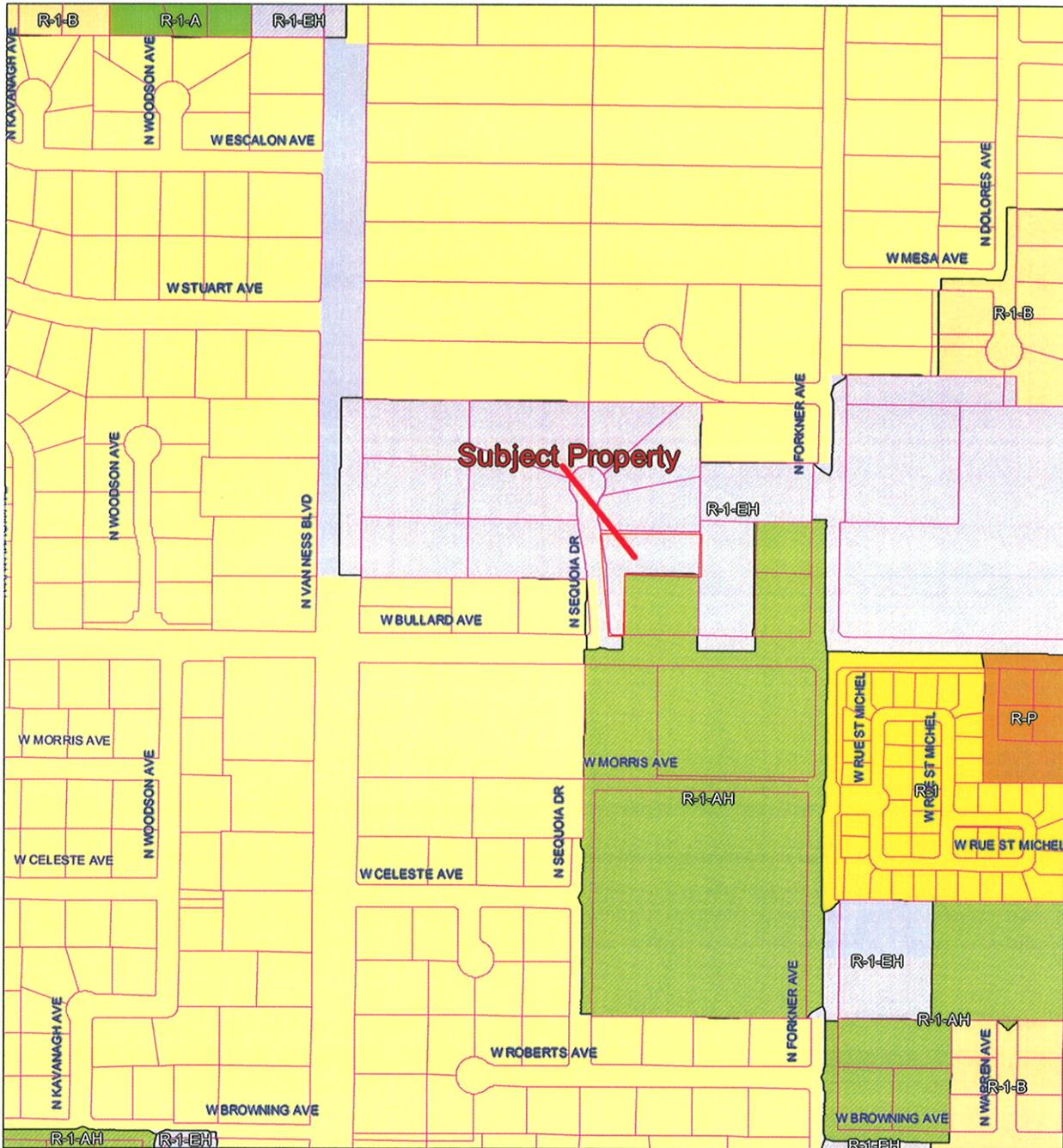
Variance Application No. V-09-10

2008 Aerial Photo



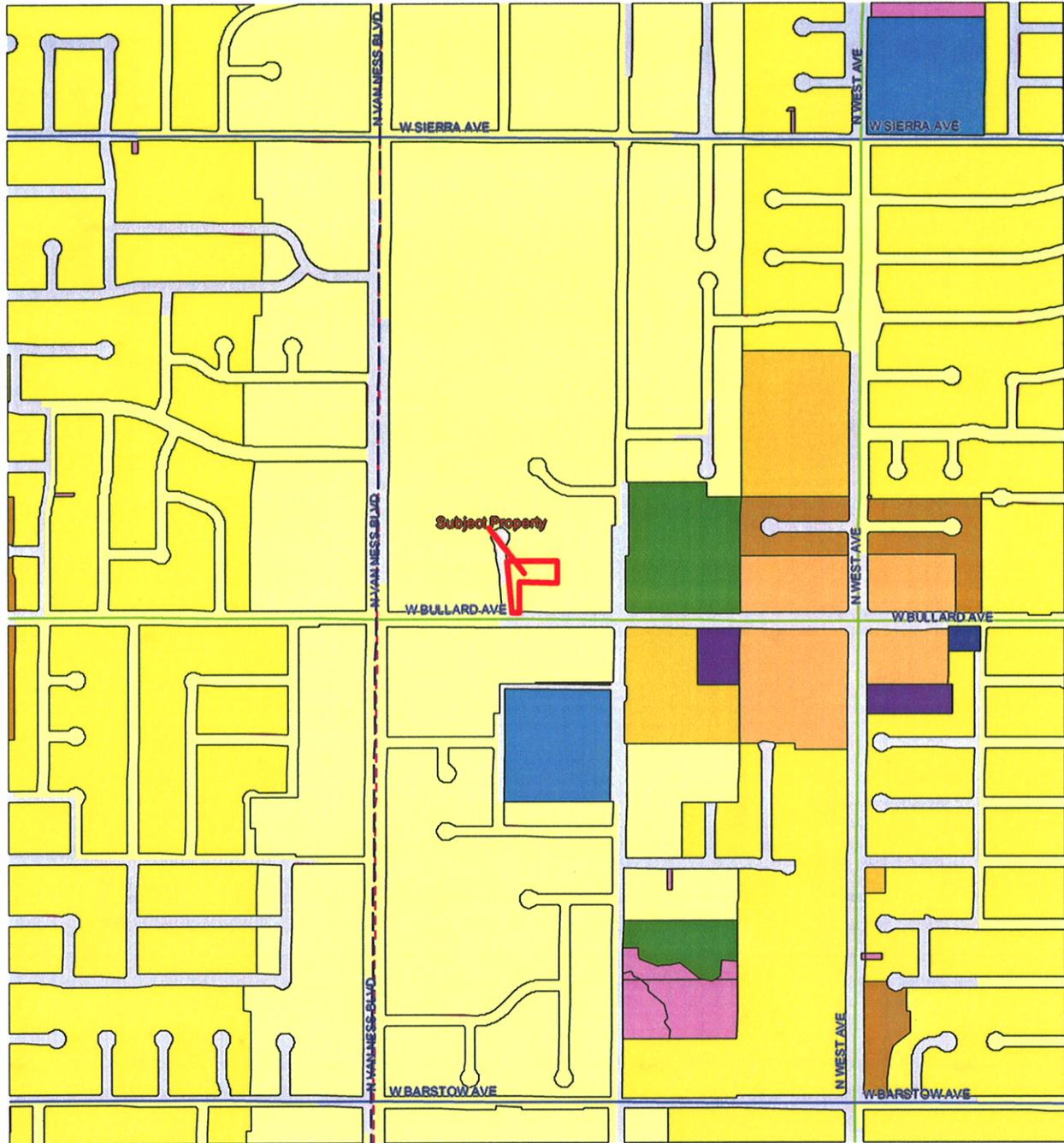
# Variance Application No. V-09-10

## Existing Zoning



# Variance Application No. V-09-10

## Planned Land Use



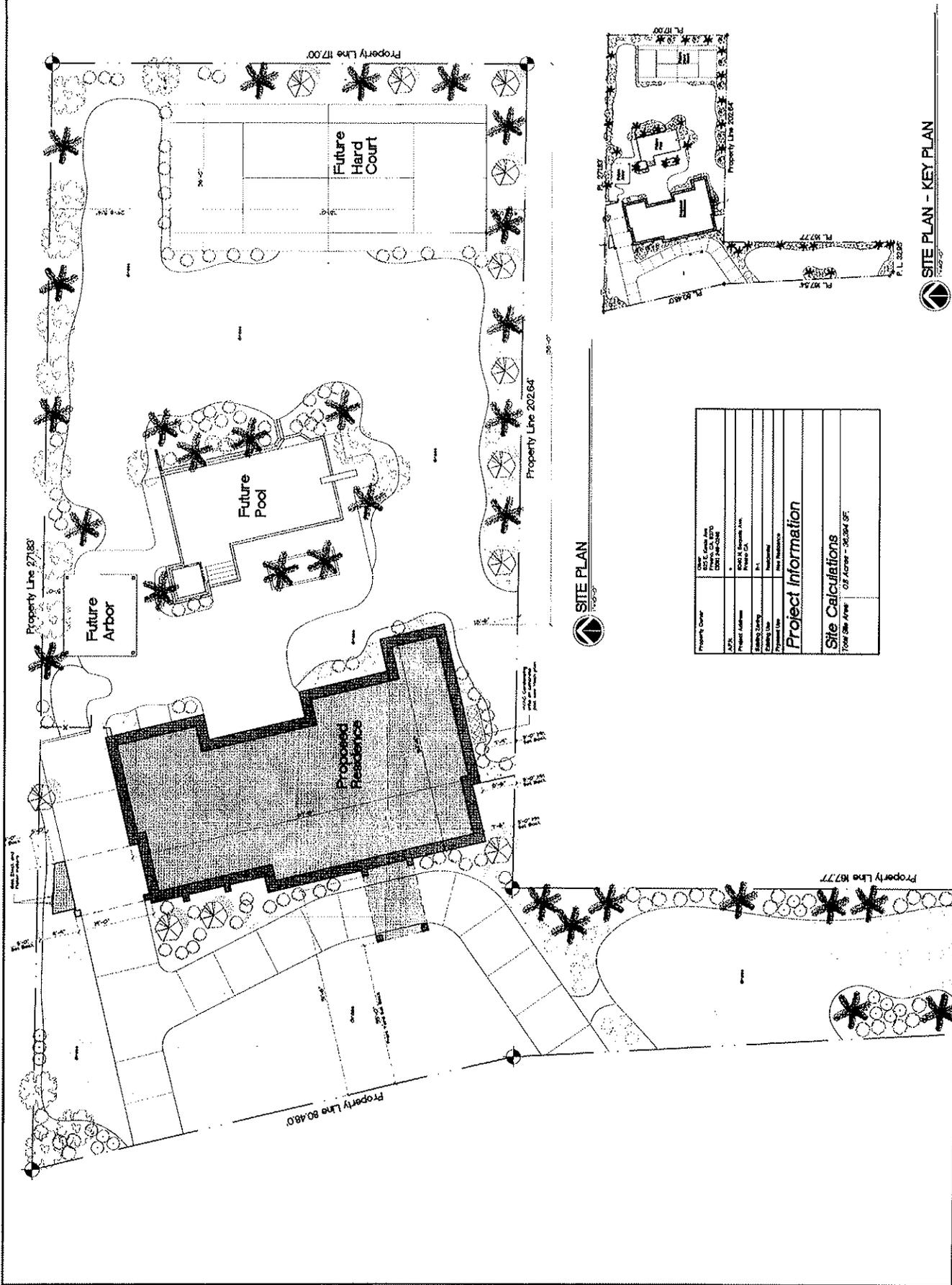
RESIDENTIAL  
 COMMERCIAL  
 DESIGN AND ENGINEERING  
 2150 TRULAR STREET  
 FRESNO, CA 93721  
 TEL 559-497-0212  
 FAX 559-497-0213

PROJECT TITLE

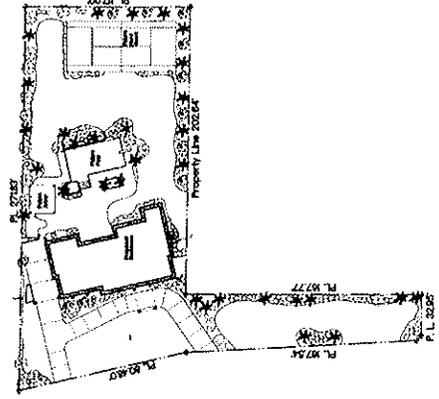
**NEW RESIDENCE  
 FOR: OLIVER EZENWUGO**  
 6040 N. Sequoia Drive  
 Fresno, CA 93711



PROJECT NUMBER: 09\_078  
 PROJECT TITLE: NEW RESIDENCE  
 SHEET NO.: **All**  
 SCALE: 1/8" = 1'-0"  
 DATE: 9-23-09  
 PLAN CHECK: \*



**SITE PLAN**  
 1/8" = 1'-0"



**SITE PLAN - KEY PLAN**  
 1/8" = 1'-0"

Property Owner	6040 N. Sequoia Drive Fresno, CA 93711
APN	000111000000000000
Project Address	6040 N. Sequoia Ave. Fresno, CA 93711
Building Style	Residential
Contractor	Oliver Ezenwugo
Project Information	
Site Calculations	
Total Site Area	0.87 Acres - 38,084 SF





40609118

40609122S

40609121S

40609149S

40609117

Request ID: V-09-10 350

40609125S

W MESA AVE

40609133

40609134

40609139

40609150

40609136

40609135

40609140

40609105

40609137

40609138

40609141

40609106

N FORKNER AVE

40609131

40609130

40609142

N SEQUOIA DR

40609142

40609108

40609107

W BULLARD AVE

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W MORRIS AVE

41503332

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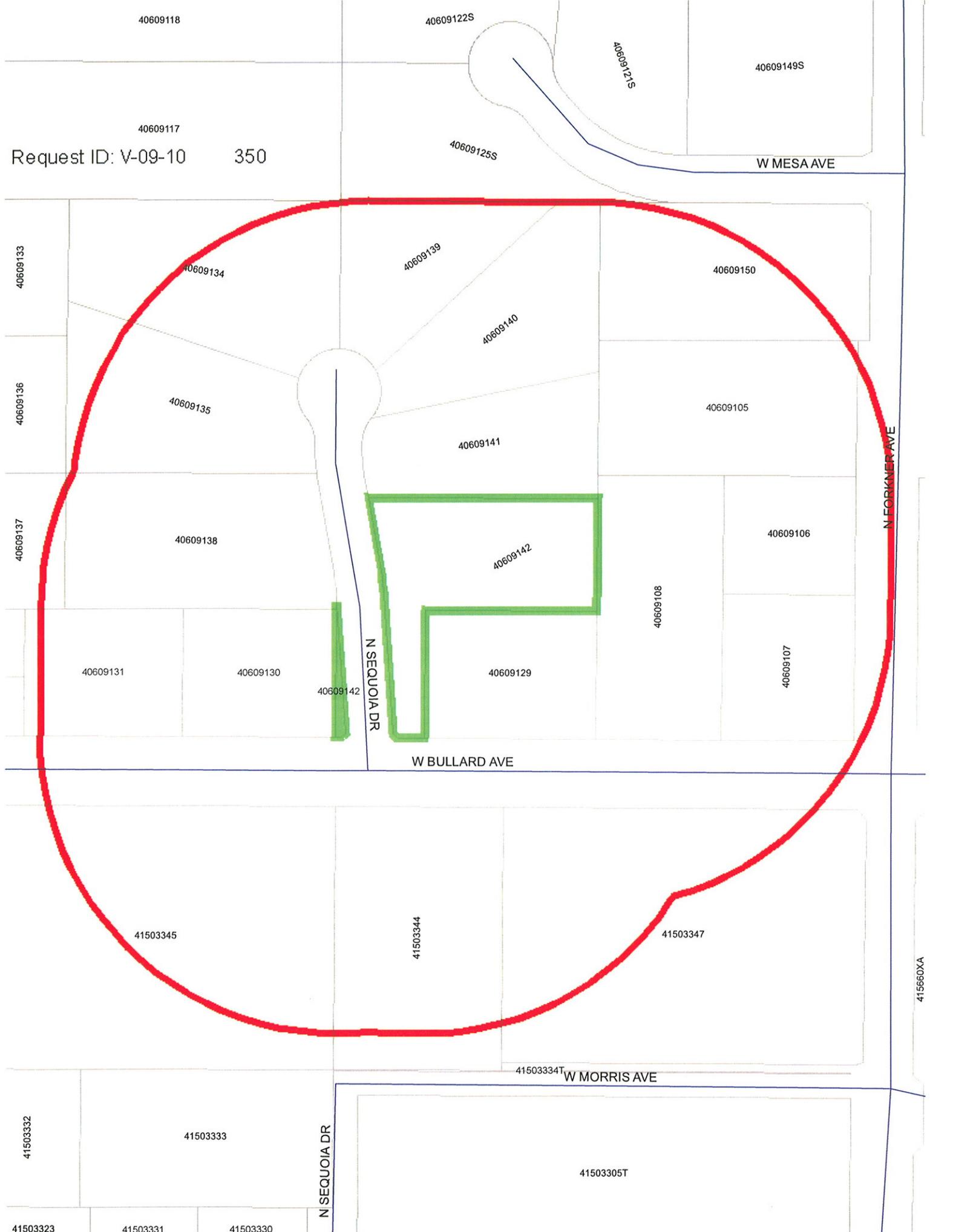
N SEQUOIA DR

41503305T

41503323

41503331

41503330



March 8, 2010

RECEIVED

City of Fresno  
Planning and Development Department

MAR 11 2010  
Planning Division  
Planning & Development Dept  
CITY OF FRESNO

To Whom It May Concern:

Regarding variance application N. V-09-010

As the homeowner to the direct north of 6040 North Sequoia we would like to object to the variance application. As the plan is now laid, the resident would have a building structure within 5 feet of our property line. We feel that this would not be in keeping with the neighborhood, where the required 15 foot side yard set back lends to the spacious beauty of the homes.

We have spoken with the homeowner and the architect and they have agreed to modify the plans accordingly.

James and Cathleen Burden  
6060 N. Sequoia  
Fresno, Ca. 93711  
559-432-1827

cell # 970-5047

John Dugan 498-1012

**CITY OF FRESNO  
CATEGORICAL EXEMPTION  
ENVIRONMENTAL ASSESSMENT NO.V-09-010**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY  
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS  
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

**APPLICANT:** John Garabedian Jr. on behalf of Oliver Enzenwugo  
**2150 Tulare Street**  
Fresno, California 93721

**OWNER:** Oliver Enzenwugo  
**625 East Keats Avenue**  
Fresno, California 93710

**PROJECT LOCATION:** **6040 North Sequoia Avenue**, located on the northwest corner of North Sequoia and East Bullard Avenue  
(APN: 406-091-42)

**PROJECT DESCRIPTION:** **Variance Application No. V-09-010** has been filed by John Garabedian Jr. on behalf of Oliver Enzenwugo and pertains to 0.89 acre of property located on the northwest corner of North Sequoia and East Bullard Avenues. The applicant requests authorization to allow a 10-foot encroachment into the 15-foot required side yard setback on the northern and southern boundaries and also requests a 22-foot encroachment into the required 50-foot front yard setback that will accommodate a porte cochere for the development of custom single family residence. The property is zoned R-1-EH (*Single Family Residential Estate, horses allowed*).

This project is exempt under **Section 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines.**

**EXPLANATION:** Section 15332/Class 32 exempts from the provisions of CEQA, projects characterized as in-fill development meeting the following criteria: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as applicable zoning designation and regulations; (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) The project site has no value as habitat for endangered, rare or threatened species; (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; (e) The site can be adequately served by utilities and public services. The applicant requests authorization to allow a 10-foot encroachment into the 15-foot required side yard setback on the northern and southern boundary and also requests a 22-foot encroachment into the required 50-foot front yard setback that will accommodate a porte cochere for the development of custom single family residence. The proposed project, complies with Section 15332/Class 32 exemption criteria as noted above.

The project is consistent with the 2025 Fresno General Plan and Bullard Community Plan low density residential planned land use and R-1-EH (*Single Family Residential Estate, horses allowed*) zone district designations on the site. The project meets all conditions of exemption under the CEQA, Categorical Exemption, Class 32. No adverse environmental impacts will occur as a result of the proposed project.

Date: February 22, 2010

Submitted By: 

Mike Sanchez, Planning Manager  
City of Fresno  
Planning & Development Department