

PLANNING COMMISSION AGENDA

CHAIRPERSON:

Chris Gomez



VICE CHAIRPERSON:

Marvin Hansen

COMMISSIONERS: Mary Beatie, Chris Gomez, Marvin Hansen, Sarrah Peariso, Adam Peck

MONDAY, NOVEMBER 9, 2020

VISALIA CONVENTION CENTER

LOCATED AT 303 E. ACEQUIA AVE. VISALIA, CA

WORK SESSION MEETING TIME: 6:00 PM

REGULAR MEETING TIME: 7:00 PM

Citizens may appear at the Planning Commission meeting in person and will be asked to maintain appropriate, physical distancing from others and wear a mask or face shield pursuant to the Governor's Executive Orders and public health guidance during the COVID-19 situation.

1. CALL TO ORDER WORK SESSION

WORK SESSION ITEM

- A. Agriculture Mitigation Program and Feasibility Study Kick-Off Presentation and Discussion, City Staff and Consultant (Provost and Pritchard Consulting Group, and VRPA Technologies, Inc.).

ADJOURN TO REGULAR MEETING

2. CALL TO ORDER REGULAR MEETING –

3. THE PLEDGE OF ALLEGIANCE –

4. **CITIZEN'S COMMENTS –** This is the time for citizens to comment on subject matters that are not on the agenda but are within the jurisdiction of the Visalia Planning Commission. You may provide comments to the Planning Commission at this time, but the Planning Commission may only legally discuss those items already on tonight's agenda.

The Commission requests that a five (5) minute time limit be observed for Citizen Comments. You will be notified when your five minutes have expired.

5. CHANGES OR COMMENTS TO THE AGENDA –

6. **CONSENT CALENDAR -** All items under the consent calendar are to be considered routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of the Commission and made a part of the regular agenda.

- a. Update on the In-Shape Health Club Temporary Conditional Use Permit No. 2020-51 operations and use of outdoor speakers.

7. PUBLIC HEARING – Paul Bernal, City Planner
Conditional Use Permit No. 2020-27: A request by CleVR Escape to allow an escape room and virtual reality arcade in the D-MU (Downtown Mixed Use) zone. The site is located at 205 West Main Street (APN: 094-326-018). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Environmental Document No. 2020-57.
8. PUBLIC HEARING – Josh Dan, Associate Planner
 - a. Tentative Parcel Map No. 2020-06: A request by Donahue Schriber Realty Group to subdivide two parcels into four parcels within the Orchard Walk Specific Plan area. The project is located in the C-MU (Commercial Mixed-Use) zone. The project is located on the northwest corner of North Dinuba Boulevard and West Riggan Avenue. The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15315 and 15332, Environmental Document No. 2020-59.
 - b. Conditional Use Permit No. 2020-25: A request by Donahue Schriber Realty Group to facilitate Tentative Parcel Map 2020-06 by creating two lots with no public street access, and parcels with less than the minimum five (5) acre size requirement in the C-MU (Commercial Mixed-Use) zone. The project is located on the northwest corner of North Dinuba Boulevard and West Riggan Avenue (APN: 000-013-376). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15315 and 15332, Environmental Document No. 2020-59.
9. PUBLIC HEARING – Cristobal Carrillo, Associate Planner
Conditional Use Permit No. 2020-23: A request by the Foundation for the Least, Last, & Lost to establish a group counseling facility with ministry and social service coordination services in the D-MU (Downtown Mixed-Use) zone. The project site is located at 400 North Church Street (APN: 094-272-008). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Environmental Document No. 2020-55.
10. PUBLIC HEARING – Josh Dan, Associate Planner
Variance No. 2020-08: A request by Rebecca Falcone to allow a variance from the standard 30-foot front yard setback required in the R-1-12.5 (Single Family Residential, 12,500 sq. ft. minimum site area) zone. The project is located at 2545 West Border Links Drive (APN: 089-100-010). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301.
11. CITY PLANNER/ PLANNING COMMISSION DISCUSSION –
 - a. Next Planning Commission Meeting is Monday, December 14, 2020.

The Planning Commission meeting may end no later than 11:00 P.M. Any unfinished business may be continued to a future date and time to be determined by the Commission at this meeting. The Planning Commission routinely visits the project sites listed on the agenda.

For Hearing Impaired – Call (559) 713-4900 (TTY) 48-hours in advance of the scheduled meeting time to request signing services.

Any written materials relating to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the City Office, 315 E. Acequia Visalia, CA 93291, during normal business hours.

APPEAL PROCEDURE

THE LAST DAY TO FILE AN APPEAL IS THURSDAY, NOVEMBER 19, 2020 BEFORE 5 PM

According to the City of Visalia Zoning Ordinance Section 17.02.145 and Subdivision Ordinance Section 16.04.040, an appeal to the City Council may be submitted within ten days following the date of a decision by the Planning Commission. An appeal form with applicable fees shall be filed with the City Clerk at 220 N. Santa Fe, Visalia, CA 93292. The appeal shall specify errors or abuses of discretion by the Planning Commission, or decisions not supported by the evidence in the record. The appeal form can be found on the city's website www.visalia.city or from the City Clerk.

THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, DECEMBER 14, 2020

City of Visalia



To: Planning Commission

From: Josh Dan, Associate Planner (559-713-4003)

Date: November 9, 2020

Re: Late Correspondence for Planning Commission Agenda Item No. 10:

Variance No. 2020-08: A request by Rebecca Falcone to allow a variance from the standard 30-foot front yard setback required in the R-1-12.5 (Single Family Residential, 12,500 sq. ft. minimum site area) zone. The project is located at 2545 West Boarder Links Drive (APN: 089-100-010).

On Thursday afternoon, November 5, 2020, the Planning Division received the attached e-mail correspondence regarding the requested variance to front yard setback requirements. The letter expresses concern for the project and its impact on the surrounding homes.

ATTACHMENTS

- Letter via e-mail, Neighboring Resident, received November 5, 2020

Paul Bernal

From: Susan Currier
Sent: Thursday, November 5, 2020 3:15 PM
To: Paul Bernal
Subject: FW: Variance No. 2020-08

FYI

Susan Currier
Sr. Administrative Assistant
City of Visalia
315 E. Acequia Ave.
Visalia, CA 93291
(559) 713-4436
Fax (559) 713-4813
Email susan.currier@visalia.city
Website www.visalia.city

From: Paul [<mailto:psoniercpa@aol.com>]
Sent: Thursday, November 5, 2020 3:08 PM
To: Susan Currier
Subject: Variance No. 2020-08

My name is Paul Sonier and my wife, Carol, and I live at 2544 W. Border Links Dr. directly across the street from the site of the proposed variance (No 2020-08) request for 2545 Border Links Dr. My wife and I are both strongly opposed to granting this variance proposal.

The proposal requests a variance from the existing 30 foot front yard setback requirement. Every homeowner on our block has adhered to the 30 foot setback from the street and there have been numerous renovations on our street. The variance request would allow a pool and a golf cart structure well within the existing 30 foot setback. This request is frivolous. The lot at 2544 W. Border Links Drive is large and the pool and golf cart structure can be built on the lot without a variance if properly situated. The same owners were granted setback variances for the South and West sides of their property four years ago and are now requesting an additional street setback variance for the North side of their property. Neighborhoods and neighbors deserve protection from frivolous variance requests.

My wife and I urge the City Planning Commission **not** to approve Variance No. 2020-08.

This e-mail (and attachments, if any) may be subject to the California Public Records Act, and as such may therefore be subject to public disclosure unless otherwise exempt under the Act.



REPORT TO CITY OF VISALIA PLANNING COMMISSION

HEARING DATE: November 9, 2020

PROJECT PLANNER: Josh Dan, Associate Planner
Phone No.: 713-4003
E-mail: josh.dan@visalia.city

SUBJECT: Variance No. 2020-08: A request by Rebecca Falcone to allow a variance from the standard 30-foot front yard setback required in the R-1-12.5 (Single Family Residential, 12,500 sq. ft. minimum site area) zone. The project is located at 2545 West Boarder Links Drive (APN: 089-100-010).

STAFF RECOMMENDATION

Staff recommends denial of Variance 2020-08 based on the findings in Resolution No. 2020-45. Staff's recommendation is based on the conclusion that the request is not consistent with the Zoning Ordinance regarding single-family residential development standards for front yard setbacks.

RECOMMENDED MOTION

I move to deny Variance 2020-08 based on the findings in Resolution No. 2020-45.

PROJECT DESCRIPTION

As depicted in Exhibit "A", Variance No. 2020-08 is a request to place an accessory structure and swimming pool within the required 30-foot front yard setback area of an R-1-12.5 (Single Family Residential with a 12,500 sq. ft. minimum) zoned lot. The property owner is seeking approval of a variance to place the accessory structure and swimming pool at a distance of 16-feet and 5-feet, from the front property line (see Exhibit "A").

The front yard area is defined as "an area back from and parallel to the front property line on which no building, structure or portion thereof shall be permitted unless specifically permitted by this title" (Section 17.04.030 Definitions of the Visalia Municipal Code). The front property line for this site is the property line adjacent to West Border Links Drive. Pursuant to Section 17.15.020.D. of the Visalia Municipal Code (VMC), "Swimming pools used solely by persons resident on the site and their guests; provided, that no swimming pool or accessory mechanical equipment shall be located in a required front yard or in a required side yard." Additionally, Section 17.12.080 of the VMC lists the minimum front yard setback in the R-1-12.5 zone shall be 30-feet (see Figure 2 and Exhibit "E" which depict setback requirements of the R-1-12.5 zone.)

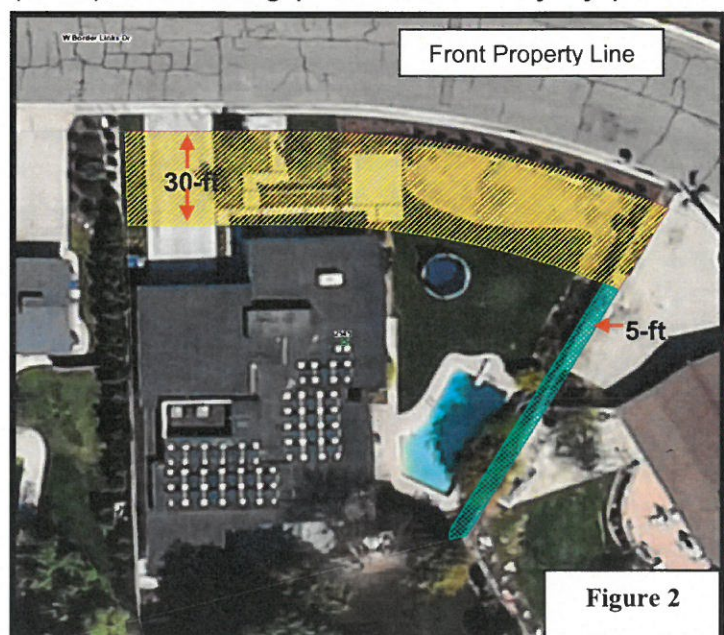


Figure 2

The property owners were informed of the setback requirements but elected to file the variance seeking approval of the placement of their accessory structure and swimming pool within the required 30-foot front yard setback area as stated above.

The property is developed with a single family residence and is surrounded by similarly zoned single-family residential property. Staff has reviewed the surrounding properties and has found that no other properties in the area have been granted approvals to permit accessory structures or swimming pools in the front yard setback.

BACKGROUND INFORMATION

General Plan Land Use Designation:	Residential Low Density
Zoning:	R-1-12.5 (Single-Family Residential)
Surrounding Land Use and Zoning:	North: R-1-12.5 (Single-Family Residential) South: R-1-12.5 (Single-Family Residential) East: R-1-12.5 (Single-Family Residential) West: R-1-12.5 (Single-Family Residential)
Environmental Review:	Categorical Exemption No. 2020-46
Special Districts:	N/A
Site Plan:	N/A

RELATED PROJECTS

Variance No. 2016-08: A request by Nick and Becky Falcone to allow a variance to the minimum side and rear yard setbacks associated with a house addition and conversion of carport to garage, for a residence in the R-1-20 (Single-Family Residential, 20,000 square foot minimum lot size) Zone. The site is located at 2545 W. Border Links Drive. (APN: 089-100-010). The Planning Commission approved this Variance on October 10, 2016.

PROJECT EVALUATION

Setback Requirements

The Zoning Ordinance Section 17.12 permits both the placement of accessory structures and swimming pools provided that they comply with setback requirements as defined in the Zoning Ordinance Sections 17.12.020.D, "Swimming Pools", 17.12.030, "Accessory Uses", 17.12.080 "Front Yard Setbacks", 17.12.090 "Side Yard Setbacks", and 17.12.100 "Rear Yard Setbacks". These Zoning Ordinance sections are included in the attached "Related Plans and Policies".

The applicant contends in their application and variance findings that the portion of the front and side yards currently serve as their rear yard due to the orientation of their home on the property. The applicant has stated in conversation with staff that the previously approved variance to the rear and the west side yard setbacks has set a precedent to declare the side yard area along the east side of their home as their rear yard area. Although Variance No. 2016-08 approved a variance to encroach into the rear and west side yard setbacks, this variance did not "establish" the front yard area as a "rear yard" that would permit the placement of the accessory structure and swimming pool within the 30-foot front yard area as depicted per Exhibit "A".

Staff's review of the 2016 Variance concludes that there was no precedent set related to declaring the front yard area as rear yard area. Furthermore, staff has reviewed the proposed site plan exhibit and determined that there is ample yard area along the east side of the single-family residential structure that will allow the accessory structure and swimming pool to be placed outside of any required setback area as shown in Exhibit "E". Based on the setback requirements and ample buildable lot area to the east of the residential structure, staff cannot recommend approval of this variance.

As previously stated, staff has reviewed the surrounding properties in the area and has found that no other properties in the area have been granted approvals to permit accessory structures or swimming pools in the front yard setback.

Required Variance Findings

The Planning Commission is required to make five findings before a variance can be granted. The applicant has provided responses to the variance findings (included in Exhibit "D") and staff has included the analysis for each finding below.

1. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance.

Applicant's Finding:

Due to the layout of our house and how it was built on the lot, the backyard sits within the setbacks of the front yard which creates a hardship in that we are unable to utilize our backyard in the same way as someone else. We will not be able to build anything in a large portion of our backyard due to these specified regulations.

Staff Analysis:

Staff does not agree with the applicant's findings. The VMC allows for the placement of an accessory structures and swimming pools within the buildable area of a lot and/or within the rear yard area. There is an existing swimming pool that meets the requirements of the VMC and there is also sufficient space in the remaining side yard area to construct an accessory structure and new swimming pool meeting the dimensions desired by the applicant and complying with the setback requirements set forth by the VMC.

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply to other properties classified in the same zone.

Applicant's Finding:

Our home is an exception to the current setbacks simply due to the fact that it sits on our lot all the way to one side and all the way to the back which leaves our "backyard" on the side of the house and extending to the front of the property line on the street. If we are forced to use our backyard as the front yard, this would give us an extremely large unusable front yard and rather small backyard in comparison to its current size. Also, important to note is the current 6 feet tall fence that borders our backyard. This follows our property line and has been there since the house was built in 1958.

Staff Analysis:

Staff does not agree with the applicant's finding. The VMC does not show preference to select rear yard area on the basis of which area of the lot has more open space. The placement of the home does provide for a larger side yard along the east side of the residential structure, and the approval of Variance 2016-08 allowed for an expansion of the home to encroach into the required rear yard leading to the design and layout of the

remodeled home to favor the east side yard area as the "new rear yard". However, staff contends that the approval of the 2016 Variance did not eliminate the requirement of the front yard setback. In addition, there is also sufficient space in the remaining side yard area to construct an accessory structure and new swimming pool meeting the dimensions desired by the applicant and complying with the setback requirements set forth by the VMC for an R-1-12 zoned lot.

3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone.

Applicant's Finding:

The enforcement of these regulations would prevent us from fully utilizing our backyard in a way that a normal homeowner would be able to. We did not build this home, we did not choose to put it on the lot in the way it is currently, so we are just trying to make the use of the setup that we have currently and use our backyard as backyards were intended to be used. Recreation, entertainment, etc. We would still be willing to build within setbacks that currently apply to a normal backyard, so this request is not asking for anything more than what is being afforded to other homeowners.

Staff Analysis:

The strict or literal interpretation and enforcement of the setbacks established in the zoning ordinance does not deprive the applicant of privileges enjoyed by the owners of other properties in the same zone. The VMC does not show preference to select rear yard area on the basis of which area of the lot has more open space. There is sufficient space in the remaining side yard area (i.e., buildable lot area) to construct an accessory structure and swimming pool that meet the setback standards set forth by the VMC and the applicant's specified dimensions.

4. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone.

Applicant's Finding:

Due to our uniquely designed home, its position on our lot, our lots unique shape, there are no other homes in our area (that we know of) that have this predicament where their backyard is within the setbacks of the front yard.

Staff Analysis:

The granting of the variance for the proposed accessory structure and swimming pool would constitute a grant of special privilege inconsistent with the limitations on other properties of the same zone. The applicant refers to using their side yard as their rear yard; however, the front yard setback has never been reduced and/or considered a "rear yard area".

5. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

Applicant's Finding:

Within the fenced-in backyard, we already have a pool with three automatically locking gates. The moving of the pool would present no further danger to the public. This pool was built in 1968, leaks water constantly, and needs all new plaster and plumbing. Instead of refurbishing it, we would like to build a new one with the latest in energy efficient technology. The addition of the outbuilding would be used for storing lawn equipment and tools, which we currently do not have storage for. It would also provide necessary shade for the pool area, and will be enjoyed for entertaining. The design of both the pool and structure will

match the current design of the home and would add to the curb appeal along the street where we already have 100 feet of the original 6' tall fence. This would hide most of the structure, and obviously the pool will be hidden from view completely. As you can see from our previous renovation, we do not want to create an eyesore or a distraction from the property or the neighborhood.

Staff Analysis:

The granting of the variance will not create an obstructed visibility issue, or interfere with traffic safety in the public right-of-way or the adjacent properties. The project will, however, set a precedent to allow for the placement of accessory structures and swimming pools within the required front yard.

Environmental Review

If the project is denied, no action is required on an environmental document. Alternately, if the Planning Commission determines, based on the evidence in the record, that Variance No. 2020-08 can be approved, a Categorical Exemption would be prepared in this circumstance.

RECOMMENDED FINDINGS

The strict or literal interpretation and enforcement of the specified regulation does not result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance. The structure could very easily be reverted back to its permitted use with little to no hardship to the current owner;

1. *That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance.*

Strict or literal interpretation of the regulation would not result in a practical difficulty or unnecessary hardship as compliance with the requirements of the VMC would still allow for an accessory structure and swimming pool, meeting the applicant's dimensions, to be built within the buildable area of the lot.

2. *That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply to other properties classified in the same zone.*

There are no exceptional or extraordinary circumstances or conditions that would prevent the applicant from constructing an accessory structure and swimming pool within the buildable lot area and meeting the setback requirements of the VMC.

3. *That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone.*

All properties in the same zone or vicinity of the project are subject to the same setback requirements. The applicant would not be deprived of privileges not enjoyed by others.

4. *That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone.*

The granting of the variance would constitute a grant of special privilege inconsistent with the limitations on the properties in the same zone and in the vicinity of the project.

5. *That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*

The granting of the variance will not create an obstruction to public health, safety, or welfare, but would produce development which is inconsistent with the development standards of the zone and set a precedent in the zone.

APPEAL INFORMATION

According to the City of Visalia Zoning Ordinance Section 17.04.145, an appeal to the City Council may be submitted within ten days following the date of a decision by the Planning Commission. An appeal with applicable fees shall be in writing and shall be filed with the City Clerk at 220 North Santa Fe St., Visalia, CA 93292. The appeal shall specify errors or abuses of discretion by the Planning Commission, or decisions not supported by the evidence in the record. The appeal form can be found on the City's website www.visalia.city or from the City Clerk.

Attachments:

- Related Plans and Policies
- Resolution
- Exhibit "A" – Site Plan
- Exhibit "B" – Rendering - Pool and Accessory Building
- Exhibit "C" – Rendering - Proposed Project as seen from Roadway
- Exhibit "D" – Applicant's Findings
- Exhibit "E" – Setbacks on the Lot
- General Plan Land Use Map
- Zoning Map
- Aerial Map
- Location Map
- Variance 2016-08 (Previous approval of main building encroachment into the rear yard)

RELATED PLANS AND POLICIES

City of Visalia Zoning Ordinance [Title 17 of Visalia Municipal Code]

17.12.010 Purpose and intent.

In the R-1 single-family residential zones (R-1-5, R-1-12.5, and R-1-20), the purpose and intent is to provide living area within the city where development is limited to low density concentrations of one-family dwellings where regulations are designed to accomplish the following: to promote and encourage a suitable environment for family life; to provide space for community facilities needed to compliment urban residential areas and for institutions that require a residential environment; to minimize traffic congestion and to avoid an overload of utilities designed to service only low density residential use.

17.12.015 Applicability.

The requirements in this chapter shall apply to all property within R-1 zone districts.

17.12.020 Permitted uses.

In the R-1 single-family residential zones, the following uses shall be permitted by right:

- A. One-family dwellings;
- B. Raising of fruit and nut trees, vegetables and horticultural specialties;
- C. Accessory structures located on the same site with a permitted use including private garages and carports, one guest house, storehouses, garden structures, green houses, recreation room and hobby shops;
- D. Swimming pools used solely by persons resident on the site and their guests; provided, that no swimming pool or accessory mechanical equipment shall be located in a required front yard or in a required side yard;
- E. Temporary subdivision sales offices;
- F. Licensed day care for a maximum of fourteen (14) children in addition to the residing family;
- G. Twenty-four (24) hour residential care facilities or foster homes, for a maximum of six individuals in addition to the residing family;
- H. Signs subject to the provisions of Chapter 17.48;
- I. The keeping of household pets, subject to the definition of household pets set forth in Section 17.04.030;
- J. Accessory dwelling units as specified in Sections 17.12.140 through 17.12.200;
- K. Adult day care up to twelve (12) persons in addition to the residing family;
- L. Other uses similar in nature and intensity as determined by the city planner;
- M. Legally existing multiple family units, and expansion or reconstruction as provided in Section 17.12.070.
- N. Transitional or supportive housing for six (6) or fewer resident/clients.
- O. In the R-1-20 zone only, the breeding, hatching, raising and fattening of birds, rabbits, chinchillas, hamsters, other small animals and fowl, on a domestic noncommercial scale, provided that there shall not be less than one thousand (1,000) square feet of site area for each fowl or animal and provided that no structure housing poultry or small animals shall be closer than fifty (50) feet to any property line, closer than twenty-five (25) feet to any dwelling on the site, or closer than fifty (50) feet to any other dwelling;
- P. In the R-1-20 zone only, the raising of livestock, except pigs of any kind, subject to the exception of not more than two cows, two horses, four sheep or four goats for each site, shall be permitted; provided, that there be no limitation on the number of livestock permitted on a site with an area of ten acres or more and provided that no stable be located closer than fifty (50) feet to any dwelling on the site or closer than one hundred (100) feet to any other dwelling;

17.12.030 Accessory uses.

In the R-1 single-family residential zone, the following accessory uses shall be permitted, subject to specified provisions:

- A. Home occupations subject to the provisions of Section 17.32.030;
- B. Accessory buildings subject to the provisions of Section 17.12.100(B).
- C. Cottage Food Operations subject to the provisions of Health and Safety Code 113758 and Section 17.32.035.

17.12.040 Conditional uses.

In the R-1 single-family residential zone, the following conditional uses may be permitted in accordance with the provisions of Chapter 17.38:

- A. Planned development subject to the provisions of Chapter 17.26;
- B. Public and quasi-public uses of an educational or religious type including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools, licensed day care facilities for more than fourteen (14) children; churches, parsonages and other religious institutions;
- C. Public and private charitable institutions, general hospitals, sanitariums, nursing and convalescent homes; not including specialized hospitals, sanitariums, or nursing, rest and convalescent homes including care for acute psychiatric, drug addiction or alcoholism cases;
- D. Public uses of an administrative, recreational, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations, ambulance service and other public building, structures and facilities; public playgrounds, parks and community centers;
- E. Electric distribution substations;
- F. Gas regulator stations;
- G. Public service pumping stations, i.e., community water service wells;
- H. Communications equipment buildings;
- I. Planned neighborhood commercial center subject to the provisions of Chapter 17.26;
- J. Residential development specifically designed for senior housing;
- K. Mobile home parks in conformance with Section 17.32.040;
- L. [Reserved.] M. Residential developments utilizing private streets in which the net lot area (lot area not including street area) meets or exceeds the site area prescribed by this article and in which the private streets are designed and constructed to meet or exceed public street standards;
- M. Adult day care in excess of twelve (12) persons;
- N. Duplexes on corner lots;
- O. Twenty-four (24) hour residential care facilities or foster homes for more than six individuals in addition to the residing family;
- P. Residential structures and accessory buildings totaling more than ten thousand (10,000) square feet;
- Q. Other uses similar in nature and intensity as determined by the city planner.
- R. Transitional or supportive housing for seven (7) or more resident/clients.

17.12.050 Site area.

The minimum site area shall be as follows:

Zone	Minimum Site Area
R-1-5	5,000 square feet
R-1-12.5	12,500 square feet
R-1-20	20,000 square feet

- A. Each site shall have not less than forty (40) feet of frontage on the public street. The minimum width shall be as follows:

Zone	Interior Lot	Corner Lot
R-1-5	50 feet	60 feet
R-1-12.5	90 feet	100 feet
R-1-20	100 feet	110 feet

- B. Minimum width for corner lot on a side on cul-de-sac shall be eighty (80) feet, when there is no landscape lot between the corner lot and the right of way.

17.12.060 One dwelling unit per site.

In the R-1 single-family residential zone, not more than one dwelling unit shall be located on each site, with the exception to Section 17.12.020(J).

17.12.070 Replacement and expansion of legally existing multiple family units.

In accordance with Sections 17.12.020 legally existing multiple family units may be expanded or replaced if destroyed by fire or other disaster subject to the following criteria:

- A. A site plan review permit as provided in Chapter 17.28 is required for all expansions or replacements.
- B. Replacement/expansion of unit(s) shall be designed and constructed in an architectural style compatible with the existing single-family units in the neighborhood. Review of elevations for

replacement/expansion shall occur through the site plan review process. Appeals to architectural requirements of the site plan review committee shall be subject to the appeals process set forth in Chapter 17.28.050.

- C. Setbacks and related development standards shall be consistent with existing single-family units in the neighborhood.
- D. Parking requirements set forth in Section 17.34.020 and landscaping requirements shall meet current city standards and shall apply to the entire site(s), not just the replacement unit(s) or expanded area, which may result in the reduction of the number of units on the site.
- E. The number of multiple family units on the site shall not be increased.
- F. All rights established under Sections 17.12.020 and 17.12.070 shall be null and void one hundred eighty (180) days after the date that the unit(s) are destroyed (or rendered uninhabitable), unless a building permit has been obtained and diligent pursuit of construction has commenced. The approval of a site plan review permit does not constitute compliance with this requirement.

17.12.80 Front yard.

- A. The minimum front yard shall be as follows:

Zone	Minimum Front Yard
R-1-5	Fifteen (15) feet for living space and side-loading garages and twenty-two (22) feet for front-loading garages or other parking facilities, such as, but not limited to, carports, shade canopies, or porte cochere. A Porte Cochere with less than twenty-two (22) feet of setback from property line shall not be counted as covered parking, and garages on such sites shall not be the subject of a garage conversion.
R-1-12.5	Thirty (30) feet
R-1-20	Thirty-five (35) feet

- B. On a site situated between sites improved with buildings, the minimum front yard may be the average depth of the front yards on the improved site adjoining the side lines of the site but need not exceed the minimum front yard specified above.
- C. On cul-de-sac and knuckle lots with a front lot line of which all or a portion is curvilinear, the front yard setback shall be no less than fifteen (15) feet for living space and side-loading garages and twenty (20) feet for front-loading garages.

17.12.090 Side yards.

- A. The minimum side yard shall be five feet in the R-1-5 and R-1-12.5 zone subject to the exception that on the street side of a corner lot the side yard shall be not less than ten feet and twenty-two (22) feet for front loading garages or other parking facilities, such as, but not limited to, carports, shade canopies, or porte cocheres.
- B. The minimum side yard shall be ten feet in the R-1-20 zone subject to the exception that on the street side of a corner lot the side yard shall be not less than twenty (20) feet.
- C. On a reversed corner lot the side yard adjoining the street shall be not less than ten feet.
- D. On corner lots, all front-loading garage doors shall be a minimum of twenty-two (22) feet from the nearest public improvement or sidewalk.
- E. Side yard requirements may be zero feet on one side of a lot if two or more consecutive lots are approved for a zero lot line development by the site plan review committee.
- F. The placement of any mechanical equipment, including but not limited to, pool/spa equipment and evaporative coolers shall not be permitted in the five-foot side yard within the buildable area of the lot, or within five feet of rear/side property lines that are adjacent to the required side yard on adjoining lots. This provision shall not apply to street side yards on corner lots, nor shall it prohibit the surface mounting of utility meters and/or the placement of fixtures and utility lines as approved by the building and planning divisions.

17.12.100 Rear yard.

In the R-1 single-family residential zones, the minimum yard shall be twenty-five (25) feet, subject to the following exceptions:

- A. On a corner or reverse corner lot the rear yard shall be twenty-five (25) feet on the narrow side or twenty (20) feet on the long side of the lot. The decision as to whether the short side or long side is used as the rear yard area shall be left to the applicant's discretion as long as a minimum area

of one thousand five hundred (1,500) square feet of usable rear yard area is maintained. The remaining side yard to be a minimum of five feet.

- B. Accessory structures not exceeding twelve (12) feet may be located in the required rear yard but not closer than three feet to any lot line provided that not more than twenty (20) percent of the area of the required rear yard shall be covered by structures enclosed on more than one side and not more than forty (40) percent may be covered by structures enclosed on only one side. On a reverse corner lot an accessory structure shall not be located closer to the rear property line than the required side yard on the adjoining key lot. An accessory structure shall not be closer to a side property line adjoining key lot and not closer to a side property line adjoining the street than the required front yard on the adjoining key lot.
- C. Main structures may encroach up to five feet into a required rear yard area provided that such encroachment does not exceed one story and that a usable, open, rear yard area of at least one thousand five hundred (1,500) square feet shall be maintained. Such encroachment and rear yard area shall be approved by the city planner prior to issuing building permits.

17.12.110 Height of structures.

In the R-1 single-family residential zone, the maximum height of a permitted use shall be thirty-five (35) feet, with the exception of structures specified in Section 17.12.100(B).

17.12.120 Off-street parking.

In the R-1 single-family residential zone, subject to the provisions of Chapter 17.34.

17.12.130 Fences, walls and hedges.

In the R-1 single-family residential zone, fences, walls and hedges are subject to the provisions of Section 17.36.030.

Article 2. Accessory Dwelling Units

17.12.140 Purpose and intent.

It is the purpose of this article to provide for the following:

- A. To encourage a range of housing types, styles and costs to suit the varying needs and desires of the community;
- B. To allow homeowners a means of obtaining, through tenants and accessory dwelling units, an additional source of income, companionship, security, and services;
- C. To add inexpensive rental units to the housing stock of the city;
- D. To create homeownership opportunities for moderate income households who might otherwise be excluded from the housing market, through the additional income derived from accessory dwelling units;
- E. Develop housing in single-family neighborhoods that is appropriate for a variety of stages in the household life cycle, thereby lessening fluctuations in neighborhood demand for public services;
- F. Protect the stability, property values, and character of single family residential neighborhoods by insuring that accessory dwelling units are subject to the standards that follow.

17.12.150 Definitions.

As used in this article, the following terms are defined in this section:

“Principal dwelling unit” means a single-family dwelling unit situated on a residential lot in the A or R-1 zones to which an accessory dwelling unit as defined by this article has been or is proposed to be added.

“Accessory dwelling unit” means an additional dwelling unit having separate kitchen, sleeping, and sanitation facilities constructed or adopted within, onto, or detached from a single-family dwelling on a residential lot in the A or R-1 zones. Accessory dwelling units may also be efficiency units, as defined in Section 17958.1 of the health and Safety code, and manufacturing homes, as defined in Section 18007 of the Health and Safety Code.

“Living area” means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or an accessory structure.

17.12.160 General provisions.

An accessory dwelling unit may be established by the conversion of an attic, basement, garage (if alternative parking area is provided for the principal dwelling unit), or other portion of a principal dwelling unit. A detached accessory dwelling unit may be established by the conversion of an accessory structure or may be new construction. Second dwelling units may be mobile homes, provided that such units are subject to all applicable standards of Section 17.32.110, governing the placement of mobile homes on

single-family lots. All applications for accessory dwelling units, whether processed as a permitted use or an exception, must comply with the general provisions stated below:

- A. Accessory dwelling units shall only be allowed on lots located in the A and R-1 zones;
- B. In no case shall more than one accessory dwelling unit be placed on the same lot or parcel;
- C. Second dwelling units shall be subject to all applicable building, fire, health and safety codes and may not have adverse impacts on any real property that is listed in the California Register of Historic Places;
- D. Second dwelling units may only be constructed on lots or parcels that are at least five thousand (5,000) square feet in area;
- E. A covenant running with the land between the city and the applicant shall be recorded with the Tulare County recorder prior to the issuance of any building permits requiring that the primary or the proposed accessory dwelling unit shall be occupied by the owner of record;
- F. The accessory dwelling unit shall be clearly subordinate to the principal dwelling unit by size, location and appearance;
- G. The second unit's scale, appearance and character shall be similar to and compatible in design with the principal dwelling unit and adjacent residences;
- H. In no case shall any accessory dwelling unit be approved on a site on which the principal dwelling unit has been the subject of a garage conversion pursuant to the regulations of Chapter 17.32.140 governing such conversions.
- I. Size. A manufactured home shall not be less than eight (8) feet wide by forty (40) feet long and three hundred twenty (320) square feet in living area. An efficiency unit shall not be less than one hundred fifty (150) square feet in living area and meet all space and occupancy standards of Chapter 5 of the Uniform Housing Code;
- J. Access. Doorway access shall be provided either to the side or rear of the second housing unit;
- K. Utility Services. Second housing units shall be provided with water, sewer, and other utilities as determined by the building official.

17.12.170 Process.

The city planner shall approve or deny accessory dwelling unit requests based upon the specified requirements. The applicant may appeal the decision of the city planner to the planning commission, setting forth the reason for such appeal to the commission. Such appeal shall be filed with the city planner, in writing, within ten (10) days after notification of such decision. The appeal shall be placed on the agenda of the commission's next regular meeting. If the appeal is filed within five (5) days of the next regular meeting of the commission, the appeal shall be placed on the agenda of the commission's second regular meeting following the filing of the appeal. The planning commission's review shall be limited to compliance with the specified requirements. The decision of the commission shall be final unless appealed to the council pursuant to Section 17.02.145.

17.12.180 Development requirements.

The following development requirements shall apply to accessory dwelling units:

- A. The increased floor area of the second unit shall not exceed twelve hundred (1,200) square feet or) fifty (50) percent of the main dwelling unit, whichever is greater, and shall be used as an accessory to the primary single family home.
- B. Adequate parking area must be available on the streets adjacent to the accessory dwelling unit. If adequate on-street parking is not available in the immediate vicinity, or in the case of all second units located on cul-de-sac lots, one additional off-street parking space must be provided. Tandem parking shall not be deemed as meeting the above parking requirement. The additional parking space shall be waived if in any of the following instances:
 - 1. The accessory dwelling unit is located within one-half (0.5) miles of public transit.
 - 2. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - 3. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
 - 4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - 5. When there is a car share vehicle located within one block of the accessory dwelling unit.
- C. All standards of the underlying zoning district including, but not limited to, height, lot and yard requirements, and lot coverage shall apply.

D. Detached accessory dwelling units are subject to all applicable standards for accessory structures, as stated in the development requirements for the underlying zone, unless a variance has been granted pursuant to Chapter 17.42.

17.12.190 Appeals.

The applicant may appeal the decision of the city planner to the planning commission, setting forth the reason for such appeal to the commission. Such appeal shall be filed with the city planner in writing, within ten (10) days after notification of such decision. The appeal shall be placed on the agenda of the commission's next regular meeting. If the appeal is filed within five (5) days of the next regular meeting of the commission, the appeal shall be placed on the agenda of the commission's second regular meeting following the filing of the appeal. The planning commission's review shall be limited to compliance with the specified requirements. The decision of the commission shall be final unless appealed to the council pursuant to Section 17.02.145.

17.12.200 Existing nonconforming accessory dwelling units.

An existing accessory dwelling unit situated on a lot or parcel in the A or R-1 zones shall constitute a violation of this title unless: (1) the unit meets the standards and criteria of Chapter 17.12, and an agreement is recorded; or (2) the accessory dwelling unit qualifies as a permitted nonconforming use and structure under the provisions of Chapter 17.40. No enlargement of habitable space shall be allowed unless the standards and criteria of Chapter 17.12 are met. This shall not apply to maintenance of the unit.

RESOLUTION NO. 2020-45

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA DENYING VARIANCE NO. 2020-08, A REQUEST BY REBECCA FALCONE TO ALLOW A VARIANCE FROM THE STANDARD 30-FOOT FRONT YARD SETBACK REQUIRED IN THE R-1-12.5 (SINGLE FAMILY RESIDENTIAL, 12,500 SQ. FT. MINIMUM SITE AREA) ZONE. THE PROJECT IS LOCATED AT 2545 WEST BOARDER LINKS DRIVE (APN: 089-100-010).

WHEREAS, Variance No. 2020-08, is a request by Rebecca Falcone to allow a variance from the standard 30-foot front yard setback required in the R-1-12.5 (Single Family Residential, 12,500 sq. ft. minimum site area) Zone. The project is located at 2545 West Boarder Links Drive (APN: 089-100-010); and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on November 9, 2020; and

WHEREAS, the Planning Commission of the City of Visalia does not find Variance No. 2020-08 to be in accordance with Chapter 17.42 of the Zoning Ordinance of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the Planning Commission of the City of Visalia finds the project to be Categorically Exempt consistent with the California Environmental Quality Act (CEQA) and City of Visalia Environmental Guidelines; and

WHEREAS, if Variance No. 2020-08 is denied, no action needs to be taken on an environmental document subject to Section 15270 of the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Visalia makes the following specific findings based on the evidence presented:

1. *That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance.*

Strict or literal interpretation of the regulation would not result in a practical difficulty or unnecessary hardship as compliance with the requirements of the VMC would still allow for an accessory structure and swimming pool, meeting the applicant's dimensions, to be built within the buildable area of the lot.

2. *That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply to other properties classified in the same zone.*

There are no exceptional or extraordinary circumstances or conditions that would prevent the applicant from constructing an accessory structure and swimming pool within the buildable lot area and meeting the setback requirements of the VMC.

3. *That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone.*

All properties in the same zone or vicinity of the project are subject to the same setback requirements. The applicant would not be deprived of privileges not enjoyed by others.

4. *That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone.*

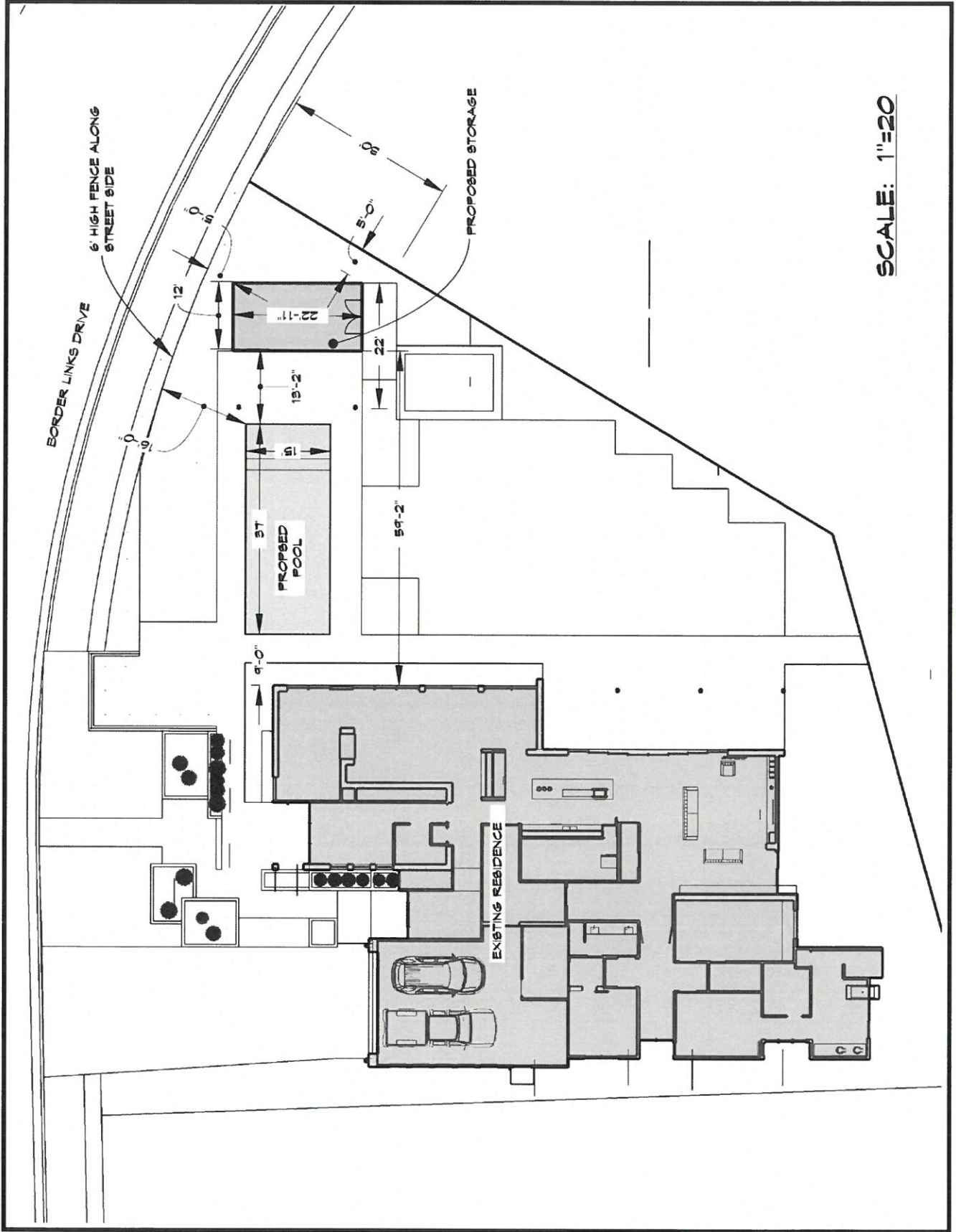
The granting of the variance would constitute a grant of special privilege inconsistent with the limitations on the properties in the same zone and in the vicinity of the project.

5. *That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*

The granting of the variance will not create an obstruction to public health, safety, or welfare, but would produce development which is inconsistent with the development standards of the zone and set a precedent in the zone.

BE IT FURTHER RESOLVED that the Planning Commission hereby denies Variance No. 2020-08 on the real property here described in accordance with the terms of this resolution under the provisions of Section 17.42.090 of the Ordinance Code of the City of Visalia.

EXHIBIT "A"

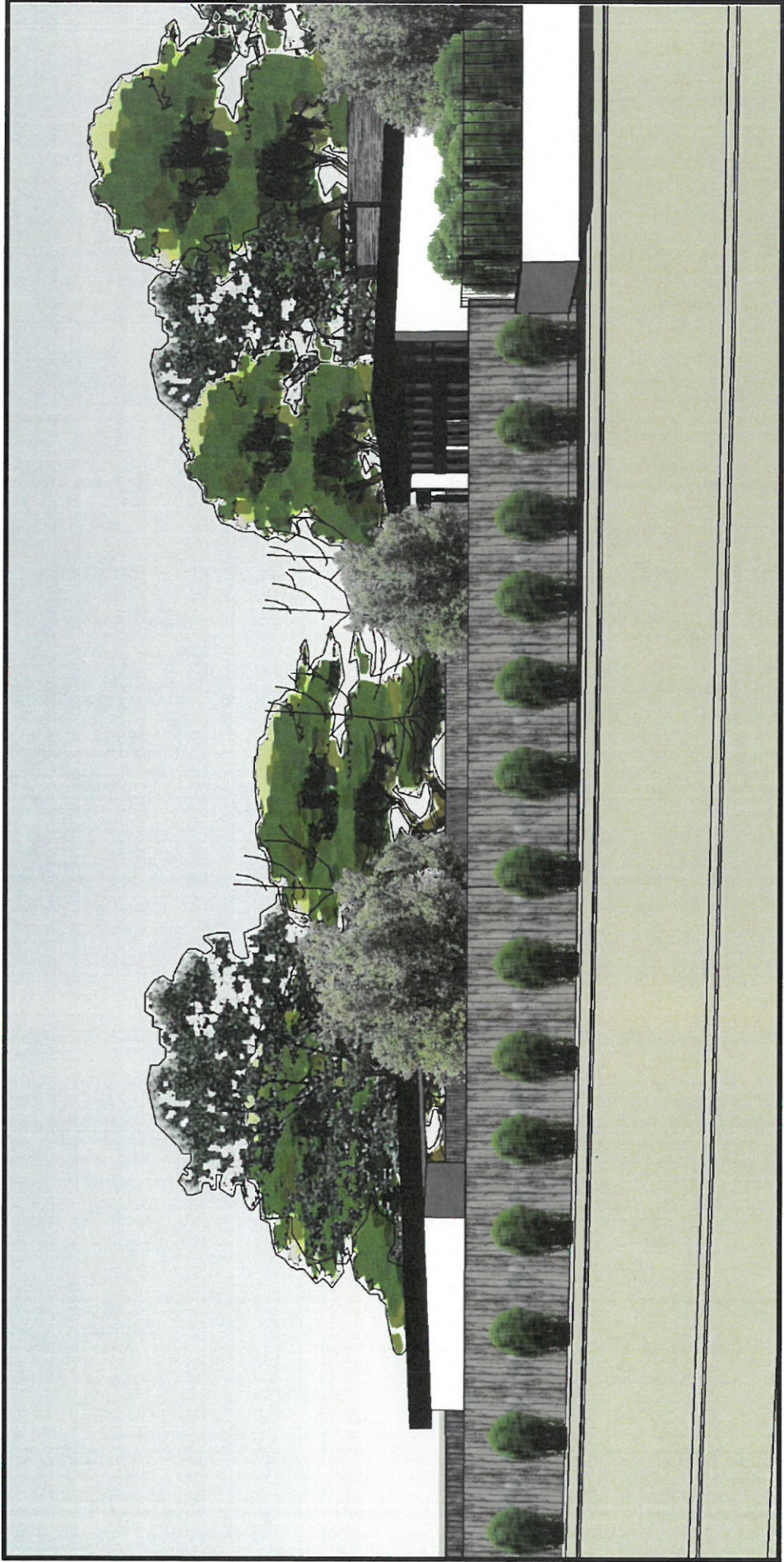


SCALE: 1"=20

EXHIBIT "B"



EXHIBIT "C"



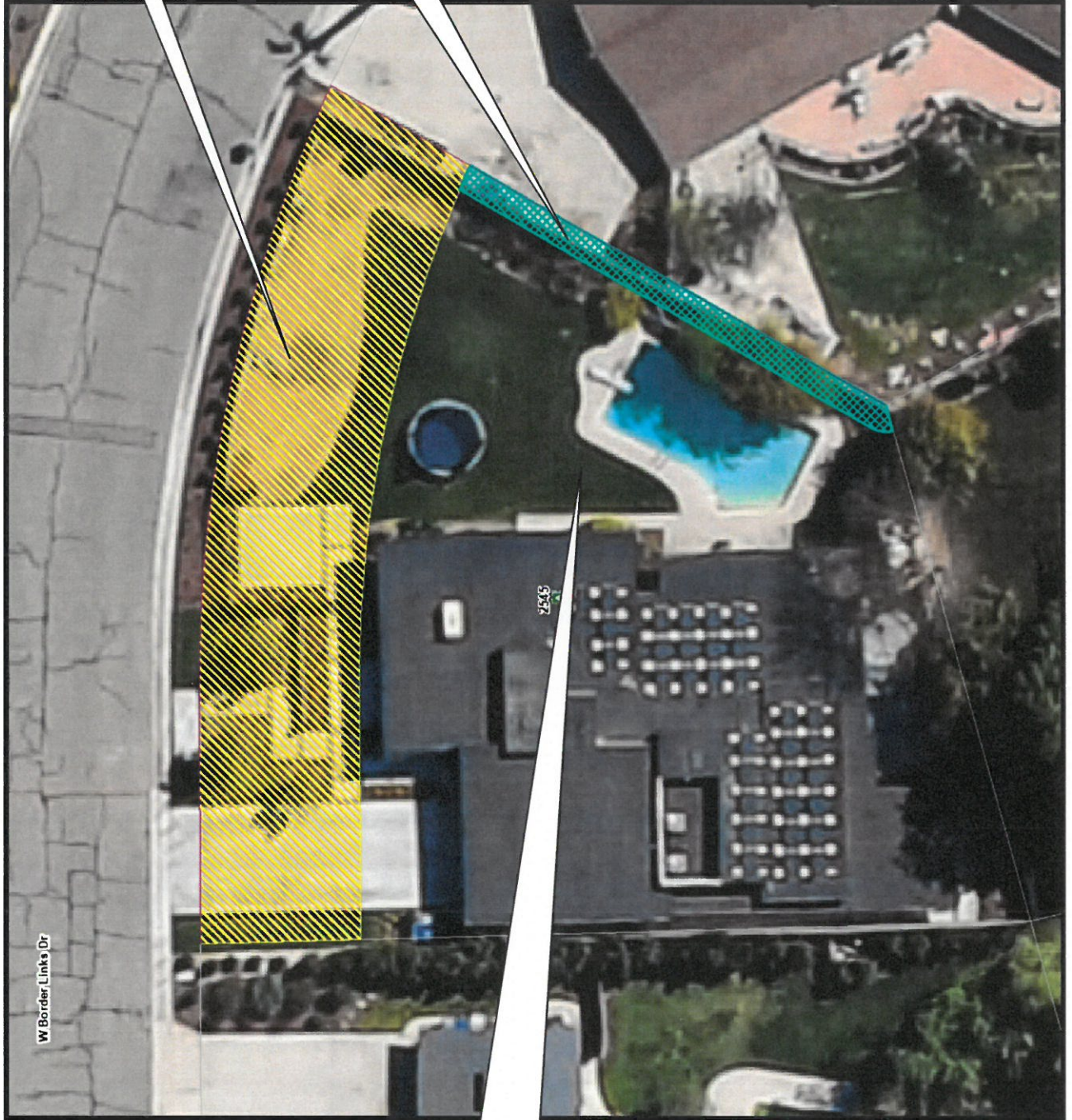
**City of Visalia
Planning Department
Variance/Exception Supplemental Application**

1. Due to the layout of our house and how it was built on the lot, the backyard sits within the setbacks of the front yard which creates a hardship in that we are unable to utilize our backyard in the same way as someone else. We will not be able to build anything in a large portion of our backyard due to these specified regulations.
2. Our home is an exception to the current setbacks simply due to the fact that it sits on our lot all the way to one side and all the way to the back which leaves our "backyard" on the side of the house and extending to the front of the property line on the street. If we are forced to use our backyard as the front yard, this would give us an extremely large unusable front yard and a rather small backyard in comparison to its current size. Also, important to note is the current 6 feet tall fence that borders our backyard. This follows our property line and has been there since the house was built in 1958.
3. The enforcement of these regulations would prevent us from fully utilizing our backyard in a way that a normal homeowner would be able to. We did not build this home, we did not choose to put it on the lot the way it is currently, so we are just trying to make the use of the setup that we have currently and use our backyard as backyards were intended to be used. Recreation, entertainment etc. We would still be willing to build within setbacks that currently apply to a normal backyard, so this request is not asking for anything more than what is being afforded to other homeowners.
4. Due to our uniquely designed home, its position on our lot, our lots unique shape, there are no other homes in our area (that we know of) that have this predicament where their backyard is within the setbacks of the front yard.
5. Within the fenced-in backyard, we already have a pool with three automatically locking gates. The moving of the pool would present no further danger to the public. This pool was built in 1968, leaks water constantly, and needs all new plaster and plumbing. Instead of refurbishing it, we would

EXHIBIT "D"

like to build a new one with the latest in energy efficient technology. The addition of the outbuilding would be used for storing lawn equipment and tools, which we currently do not have storage for. It would also provide necessary shade for the pool area, and will be enjoyed for entertaining. The design of both the pool and structure will match the current design of the home and would add to the curb appeal along the street where we already have 100 feet of the original 6' tall fence. This would hide most of the structure, and obviously the pool will be hidden from view completely. As you can see from our previous renovation, we do not want to create an eyesore or a distraction from the property or the neighborhood.

EXHIBIT "E"



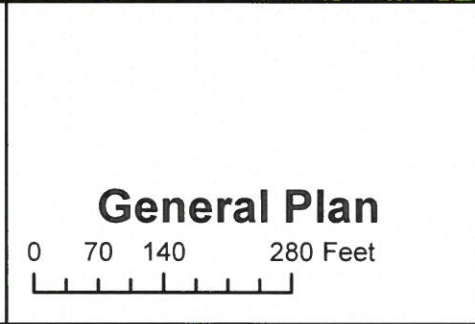
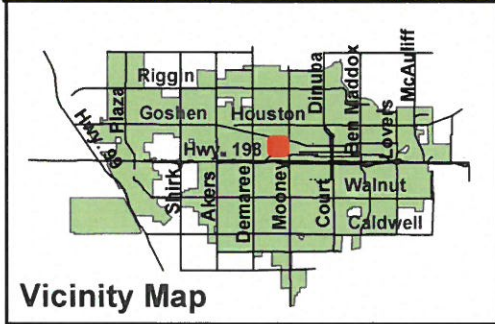
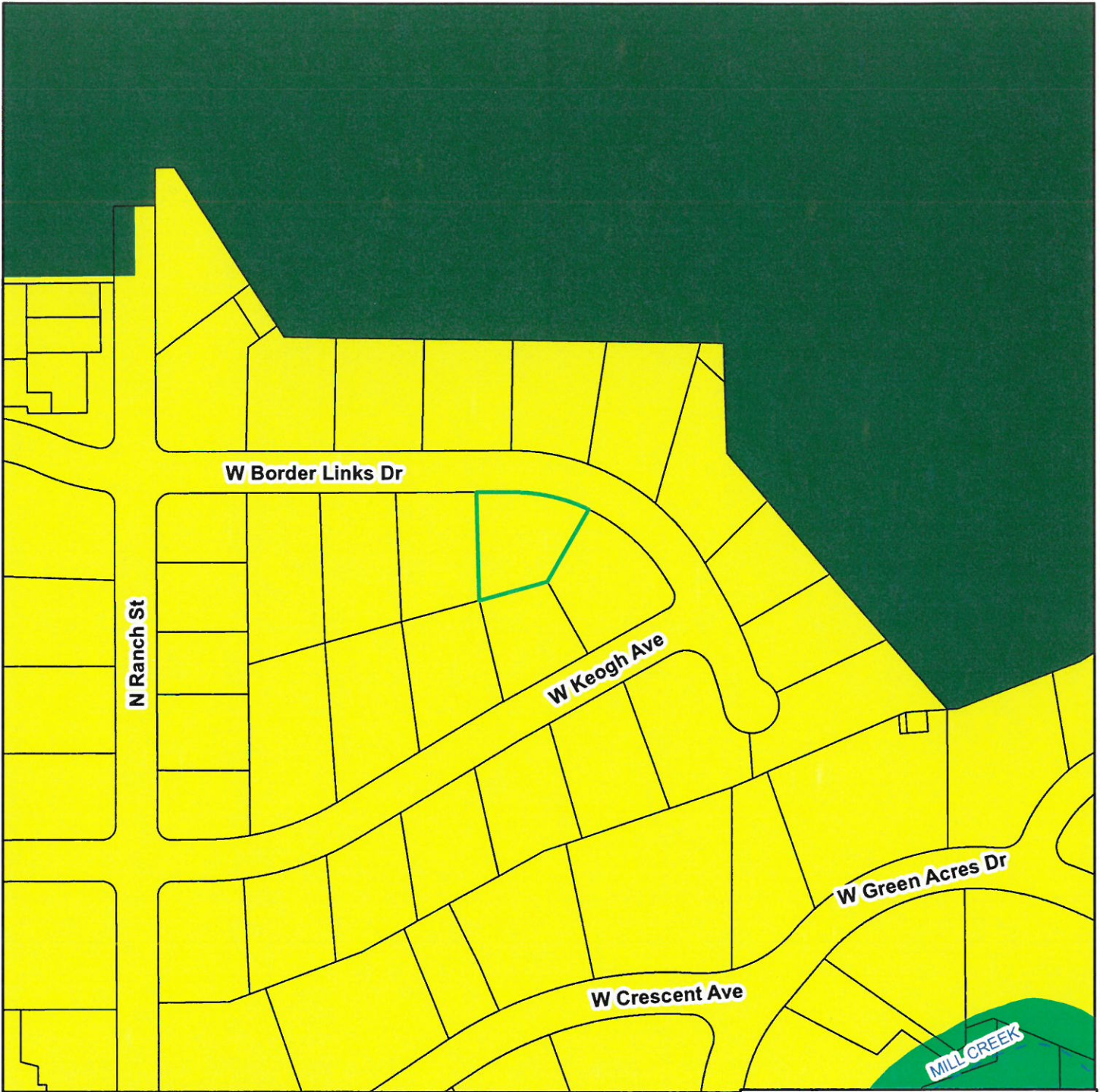
30ft Front Yard Setback

5ft Side Yard Setback

The remaining buildable area still affords the applicant approx. 3,600 sq. ft. of area to accomplish their proposal.
**This measurement includes the existing pool.*

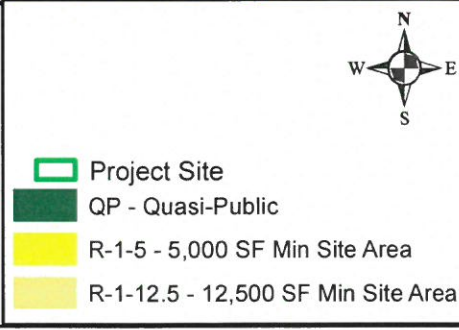
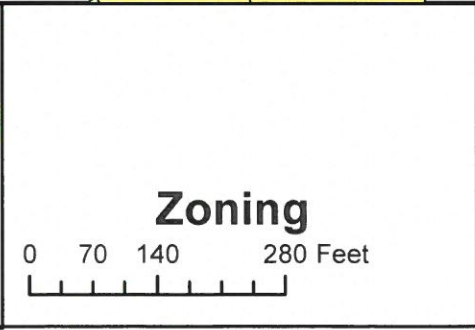
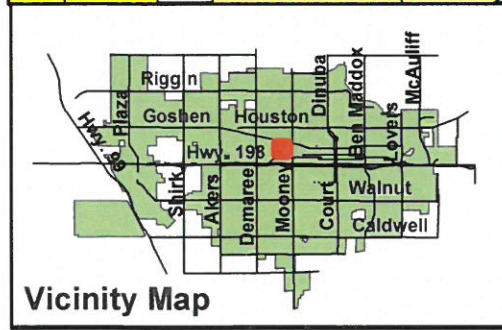
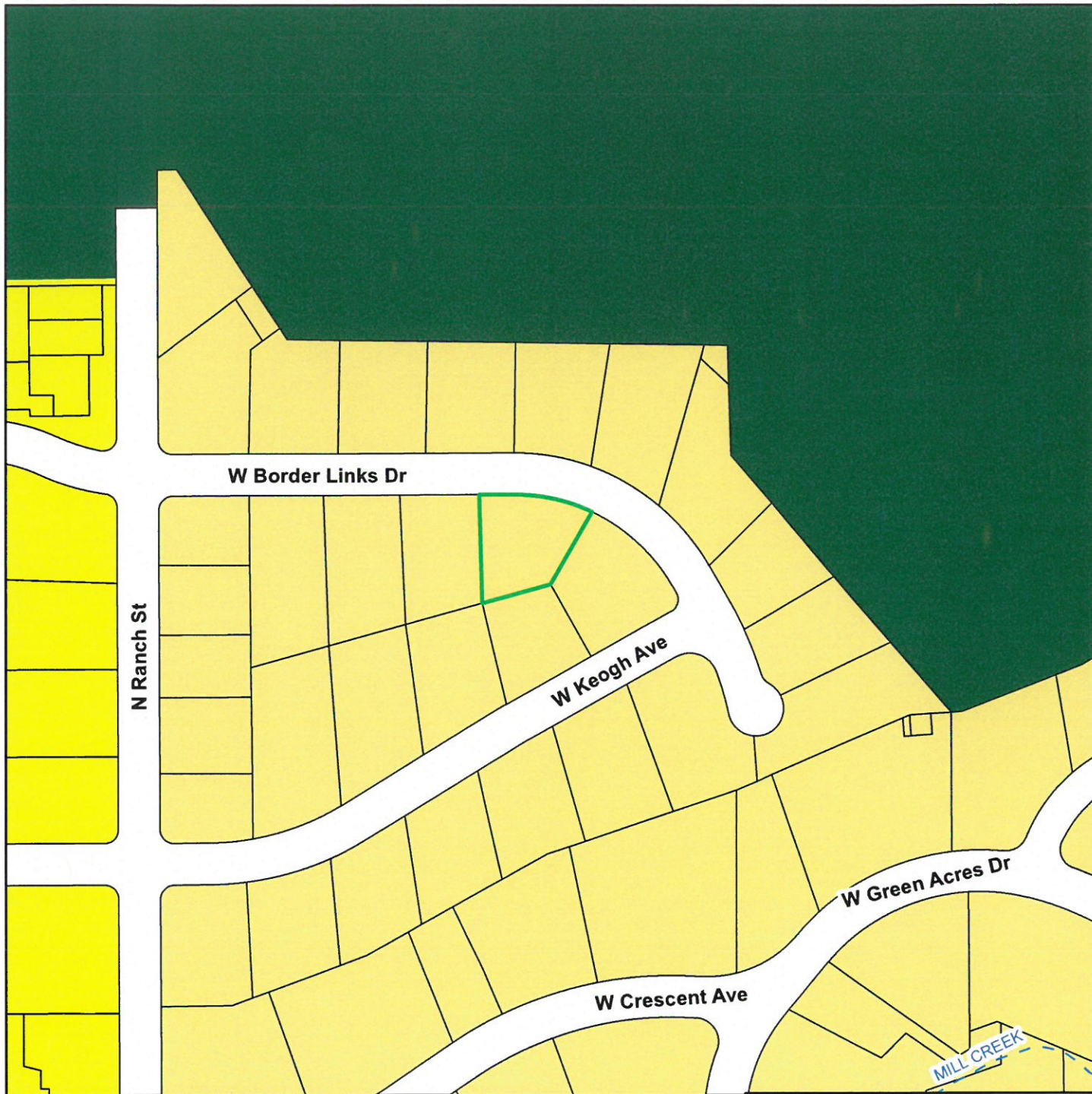
Variance 2020-08

The project site is located at
2545 West Border Links Drive
(APNs: 089-100-010)



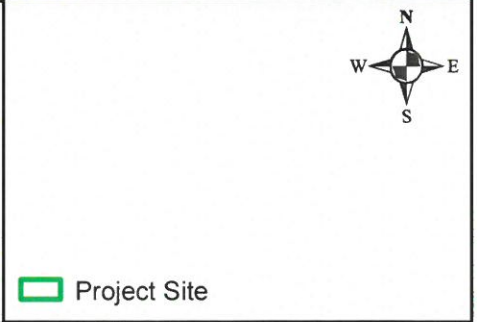
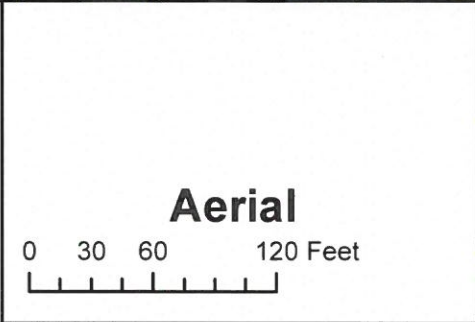
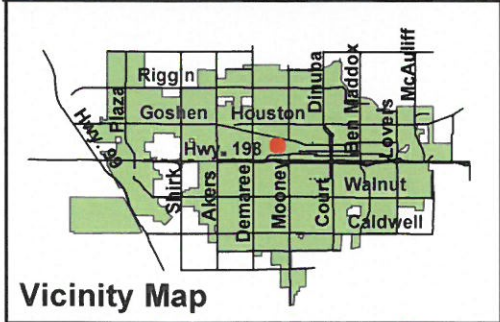
Variance 2020-08

The project site is located at
2545 West Border Links Drive
(APNs: 089-100-010)



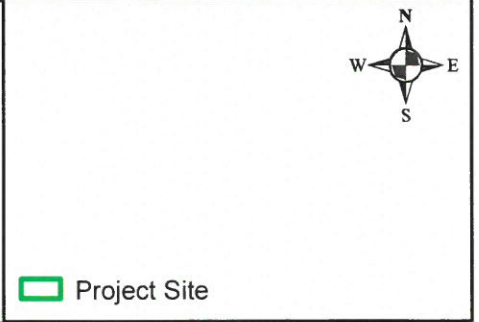
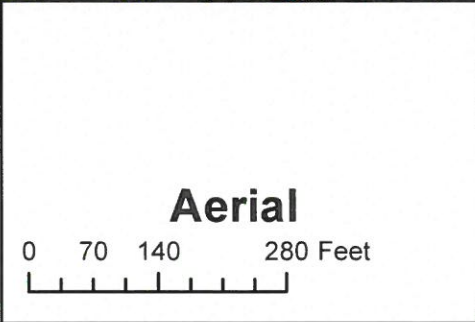
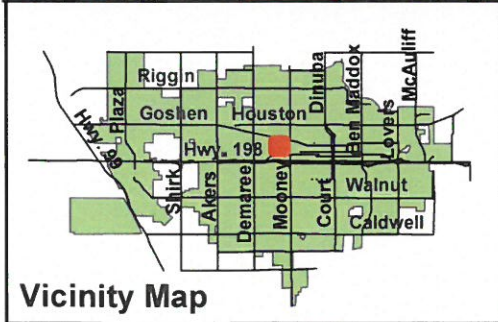
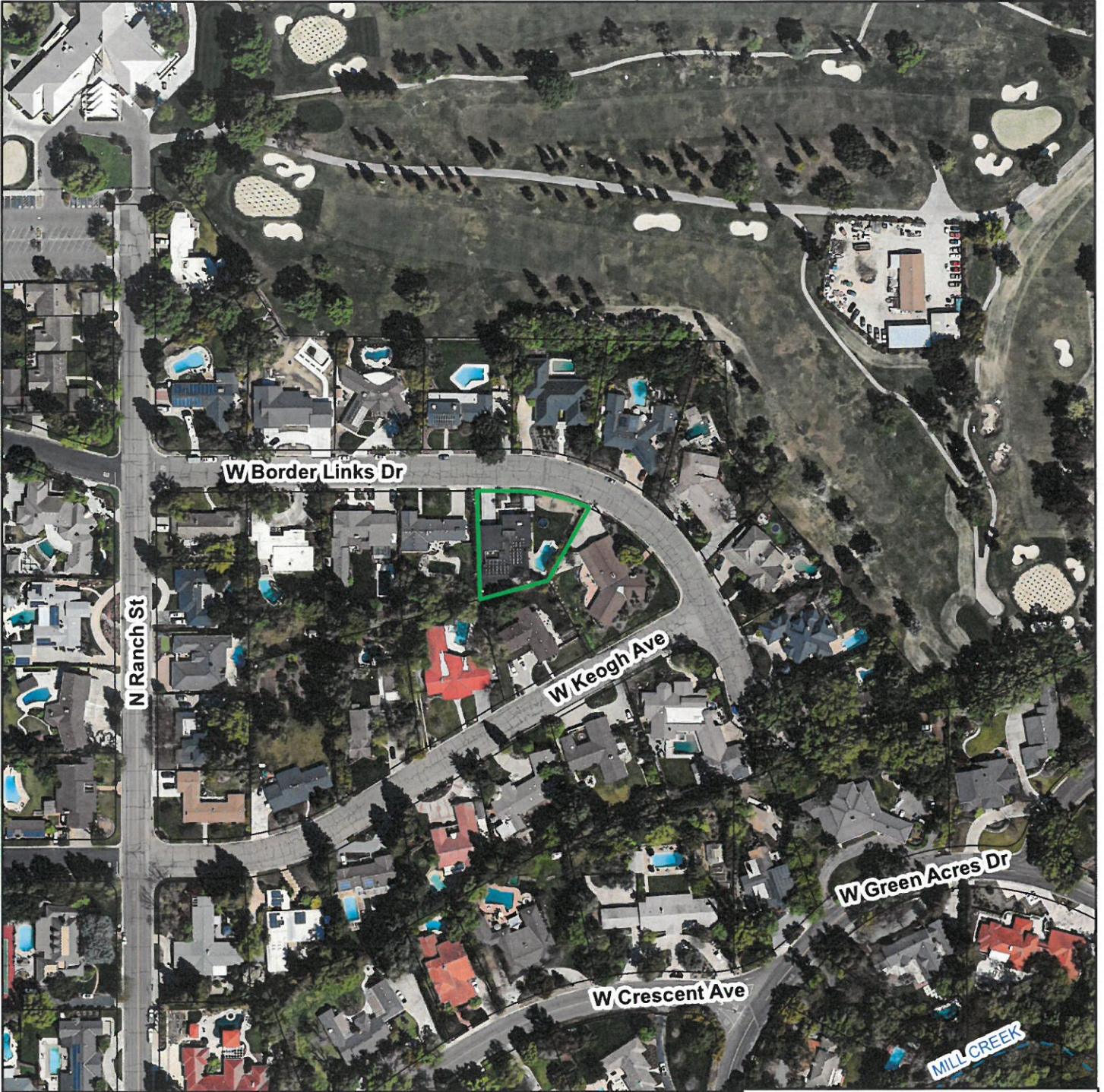
Variance 2020-08

The project site is located at
2545 West Border Links Drive
(APNs: 089-100-010)



Variance 2020-08

The project site is located at
2545 West Border Links Drive
(APNs: 089-100-010)



Variance 2020-08

The project site is located at
2545 West Border Links Drive
(APNs: 089-100-010)

