

# PLANNING COMMISSION AGENDA

CHAIRPERSON:  
Chris Gomez



VICE CHAIRPERSON:  
Marvin Hansen

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

**MONDAY, JANUARY 11, 2021**

**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. This work session item is being conducted to introduce and take public comment on a Public Review Draft Feasibility Study prepared ahead of a potential Agricultural Mitigation Program (AMP) for the City of Visalia.

**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.

- No Items on the Consent Calendar

7. PUBLIC HEARING – Josh Dan, Associate Planner  
Conditional Use Permit No. 2020-32: A request to construct a residential structure exceeding 10,000 square feet in the R-1-20 (Single Family Residential, Minimum 20,000 sq. ft. lot size) zone. The site is located at 2524 North Linwood Street, on the east side of Linwood Street, 700 feet north of West Ferguson Avenue (APN: 077-190-016). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303(a), Categorical Exemption No. 2020-69.
8. PUBLIC HEARING – Josh Dan, Associate Planner  
Variance No. 2020-10: A request to allow a variance from the minimum front and rear yard setbacks required in the R-1-5 (Single-Family Residential, 5,000 square foot minimum lot size) zone. The project is located at 3304 North Clay Street (APN: 079-330-024). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305(a), Categorical Exemption No. 2020-70.
9. PUBLIC HEARING – Cristobal Carrillo, Associate Planner
  - a. Tentative Parcel Map No. 2020-10: A request by TorMon Global Inc. and Octavio Montejano, to subdivide a 20,177 square foot parcel into three parcels in the R-M-2 (Multi-Family Residential, 3,000 square foot minimum site area per dwelling unit) zone. The project site is located 1322, 1326, and 1328 South Santa Fe Street (APN: 097-241-026). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15315, Categorical Exemption No. 2020-71.
  - b. Conditional Use Permit No. 2020-33: A request by TorMon Global Inc. and Octavio Montejano to subdivide a 20,177 square foot parcel into three parcels without public street access and on a site less than two acres in size in the R-M-2 (Multi-Family Residential, 3,000 square foot minimum site area per dwelling unit) zone. The project site is located 1322, 1326, and 1328 South Santa Fe Street (APN: 097-241-026). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15315, Categorical Exemption No. 2020-71.
10. PUBLIC HEARING – Amy Weiser, Principal Planner
  - a. General Plan Amendment No. 2020-06: A request by San Joaquin Valley Homes to amend the General Plan Land Use Map by revising the Tier 1 and Tier 2 Urban Growth Development Tiers in order to move a 19.11 acre site from the Tier 2 Growth Boundary to the Tier 1 Growth Boundary; and, to move approximately 24.4-acres from the Tier 1 Growth Boundary to the Tier 2 Growth Boundary. The affected sites are located on the east side of N. Akers Street between W. Sedona Avenue and south of the Modoc Irrigation canal (APN:077-060-034, 19.11-acre site), and 24.4-acres of an overall 72.49-acre site located on the south side where West Riverway Avenue terminates west of North Chinowth Street (APN:077-060-024). An Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant and that Negative Declaration No. 2020-51 was adopted.
  - b. Annexation No. 2020-01: A request by San Joaquin Valley Homes to annex one parcel totaling 19.11-acres into the City limits of Visalia, and to detach said parcel from Tulare County Service Area No. 1. This parcel is designated Residential Low Density in the General Plan Map. The affected sites are located on the east side of North Akers Street between West Sedona Avenue and south of the Modoc Irrigation canal (APN:077-060-034, 19.11-acre site), and 24.4-acres of an overall 72.49-acre site located on the south side where West Riverway Avenue terminates west of North Chinowth Street (APN:077-060-024). An Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant with mitigation

and that Negative Declaration No. 2020-51 was adopted.

- c. Greystone 3 Tentative Subdivision Map No. 5576: A request by San Joaquin Valley Homes to subdivide a 19.11-acre parcel into 63 lots for residential use consistent with the R-1-5 zoning district and additional lots for landscaping and lighting district lots, pedestrian connections to the Modoc Trail and a pocket park. The affected sites are located on the east side of North Akers Street between West Sedona Avenue and south of the Modoc Irrigation canal (APN:077-060-034, 19.11-acre site), and 24.4-acres of an overall 72.49-acre site located on the south side where West Riverway Avenue terminates west of North Chinowth Street (APN:077-060-024). An Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant with mitigation and that Negative Declaration No. 2020-51 was adopted.

**11. CITY PLANNER/ PLANNING COMMISSION DISCUSSION –**

- a. Next Planning Commission Meeting is Monday, January 25, 2021.
- b. Vehicle Miles Traveled Presentation to Planning Commission at future date.
- c. City Council hearing for Variance No. 2020-08.

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, JANUARY 21, 2021 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](http://www.visalia.city) or from the City Clerk.

**THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, JANUARY 25, 2021**



# REPORT TO CITY OF VISALIA PLANNING COMMISSION

**HEARING DATE:** January 11, 2021

**PROJECT PLANNER:** Josh Dan, Associate Planner  
Phone No.: (559) 713-4003  
Email: [josh.dan@visalia.city](mailto:josh.dan@visalia.city)

**SUBJECT: Variance No. 2020-10:** A request to allow a variance from the minimum front and rear yard setbacks required in the R-1-5 (Single-Family Residential, 5,000 square foot minimum lot size) zone. The project is located at 3304 North Clay Street (APN: 079-330-024).

## STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve Variance No. 2020-10 based upon the findings and conditions in Resolution No. 2020-69. Staff's recommendation is based on the required variance findings and the project's consistency with the policies and intent of the City's General Plan and Zoning Ordinance.

## RECOMMENDED MOTION

I move to approve Variance No. 2020-10, based on the findings and conditions in Resolution No. 2020-69.

## PROJECT DESCRIPTION

The proposed request is a variance to the rear yard setback requirement for a new single-family dwelling located on a "knuckle lot" in the Orchard Walk Subdivision (see Exhibit "A"). The variance request pertains to lot 24. The Orchard Walk Tentative Subdivision Map No. 5543 was approved by the Planning Commission on November 22, 2010.

The lot is characterized as a "knuckle lot", having a curvilinear street frontage, a wide side yard, and shallow lot depth. The applicant has provided a site plan with a floor plan on the lot that shows the limits of encroachment into the front or rear yards, illustrated in Exhibit "A".

The R-1-5 zone requires a minimum building setback in the front yard of 15 feet to "living space" and 20 feet for a front-loading garage on a cul-de-sac or "knuckle lot" with a curvilinear front; whereas a non-cul-de-sac/curvilinear lot requires a setback of 22 feet for front-loading garages. The lot complies with and exceeds the 20-foot setback to the garage. However, there is an encroachment of 2 feet into the required "living space" setback resulting in a 13-foot setback (see Exhibit "A"). The area of encroachment into the front yard setback is 7 square feet.

In addition, the R-1-5 zone also requires a minimum building setback of 25 feet in the rear yard, which can be reduced to 20 feet when the residence is one-story. The applicant, per Exhibit "A", depicts portions of the single-story single-family dwelling encroaching into the required rear yard setback resulting in an 11-foot, 9-inch setback for a portion of the home. The area of encroachment into the rear yard area is 65 square feet.

The applicant has prepared responses to the five required variance findings to support their request, which are included as Exhibit "C". The applicant's findings explain that the lot poses unique circumstances resulting in the encroachments of "living space" into the front and rear yard setback areas. In addition, D.R. Horton has made an effort to place the smallest, single-story home plan offered within the subdivision on the lot in the most suitable way.

Staff also prepared our own analysis to the five findings to support this request. Staff's findings are included in the "Required Variance Findings" section of the staff report below and in Resolution No. 2020-69.

**BACKGROUND INFORMATION**

General Plan Land Use Designation	Low Density Residential
Zoning	R-1-5 Single Family Residential
Surrounding Zoning and Land Use	North: R-1-5 Single Family Residential South: R-1-5 Single Family Residential East: Santa Fe. St., St. John's Trail West: N Clay St. / R-1-5 Single Family Residential
Environmental Review	Categorical Exemption No. 2020-70
Special District	None
Site Plan Review	N/A

**RELATED PLANS & POLICIES**

Please see attached summary of related plans and policies. The proposed project is consistent with applicable plans and policies.

**RELATED PROJECTS**

The Planning Commission approved the Orchard Walk Tentative Subdivision Map No. 5543, on November 22, 2010. The subdivision was a request to subdivide 24.73 acres into 104 single-family residential subdivision, which at the time was located within the R-1-6 zone.

**SIMILAR PROJECTS**

The Planning Commission approved Variance No. 2020-11 on December 14, 2020. The request, submitted by Lennar Homes, was a variance to front and rear setback requirements for new single-family dwellings on six cul-de-sac lots and "knuckle lots" in the River Island Ranch Subdivision, which has R-1-5 zoning.

The Planning Commission approved Variance No. 2018-08 on August 13, 2018. The request, submitted by San Joaquin Valley Homes, was a variance to the front and/or rear yard setback requirements for new single-family dwellings on cul-de-sac lots in the R-1-5 zone. The variance request pertained to three non-contiguous lots with similar shapes and setback requests all located within the same developing subdivision, Pine River Ranch Estates.

**PROJECT EVALUATION**

Staff supports the variance to the front and rear yard setbacks to facilitate construction of new a residence on the lot identified within the Orchard Walk Subdivision. This is based on the circumstance of the curvilinear lot shape and responses to the required findings.

**Lot Depth and Front / Rear Yard Setbacks**

The lot has a depth that is skewed in a manner resulting in a less than typical lot depth associated for a standard non-curvilinear lot. Specifically, a rectangular lot meeting the minimum 5,000 square foot lot size and 50-foot minimum width would have a depth of at least 100-feet. The curvilinear lot design here has resulted in skewed lot depths that are between 91.2 to 138.7 feet in depth on either side of the lot, respectively. The applicant has plotted the smallest house/floor plan offered on this lot to ensure that the areas of encroachment into the required

front and rear yard areas is minimal while still providing ample open space in the yard areas impacted by the areas of encroachment.

### Front Yard

The floor plan (shown in Exhibit "B") encroaches two feet into the front yard setback. The applicant elected to "distribute" the area of encroachment between the front and rear yards for the lot, rather than place the home at the 15-foot front yard setback which would further reduce the rear yard setback. As such, the footprint of the home encroaches two feet into the front yard setback equaling an area of only seven square feet. The area of encroachment, shown in the floor plan, would be a portion of "Bedroom 4".

### Rear Yard

In the R-1-5 zone, the required rear yard setback is 25 feet. However, the main structure (i.e. single-family dwelling) may encroach up to five-feet into the required rear yard provided that such encroachment does not exceed one-story and that a usable, open, rear yard area of at least 1,250 square feet is maintained. The usable, open rear yard area criteria is complied with. The site plan indicates useable open rear yard area of 2,146 sq. ft. behind the rear of the home. The shape of this lot offers ample rear yard area (2,146 square feet of rear yard) and over 600 square feet of side yard area to support the rear yard encroachment request for this lot. Staff reviewed potential layout re-configurations for this lot but in each instance the single-family dwelling still encroached into the 20 foot rear yard area. The area of encroachment, shown in the floor plan, would be a portion of "Owner's Suite".

Staff recommends approval of the variance request for the lot based on this lots having a shallow depth, the lot having more than adequate open rear yard area to make up for the additional encroachment, limiting to single-story unit for the lot, and no significant impact to surrounding uses.

### Required Variance Findings

The Planning Commission is required to make five findings before a variance can be granted. The applicant has provided response to the variance findings and staff has included the analysis for each finding below. The applicant's responses to the variance findings are also included in Exhibit "C".

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 Findings:** The awkward shape of this "knuckle" lot presents a practical difficulty and makes it impossible for us to meet the zoning regulations for Orchard Walk. Lot 24 is not as deep as a typical lot in this zone and although the lot is of ample square footage, its irregular shape means that even when using the smallest floor plan for this subdivision, the home extends beyond the buildable limits outlined in the zoning regulations, thus requiring a variance from those regulations.

**Staff Analysis:** The lot has a lot depth that is askew in a manner resulting in less than the typical lot depth associated for a standard non-curvilinear lot. Specifically, a rectangular lot meeting the minimum 5,000 square foot lot size and 50-foot minimum width would have a depth of at least 100 feet. The curvilinear lot design for this lot has resulted in lot depth that ranges between 91.2 to 138.7 feet in depth on either side of the lot, respectively. The

applicant has demonstrated the use of the smallest, single story floor plan for the lot to ensure that the areas of encroachment into the required front and rear yard areas is minimal while still providing ample open space in the yard areas impacted by the areas of encroachment.

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 generally to other properties classified in the same zone;*

**Applicant's Findings:** The irregular shape of this lot creates extraordinary circumstances that aren't encountered on typical shaped lots. The triangular shape of the lot means that the rear corner of the house gets much closer to the rear property lines than they would if the lot had a more rectangular shape. The usual rule for single story plans in this zone is that they can encroach into the rear yard setback of 25 feet by up to as much as 5 feet, provided they have at least a 1500 square foot rear yard. With our layout, a 65 square foot triangular piece of the home does encroach into the rear yard setback and sits as near as 11.9' to the rear property line, but despite this, the rear yard is still 2146 square feet, which is considerable larger than the required 1500 square feet.

**Staff Analysis:** This lot is located in a curvilinear street frontage resulting in a lot shape that presents extraordinary circumstances which are not present in a normally configured rectangular lot. Even when using the smallest floor plan offered for this subdivision, the home goes beyond the buildable limits outlined in the zoning regulations, thus requiring a variance from these regulations.

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 Findings:** Strict enforcement of the zoning regulations would make this lot unusable and would deprive D.R. Horton of the privileges enjoyed by other similar residential properties, such as lots 27, 87, and 90 at Pine River Estates by SJVH, which were granted a similar variance by Planning Commission on August 13th, 2018.

**Staff Analysis:** There has been a similar variance request for a residential subdivision (i.e., River Island Ranch and Pine River Estates) that requested reduced garage and rear yard setback encroachments for six cul-de-sac lots and "knuckle lots" to accommodate the placement of the single-family dwellings. The proposed variance request for this lot in the Orchard Walk subdivision ensures that the associated floor plan minimizes the area of encroachment into the required yard areas while still providing ample open space in the areas impacted by the encroachment request.

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 Findings:** The granting of this variance enables D.R. Horton to produce a marketable product that is consistent with other properties in the area and would not be considered the granting of a special privilege.

**Staff Analysis:** There has been a similar variance request for a residential subdivision (i.e., River Island Ranch and Pine River Estates) that requested reduced garage and rear yard setback encroachments for six cul-de-sac lots and "knuckle lots" to accommodate the placement of the single-family dwellings.

The variance would allow this property to be constructed with a single-family residence, having an adequate amount of open rear yard area, and provide sufficient spacing between other residences, similar to other properties in the subdivision. The use of the smallest single-story floor plan ensures that the area of encroachment into the required front and/or rear yard areas is minimal.

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 Findings:** The granting of this request would not be detrimental to the public health, safety or welfare of others, nor would it be materially injurious to properties in the vicinity.

**Staff Analysis:** The granting of a variance to setbacks is not considered detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

### **Environmental Review**

The project is considered Categorical Exempt under Section 15305(a) of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA). (Categorical Exemption No. 2020-70). This exemption is based on the project being characterized as a variance, which is a minor alteration to land use limitations that does not result in changes in land use or density.

## **RECOMMENDED FINDINGS**

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;*

The shape of this "knuckle lot" presents a practical difficulty and makes it difficult to meet the zoning regulations for R-1-5 because the lot is not as deep as a typical R-1-5 lot. The lot shape is askew in a manner resulting in less than the typical lot depth associated for a standard non-curvilinear lot. Specifically, a rectangular lot meeting the minimum 5,000 square foot lot size and 50-foot minimum width would have a depth of at least 100 feet. The curvilinear lot design for this lot has resulted in lot depths ranging between 91.2 to 138.7 feet in depth on either side of the lot, respectively. The applicant has demonstrated the use of a the smallest single-story floor plan on this lot to ensure that the areas of encroachment into the required front and/or rear yard areas is minimal while still providing ample open space in the yard areas impacted by the areas of encroachment.

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 generally to other properties classified in the same zone;*

This lot is located along a curvilinear street frontage resulting in a lot shape that presents extraordinary circumstances which is not present in a normally configured rectangular lot. Even when using the smallest, single-story floor plan offered for this subdivision, the home goes beyond the buildable limits outlined in the zoning regulations, thus requiring a variance from these regulations.



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;*

There has been a similar variance requests for a residential subdivision (i.e., River Island Ranch and Pine River Estates) that requested reduced garage and rear yard setback encroachments for multiple cul-de-sac and “knuckle lots” to accommodate the placement of the single-family dwellings. The proposed variance request for this single lot in the Orchard Walk subdivision ensures that the associated floor plan minimizes the area of encroachment into the required yard areas while still providing ample open space in the areas impacted by the encroachment request.

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;*

There has been a similar variances requested for a residential subdivisions (i.e., River Island Ranch and Pine River Estates) that requested reduced garage and rear yard setback encroachments for six cul-de-sac and “knuckle lots” to accommodate the placement of the single-family dwellings.

The variance would allow this property to be constructed with a single-family residence, having an adequate amount of open rear yard area, and provide sufficient spacing between other residences, similar to other properties in the subdivision. The use of the smallest, single-story floor plan ensures that the area of encroachment into the required front and rear yard areas is minimal.

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.*

By granting this request, this property would be consistent with those in the surrounding development and would not be detrimental to the public health, safety or welfare of others, nor would it be materially injurious to properties in the vicinity.

6. That the project is considered Categorical Exempt under Section 15305(a) of the Guidelines for Implementation of CEQA (Categorical Exemption No. 2020-70).

### **RECOMMENDED CONDITIONS OF APPROVAL**

1. That Variance No. 2020-10 shall allow a single-story, single-family residence to be developed on Lot 24 of the Orchard Walk subdivision, consistent with the front and rear yard setbacks shown in the site plan included as Exhibit “A”.
2. That no additions shall be permitted within the required rear yard area for Lot 24, except for accessory structures meeting City regulations as specified in Municipal Code Section 17.12.100 for rear yards.
3. That all other federal, state, regional, and county laws and city codes and ordinances be complied with.

## APPEAL INFORMATION

According to the City of Visalia Zoning Ordinance Section 17.02.145, an appeal to the City Council may be submitted within ten days following the date of a decision by the Planning Commission. An appeal form with applicable fees shall be filed with the City Clerk at 220 N. Santa Fe Street, Visalia, CA 93291. 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](http://www.visalia.city) or from the City Clerk.

### **Attachments:**

- Related Plans and Policies
- Resolution No. 2020-69
- Exhibit "A" – Site Plan
- Exhibit "B" – Floor Plan
- Exhibit "C" – Variance Findings Prepared by Applicant
- General Plan Land Use Map
- Zoning Map
- Aerial Map
- Vicinity Map

## **RELATED PLANS AND POLICIES**

### **Zoning Ordinance Chapter 17.12: SINGLE-FAMILY RESIDENTIAL ZONE**

#### **17.12.080 Front yard.**

A. The minimum front yard shall be as follows:

<u>Zone</u>	<u>Minimum Front Yard</u>
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. (Ord. 2017-01 (part), 2017: Ord. 2004-20 (part), 2004: Ord. 2001-13 § 4 (part), 2001: Ord. 9717 § 2 (part), 1997: prior code § 7277)

#### **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 (1,250) square feet shall be maintained. Such encroachment and rear yard area shall be approved by the city planner prior to issuing building permits.

### **Zoning Ordinance Chapter 17.42: VARIANCES**

#### **17.42.010 Variance purposes.**

The city planning commission may grant variances in order to prevent unnecessary hardships that would result from a strict or literal interpretation and enforcement of certain regulations prescribed by this title.

A practical difficulty or unnecessary hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions on the site or in the immediate vicinity, or from population densities, street locations or traffic conditions in the immediate vicinity. The power to grant variances does not extend to use regulations, because the flexibility necessary to avoid results inconsistent with the objectives of the zoning ordinance is provided by the conditional use provisions of this title.

**17.42.020 [Reserved]**

**17.42.030 Variance powers of city planning commission.**

The city planning commission may grant variances to the regulations prescribed by this title with respect to fences and walls, site area, width, frontage coverage, front yard, rear yard, side yards, height of structures, distance between structures, off-street parking facilities, accessory dwelling unit standards pursuant to Sections 17.12.140 through 17.12.200, and downtown building design criteria pursuant to Section 17.58.082 through 17.58.088; in accordance with the procedures prescribed in this chapter.

**17.42.040 [Reserved]**

**17.42.050 Application procedures.**

A. Application for a variance or exception shall be made to the city planning commission on a form prescribed by the commission and shall include the following data:

1. Name and address of the applicant;
2. Statement that the applicant is the owner of the property, is the authorized agent of the owners, or is or will be the plaintiff in an action in eminent domain to acquire the property involved;
3. Address and legal description of the property;
4. Statement of the precise nature of the variance or exception requested and the hardship or practical difficulty that would result from the strict interpretation and enforcement of this title;
5. The application shall be accompanied by such sketches or drawings that may be necessary to clearly show applicant's proposal;
6. Additional information as required by the historic preservation advisory board;
7. When reviewing requests for an exception associated with a request for density bonus as provided in Chapter 17.32, Article 2, the applicant shall submit copies of the comprehensive development plan, sketches and plans indicating the nature of the request and written justification that the requested modifications result in identifiable cost reductions required for project to reach target affordability.

B. The application shall be accompanied by a fee set by resolution of the city council sufficient to cover the cost of handling the application.

**17.42.060 Hearing and notice.**

A. The city planning commission shall hold a public hearing on an application for a variance.

B. Notice of a public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by mailing a notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area occupied or to be occupied by the use that is the subject of the hearing.

**17.42.070 Investigation and report.**

The city planning staff shall make an investigation of the application and shall prepare a report thereon that shall be submitted to the city planning commission.

**17.42.080 Public hearing procedure.**

At a public hearing the city planning commission shall review the application and the statements and drawings submitted therewith and shall receive pertinent evidence concerning the variance, particularly with respect to the findings prescribed in Section 17.42.090.

**17.42.090 Variance action of the city planning commission.**

A. The city planning commission may grant a variance to a regulation prescribed by this title with respect to fences and walls, site area, width, frontage, coverage, front yard, rear yard, side yards, height of structures, distances between structures or landscaped areas or in modified form if, on the basis of the application, the report of the city planning staff or the evidence submitted, the commission makes the following findings:

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;
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 generally to other properties classified in the same zone;
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;
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;
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.

B. The city planning commission may grant a variance to a regulation prescribed by this title with respect to off-street parking facilities, if, on the basis of the application, the report of the city planner or the evidence submitted the commission makes the findings prescribed in subsection (A)(1) of this section and that the granting of the variance will not result in the parking of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.

C. A variance may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the commission may prescribe.

D. The city planning commission may deny a variance application.

**17.42.100 [Reserved]**

**17.42.110 Appeal to city council.**

The decision of the city planning commission on a variance or exception application shall be subject to the appeal provisions of Section 17.02.145.

**17.42.120 Lapse of variance.**

A variance shall lapse and become void one year following the date on which the variance became effective, unless prior to the expiration of one year, a building permit is issued by the building official and construction is commenced and diligently pursued toward completion on the site that was the subject of the variance application, or a certificate of occupancy is issued by the building official for the site or structure that was the subject of the variance application. A variance may be renewed for an additional period of one year; provided, that prior to the expiration of one year from the date when the variance became effective, an application for renewal of the variance is made to the commission. The commission may grant or deny an application for renewal of a variance.

**17.42.130 Revocation.**

A variance granted subject to a condition or conditions shall be revoked by the city planning commission if the condition or conditions are not complied with.

**17.42.140 New application.**

Following the denial of a variance application or the revocation of a variance, no application for the same or substantially the same variance on the same or substantially the same site shall be filed within one year of the date of denial of the variance application or revocation of the variance.

**NOTICE OF EXEMPTION**

City of Visalia  
315 E. Acequia Ave.  
Visalia, CA 93291

To: County Clerk  
County of Tulare  
County Civic Center  
Visalia, CA 93291-4593

Variance No. 2020-10

**PROJECT TITLE**

The project is located at 3304 North Clay Street, Visalia, CA, within the Orchard Walk subdivision.

**PROJECT LOCATION**

Visalia

Tulare

**PROJECT LOCATION - CITY**

**COUNTY**

A request to allow a variance from the minimum rear yard setbacks required in the R-1-5 (Single-Family Residential, 5,000 square foot minimum lot size) zone. The project is located at 3304 N Clay St. (APN: 079-330-024).

**DESCRIPTION - Nature, Purpose, & Beneficiaries of Project**

City of Visalia, 315 E. Acequia Avenue, Visalia, CA 93291, Email: paul.bernal@visalia.city

**NAME OF PUBLIC AGENCY APPROVING PROJECT**

D. R. Horton CA3 INC., 419 W. Murray Ave. Visalia, CA 93291. Email: MCTranah@drhorton.com

**NAME AND ADDRESS OF APPLICANT CARRYING OUT PROJECT**

N/A

**NAME AND ADDRESS OF AGENT CARRYING OUT PROJECT**

**EXEMPT STATUS:** (Check one)

- Ministerial - Section 15073
- Emergency Project - Section 15071
- Categorical Exemption - State type and Section number: **Section 15305(a)**
- Statutory Exemptions- State code number:

The project is characterized as a variance, which is a minor alteration to land use limitations that does not result in changes in land use or density.

**REASON FOR PROJECT EXEMPTION**

Josh Dan, Associate Planner

(559) 713-4003

**CONTACT PERSON**

**AREA CODE/PHONE**

01/11/2021

**DATE**

**Brandon Smith, AICP  
ENVIRONMENTAL COORDINATOR**

RESOLUTION NO. 2020-69

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA APPROVING VARIANCE NO. 2020-10, A REQUEST TO ALLOW A VARIANCE FROM THE MINIMUM FRONT AND REAR YARD SETBACKS REQUIRED IN THE R-1-5 (SINGLE-FAMILY RESIDENTIAL, 5,000 SQUARE FOOT MINIMUM LOT SIZE) ZONE. THE PROJECT IS LOCATED AT 3304 NORTH CLAY STREET (APN: 079-330-024)

**WHEREAS**, Variance No. 2020-10, is a request to allow a variance from the minimum front and rear yard setbacks required in the R-1-5 (Single-Family Residential, 5,000 square foot minimum lot size) zone. The project is located at 3304 North Clay Street (APN: 079-330-024); and

**WHEREAS**, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on January 11, 2021; and

**WHEREAS**, the Planning Commission of the City of Visalia finds Variance No. 2020-10, as conditioned by staff, to be in accordance with Chapter 17.42.080 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 finds the project to be Categorically Exempt consistent with the California Environmental Quality Act (CEQA) and City of Visalia Environmental Guidelines.

**NOW, THEREFORE, BE IT RESOLVED** that the project is exempt from further environmental review pursuant to CEQA Section 15305(a).

**NOW, THEREFORE, BE IT FURTHER 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;*

The shape of this “knuckle lot” presents a practical difficulty and makes it difficult to meet the zoning regulations for R-1-5 because the lot is not as deep as a typical R-1-5 lot. The lot shape is askew in a manner resulting in less than the typical lot depth associated for a standard non-curvilinear lot. Specifically, a rectangular lot meeting the minimum 5,000 square foot lot size and 50-foot minimum width would have a depth of at least 100 feet. The curvilinear lot design for this lot has resulted in lot depths ranging between 91.2 to 138.7 feet in depth on either side of the lot, respectively. The applicant has demonstrated the use of a the smallest single-story floor plan on this lot to ensure that the areas of encroachment into the required front and/or rear yard areas is minimal while still providing ample open space in the yard areas impacted by the areas of encroachment.

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 generally to other properties classified in the same zone;*

This lot is located along a curvilinear street frontage resulting in a lot shape that presents extraordinary circumstances which is not present in a normally configured rectangular lot. Even when using the smallest, single-story floor plan offered for this subdivision, the home goes beyond the buildable limits outlined in the zoning regulations, thus requiring a variance from these regulations.

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;*

There has been a similar variance requests for a residential subdivision (i.e., River Island Ranch and Pine River Estates) that requested reduced garage and rear yard setback encroachments for multiple cul-de-sac and "knuckle lots" to accommodate the placement of the single-family dwellings. The proposed variance request for this single lot in the Orchard Walk subdivision ensures that the associated floor plan minimizes the area of encroachment into the required yard areas while still providing ample open space in the areas impacted by the encroachment request.

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;*

There has been a similar variances requested for a residential subdivisions (i.e., River Island Ranch and Pine River Estates) that requested reduced garage and rear yard setback encroachments for six cul-de-sac and "knuckle lots" to accommodate the placement of the single-family dwellings.

The variance would allow this property to be constructed with a single-family residence, having an adequate amount of open rear yard area, and provide sufficient spacing between other residences, similar to other properties in the subdivision. The use of the smallest, single-story floor plan ensures that the area of encroachment into the required front and rear yard areas is minimal.

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.*

By granting this request, this property would be consistent with those in the surrounding development and would not be detrimental to the public health, safety or welfare of others, nor would it be materially injurious to properties in the vicinity.

6. That the project is considered Categorically Exempt under Section 15305(a) of the Guidelines for Implementation of CEQA (Categorical Exemption No. 2020-70).

**BE IT FURTHER RESOLVED** that the Planning Commission hereby approves the Variance on the real property here described in accordance with the terms of this resolution under the provisions of Section 17.42.080 of the Ordinance Code of the City of Visalia, subject to the following conditions:

1. That Variance No. 2020-10 shall allow a single-story, single-family residence to be developed on Lot 24 of the Orchard Walk subdivision, consistent with the front and rear yard setbacks shown in the site plan included as Exhibit "A".

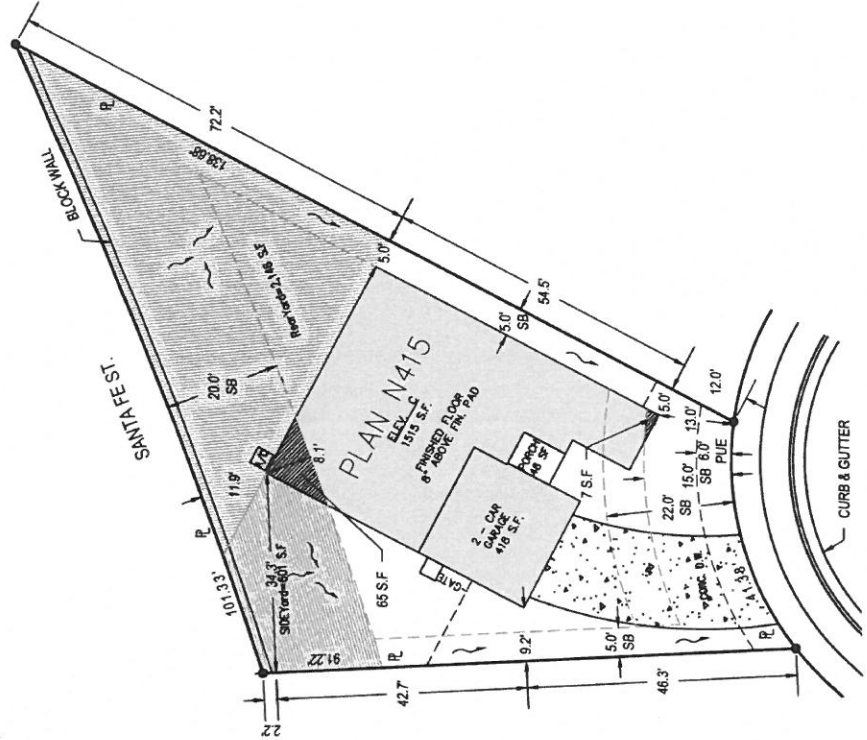


2. That no additions shall be permitted within the required rear yard area for Lot 24, except for accessory structures meeting City regulations as specified in Municipal Code Section 17.12.100 for rear yards.
3. That all other federal, state, regional, and county laws and city codes and ordinances be complied with.

# Exhibit - A

PLEASE NOTE: Certain site features may not be included in drawing. Homeowner to confirm shown existing assessments or survey data with Preliminary Title Report during review. There may be additional utilities not shown within assessment areas. Any deviation in the placement of houses, landscape, or utilities from the accepted plot plan shall require a plan change from the City for acceptance. Measurements shown on plot plan are approximate, except for the minimum required by ordinance. This plot does not reflect as-built conditions which may vary from this plan.

ZONE DIST.	R-1
LOT AREA	12,415 SF
FLOOD ZONE	X



- LEGEND:**
- Property Corner
  - ⊕ Center Line
  - ⊔ Property Line
  - SB Building Setback
  - PE Pedestrian Easement
  - LE Landscape Easement
  - PUE Public Utility Easement
  - SDE Storm Drain Easement
  - SD Storm Drain
  - SS Sewer Lateral
  - W Water Lateral
  - Fire Hydrant
  - Street Light
  - Pad Mounted Elec. Trans. (Above Ground)
  - Electric Trans. Vault (Flush Mount)
  - Electric Splice Box (Flush Mount)
  - Phone Splice Box (Flush Mount)
  - Phone Splice Box (Above Ground)
  - Phone Pedestal (Above Ground)
  - Phone Fiber Vault (Flush Mount)
  - Cable TV Pedestal (Above Ground)
  - Cable TV Box (Above Ground)
  - Cable Splice Box (Flush Mount)

NOTE: PLACE FENCE GATE BEHIND METER AT GARAGE SIDE TYP. DO NOT PLACE AC PAD IN ANY UNDESIRABLE PLACES. NOTE: RECORD ELEVATIONS SHOWN HEREON ARE BASED ON RECORD DESIGN GRADES AND HAVE NOT BEEN FIELD VERIFIED.

NOTES:  
 \* ALL WORK TO MEET CITY STANDARDS  
 \* MAX 3" DRIVE APPROACH  
 \* PARALLEL TO INCLUDE STREET TREE(S)  
 PER APPROVED SUBDIVISION PLAN

Note to buyer: Please visit home site to verify the location of any utility structures which may or may not be shown on this Site Plan.

THE FINISH GRADES OF THE LOT IS DESIGNED WITH A SUPPLEMENTAL BELOW GROUND PIPE AND DRAIN INSTALLATION. MAINTENANCE AND PRESERVATION OF BOTH SWALE AND DRAINAGE PIPELINE IS REQUIRED BY HOMEOWNER. THE HOMEOWNER SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE SWALE SYSTEM. THIS SHALL BE DESIGNED BY A LICENSED CIVIL ENGINEER BY THE STATE OF CALIFORNIA.

**SITE PLAN**  
 CAD FILE: 17299-SP-2024 ADDRESS: 3304 N. CLAY STREET

LOT 2024  
 DRAWN: OCTOBER 5 2019  
 BUYER(S) SIGNATURE: \_\_\_\_\_  
 VISALIA, CA

C&G AND DRIVEWAY PER CITY STDS.

TOTAL LANDSCAPE AREA \_\_\_\_\_ SF  
 TURF AREA \_\_\_\_\_ SF  
 CONTROLLER TYPE: HUNTER  
 I AGREE TO COMPLY WITH THE IMPELO  
 PRESCRIPTIVE COMPLIANCE OPTION  
 APPLICANT(S) SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

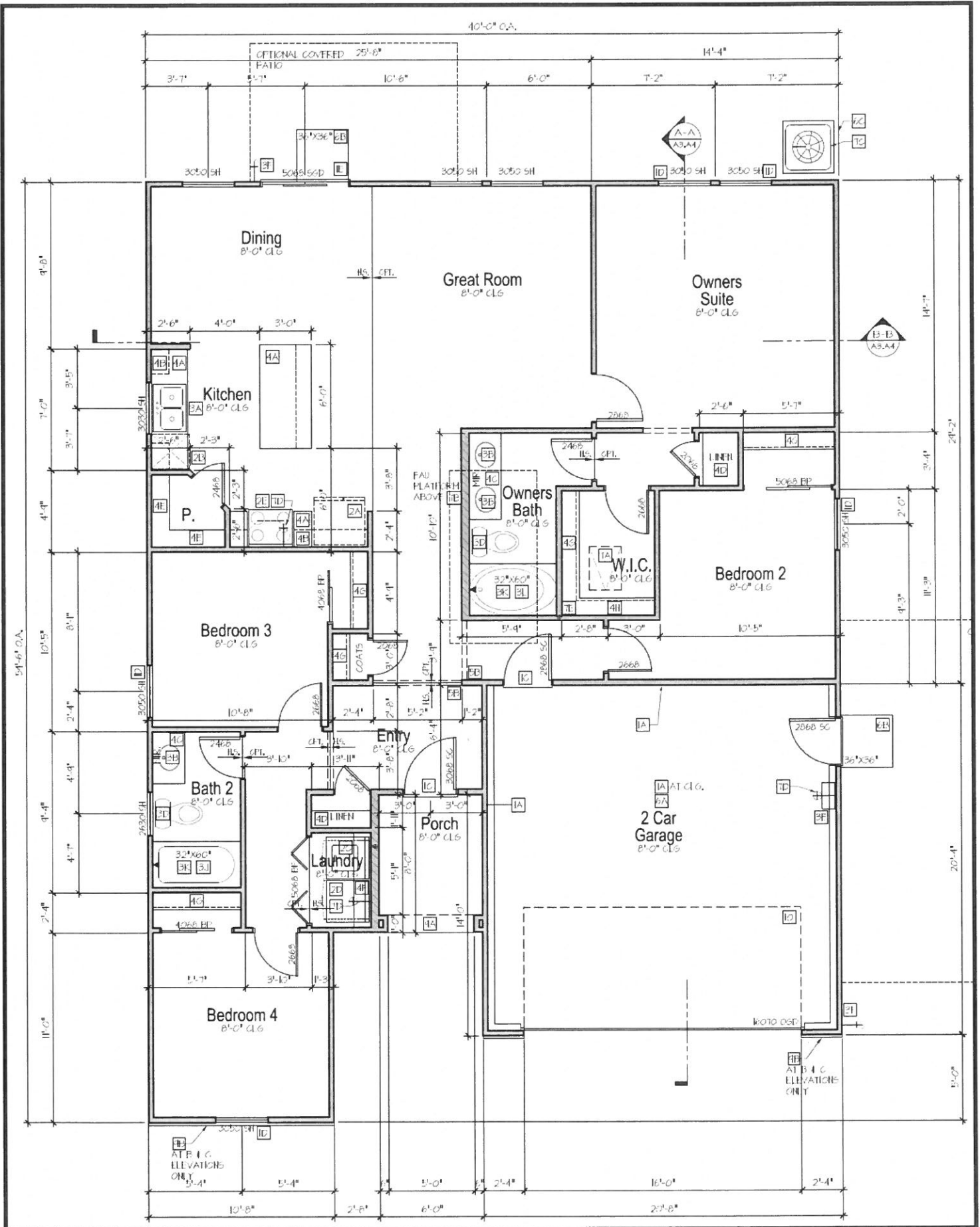
• ORCHARD WALK •

APPROVAL DATE: \_\_\_\_\_



419 W. MURRAY AVE  
 VISALIA, CA 93291  
 Phone: (559) 835-9586  
 Fax: (559) 798-9211

Exhibit – B



# Exhibit – C

November 10, 2020

City of Visalia  
Planning Department  
315. E. Acequia Avenue  
Visalia, CA 93291

Attn: Mr. Paul Bernal, City Planner

Re: Request for Variance Lot 24, Orchard Walk Subdivision – 3304 N. Clay Street

Dear Mr. Bernal,

D.R. Horton would like to request a variance for the placement of a new home on lot 24 of the Orchard Walk Subdivision. The address is 3304 N. Clay Street. Please find the following findings as related to this request.

1. The awkward shape of this “knuckle” lot presents a practical difficulty and makes it impossible for us to meet the zoning regulations for Orchard Walk. Lot 24 is not as deep as a typical lot in this zone and although the lot is of ample square footage, its irregular shape means that even when using the smallest floor plan for this subdivision, the home extends beyond the buildable limits outlined in the zoning regulations, thus requiring a variance from those regulations.
2. The irregular shape of this lot creates extraordinary circumstances that aren’t encountered on typical shaped lots. The triangular shape of the lot means that the rear corner of the house gets much closer to the rear property lines than they would if the lot had a more rectangular shape. The usual rule for single story plans in this zone is that they can encroach into the rear yard setback of 25 feet by up to as much as 5 feet, provided they have at least a 1500 square foot rear yard. With our layout, a 65 square foot triangular piece of the home does encroach into the rear yard setback and sits as near as 11.9’ to the rear property line, but despite this, the rear yard is still 2146 square feet, which is considerable larger than the required 1500 square feet.
3. Strict enforcement of the zoning regulations would make this lot unusable and would deprive D.R. Horton of the privileges enjoyed by other similar residential properties, such as lots 27, 87, and 90 at Pine River Estates by SJVH, which were granted a similar variance by Planning Commission on August 13<sup>th</sup>, 2018.
4. The granting of this variance enables D.R. Horton to produce a marketable product that is consistent with other properties in the area and would not be considered the granting of a special privilege.
5. The granting of this request would not be detrimental to the public health, safety or welfare of others, nor would it be materially injurious to properties in the vicinity.

I would like to add that of the 103 lots at Orchard Walk, this is the only lot that will require such a variance. It is also important to mention that there is not another residential property behind this lot, as Santa Fe Street is behind the property, which is a collector road that residences back onto.

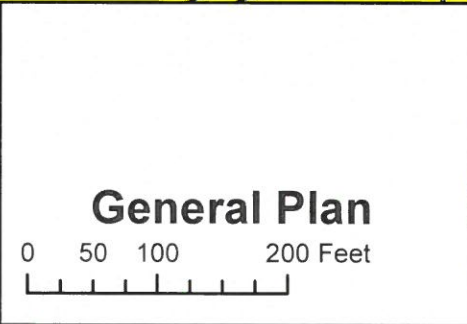
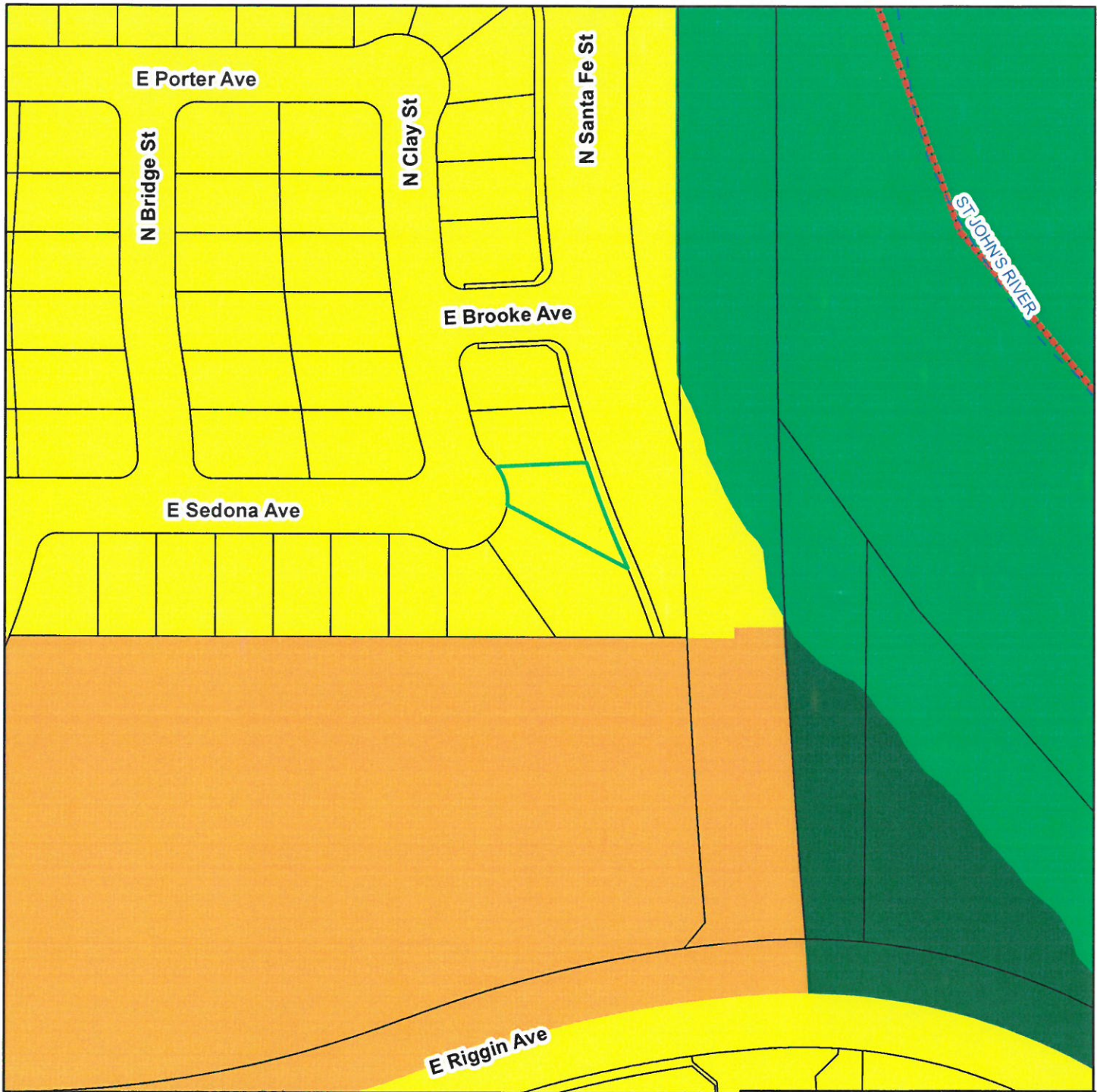
Additionally, I think it is pertinent to mention that this lot is 6112 square feet in total, which is of comparable size to neighboring lots. The positive side of the irregular shaped lot is that we will be able to provide a useable side yard of well over 1000 square feet, which is in addition to the 2146 square foot rear yard. The garage side of the house will also be placed 9 feet away from the property line, which will allow for access to this larger side yard area. When combining these attributes, this will be a very desirable lot.

Thank you for your help in this request.

Sincerely,  
Matthew Tranah  
Forward Planner, D.R. Horton

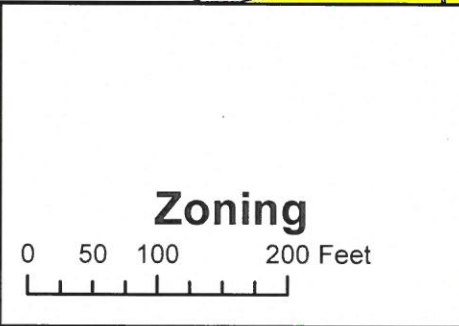
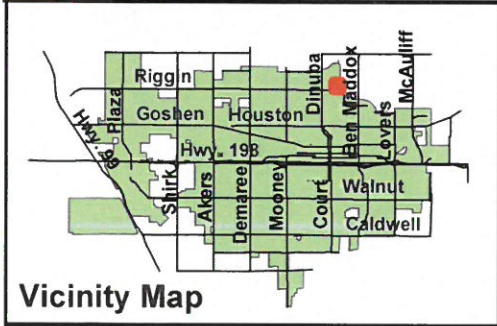
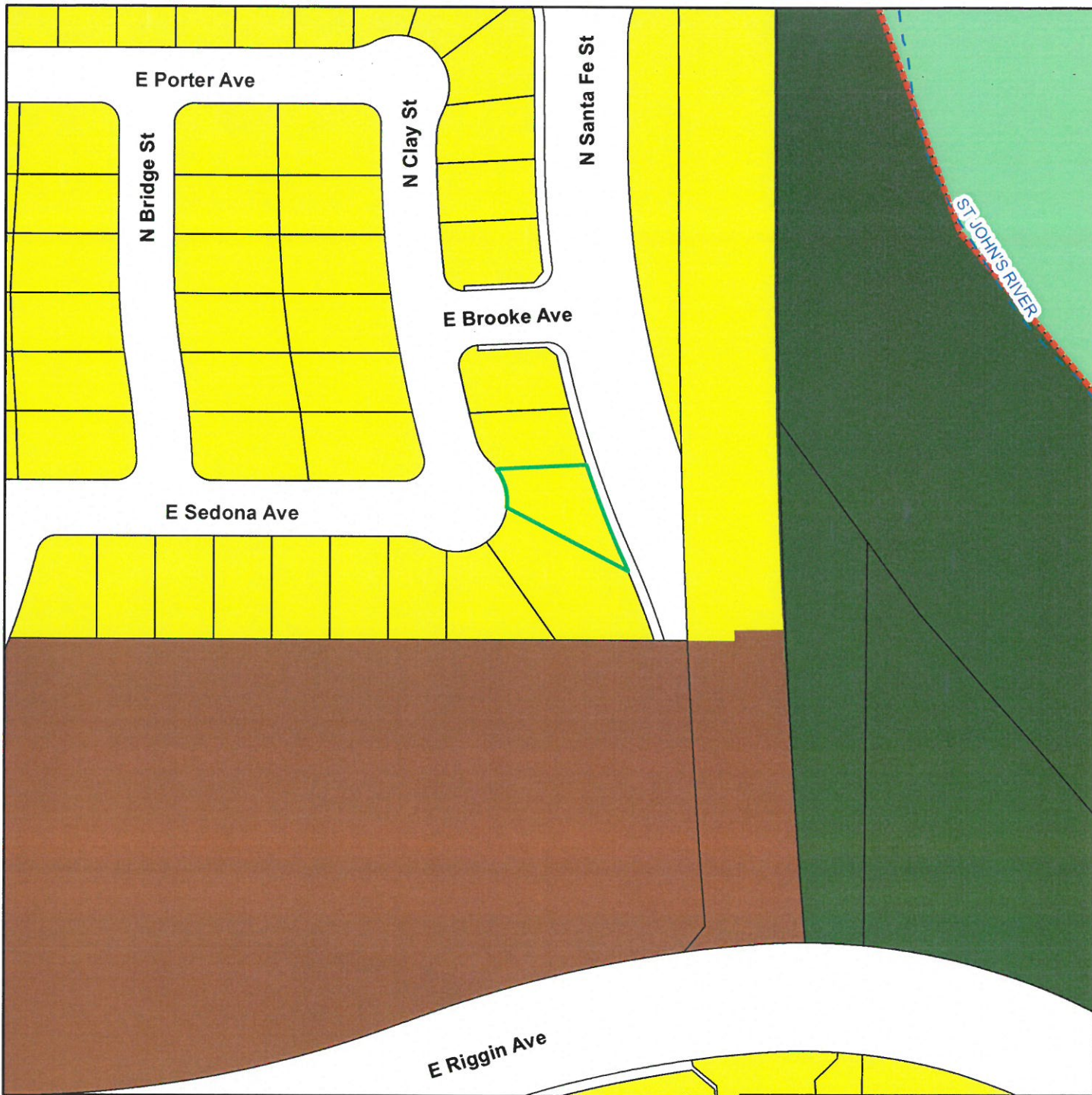
# Variance No. 2020-10

The project site is located at  
3304 North Clay Street  
(APN: 079-330-024)



# Variance No. 2020-10

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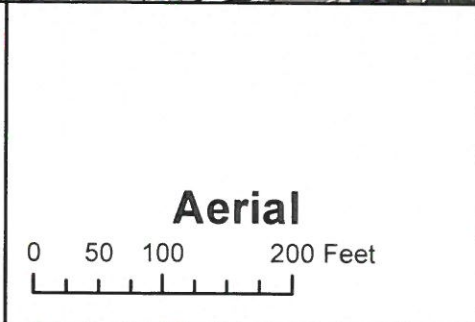
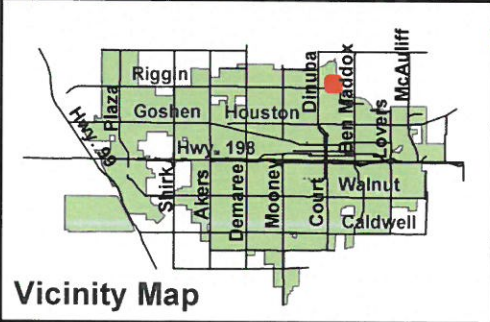


	Project Site
	Parcels
	WATERWAYS
	CITY LIMITS
	R-1-5 - 5,000 SF Min Site Area
	R-M-2 - 3,000 SF Min Site Area
	OS - Open Space
	X - County Areas



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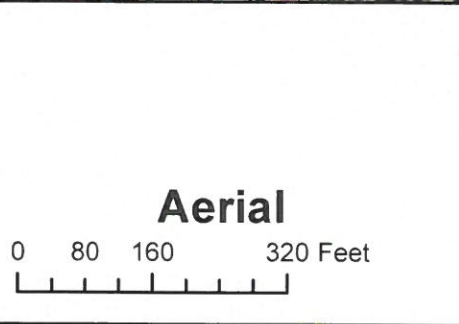
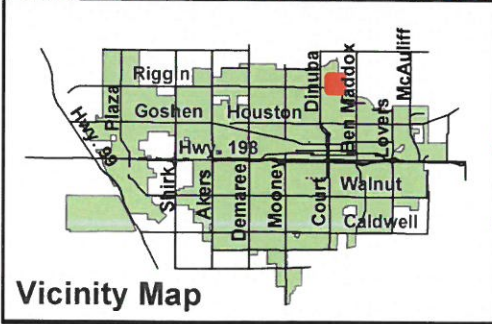


**Aerial**

- Project Site
- Parcels
- WATERWAYS
- CITY LIMITS

# Variance No. 2020-10

The project site is located at  
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- Project Site
- Parcels
- WATERWAYS
- CITY LIMITS



# Variance No. 2020-10

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