

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

March 27, 2007

Advice Letter 2900-E

Rose de la Torre
Pacific Gas & Electric
77 Beale Street, Room 1088
Mail Code B10C
San Francisco, CA 94105Subject: European Grove Sound Wall Encroachment Agreement – Request for
Confirmation of Exemption Under Section 853(b) or, in the Alternative,
for Approval Under Section 851

Dear Ms. de la Torre:

Advice Letter 2900-E is effective October 23, 2006. A copy of the advice letter is returned
herewith for your records.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean H. Gallagher".

Sean H. Gallagher, Director
Energy Division

REGULATORY RELATIONS	
M Brown	Tariffs Section
R Dela Torre	
B Lam	
	D Poster
	M Hughes
MAR 29 2007	
Return to _____	Records _____
cc to _____	File _____



Brian K. Cherry
Vice President
Regulatory Relations

77 Beale Street, Room 1087
San Francisco, CA 94105

Mailing Address
Mail Code B10C
Pacific Gas and Electric Company
P.O. Box 770000
San Francisco, CA 94177

415.973.4977
Internal: 223.4977
Fax: 415.973.7226
Internet: BKC7@pge.com

September 8, 2006

Advice 2900-E

(Pacific Gas and Electric Company ID U 39 E)

**Subject: European Grove Sound Wall Encroachment Agreement -
Request for Confirmation of Exemption Under Section 853(b) or,
In the Alternative, for Approval Under Section 851**

Public Utilities Commission of the State of California

Purpose

Pacific Gas and Electric ("PG&E") submits this filing confirming exemption from Commission approval under Public Utilities Code Section 853(b) or, in the alternative, requesting approval under Public Utilities Code Section 851 to enter into an Encroachment Agreement with European Grove at Fig European III, L. P. ("European Grove") permitting European Grove to construct a concrete block sound wall within, and thereby encroach on, one of PG&E's easements in Fresno County.

Request for Confirmation of Exemption Under Section 853(b)

PG&E respectfully requests that the Commission confirm exemption of PG&E's grant of an Encroachment Agreement to European Grove from the requirements of Section 851, pursuant to Section 853(b). Section 853(b) allows the Commission to exempt a public utility from the Section 851 approval process if it finds that such an approval is not necessary in the public interest.

The Commission has confirmed other transactions exempt under Section 853(b) under similar circumstances, and should do so here. On January 11, 2006, the Commission approved Advice Letter 2741-E granting PG&E's request to allow an encroachment by De Young Properties to construct and maintain a concrete block sound wall on PG&E's easement. In D.05-10-013, the Commission applied Section 853(b) to exempt an Encroachment Agreement between PG&E and the Peninsula Corridor Joint Powers Board for the installation, maintenance, and use of a temporary access ramp and stairs located at the Hillsdale Caltrain Station in

the City of San Mateo. In that case, the basis for the exemption was that approval under Section 851 was not necessary in the public interest because the ramp alleviated an immediate safety hazard to the public at the Hillsdale Train Station. Rather, the exemption was to the public benefit because it promoted safety.

Similar to the request in Advice Letter 2741-E, European Grove is requesting an Encroachment Agreement from PG&E to construct a concrete block sound wall on PG&E's underground electric transmission easement to address a noise pollution health hazard. This health hazard was identified in the City of Fresno's Initial Study (Application No. A-04-26/R-04-84/C-04-272/T-5433),¹ and construction of the concrete block sound wall is a condition of approval from the City of Fresno in order for European Grove to construct a housing development. Granting the Encroachment Agreement to European Grove serves the public interest by allowing utility property (the easement area) to be used for other productive purposes – and address a critical issue of public health – without interfering with the utility's operation or affecting service to utility customers. (See D.02-01-058 (2002) 2002 Cal. PUC LEXIS 11, *9.) Similarly, PG&E does not anticipate substantive protests to this filing. Therefore, as in Advice Letter 2741-E and in D.05-10-013, the Commission should exempt PG&E from the requirements of Section 851, pursuant to Section 853(b). See also, D.01-06-006 (2001) 2001 Cal. PUC LEXIS 342, in which the Commission granted the request of San Diego Gas and Electric Company ("SDG&E") for a limited exemption from the requirements of Section 851, pursuant to Section 853(b) to lease space at its Mission and El Cajon substations to CalPeak Power LLC for installation and operation of electric generation units.

If the Commission declines to find Section 853(b) applicable, PG&E requests that the Commission authorize PG&E to enter into the proposed Encroachment Agreement with European Grove under Section 851.

Background

PG&E requests Commission exemption under Public Utilities Code Section 853(b), or, alternatively, approval under Public Utilities Code Section 851, to allow European Grove to construct and maintain a concrete block sound wall within one of PG&E's easements in the City of Fresno in Fresno County. In accordance with Resolution ALJ-186, Appendix B, Section III.B, PG&E provides the following information related to the proposed transaction:

(a) Identity of All Parties to the Proposed Transaction:

Pacific Gas and Electric Company Andrew L. Niven	European Grove at Fig Garden III, L.P.
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¹ The City of Fresno's Environmental Assessment Initial Study (Application No. T-5433) is included as Attachment 4.

Peter Van Mieghem
Law Department
P.O. Box 7442
San Francisco, CA 94120
Telephone: (415) 973-2902
Facsimile: (415) 973-5520
Email: PPV1@pge.com

Jim Igic c/o Wathen-Castanos, Inc.
7259 N. First Street, Suite 101
Fresno, CA 93720
Telephone: (559) 432-8181
Email: jgic@ wathen-castanos.com

(b) Complete Description of the Property Including Present Location, Condition and Use:

PG&E owns, operates and maintains the Fig Garden 230 kV underground electric transmission line ("Transmission Line"), a portion of which crosses certain undeveloped property owned by European Grove, located adjacent to the existing single and multiple family residence currently under development at North Brawley Avenue at West Browning Avenue in the City of Fresno, Fresno County, California and identified as Assessors Parcel Numbers ("APN") 415-101-03 through 10S and 415-027-10S (the "Property"). PG&E has an easement over the Property, pursuant to a certain Grant of Easements dated October 21, 1976, and recorded in Book 6669 of Official Records at page 874; and dated October 21, 1976, and recorded in Book 6669 of Official Records at page 883, Fresno County Records ("Easement"), for that portion of the Transmission Line that crosses the Property. The Easement expressly prohibits construction of any buildings or other structures within the easement area.

Although the area surrounding the Property and the Easement is undeveloped, European Grove is seeking approval from the City of Fresno to construct a housing development on a portion of the Property located adjacent to the east and west of the Easement area. As a condition of approval from the City of Fresno, European Grove must install a permanent eight-foot-eight-inch high concrete masonry block sound wall ("Sound Wall") including retaining walls, concrete foundations and other associated improvements as a noise barrier between the subdivision boundary of the proposed housing development and nearby public roads. The only feasible location for the Sound Wall has been determined by European Grove to be within PG&E's Easement. The Sound Wall is necessary to reduce noise pollution to acceptable levels for the health and safety of the residents in the housing development.

(c) Intended Use of the Property:

The proposed encroachment onto PG&E's Easement is for the installation of the Sound Wall. European Grove is requesting permission from PG&E in the form of an Encroachment Agreement to allow the construction of the Sound Wall that will run parallel with and inside of the Easement. The

Encroachment Agreement will require European Grove to maintain the Sound Wall for the term of the Encroachment Agreement, unless PG&E exercises an express unilateral right to terminate the Encroachment Agreement on 90 days advance notice in the event the Sound Wall ever interferes with PG&E's operations in the Easement, as more particularly described in the Encroachment Agreement. (See Attachment 1.) The Sound Wall, as currently proposed, will not interfere with PG&E's existing facilities and will be designed and constructed in such a way so as not to hinder access to, or maintenance of, PG&E's facilities in the Easement. The project design calls for adequate access on both sides of the sound wall so that PG&E maintenance can be performed without hindrance. Maps of the construction area are provided in Exhibit C to Attachment 1.

(d) Complete Description of Financial Terms of the Proposed Transaction:

PG&E is not collecting any use fees associated with granting European Grove's encroachment of the Easement. By consenting to this prohibited construction and use on the Easement, PG&E is supporting economic development of this area. Placement of the Sound Wall within the Easement does not rise to the level of a right that has any realizable economic value to PG&E.

(e) Indication of How Financial Proceeds of the Transaction Will Be Distributed:

Not applicable.

(f) Sufficient Information and Documentation (Including Environmental Review Information) To Indicate that All Criteria Set Forth in Section II(A) of Resolution ALJ-186 Are Satisfied:

PG&E has provided information in this advice letter to meet the eligibility criteria under the advice letter pilot program. Under the CEQA Checklist, the activity proposed in the transaction will not require environmental review by the CPUC as a lead agency. The proposed transaction will not have an adverse effect on the public interest. In fact, the proposed transaction will serve the public interest because it is part of a larger residential subdivision development project which will serve the housing needs of the City of Fresno. Since PG&E is not collecting any fees associated with granting European Grove an Encroachment Agreement, the proposed encroachment is well below the \$5 million threshold set forth for fee property and lease equivalents. Finally, the transaction does not involve the transfer or change in ownership of facilities currently used in utility operations.

(g) Complete Description of any Recent Past (Within the Prior Two Years) or Anticipated Future Transactions that May Appear To Be Related to the Present Transaction:

Not applicable.

(h) For Sales of Real Property and Depreciable Assets, the Advice Letter Shall Include the Original Cost, Present Book Value, and Present Fair Market Value, and a Detailed Description of How the Fair Market Value Was Determined (e.g., Appraisal):

Not applicable.

(i) For Leases of Real Property, the Advice Letter Shall Include the Fair Market Rental Value, and a Detailed Description of How the Fair Market Rental Value Was Determined:

Not applicable.

(j) Additional Information to Assist in the Review of the Advice Letter:

No additional information is readily available, other than what is already included with this filing.

(k) CEQA Checklist

Exemption

(1) Has the proposed transaction been found exempt from CEQA by a government agency?

The proposed transaction was not found exempt from CEQA by the City of Fresno.

(a) If yes, please attach notice of exemption. Please provide name of agency, date of exemption, and state clearinghouse number.

Not applicable.

(b) If no, does the applicant contend that the project is exempt from CEQA? If yes, please identify the specific exemption or exemptions that apply, citing to the applicable CEQA guideline(s).

Not applicable.

Prior or Subsequent CEQA review

(1) Has the project undergone CEQA review by another government agency? If yes, please identify the agency, the CEQA document that was prepared (EIR, MND, etc.) and its date, and provide one copy of any and all CEQA documents to the Director of the relevant Industry Division with a copy of the advice letter. Be prepared to provide additional copies upon request.

The City of Fresno has conducted a CEQA review and issued a Mitigated Negative Declaration ("MND"). (See Attachment 2) In the MND, the City of Fresno concluded that the proposed housing development, and all activities associated with it, will not have any significant adverse impacts on the environment. The MND also identifies and addresses several other impacts, including air quality, water, noise, and transportation and circulation, and determined appropriate mitigation measures. The City of Fresno voted to adopt the MND on January 19, 2005. On February 9, 2005, the City of Fresno Planning Commission approved Consideration of Plan Amendment Application No. A-04-26, Rezone Application No. R-04-84 and Environmental Assessment No. A-04-26/R-04-84/T-5433/C-04-272. (See Attachment 3)

Environmental documents for previous plan actions include Final EIR No. 10130 (2025 Fresno General Plan). Additional environmental documents have been certified for major public facilities to accommodate population growth and urban development including Final EIR No. 10118 (Fresno/Clovis Regional Wastewater Treatment and Reclamation Facility Capacity Expansion) and Final EIR No. SCH 95022029 (Fresno Metropolitan Water Resource Management Plan). These environmental impact analyses and conclusions, together with supporting technical studies, address the impacts of population growth and the necessary public facility capacity expansion associated with the urban development that will accommodate this growth within the City of Fresno's 2025 General Plan Urban Area Boundary and Sphere of Influence.

(2) Identify any aspects of the project or its environment that have changed since the issuance of the prior CEQA document.

PG&E is not aware of any changes that have occurred since the issuance of the MND and Initial Study.

(3) Identify and provide section and page numbers for the environmental impacts, mitigation measures, and findings in the prior CEQA document that relate to the approval sought from the CPUC.

Please see the City of Fresno's Initial Study (Application No. A-04-26/R-04-84/C-04-272/T-5433) for further discussion on the following categories of CEQA review. (See Attachment 4.)

- Section 1.0: Topographic, Soil, Geologic Considerations (page 3)
- Section 2.0: Air Quality (page 3)
- Section 3.0: Water (page 5)
- Section 4.0: Plant Life (page 6)
- Section 5.0: Animal Life (page 6)
- Section 6.0: Human Health (page 6)
- Section 7.0: Noise (page 6)
- Section 9.0: Land Use (page 7)
- Section 10.0: Transportation and Circulation (page 8)
- Section 11.0-7: Urban Services (page 11)
- Section 14.0: Historical/Archaeological (page 12)

(4) Does the project require approval by governmental agencies other than the CPUC? If so, please identify all such agencies, and the type of approval that is required from each agency.

The County's environmental determination is final and conclusive on the Commission. (CEQA Guidelines, § 15050(c).) A duplicative environmental review by the Commission would be inconsistent with the CEQA's mandates, frustrate the goal of administrative efficiency, and thus fail to serve the public interest. Therefore, while the Commission, as a Responsible Agency, must review and consider the environmental documents prepared by the County, the Commission need not perform an independent CEQA review as part of this Section 851 review.

Need CEQA?

If no exemption is applicable, and no prior review has occurred, please identify what applicant believes is the correct level of CEQA review.

Not Applicable.

Protests

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, by facsimile or electronically, any of which must be received no later than 30 days

after the date of this filing, which is **October 9, 2006**. Protests should be mailed to:

CPUC Energy Division
Attention: Tariff Unit, 4th Floor
505 Van Ness Avenue
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: jjr@cpuc.ca.gov and jnj@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or delivered to the Commission:

Pacific Gas and Electric Company
Attention: Brian Cherry
Vice President, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-7226
E-mail: PGETariffs@pge.com

Effective Date

Pursuant to the review process outlined in Resolution ALJ-186, PG&E requests that this advice filing become effective on **October 23, 2006**, which is 45 calendar days after the date of filing.

Notice

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes should be directed to Rose de la Torre at (415) 973-4716. Advice letter filings can also be accessed electronically at:

<http://www.pge.com/tariffs>

Brian K. Cherry /TEM

Vice President, Regulatory Relations

Attachments 1-4.

cc: Service List – GO 96-A
ALJ Peter V. Allen, CPUC
ALJ Lynn T. Carew, CPUC
Andrew Barnsdale, CPUC – Energy Division
Junaid Rahman, CPUC – Energy Division
Brewster Fong, ORA
Jim Igic - Wathen-Castanos, Inc.

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. Pacific Gas and Electric Company U39M

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: Ted Maguire

Phone #: (415) 973-0888

E-mail: temn@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas
PLC = Pipeline HEAT = Heat WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: 2900-E

Subject of AL: European Grove Sound Wall Encroachment Agreement - Request for Confirmation of Exemption Under Section 853(b) or, In the Alternative, for Approval Under Section 851

Keywords (choose from CPUC listing): Section 851

AL filing type: Monthly Quarterly Annual One-Time Other _____

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution: N/A

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL _____

Summarize differences between the AL and the prior withdrawn or rejected AL: _____

Resolution Required? Yes No

Requested effective date: 10/23/2006

No. of tariff sheets: 0

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed: N/A

Pending advice letters that revise the same tariff sheets: N/A

Protests and all other correspondence regarding this AL are due no later than 30 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Ave.,
San Francisco, CA 94102
jjr@cpuc.ca.gov and jnj@cpuc.ca.gov

Pacific Gas and Electric Company
Attn: Brian K. Cherry
Vice President, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177
E-mail: PGETariffs@pge.com

Attachment 1

RECORDING REQUESTED BY AND RETURN TO:

PACIFIC GAS AND ELECTRIC COMPANY
Land Services Office
650 O Street Mail Bag 23
Fresno, CA 93760-0001

Location: City/Uninc _____
Recording Fee \$ _____
Document Transfer Tax \$ _____

- This is a conveyance where the consideration and Value is less than \$100.00 (R&T 11911).
- Computed on Full Value of Property Conveyed, or
- Computed on Full Value Less Liens & Encumbrances Remaining at Time of Sale

Signature of declarant or agent determining tax

(APN 415-101- 03 thru 10S & 415-027-10S)

ENCROACHMENT AGREEMENT

This Encroachment Agreement (this "**Agreement**") is made and entered into this ___ day of _____, 2006 by PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called "**PG&E**", and European Grove at Fig Garden III, L.P., a California Limited Partnership, hereinafter called "**Owners**."

RECITALS

A. Owners are the fee title owners of certain real property within the County of Fresno, State of California, Assessor's Parcel Number APN 415-101- 03 thru 10S & 415-027-10S (hereinafter, the "**Property**") legally described in **Exhibit "A"** attached hereto and made a part hereof.

B. PG&E is the owner of a certain easement and right-of-way (the "**Easement**") for the transmission of electric energy and for all other purposes connected therewith, as set forth in the Grant of Easements dated October 21, 1976, and recorded in Book 6699 of Official Records at page 874, and page 883, Fresno County Records which provides in part that "no building or like structure shall be erected or constructed on the premises." The portion of the Property encumbered by the Easement is hereinafter referred to as the "**Easement Area**."

C. Owners propose to construct a concrete block sound wall and retaining walls including concrete foundations and other improvements associated therewith (the

"Improvements") on the Easement Area, the construction of which violates the prohibition against buildings or other structures contained in the Easement. The Easement Area and the portion of the Easement Area subject to such encroachment (the "Encroachment Area") are legally described in Exhibit "B" attached hereto and made a part hereof, and are shown on the map attached as Exhibit "C".

D. Owners have requested that PG&E grant permission for the construction of the Improvements within the Easement Area. PG&E has determined that the Improvements, to be constructed pursuant to plans and specifications approved by PG&E, do not interfere with the present full use of the Easement Area by PG&E, and PG&E is therefore willing to agree to allow such encroachment on the Easement Area on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owners and PG&E hereby agree as follows:

1. Consent to Encroachment. Notwithstanding the prohibition in the Easement, PG&E hereby consents to the encroachment of the **Improvements** onto the Easement Area by various distances, in the manner and location as more specifically set forth in **Exhibit "B" and "C"** subject to the terms and conditions set forth herein. In addition, Owners shall have the right of ingress and egress over the Easement Area to obtain access to the Encroachment Area and the Improvements when necessary to fulfill Owners' obligations under this Agreement, in such areas as PG&E determines, in its sole and absolute discretion, will occasion the least practicable damage and inconvenience to PG&E, its facilities and operations.

2. Governmental Approvals. This Agreement shall not become effective, notwithstanding that it may have been executed and delivered by the parties, and Owners shall not commence any activity hereunder, unless and until the California Public Utilities Commission (the "CPUC") approves this Agreement by an order which is final, unconditional and unappealable (including exhaustion of all administrative appeals or remedies before the CPUC), and the terms and conditions of such CPUC approval are satisfactory to PG&E in its sole and absolute discretion. This Agreement is made subject to all the provisions of such approval, as more particularly set forth in CPUC Decision _____ (Application No. _____), in like manner as though said provisions were set forth in full herein.

3. Termination; Restoration. **PG&E may terminate Owners' rights under this Agreement, at any time, upon ninety (90) days written notice to the Owners, if PG&E, in its sole and absolute discretion, should determine that Owners' use of the Easement Area is inconsistent with PG&E's operational needs in the future, or in any way interferes with, impairs or otherwise impedes PG&E's full use of facilities installed or that may be installed by PG&E in the vicinity of the Easement Area. Upon such termination, Owners, at Owners' sole cost and expense, shall remove all Improvements that encroach upon the Easement Area and shall repair and restore the Easement Area as nearly as possible to the condition that existed prior to the construction of said Improvements. Owners shall pay the entire cost of such removal and restoration, and PG&E shall have no liability for any costs caused by or related to any such termination. If Owners fail to remove all Improvements that encroach**

onto the Easement Area or fail to repair or restore the Property within said ninety (90) day period, PG&E may perform such removal, repair or restoration as necessary and recover such costs and expenses therefore from Owners. Owners agree to allow access to PG&E onto the Property for such purpose, and Owners shall pay all such costs and expenses within ten (10) days of receipt of an invoice therefore. Owners further acknowledge that PG&E's termination right shall not be affected by any Improvements that Owners have made to the Easement Area, regardless of the nature or extent of those Improvements. Owners understand and agree that notwithstanding that Owners may have made a substantial investment in such improvements, Owners shall not be entitled to any compensation whatsoever for the termination of Owners' rights under this Agreement by PG&E. (Owners to initial here _____, _____).

4. Indemnification; Release.

(a) Indemnification. Owners shall, to the maximum extent permitted by law, indemnify, protect, defend and hold harmless PG&E, its parent corporation, subsidiaries and affiliates, and their respective officers, managers, directors, representatives, agents, employees, transferees, successors and assigns (each, an "**Indemnitee**" and collectively, "**Indemnitees**") from and against all claims, losses (including, but not limited to, diminution in value), actions, demands, damages, costs, expenses (including, but not limited to, experts fees and reasonable attorneys' fees and costs) and liabilities of whatever kind or nature (collectively, "**Claims**"), which arise from or are in any way connected with the occupancy or use of the Easement Area by Owners or Owners' contractors, agents, or invitees, or the exercise by Owners of its rights hereunder, or the performance of, or failure to perform, Owners' duties under this Agreement, including, but not limited to, Claims arising out of: (1) injury to or death of persons, including but not limited to employees of PG&E; (2) injury to property or other interest of PG&E, Owners or any third party; (3) violation of any applicable federal, state, or local laws, statutes, regulations, or ordinances, including all legal requirements relating to human health or the environment, and including any liability which may be imposed by law or regulation without regard to fault; excepting only with respect to any Indemnitee, any Claim arising from the sole, active negligence or willful misconduct of such Indemnitee. In the event any action or proceeding is brought against any Indemnitee for any Claim against which Owners are obligated to indemnify or provide a defense hereunder, Owners upon written notice from PG&E shall defend such action or proceeding at Owners' sole expense by counsel approved by PG&E, which approval shall not be unreasonably withheld, conditioned or delayed.

(b) Release. Owners accept all risk relating to its occupancy and use of the Easement Area. PG&E shall not be liable to Owners for, and Owners hereby waive, release, exonerate, discharge and covenant not to sue PG&E and the other Indemnitees from, any and all liability, whether in contract, tort or on any other basis, for any injury, damage, or loss resulting from or attributable to any occurrence on or about the Easement Area, the condition of Easement Area, the use or occupancy of the Easement Area by Owners, or PG&E's operation and maintenance of PG&E's facilities in the vicinity of the Easement Area, except in the case of any Indemnitee, any injury, damage, or loss arising from the sole, active negligence or willful misconduct of such Indemnitee.

5. Compliance with Laws. Owners shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances, rules, regulations, requirements or orders of municipal, state, and federal authorities now in force or that may later be in force, with the conditions of any permit, relating to Owners' use or occupancy of the Easement Area.

6. Alterations. Except for the Improvements authorized to be constructed pursuant to this Agreement, Owners shall not construct any additional buildings or structures on the Easement Area, nor shall Owners make any alteration, addition or improvement to the Easement Area that would increase the Encroachment Area, either horizontally or vertically. Owner shall not drill, bore or excavate on the Easement Area except in connection with construction of the Improvements pursuant to plans and specifications approved by PG&E, or a removal of the Improvements as required by this Agreement.

7. Damage or Destruction. In the event that the Improvements which encroach onto the Easement Area shall be destroyed or demolished, Owners shall not rebuild the Improvements on any part of the Easement Area except pursuant to plans and specifications approved by PG&E.

8. Condition of Easement Area. Owners accept the Encroachment Area and the Easement Area in its existing physical condition, without warranty by PG&E or any duty or obligation on the part of PG&E to maintain the Easement Area. Owners understand that numerous hazards, environmental or otherwise, may be located in, on, or underlying the Easement Area, and that hazardous materials may be used in connection with PG&E facilities that may be operated in the Easement Area, and agrees that entry onto the Easement Area is at Owners' sole risk and expense

9. Maintenance. Owners shall be responsible for the maintenance of the Improvements in good condition and repair, and Owners shall coordinate all activities regarding the maintenance of the Improvements to reasonably minimize any interference with the use by PG&E of the Easement Area, and Owners shall conduct its activities in such a manner so as not to endanger the Easement, the environment and human health and safety. Owners shall be responsible for remediation of any hazardous materials release caused by Owners, and to clean and remove debris and/or promptly repair any damages to the Easement Area following any entry or activity by Owners, returning the Easement Area to a like or better condition.

10. Reserved Rights. PG&E reserves the right to use the Easement Area for such purposes as it may deem necessary or appropriate if, and whenever, in the interest of its service to its patrons or consumers, or the public, it shall appear necessary or desirable to do so. Furthermore, PG&E reserves the right to restrict access to the Easement Area if emergency repairs or maintenance are required to PG&E facilities in the vicinity of the Easement Area.

11. Insurance. Prior to the Effective Date of this Agreement, Owners shall procure, and thereafter Owners shall carry and maintain in effect at all times the following insurance: Worker's Compensation in compliance with applicable labor codes, acts, laws or statutes, state or federal, where Owners perform work and Employer's Liability insurance with limits not be less than \$1,000,000 for injury or death, each accident; Commercial General Liability for bodily injury and property damage with limits of not less than \$1,000,000 each occurrence/\$2,000,000 aggregate; Business Auto, code 1 "any auto" combined single limit no less than \$1,000,000 each accident.

Owners are also responsible for causing its agents, contractors and subcontractors to comply with the insurance requirements of this Agreement at all relevant times.

12. Notice. Any notices or communications hereunder shall be in writing and shall be personally delivered or sent by first class mail, certified or registered, postage prepaid, or sent by national overnight courier, with charges prepaid for next business day delivery, addressed to the addressee party at its address or addresses listed below, or to such other address or addresses for a party as such party may from time to time designate by notice given to the other party. Notices shall be deemed received, if sent by personal delivery upon actual receipt by the party being sent the notice, or on the expiration of three (3) business days after the date of mailing, or on the following business day if sent by overnight courier

If to PG&E:

Pacific Gas and Electric Company
Attention: Land Agent
650 O Street Mail Bag 23
Fresno, CA 93760

With a copy to:

(By Mail)
Wendy T. Coleman, Esq.
Pacific Gas and Electric Company
P.O. Box 7442
San Francisco, CA 94120

OR

(By Courier)
Wendy T. Coleman, Esq.
Pacific Gas and Electric Company
77 Beale Street, Mail Code B30A
San Francisco, CA 94105

If to Owners:

European Grove at Fig Garden III, L.P., a California Limited Partnership
Attention: Jim Igit c/o Wathen-Castanos, Inc.
Address: 7259 N. First Street, Suite 101
Fresno, CA 93720

13. Governing Law. This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California.

14. Entire Agreement. This Agreement and the Deed, supersedes all previous oral and written agreements between and representations by or on behalf of the parties and constitutes the

entire agreement of the parties with respect to the subject matter hereof. This Agreement may not be amended except by a written agreement executed by the parties.

15. Binding Effect. This Agreement and the covenants and agreements contained herein shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, successors and assigns (subject to the provisions of Section 17 below). No assignment or delegation by Owners, whether by operation of law or otherwise, shall relieve Owners of any of its duties, obligations or liabilities hereunder, in whole or in part. The covenants of Owners hereunder shall run with the land.

16. Assignment. This Agreement and the rights of Owners hereunder are appurtenant to the Property presently owned by Owners and may not be separately assigned, transferred, conveyed or encumbered. Any purported assignment, transfer, conveyance or encumbrance violating the foregoing condition shall be void and of no effect.

17. Attorneys' Fees. Should either party bring an action against the other party, by reason of or alleging the failure of the other party with respect to any or all of its obligations hereunder, whether for declaratory or other relief, then the party which prevails in such action shall be entitled to its reasonable attorneys' fees (of both in-house and outside counsel) and expenses related to such action, in addition to all other recovery or relief. A party shall be deemed to have prevailed in any such action (without limiting the generality of the foregoing) if such action is dismissed upon the payment by the other party of the sums allegedly due or the performance of obligations allegedly not complied with, or if such party obtains substantially the relief sought by it in the action, irrespective of whether such action is prosecuted to judgment.

18. Survival of Obligations. Owners' obligations under Sections 3 and 4 of this Agreement, and all representations, warranties, indemnities or other provisions which by their nature survive termination shall survive the exercise of PG&E's termination rights pursuant to Section 3 of this Agreement.

19. No Waiver. No waiver with respect to any provision of this Agreement shall be effective unless in writing and signed by the party against whom it is asserted. No waiver of any provision of this Agreement by a party shall be construed as a waiver of any subsequent breach or failure of the same term or condition, or as a waiver of any other provision of this Agreement.

20. Captions. The captions in this Agreement are for reference only and shall in no way define or interpret any provision hereof.

21. Counterparts. This Agreement may be executed in identical counterpart copies, each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

22. Recording. Owners hereby consent and agree to the recording by PG&E of this Agreement against the Property. Owners agree to sign any additional documents reasonably required to complete such recording.

23. Ratification of Deed. Except as modified by this Agreement in regard to the Property, all of the terms, conditions and provisions of the Deed shall remain in full force and

effect and are hereby ratified and confirmed. To the extent the terms of the Deed are inconsistent with this Agreement, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

"PG&E"

"Owners"

PACIFIC GAS AND ELECTRIC COMPANY,
a California corporation

European Grove at Fig Garden III, L.P., a
California Limited Partnership

By: _____
Richard A. Gigliotti

By: _____
Kevin J. Castanos, President

Its: Land Services Manager
Technical Services

By: _____
Richard G. Wathen, Vice President

Area 4 – Fresno LSO
Electric Transmission
Encroachment Agreement
MDB&M, T13S, R19E,
SEC. 12, W ½ of SW ¼
FERC # N/A
Drawing # Exhibit B
AF/RE: 2213-19-0709 & 2213-19-0710
Type of Interest 2,11b,42
SBE# N/A
% of Quitclaim N/A
PM# 40248719 – OP#0050
JCN# N/A
County Fresno
Utility Notice #
Prepared By Kap
Checked By FW

Exhibit "A"
Legal Description of Existing Parcels

Outlots A, E, and G of Tract No. 5455, recorded in Volume 74 of Plats, at Pages 51 through 54, Fresno County Records, in the City of Fresno, County of Fresno, State of California.



Exhibit "B"
Legal Description of PG&E Encroachment

A Portion of Outlot A of Tract No. 5455, recorded in Volume 74 of Plats, at Pages 51 through 54, Fresno County Records, in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

Beginning at the Southwest corner of said Outlot A;

Thence, North 00°29'50" East, along the West line of said Outlot A, a distance of 132.97 feet to the Northwesterly line of a 100.00 foot wide Pacific Gas & Electric easement, recorded December 2, 1976 as Document No. 107916, in Book 6699, at Page 883, Official Records of Fresno County;

Thence, North 36°56'11" East, along the Northwesterly line of said 100.00 foot Pacific Gas & Electric easement, a distance of 10.10 feet to a line parallel with and distant 6.00 feet East of the West line of said Outlot A;

Thence, South 00°29'50" West, along last said parallel line, a distance of 135.05 feet to a line parallel with and distant 6.00 feet North of the South line of said Outlot A;

Thence, South 89°56'50" East, along last said parallel line, a distance of 24.74 feet to the Southeasterly line of said Outlot A, also being the Southeasterly line of said 100.00 foot Pacific Gas & Electric easement;

Thence, South 36°56'11" West, along the Southeasterly line of said Outlot A, a distance of 7.50 feet to the South line of said Outlot A;

Thence, North 89°56'50" West, along said South line, a distance of 26.28 feet to the **Point of Beginning**

TOGETHER WITH a portion of Outlot E of said Tract No. 5455, more particularly described as follows:

The Northeast 4.00 feet of said Outlot E, as measured at right angles to the Northeasterly line of said Outlot E.

TOGETHER WITH a portion of said Outlot E of Tract No. 5455, more particularly described as follows:

Commencing at the most Westerly corner of said Outlot E;

Thence, South 51°02'06" East, along the Southwesterly line of said Outlot E, a distance of 45.03 feet to the **True Point of Beginning**;

Thence, at right angles, North 38°57'54" East, a distance of 6.00 feet to a line parallel with and distant 6.00 feet Northeast of the Southwesterly line of said Outlot E;

Thence, at right angles, South 51°02'06" East, along last said parallel line, a distance of 10.00 feet;

Thence, at right angles, South 38°57'54" West, a distance of 6.00 feet to the Southwesterly line of said Outlot E;

Thence, at right angles, North 51°02'06" West, along the Southwesterly line of said Outlot E, a distance of 10.00 feet to the **True Point of Beginning**.

TOGETHER WITH a portion of Outlot G of said Tract No. 5455, more particularly described as follows:

The Northeast 4.00 feet of that portion of said Outlot G lying within the easement granted to the Pacific Gas and Electric Company, recorded December 2, 1976 as Document No. 107913, in Book 6699, at Page 874, Official Records of Fresno County, said 4.00 feet being measured at right angles to the northeasterly line of said Outlot G.

Contains approximately 1,817 square feet.





OUTLOT A

APN: 509-030-515

N36°56'11"E 10.10'

OUTLOT F
NORTH
CITRUS
LANE

OUTLOT K

OUTLOT F
NORTH
CITRUS
LANE

OUTLOT F
WEST POMEGRANATE LANE



100'

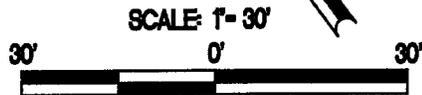
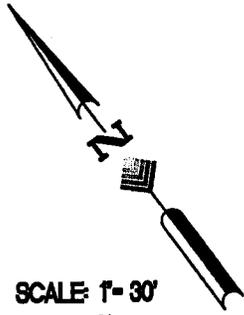
TRACT 5455
VOLUME 74 OF PLATS
AT PAGES 51-54, F.C.R.

OUTLOT A

24

NOTES:

- SEE EXHIBIT C-3 FOR WALL CROSS SECTION A-A



LEGEND

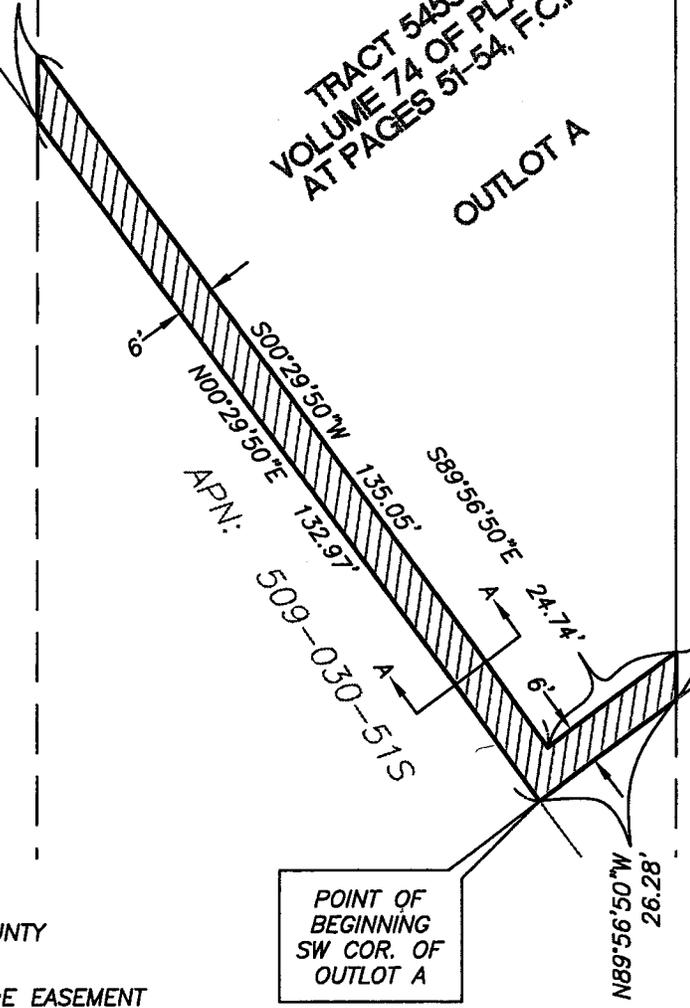
- F.C.R. FRESNO COUNTY RECORDS
- O.R.F.C. OFFICIAL RECORDS OF FRESNO COUNTY



AREA OF ENCROACHMENT INTO PG&E EASEMENT CONSISTING OF APPROXIMATELY 957 SQUARE FEET



100' PACIFIC GAS & ELECTRIC EASEMENT RECORDED DEC. 2, 1976, AS DOC. NO. 107916 IN BOOK 6699, PAGE 883, O.R.F.C.



APN: 509-030-515

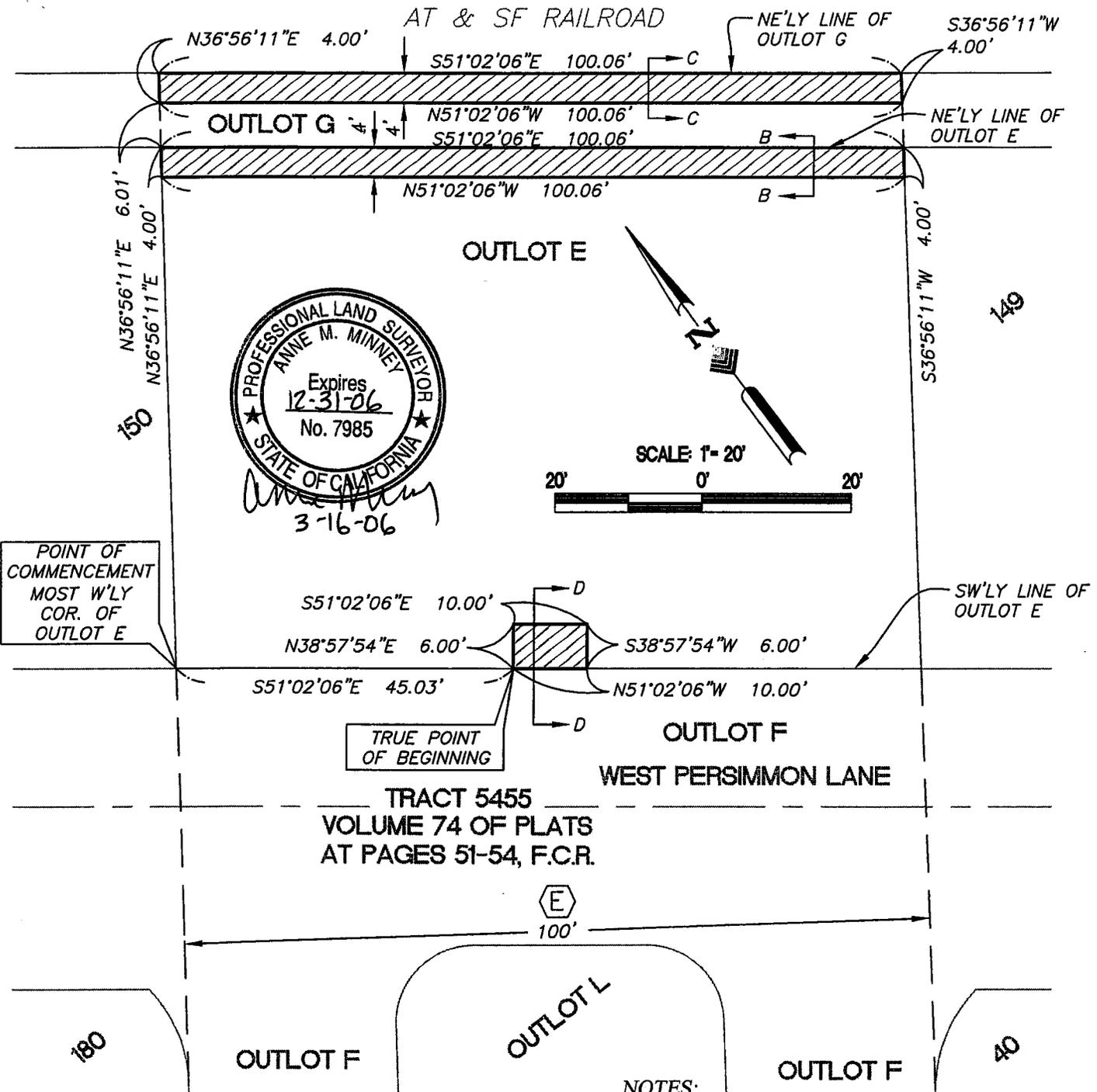
LOT 215 OF TRACT NO. 3402
SUNRISE MEADOWS
VOL. 39 OF PLATS, AT PGS. 35-37, F.C.R.

EXHIBIT "C-1"

PG&E ENCROACHMENT
TRACT 5455
OUTLOT A

APPROVED BY: AMM	DATE: 02-21-06
DRAWN BY: IMB	SCALE: 1" = 30'
CHECKED BY: AMM	REVISION:
DRAWING NO. 04733 PG&E.DWG	





- NOTES:
1. SEE EXHIBIT C-4 FOR WALL CROSS SECTION B-B
 2. SEE EXHIBIT C-5 FOR WALL CROSS SECTION C-C
 3. SEE EXHIBIT C-6 FOR WALL CROSS SECTION D-D

LEGEND

O.R.F.C. OFFICIAL RECORDS OF FRESNO COUNTY
F.C.R. FRESNO COUNTY RECORDS

AREA OF ENCROACHMENT INTO PG&E EASEMENT CONSISTING OF APPROXIMATELY 860 SQUARE FEET

100' PACIFIC GAS & ELECTRIC EASEMENT RECORDED DEC. 2, 1976, AS DOC. NO. 107913 IN BOOK 6699, PAGE 874, O.R.F.C.

L:\Projects\2004\04733\ACAD\Exhibit\PG&E\PG&E ENCROACH.dwg 3/16/2006 8:11:13 AM PST

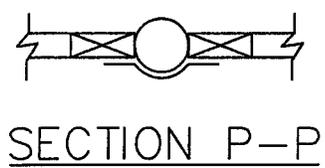
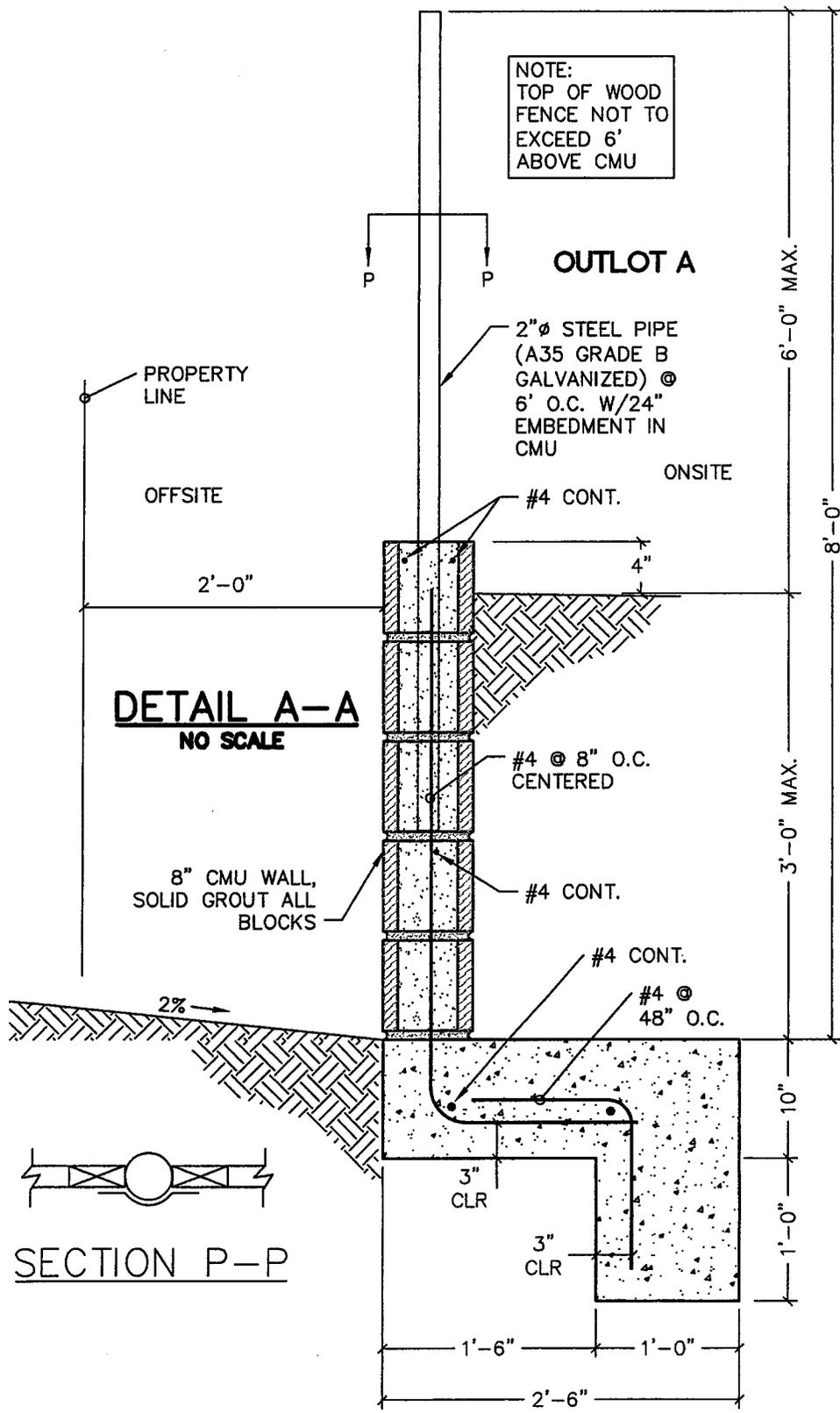
EXHIBIT "C-2"

**PG&E ENCROACHMENT
TRACT 5455
OUTLOTS E & G**

APPROVED BY: AMM	DATE: 02-21-06
DRAWN BY: IMB	SCALE: 1" = 20'
CHECKED BY: AMM	REVISION:
DRAWING NO. 04733 PG&E.DWG	



Quad Knopf



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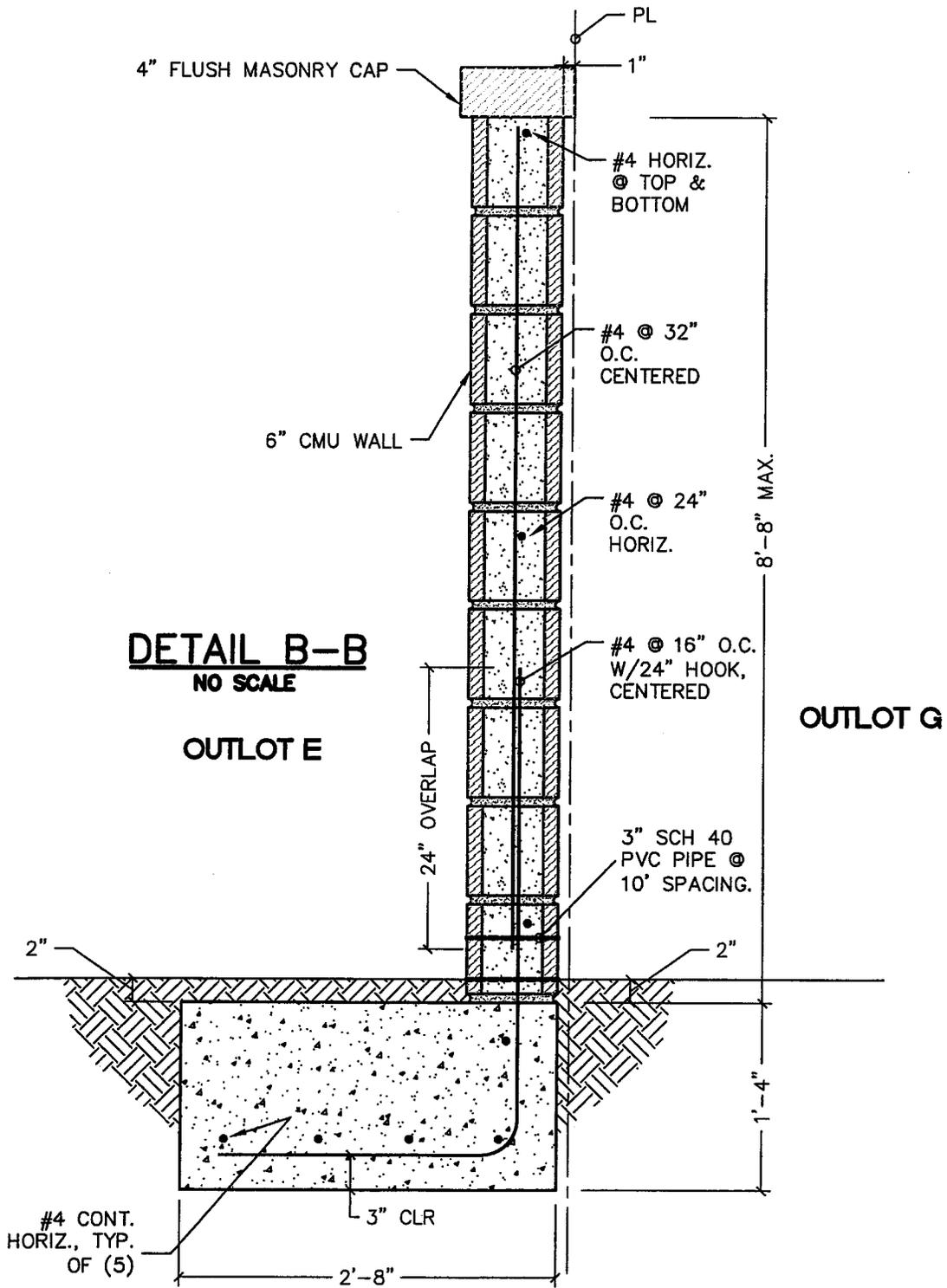


Quad Knopf

EXHIBIT "C-3"

**PG&E ENCROACHMENT
TRACT 5455
WALL CROSS SECTION A-A**

APPROVED BY: AMM	DATE: 02-21-06
DRAWN BY: IMB	SCALE: Not to Scale
CHECKED BY: AMM	REVISION:
DRAWING NO. 04733 PG&E.DWG	



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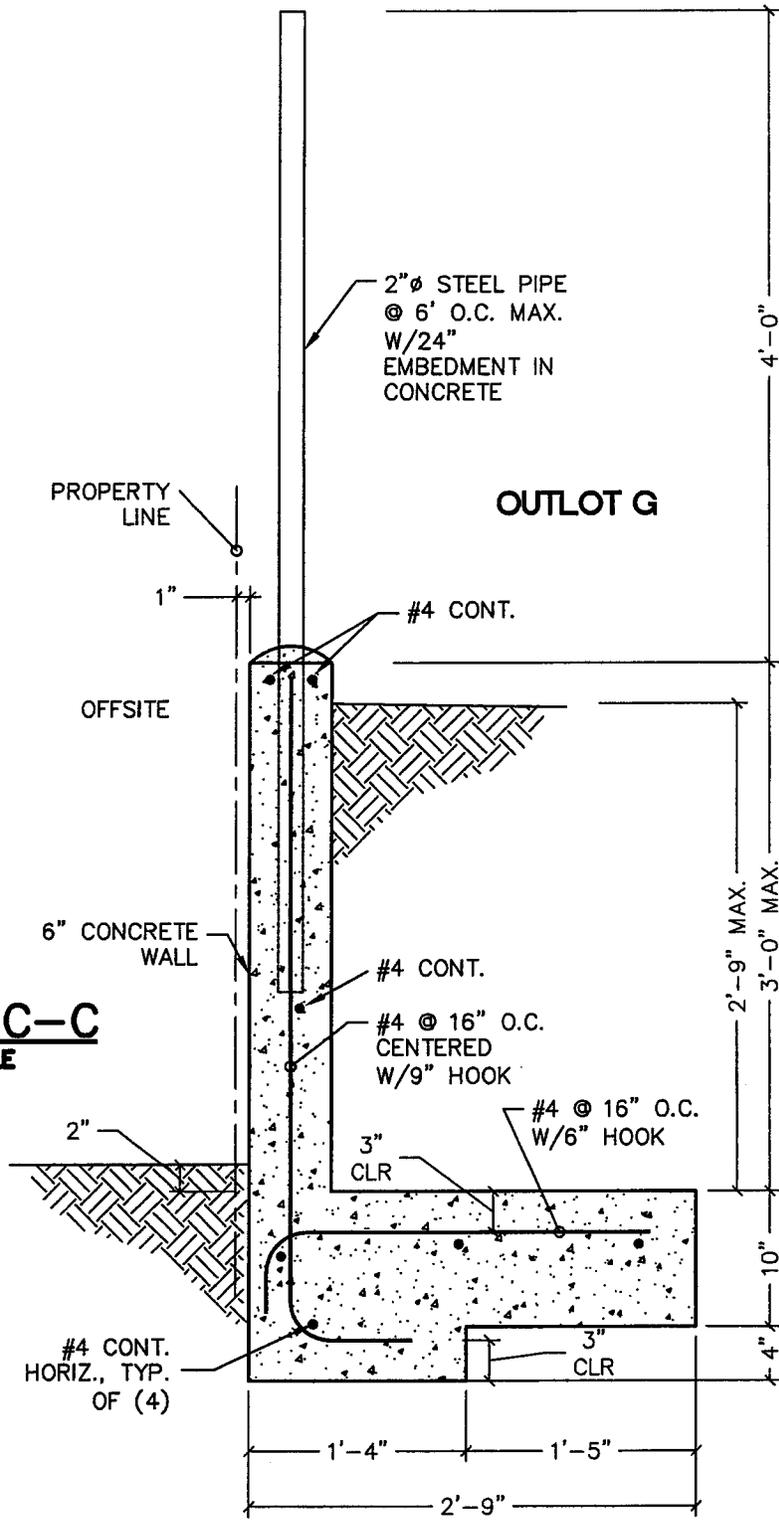
Quad Knopf

EXHIBIT "C-4"

PG&E ENCROACHMENT
TRACT 5455
WALL CROSS SECTION B-B

APPROVED BY: AMM	DATE: 02-21-06
DRAWN BY: IMB	SCALE: Not to Scale
CHECKED BY: AMM	REVISION:
DRAWING NO. 04733 PG&E.DWG	

DETAIL C-C
NO SCALE



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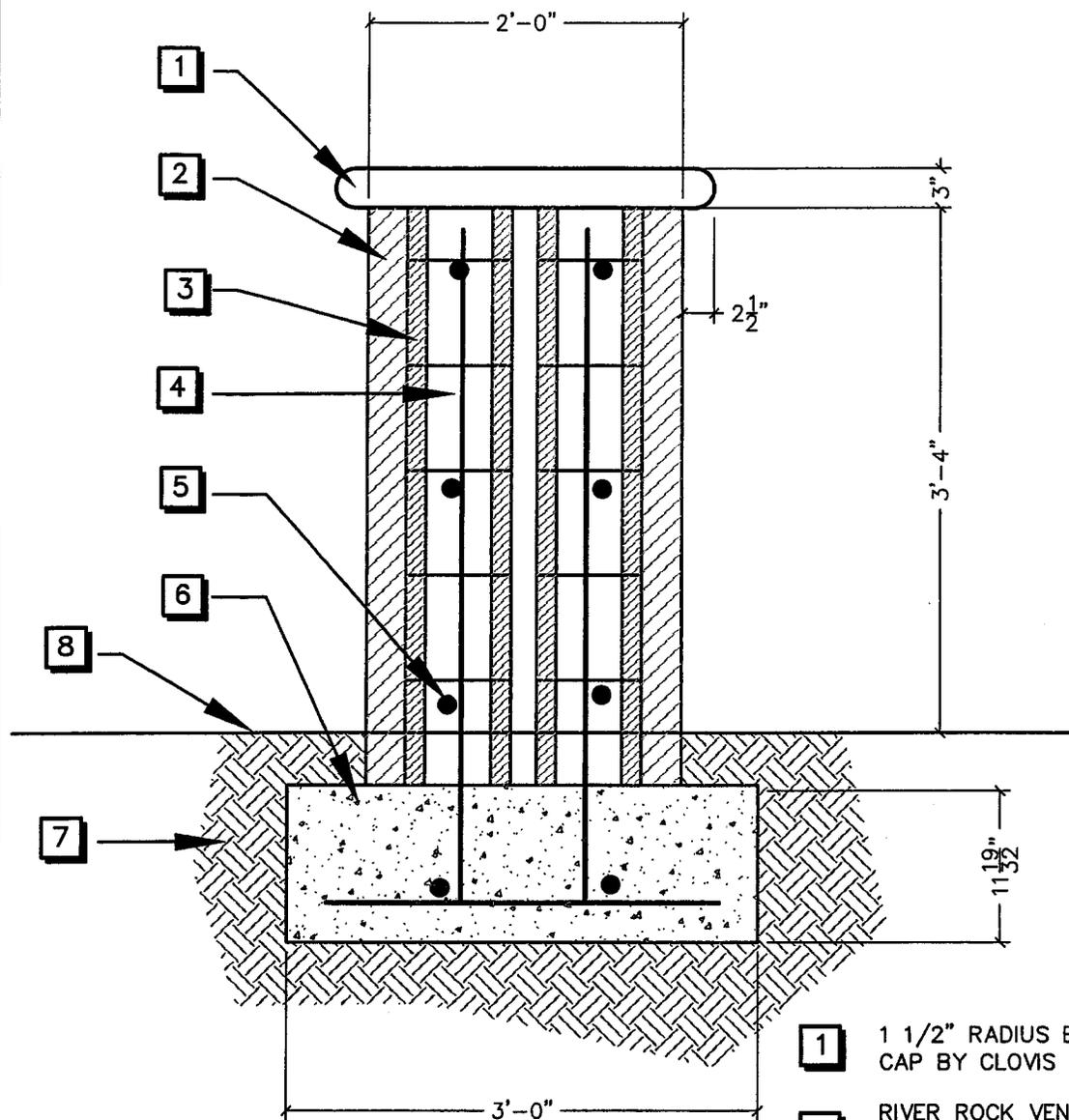


Quad Knopf

EXHIBIT "C-5"

**PG&E ENCROACHMENT
TRACT 5455
WALL CROSS SECTION C-C**

APPROVED BY: AMM	DATE: 02-21-06
DRAWN BY: IMB	SCALE: Not to Scale
CHECKED BY: AMM	REVISION:
DRAWING NO. 04733 PG&E.DWG	



- 1** 1 1/2" RADIUS BULLNOSE CONCRETE CAP BY CLOVIS STONE
- 2** RIVER ROCK VENEER BY EL DORADO STONE COLOR: "SAGINAW" ALLOW 3"
- 3** 8x8x16 CMU, GROUT FILLED REINFORCED CELLS.
- 4** (4) NO. 4 VERT. REBAR
- 5** NO. 4 HORIZ. REBAR TIES @ 16" O.C.
- 6** CONCRETE FOOTING
- 7** 90% COMPACTED SUBGRADE
- 8** FINISH GRADE

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Quad Knopf

EXHIBIT "C-6"

**PG&E ENCROACHMENT
TRACT 5455
WALL CROSS SECTION D-D**

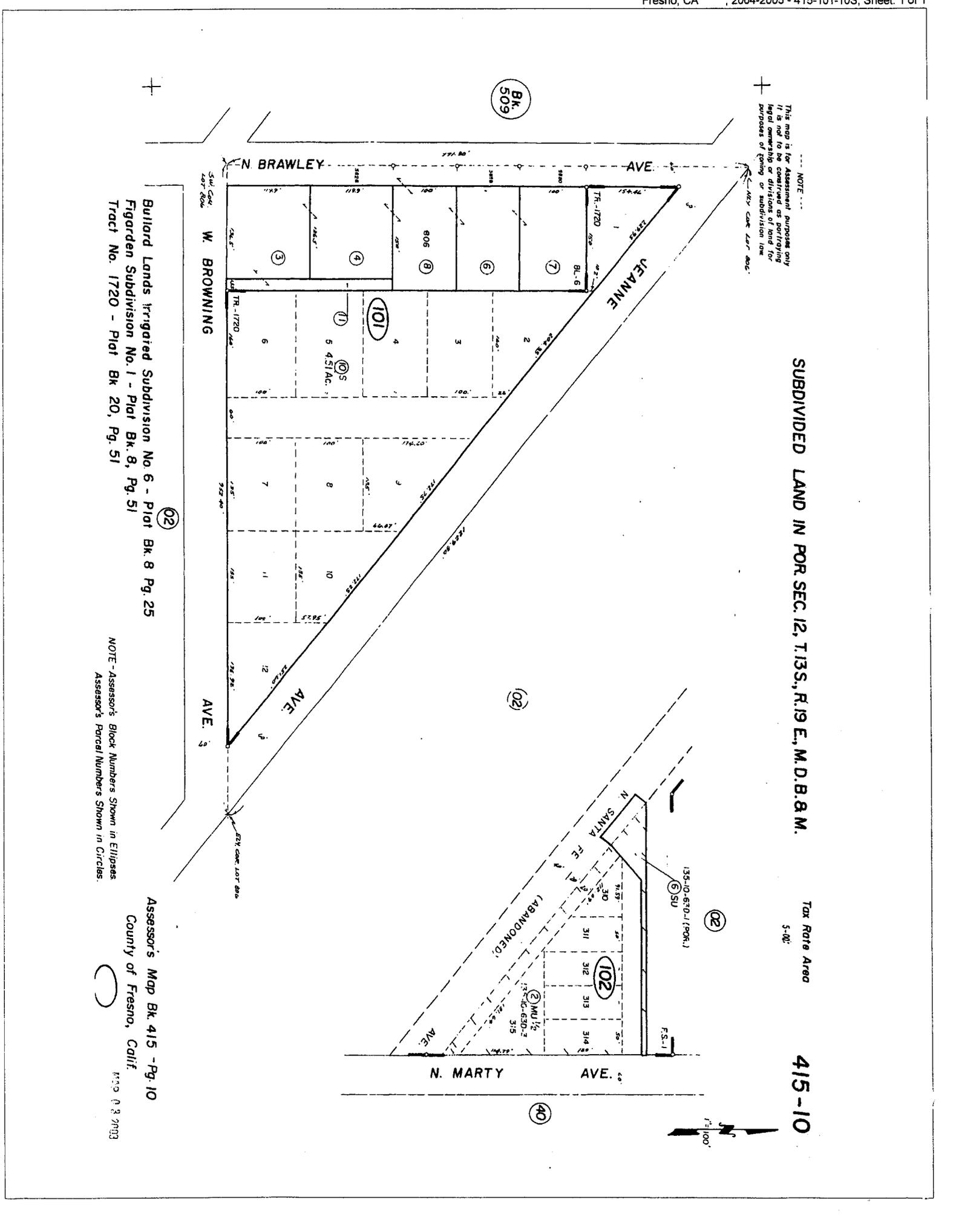
APPROVED BY: AMM	DATE: 02-21-06
DRAWN BY: IMB	SCALE: Not to Scale
CHECKED BY: AMM	REVISION:
DRAWING NO. 04733 PG&E.DWG	

NOTE
 This map is for Assessment purposes only
 It is not to be construed as purporting
 legal ownership or divisions of land for
 purposes of going or subdivision law.

SUBDIVIDED LAND IN FOR SEC. 12, T.13S., R.19 E., M.D.B.8 M.

Tax Rate Area
 5-00'

415-10



Bullard Lands Irrigated Subdivision No. 6 - Plat Bk. 8 Pg. 25
 Figarden Subdivision No. 1 - Plat Bk. 8, Pg. 51
 Tract No. 1720 - Plat Bk. 20, Pg. 51

NOTE - Assessor's Block Numbers Shown in Ellipses
 Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 415 - Pg. 10
 County of Fresno, Calif.

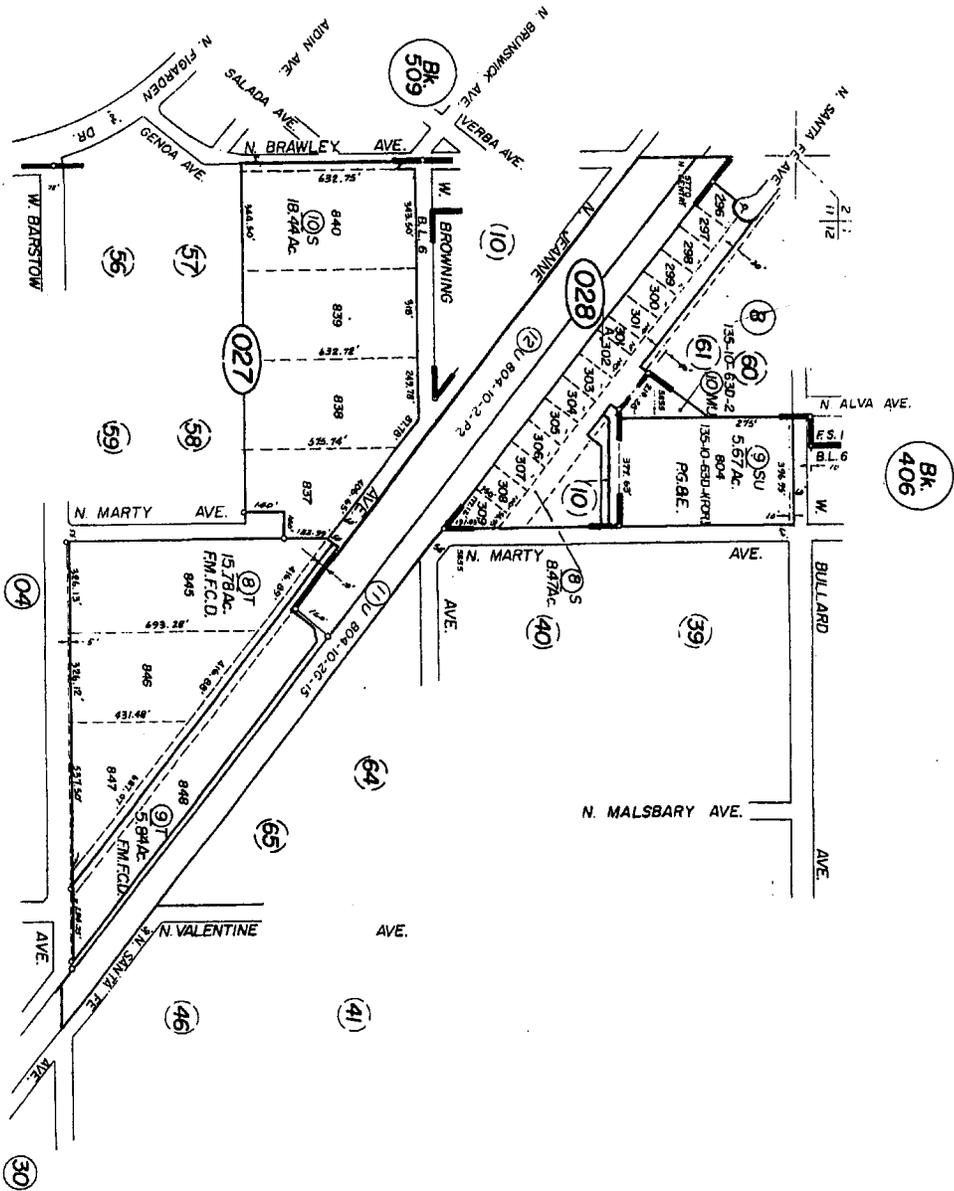
1999 03 2003

NOTE -
This map is for Assessment purposes only.
It is not to be construed as portraying legal
ownership or divisions of land for purposes
of zoning or subdivision law.

SUBDIVIDED LAND IN POR. SEC. 12, T.13S., R.19E., M.D.B.&M.

Tax Rate Area
5-001

415-02



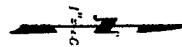
Bullard Lands Irrigated Subdivision No. 6 - Plat Bk. 8, Pg. 25
Figarden Subdivision No. 1 - Plat Bk. 8, Pg. 89

Y-1974

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk. 415 - Pg. 02
County of Fresno, Calif.

MAR 03 2003



Attachment 2

CITY OF FRESNO MITIGATED NEGATIVE DECLARATION

RECEIVED
2005 JAN 19 PM 3:28
CITY CLERK, FRESNO CA

Initial Study is on file in the Planning and Development Department, City Hall
2600 Fresno Street, Fresno, California 93721
(559) 621-8277

Environmental Assessment Number:
A-04-26/R-04-84/
C-04-272/T-5433

APPLICANT: John Allen and WCM Land
PO Box 8548
Calabasas, California 91372

APN: 509-030-10 thru 17;
509-030-19 thru 26; 509-030-29,30,37,38,43,44,48,52,53

PROJECT DESCRIPTION AND LOCATION: John Allen and WCM Land have filed applications pertaining to approximately 56 acres of property located on the easterly side of North Figarden Drive, south of West Bullard Avenue. Plan Amendment Application No. A-04-26 proposes to amend the planned land use designations of the 2025 Fresno General Plan and the Bullard Community Plan from medium high density residential to medium density residential for 10 acres; community commercial to medium density residential for 12 acres; and medium high density residential to community commercial for 11 acres. The plan amendment application also proposes to delete Gates Avenue between North Figarden Drive and West Bullard Avenue and a portion of West Bullard Avenue between North Brunswick and North Bulletin Avenues from the circulation element of the 2025 Fresno General Plan and repeal the official plan lines for these streets. Rezone Application No. R-04-84 proposes to rezone 22 acres of the subject site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the R-2/UGM (*Low Density Multiple Family Residential/Urban Growth Management*) zone district and to rezone 34 acres of the project site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the C-2/BA-20/UGM (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management*) zone district. Vesting Tentative Tract Map No. T-5433/UGM proposes to subdivide the easterly 22-acre portion of the site into a 168-lot single family residential subdivision with 2 outlots. Conditional Use Permit Application No. C-04-272 proposes to allow the subdivision to be developed as a gated planned unit development with private streets and reduced front, side and rear yard setbacks.

Filed with:
REBECCA E. KLISCH, City Clerk
2nd Floor - City Hall
2600 Fresno Street
Fresno, California 93721-3603

The proposed project has been evaluated with respect to each item on the attached environmental checklist. This completed checklist reflects comments of any applicable responsible agencies and research and analysis conducted to examine the interrelationship between the proposed project and the physical environment. The information contained in the Environmental Assessment Application, the checklist, and any attachments to the checklist, combine to form a record indicating that an initial study has been completed in compliance with the State CEQA Guidelines and the California Environmental Quality Act.

Any rating of "2" on the checklist indicates that a specific adverse environmental effect has been identified in a category which is of sufficient magnitude to be of concern. Such an effect may be inherent in the nature and magnitude of the project or may be related to the design and characteristics of the individual project. Effects rated in this manner are not sufficient in themselves to require the preparation of an Environmental Impact Report and/or have been mitigated to the extent feasible.

All new development activity and many non-physical projects contribute directly or indirectly toward a cumulative impact on the physical environment. The incremental effect contributed by this project toward such a cumulative effect is not considered substantial in itself.

The proposed project is not expected to result in any significant adverse effects in terms of the factors considered on the environmental checklist, including any such factors for which minor effects have been identified. Cumulative effects of a significant nature are also not expected. The proposed project will not result in any adverse effects which fall within the "Mandatory Findings of Significance" contained in Section 15065 of the State CEQA Guidelines. The finding is therefore made that the proposed project will clearly not have a significant adverse effect on the environment.

This Mitigated Negative Declaration will be deemed final and effective if no appeal is filed in the manner specified by Section 12-505 of the Fresno Municipal Code.

INITIAL STUDY PREPARED BY: Shelby Chamberlain
Planner

SUBMITTED BY:

Darrell Unruh

DATE: January 19, 2005

DARRELL UNRUH, Planning Manager
PLANNING AND DEVELOPMENT DEPARTMENT

**ENVIRONMENTAL ASSESSMENT (EA) CHECKLIST
POTENTIAL ENVIRONMENTAL EFFECTS**

EA No. A-04-26/R-04-84/C-04-272/T-5433

- 1.0 **TOPOGRAPHIC, SOIL, GEOLOGIC CONSIDERATIONS**
 - 1 1.1 Geologic hazards, unstable soil conditions
 - 1 1.2 Adverse change in topography or ground surface relief
 - 1 1.3 Destruction of unique geologic or physical features
 - 1 1.4 Increased water erosion
- 2.0 **AIR QUALITY**
 - 2 2.1 Substantial indirect source of pollution
 - 1 2.2 Direct on-site pollution generation
 - 1 2.3 Generation of objectionable odors
 - 1 2.4 Generation of dust except during construction
 - 1 2.5 Adverse local climatic changes
- 3.0 **WATER**
 - 1 3.1 Insufficient ground water available for long-term project use
 - 1 3.2 Use of large quantities of ground water
 - 1 3.3 Wasteful use of ground water
 - 1 3.4 Pollution of surface or ground water supplies
 - 1 3.5 Reduction in ground water recharge
- 4.0 **PLANT LIFE**
 - 1 4.1 Reduction of the numbers of any unique, rare or endangered species
 - 1 4.2 Reduction in acreage of agricultural crop
 - 1 4.3 Premature or unnecessary conversion of prime agricultural land
- 5.0 **ANIMAL LIFE**
 - 1 5.1 Reduction in the numbers of any rare, unique or endangered species
 - 1 5.2 Deterioration or displacement of valuable wildlife habitat
- 6.0 **HUMAN HEALTH**
- 7.0 **NOISE**
 - 1 7.1 Increases in existing noise levels
 - 2 7.2 Exposure to high noise levels
- 8.0 **LIGHT AND GLARE**
 - 1 8.1 Production of glare which will adversely affect residential areas
 - 1 8.2 Exposure of residences to high levels of glare
- 9.0 **LAND USE**
 - 2 9.1 Incompatibility with adopted plans and policies
 - 1 9.2 Acceleration of growth rate
 - 1 9.3 Induces unplanned growth
 - 1 9.4 Adverse change in existing or planned area characteristics
- 10.0 **TRANSPORTATION AND CIRCULATION**
 - 2 10.1 Generation of vehicle traffic sufficient to cause capacity deficiencies on existing street system
 - 1 10.2 Cumulative increase in traffic on a major street for which capacity deficiencies are projected
 - 1 10.3 Specific traffic hazard to motorists, bicyclists, pedestrians
 - 1 10.4 Routing of non-residential traffic through residential area
 - 1 10.5 Insufficient or poorly located parking
 - 1 10.6 Substantial increase in rail and/or air traffic

- 11.0 **URBAN SERVICES**
 - 1 11.1 Availability of fire protection
 - 1 11.2 Lack of emergency vehicle access
 - 1 11.3 Adequacy of design for crime prevention
 - 1 11.4 Overcrowding of school facilities
 - 1 11.5 Availability of water mains of adequate size
 - 1 11.6 Availability of sewer lines of adequate capacity
 - 1 11.7 Availability of storm water drainage facilities (on or off site)
 - 1 11.8 Availability of adequate park and recreation areas
 - 1 11.9 Unusually high solid waste generation
- 12.0 **HAZARDS**
 - 1 12.1 Risk of explosion or release of hazardous substances
 - 1 12.2 Site subject to flooding
 - 1 12.3 Adverse change in course of flow of flood waters
 - 1 12.4 Potential hazards from aircraft accidents
 - 1 12.5 Potential hazards from landfill and/or toxic waste sites
- 13.0 **AESTHETICS**
 - 1 13.1 Obstruction to public or scenic vista or view
 - 1 13.2 Creation of aesthetically offensive conditions
 - 1 13.3 Removal of street trees or other valuable vegetation
 - 1 13.4 Architectural incompatibility with surrounding area
- 14.0 **HISTORICAL / ARCHAEOLOGICAL**
 - 1 14.1 Removal of historic building, disruption of archaeological site
 - 1 14.2 Construction or activity incompatible with adjacent historic site
- 15.0 **ENERGY**
 - 1 15.1 Use of substantial amounts of energy or fuel
 - 1 15.2 Substantial increase in demand upon existing sources of energy
 - 1 15.3 Wasteful use of energy

EXPLANATION OF RATINGS

- "0" Insufficient Information**
Insufficient information is available to determine the potential environmental effects which may result from the proposed project in this category.
- "1" No Significant Environmental Effect**
The proposed project will not have an adverse environmental effect in this category, or any such effect is not substantially unusual or of undesirable magnitude. This rating is also utilized in cases where the category is not applicable to the particular project under consideration.
- "2" Moderate Environmental Effect**
The proposed project will have an adverse environmental effect in this category, which is of sufficient magnitude to be of specific concern. However, this effect is not substantial enough in itself to require the preparation of an Environmental Impact Report, and is mitigable through project changes and conditions.
- "3" Significant Adverse Environmental Effect**
The environmental effect identified in this category substantiates in itself or contributes towards a finding that the proposed project has a potentially significant adverse effect on the environment sufficient to require the preparation of an Environmental Impact Report.

Attachment 3



REPORT TO THE PLANNING COMMISSION

04B3 (8)

AGENDA ITEM NO.
COMMISSION MEETING 2-9-05

APPROVED BY

[Signature]
DEPARTMENT DIRECTOR

February 9, 2005

FROM: STAFF, Planning Division *DRU*
Planning and Development Department

SUBJECT: CONSIDERATION OF PLAN AMENDMENT APPLICATION NO. A-04-26,
REZONE APPLICATION NO. R-04-84 AND ENVIRONMENTAL FINDING FOR
ENVIRONMENTAL ASSESSMENT NO. A-04-26/R-04-84/T-5433/C-04-272

EXECUTIVE SUMMARY

The John Allen Company and WCM Land have filed applications pertaining to approximately 56 acres of property located on the easterly side of North Figarden Drive, south of West Bullard Avenue. Plan Amendment Application No. A-04-26 proposes to amend the planned land use designations of the 2025 Fresno General Plan and the Bullard Community Plan from medium high density residential to medium density residential for 10 acres; community commercial to medium density residential for 12 acres; and medium high density residential to community commercial for 11 acres. The result of the plan amendment application is a rearrangement of 34 acres of commercial uses and 22 acres of residential uses. The plan amendment application also proposes to delete Gates Avenue between North Figarden Drive and West Bullard Avenue and a portion of West Bullard Avenue between North Brunswick and North Bulletin Avenues from the circulation element of the 2025 Fresno General Plan and repeal the official plan lines for these streets. Rezone Application No. R-04-84 proposes to rezone 22 acres of the subject site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the R-2/UGM (*Low Density Multiple Family Residential/Urban Growth Management*) zone district and to rezone 34 acres of the project site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the C-2/BA-20/UGM (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management*) zone district. These applications will facilitate the future development of the site with a community commercial shopping center and a 168-lot single family residential subdivision.

PROJECT INFORMATION

PROJECT	Plan amendment and rezone request to facilitate the future development of a community commercial center and a 168-lot single family residential subdivision
APPLICANT	The John Allen Company and WCM Land
LOCATION	South side of West Bullard Avenue, east of North Figarden Drive (Council District 2, Councilmember Calhoun)
SITE SIZE	56 acres
LAND USE	Existing - Vacant and Single Family Residential (3 dwellings) Proposed - Single Family Residential and Community Commercial

ZONING Existing - R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*)
 Proposed - R-2/UGM (*Low Density Multiple Family Residential/Urban Growth Management*) and C-2/BA-20/UGM (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management*)

PLAN DESIGNATION AND CONSISTENCY The proposed community commercial and medium density residential planned land use designations are consistent with the proposed R-2/UGM and C-2/BA-20/UGM zone districts

ENVIRONMENTAL FINDING A mitigated negative declaration was issued on January 19, 2005

PLAN COMMITTEE RECOMMENDATION **The Bullard Area Community Plan Advisory Committee recommended approval of the plan amendment and rezone applications at its meeting on December 13, 2004**

STAFF RECOMMENDATION Recommend to the City Council approval of plan amendment and rezone applications

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Light Industrial	M-1/BA-20/UGM/cz <i>Light Industrial/Boulevard Area 20 Feet/Urban Growth Management</i>	Vacant
	Office Commercial	C-P/UGM/cz <i>Administrative and Professional Office/Urban Growth Management/conditions of zoning</i>	Vacant <i>(Church approved for site)</i>
	Neighborhood Commercial	C-1/BA-20/UGM/cz <i>Neighborhood Commercial/Boulevard Area 20 Feet/Urban Growth Management</i>	Shopping Center
South	Medium High Density Residential	R-2/BA-20/UGM <i>Low Density Multiple Family Residential/ Boulevard Area-20 Feet/Urban Growth Management</i>	Apartment Complex
East	Medium High Density Residential	R-A/UGM <i>Single Family Residential-Agriculture/ Urban Growth Management</i>	Single Family Residential and Vacant
	Railroad	Not Applicable	B.N.S.F. Railroad Tracks

Surrounding land uses are characterized by commercial uses to the north, multiple family residential uses to the south and vacant land and single family residential to the east and west. There is also property to the southeast that is developed with rural residential type uses. The Burlington Northern Santa Fe railroad tracks are along the easterly boundary of the site.

The 2025 Fresno General Plan sets forth criteria to maximize the efficient use of land and resources through enhanced development. In the Urban Form Element of the General Plan, Objective C-12 advocates that commercial land uses to be located to meet the needs for goods and services while minimizing travel requirements, infrastructure demands, and adverse impacts. General Plan Policy No. C-12-a directs that commercial land uses are to be developed and maintained in a manner complementary to and compatible with adjacent residential land uses and compatible with public facilities and services. The subject development is proposed to be located within an activity center area, that is depicted in Exhibit 6, "2025 Fresno General Plan Urban Form Components Map", of the 2025 Fresno General Plan. Activity Centers, according to Policy C-4-b of the General Plan, should "include commercial areas, employment centers, schools, higher density residential development, churches, parks and other gathering points where residents may interact, work and obtain goods and services in the same place." The Bullard Community Plan also designates the Figarden Drive loop area to be the "community center" of the plan area (Goal 5.5.1) with commercial, schools, parks, offices, and single family and multi-family residential uses. Its location will encourage the use of public transportation, which has a Fresno Area Express bus stop within a half-mile of the project site.

The subject site has been vacant while a number of multiple-family residential complexes and commercial developments have been developed or have been approved for development near the site. The proposed development of a single family residential subdivision and a commercial center to serve the community at this location is an appropriate adjustment of the planned land uses for this property and will be compatible with the surrounding established land uses. The proposal is a re-arrangement of planned commercial and residential uses with the replacement of planned multi-family residential uses with single family residential uses. The location of the commercial portion of the project is enhanced by readily available alternative transportation services. Staff concludes that the proposed project meets the intent of the goals and policies of the general and community plans.

The subject site extends along a major street (North Figarden Drive) with a portion of it located at the intersection of two major streets (North Figarden Drive and West Bullard Avenue). Figarden and Bullard (west of Figarden) are arterial streets and are designed to accommodate large volumes (32,000 VTD) of vehicular traffic. Commercial land uses are often considered more appropriate along major transportation corridors with high traffic volumes. The proposed use is compatible with the applicable community plan goals, policies, and implementation measures intended to provide for the efficient use of natural resources and public facilities; the construction of adequate public improvements by the development which generates the demand for these facilities; and, the implementation of a functional land use pattern consistent with the population and economic growth projections of the Fresno General Plan.

Bullard Community Plan Advisory Committee

The Bullard Community Plan Advisory Committee reviewed the plan amendment and rezone applications at its meeting on December 13, 2004, and recommended approval of the proposed project.

Circulation Element Plan Policies and Major Street System Traffic Capacity

According to the 2025 Fresno General Plan Transportation Element (Exhibit 7), North Figarden Drive and West Bullard Avenue (west of Figarden) are defined as arterial streets. West Bullard (east of

Figarden) and North Gates Avenues are collector streets. Arterial streets are required to be developed with two travel lanes in each direction separated by a median island to control left-turn and crossing vehicular movements. Collector streets are typically developed with a total of two to four lanes without a median island although in some locations they may have a continuous center left-turn lane. All street standards provide for a widened pavement width at major street intersections to allow for exclusive left-turn and right-turn lanes as well as bus bays or turnouts. The Public Works Department Traffic Division has reviewed the proposed development and has determined that the streets relating to the site will be able to carry the quantity and kind of traffic generated subject to several improvements. These improvements include dedicating and constructing transition paving within the limits of the tract; installing curb, gutter, sidewalk; and construction of an underground street lighting system. These street improvements will be required through future entitlement and tentative map conditions of approval.

When the City of Fresno Master Environmental Impact Report (MEIR) No. 10130 was certified by the City Council for the 2025 Fresno General Plan, a determination was made to require project-specific traffic assessments for projects which would generate 100 or more vehicle trips during weekday peak hours. Given the number of lots in this project, a special traffic study was required. A traffic analysis, dated August 26, 2004, was prepared by Peters Engineering Group for the proposed project. The traffic analysis has identified several potential mitigation measures for the proposed project which are incorporated into the attached "Project Specific Mitigation Measures".

The plan amendment application proposes to delete Gates Avenue between North Figarden Drive and West Bullard Avenue and a portion of West Bullard Avenue between North Brunswick and North Bulletin Avenues from the circulation element of the 2025 Fresno General Plan and repeal the official plan lines for these streets. The portion of Bullard between Brunswick and Bulletin will be a local collector street and have one lane of travel in each direction as well as a continuous center turn lane. The existing traffic signal at the intersection of Figarden and Gates will remain as the main ingress and egress point to the commercial center. With the rearrangement of the land uses for the site and the decreased intensity of the residential portion, it is no longer necessary to construct the major streets as they are shown in the general plan.

The Public Works Department staff has concluded that this project does not have significant adverse impacts upon the city's transportation system and that its nonsignificant impacts are mitigable through the city's standard Urban Growth Management (UGM) process and project requirements for developments that abut major streets. In concert with the other developments that are approved pursuant to the 2025 Fresno General Plan, the developer will be required to install improvements and to pay fees toward development of the major street system as outlined in the Public Facilities Element of the general plan and will be required to provide for the installation of traffic control measures (e.g., signals, stop lights, etc.) installed per UGM policies and ongoing traffic studies.

State Department of Transportation (Caltrans)

The California Department of Transportation (Caltrans), District 6, Office of Intergovernmental Relations has asserted that proposed project will contribute additional vehicle trips which will impact State Route (SR) 99 interchanges at Herndon Avenue and at Shaw Avenue. In a letter dated December 22, 2004, Caltrans requests that a traffic study be completed and that the city consider a transit alternative for the project. A traffic study was completed by Peters Engineering Group and was given to Caltrans for their review. Caltrans has reviewed the traffic study and recommended that the proposed project pay \$56,700 for mitigation fees related to improvements at the Freeway 99/Shaw Avenue intersection. In addition, there is Fresno Area Express bus stop (Line 20) located approximately one-half mile to the south of the project site.

State highway facilities appear to have failed to meet 20-year capacity design criteria during a period of time when the area's pace of population growth decreased to a rate well below previous state projections. This highway facility "under-design" and consequently the capacity deficiencies, which may now be prematurely occurring, are at least partially the result of resource allocation decisions made by the State of California rather than land use decisions made by the City of Fresno.

An appropriate, reasonable and legally permissible method of addressing capacity deficiencies has been presented to Caltrans for consideration. This method utilizes the master storm water drainage facility planning and fee program established by the Fresno Metropolitan Flood Control Agency as a model. Using this model, Caltrans is responsible for providing a master facilities plan, development fee schedule and assurances of compliance with constitutional and statutory requirements (Mitigation Fee Act - AB 1600) that apply to the City of Fresno. Should Caltrans develop a master facilities plan and development impact fee program consistent with this model it will be applied to any final tract map or other applicable development entitlement for this project. Finally, with or without the implementation of freeway impact fees, the project is not anticipated to adversely impact the area's circulation system as conditioned and mitigated.

It is also noted that the City of Fresno's staff has met with Caltrans representatives to review citywide impacts on State facilities; the CEQA process; and the legal requirements for determining the nexus (demonstration of the direct relationship between the project and the potential impact) and the proportionality (fair share contribution towards mitigating the impact) required by State law. While the Caltrans representatives have previously assured the City that Caltrans legal staff would provide evidence of compliance with State statutes, no response has been received to date by the City of Fresno.

However, in response to these discussions, a partnership in planning grant was obtained through which the City of Fresno and Caltrans will participate with other jurisdictions to complete a freeway deficiency study. This study will detail the traffic impacts anticipated to occur to freeway facilities within the greater Fresno-Madera-Clovis Metropolitan Area. This study will focus upon facilities identified to be most impacted by the projected increases in traffic; identification of the sources of the vehicle traffic within the greater metropolitan area; and the improvements necessary to provide adequate vehicular capacity. Findings from this study may allow proportionate traffic impact fees to be legally implemented by the cities of Fresno and Clovis as well as the County of Fresno upon adoption by the respective jurisdictions. In addition, staff representatives of the City of Fresno and Caltrans continue to conference in order to identify a mutually agreeable strategy to implement a fair and equitable traffic impact fee for state highway facilities.

CONCLUSION / RECOMMENDATION

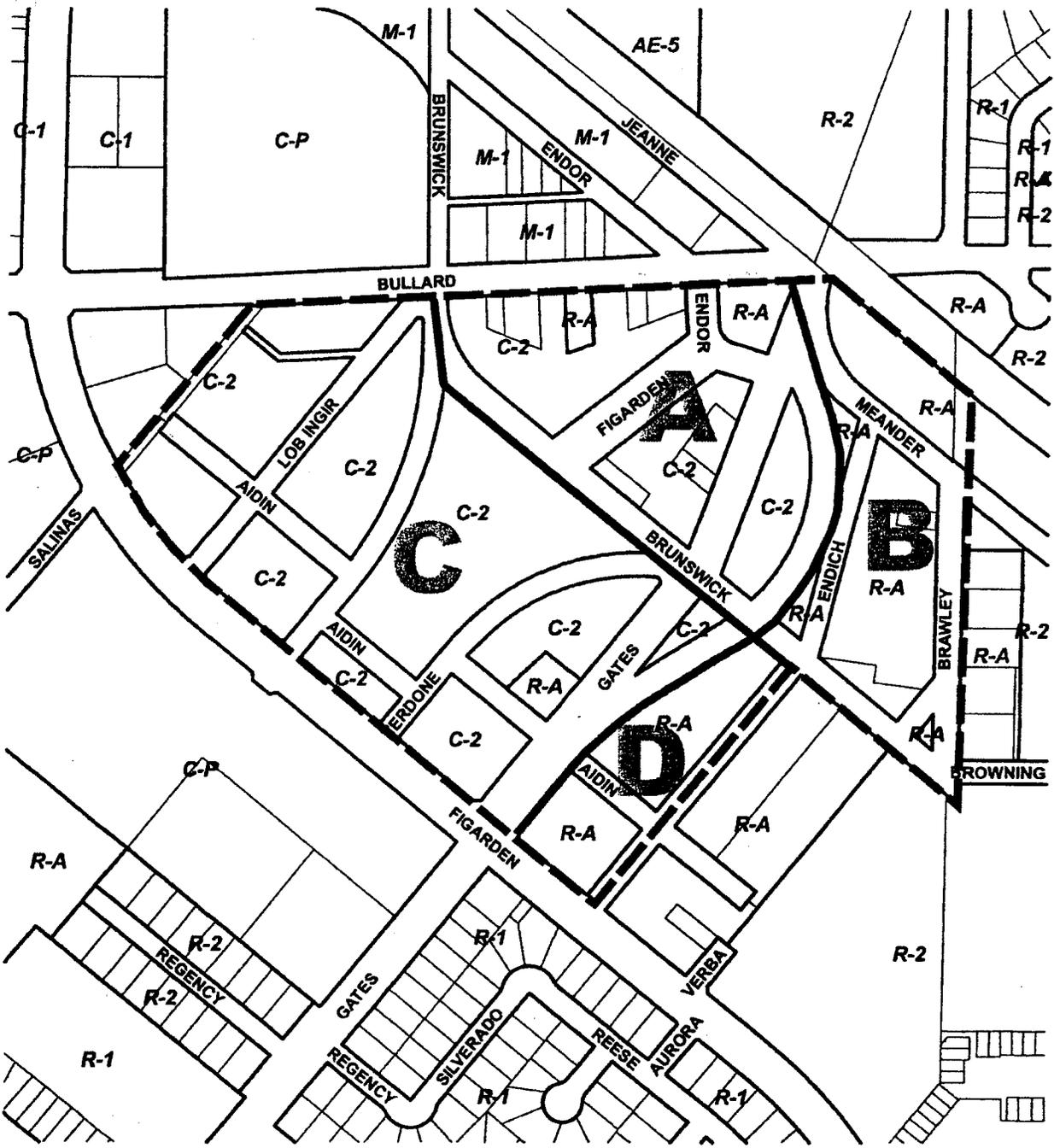
The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the 2025 Fresno General Plan and the Bullard Community Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Plan Amendment Application No. A-04-26 and Rezone Application No. R-04-84 are appropriate for the project site. Therefore, staff recommends that the Planning Commission:

1. **RECOMMEND APPROVAL** to the City Council of the finding of a Mitigated Negative Declaration for Environmental Assessment No. A-04-26/R-04-84/C-04-272/T-5433 dated January 19, 2005.

2. RECOMMEND APPROVAL to the City Council of Plan Amendment Application No. A-04-26 proposing to amend the 2025 Fresno General Plan and Bullard Community Plan from medium high density residential to medium density residential for 10 acres; community commercial to medium density residential for 12 acres; and medium high density residential to community commercial for 11 acres. The plan amendment application also proposes to delete Gates Avenue between North Figarden Drive and West Bullard Avenue and West Bullard Avenue between North Brunswick and North Bulletin Avenues from the circulation element of the 2025 Fresno General Plan and repeal the official plan lines for these streets.
3. RECOMMEND APPROVAL to the City Council of Rezone Application No. R-04-84 which proposes to rezone 22 acres of the subject site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the R-2/UGM (*Low Density Multiple Family Residential/Urban Growth Management*) zone district and to rezone 34 acres of the project site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the C-2/BA-20/UGM (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management*) zone district.

SAC:K:\Master Files - 2004\PLAN AMENDMENTS\A-04-026,R-04-084 BullardbtwnFigardenRR--SAC\A-04-26-R-04-84 PC Report.doc

Attachments: Vicinity Map
Letters from the California Department of Transportation (Caltrans) dated November 23, 2004, December 22, 2004 and February 1, 2005
Environmental Assessment No. A-04-26/R-04-84/C-04-272/T-5433, Finding of Mitigated Negative Declaration dated January 19, 2005



LEGEND

Subject Property

A Plan Amendment No. A-04-026 from Community Commercial to Med. High Density Resid. Rezone Application No. R-04-084 rezone to R-2/UGM

B Rezone Application No. R-04-084 rezone to R-2/UGM

C Rezone Application No. R-04-084 rezone to C-2/UGM

D Plan Amendment No. A-04-026 from Med. High Density Resid. to Community Commercial Rezone Application No. R-04-084 rezone to C-2/UGM

VICINITY MAP

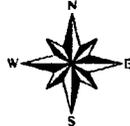
PLAN AMENDMENT NO. A-04-026
REZONE APPLICATION NO. R-04-084

PLANNING & DEVELOPMENT DEPARTMENT

A.P.N.: Book 509, Page 03

ZONE MAP: 1846

BY/DATE: J.S. / 11-30-04

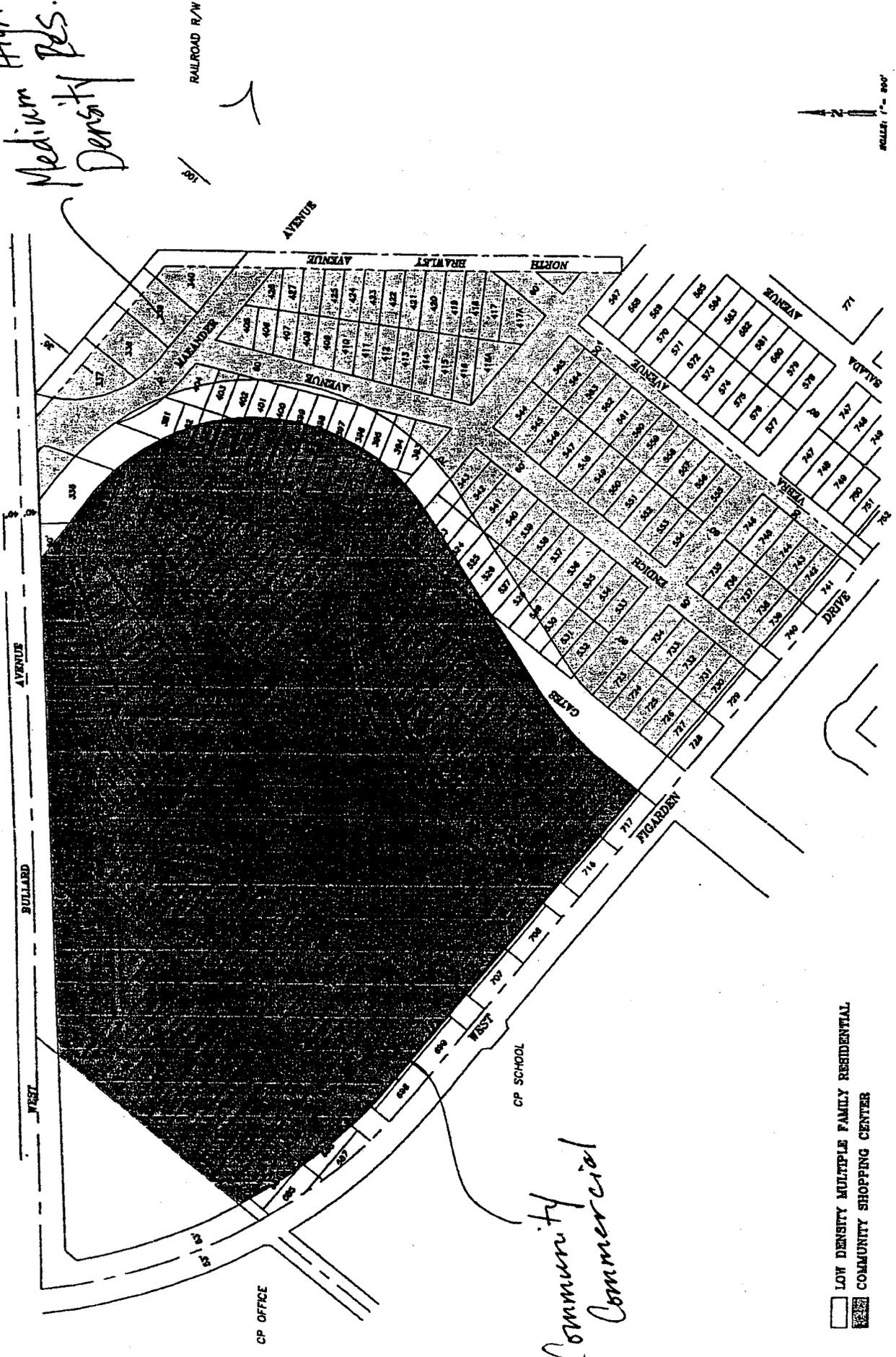


NOT TO SCALE

Between Bullard Av., Brawley Av. and Figarden Dr.

EXISTING PLANNED LAND USE

*High
Medium
Density
Res.*



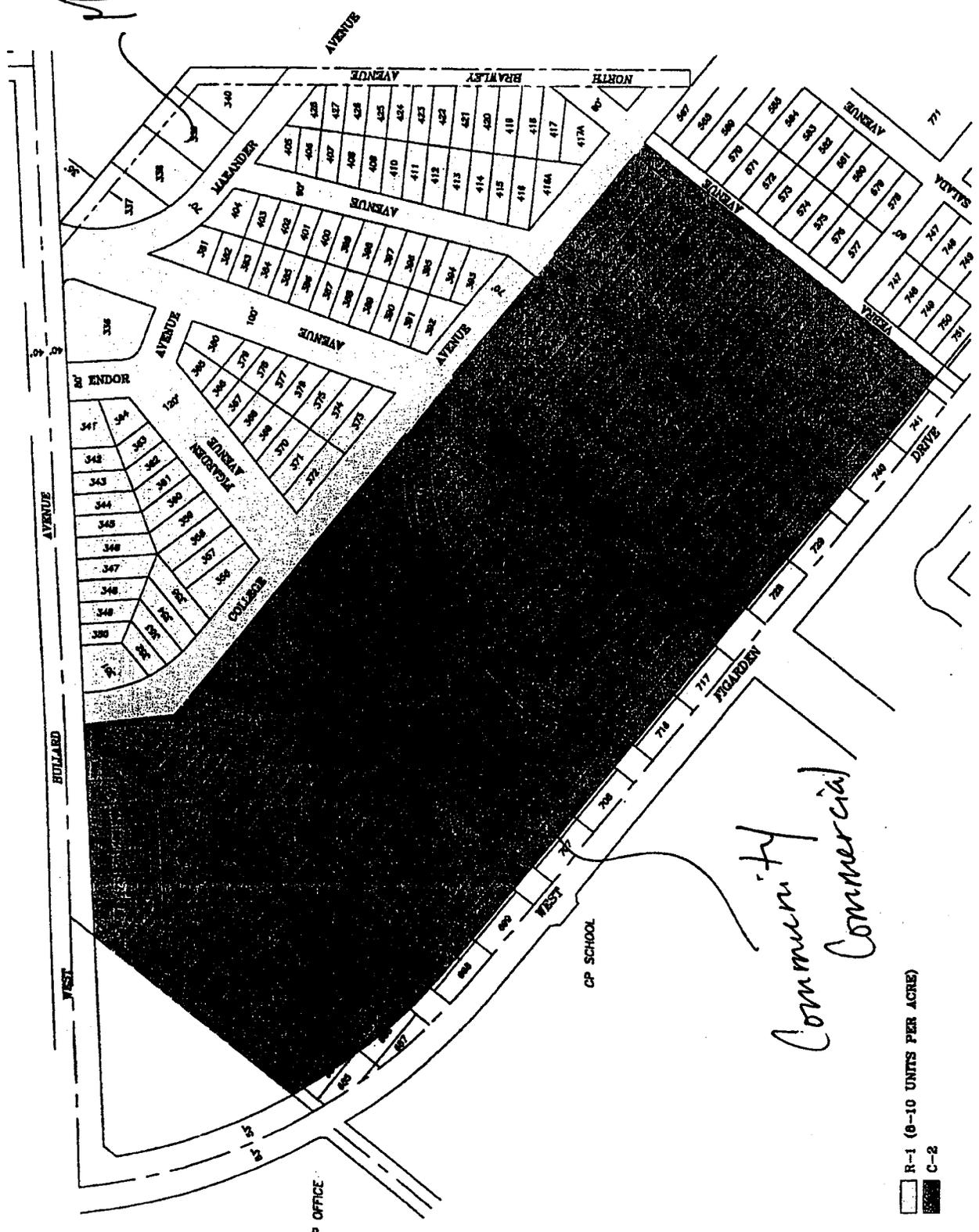
-  LOW DENSITY MULTIPLE FAMILY RESIDENTIAL
-  COMMUNITY SHOPPING CENTER

*Community
Commercial*

PROPOSED PLANNED LAND USE

*Density
Medium Residential*

RAILROAD R/W



R-1 (6-10 UNITS PER ACRE)
C-2

*Community
Commercial*

DEPARTMENT OF TRANSPORTATION

1352 WEST OLIVE AVENUE
P. O. BOX 12616
FRESNO, CA 93778-2616
PHONE (559) 445-6666
FAX (559) 488-4088
TTY (559) 488-4066



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NOV 23 2004

Planning Division
Development Department*Flex your power!
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November 23, 2004

2131-IGR/CEQA
6-FRE-99-30.2+/-
A-04-26 & R-04-84
WCM LAND, L.P.

Ms. Shelby Chamberlain
City of Fresno Development Department
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

Dear Ms. Chamberlain:

Caltrans has reviewed the plan amendment and rezone for the WCM LAND, L.C. proposal located on the south side of West Bullard Avenue between West Figarden Drive and the Burlington Northern-Santa Fe Railroad. Caltrans has the following comments:

There is insufficient information contained in the project application to determine this project's impacts to the transportation/circulation system. Caltrans requests the opportunity to review any specific development proposal when available.

It is Caltrans' understanding that the 2025 General Plan MEIR requires projects that will produce 100 or more peak-hour trips (as this project will) to evaluate the project's contribution to increased peak-hour vehicle delay at major street intersections adjacent or proximate to the project site (Mitigation Measure B-4). Will the City require a traffic study for this proposal? Caltrans recommends that the applicant conduct a Traffic Impact Study (TIS) in order to assess the project-related impacts to the State Highway System and the pro-rata fair share towards area-wide circulation improvements. As per the City's policy (Mitigation Measure B-4), please have the preparer of the traffic study reference the Caltrans Guide for the Preparation of Traffic Impact Studies, dated December 2002, and send the scope of the TIS to Caltrans before the traffic study is conducted. Caltrans Guide, while advisory, contains Best Practices and gives insight into Caltrans' expectations when reviewing a traffic study. If the traffic consultant has any issues or concerns regarding the use of the Guide or its interpretation, please contact us so resolution can be reached. Caltrans is available to discuss the scope of the traffic study at the City's convenience.

Caltrans requests the opportunity to review the traffic study prior to the Planning Commission hearing on this project so that we will have sufficient time to provide comments on this project's impacts.

We request that this letter be made a part of the permanent public record for this project and that a copy of our letter be included in the staff reports for both the City Council and the Planning Commission. This will provide the decision-making body and the general public with a complete and accurate environmental evaluation for the project.

Ms. Shelby Chamberlain

November 23, 2004

Page 2

Please send a copy of the staff report(s) to Caltrans prior to any scheduled hearings for this item. If you have any questions, please call me at (559) 445-6666.

Sincerely,



MOSES STITES

Office of Transportation Planning

District 6

C: Ms. Barbara Goodwin, Council of Fresno County Governments

DEPARTMENT OF TRANSPORTATION

1352 WEST OLIVE AVENUE
 P. O. BOX 12616
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 PHONE (559) 445-6666
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 TTY (559) 488-4066

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DEC 22 2004

Planning Division
 City of Fresno Development Department
 2600 Fresno Street
 Fresno, CA 93721-3504



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December 22, 2004

2131-IGR/CEQA
 6-FRE-99-30.0+/-
 C-04-272 & T-5433
 WCM LAND

Ms. Shelby Chamberlain
 City of Fresno Development Department
 2600 Fresno Street, Third Floor
 Fresno, CA 93721-3504

Dear Ms. Chamberlain:

We have reviewed the map and use permit for the proposed 168-lot single-family residential development located on the southwest corner of West Bullard and North Jeanne Avenues. Caltrans has the following comments:

There is insufficient information contained in the application to evaluate this project's impacts to transportation. The proposed project could generate as many as 168 peak hour trips. The project-generated trips could have significant impacts to the State Route (SR) 99 interchanges at Herndon and Shaw Avenues. A Traffic Impact Study (TIS) is needed to assess the project-related impacts to the State Highway system and appropriate mitigation measures. As per the City's policy, please have the preparer of the traffic study reference the Caltrans Guide for the Preparation of Traffic Impact Studies, dated December 2002, and send the scope of the TIS to Caltrans before the traffic study is conducted. Caltrans Guide, while advisory, contains Best Practices and gives insight into Caltrans' expectations when reviewing a traffic study. If the traffic consultant has any issues or concerns regarding the use of the Guide or its interpretation, please contact us so resolution can be reached.

It is Caltrans' understanding that the 2025 General Plan MEIR requires projects that will produce 100 or more peak-hour trips (as this project will do) to evaluate the project's contribution to increased peak-hour vehicle delay at major street intersections adjacent or proximate to the project site (Mitigation Measure B-4). Has such an analysis been done? If so, please forward the traffic study to Caltrans for our review and comment.

Numerous developments have recently been approved in this area of Fresno. The City should be aware that continued development has the potential to create cumulatively significant impacts to both transportation and air quality. As cumulative impacts to these resources were not addressed in the General Plan Update Master EIR, the City should consider a mechanism for evaluating, and mitigating, for them.

The City should consider a transit alternative for this project. The project is of sufficient size to support transit, and early planning could make such an alternative feasible. Caltrans recommends

Ms. Shelby Chamberlain

December 22, 2004

Page 2

that this project be routed to Fresno Area Express (FAX) staff for their review and comment. Please see Attachment Number 1 for other recommended transportation alternatives.

We request that this letter be made a part of the permanent public record for this project and that a copy of our letter be included in the staff reports for both the City Council and the Planning Commission. This will provide the decision-making body and the general public with a complete and accurate environmental evaluation for the project.

Please send a copy of the staff report(s) to Caltrans prior to any scheduled hearings for this item. If you have any questions, please call me at (559) 445-6666.

Sincerely,



MOSES STITES

Office of Transportation Planning

District 6

Enclosure

C: Ms. Barbara Goodwin, Council of Fresno County Governments

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DEC 24 2004

PLANNING
DISTRICT 6
CITY OF FRESNO

ATTACHMENT NUMBER 1

CALTRANS RECOMMENDATIONS FOR TRANSPORTATION ALTERNATIVES:

Ongoing development throughout the City of Fresno, including this project, will make traffic operations significantly worse by adding considerably to delay and congestion. Transit alternatives can help reduce congestion and delay and reduce overall degradation of air quality and gridlocked intersections. The City of Fresno should focus on ways to eliminate trips in addition to enhancing capacity. Transportation alternatives the City should consider include standard highway solutions along with the following:

1. Park and ride facilities on site or within the proximity of this project.
2. A study of the general accommodation and provision of mass transit in this area to provide insight on ways of increasing transit usage.
3. Exploring the potential of commuter shuttles. The shuttle could be financed through an assessment district and provide a way for individuals to utilize a park-and-ride facility or commercial area parking lot and be shuttled to various commercial/office centers within the area. Commuters who need to go further could use City of Fresno transit if the City planned for convenient connections. This may help to reduce the Single Occupancy Vehicle (SOV) demand seeking to use the State Highway System.
4. Providing for continuity of non-motorized transportation.
5. Exploring the potential for employer-sponsored carpools/vanpools or monthly transit passes for employees as well as including as a condition of project approval a covered transit stop as mitigation for project-related impacts to the transportation/circulation system.
6. Exploring the potential for linking the purchase of a monthly transit pass with new residential development as partial mitigation for congestion and air quality impacts, and to ensure the long term viability of public transportation.

DEPARTMENT OF TRANSPORTATION

1352 WEST OLIVE AVENUE

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February 1, 2005

2131-IGR/CEQA
6-FRE-99-30.0+/-
C-04-272 & T-5433
WCM LANDMs. Shelby Chamberlain
City of Fresno Development Department
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

Dear Ms. Chamberlain:

We have reviewed the Traffic Impact Study for the proposed 168-lot single-family residential development located on the southwest corner of West Bullard and North Jeanne Avenues. Caltrans has the following comments:

Caltrans previous comments on this project indicated that an operational analysis should be conducted for the State Route (SR) 99 interchange at Herndon Avenue; however, according to the draft TIS, the development would have virtually no impact to the SR 99 northbound and southbound off-ramps to Herndon. A review of Figure 4 (2008 Project Trips) of the traffic study shows that 36 trips would exit from the northbound off-ramp during the evening peak travel time. The intersection volumes from Figure 5 (2025 Project Trips) were not used because of the inclusion of a future interchange at Grantland. While the study did not indicate impacts to the SR 99/Herndon Avenue interchange, this may well be due to the inclusion of the Grantland interchange. This interchange may well be included as a concept in local planning documents, but there hasn't been any substantial movement towards development and constructing an interchange at Grantland. The TIS should be revised to more accurately reflect existing as well as realistic future conditions.

The study does indicate that the development would impact the SR 99 interchange at Shaw Avenue. However, the study did not provide a full analysis of the SR 99 intersections at Shaw. The study should be revised to more accurately reflect the project's actual impacts. As this was not done, Caltrans utilized data from the traffic study for Tract 5298 to determine the current ($T_E = 759$) and projected ($T_B = 930$) volumes impacting the SR 99 northbound off-ramp to Shaw. Based on this information, and the estimated cost to add an additional lane to the SR 99 northbound off-ramp to Shaw (\$270,000), Caltrans calculates the proposed development's fair share to mitigate for cumulatively significant impacts to State facilities to be **\$56,700**.

Please have the applicant's traffic study correct the TIS and resubmit the revised study to Caltrans for our review and comment.

Numerous developments have recently been approved in this area of Fresno. The City should be aware that continued development has the potential to create cumulatively significant impacts to

Ms. Shelby Chamberlain
February 1, 2005
Page 2

both transportation and air quality. As cumulative impacts to these resources were not addressed in the General Plan Update Master EIR, the City should consider a mechanism for evaluating, and mitigating, for them.

The City should consider a transit alternative for this project. The project is of sufficient size to support transit, and early planning could make such an alternative feasible. Caltrans recommends that this project be routed to Fresno Area Express (FAX) staff for their review and comment. Please see Attachment Number 1 for other recommended transportation alternatives.

We request that this letter be made a part of the permanent public record for this project and that a copy of our letter be included in the staff reports for both the City Council and the Planning Commission. This will provide the decision-making body and the general public with a complete and accurate environmental evaluation for the project.

If you have any questions, please call me at (559) 445-6666.

Sincerely,



MOSES STITES
Office of Transportation Planning
District 6

Enclosure

C: Ms. Barbara Goodwin, Council of Fresno County Governments

ATTACHMENT NUMBER 1

CALTRANS RECOMMENDATIONS FOR TRANSPORTATION ALTERNATIVES:

Ongoing development throughout the City of Fresno, including this project, will make traffic operations significantly worse by adding considerably to delay and congestion. Transit alternatives can help reduce congestion and delay and reduce overall degradation of air quality and gridlocked intersections. The City of Fresno should focus on ways to eliminate trips in addition to enhancing capacity. Transportation alternatives the City should consider include standard highway solutions along with the following:

1. Park and ride facilities on site or within the proximity of this project.
2. A study of the general accommodation and provision of mass transit in this area to provide insight on ways of increasing transit usage.
3. Exploring the potential of commuter shuttles. The shuttle could be financed through an assessment district and provide a way for individuals to utilize a park-and-ride facility or commercial area parking lot and be shuttled to various commercial/office centers within the area. Commuters who need to go further could use City of Fresno transit if the City planned for convenient connections. This may help to reduce the Single Occupancy Vehicle (SOV) demand seeking to use the State Highway System.
4. Providing for continuity of non-motorized transportation.
5. Exploring the potential for employer-sponsored carpools/vanpools or monthly transit passes for employees as well as including as a condition of project approval a covered transit stop as mitigation for project-related impacts to the transportation/circulation system.
6. Exploring the potential for linking the purchase of a monthly transit pass with new residential development as partial mitigation for congestion and air quality impacts, and to ensure the long term viability of public transportation.

Attachment 4

CITY OF FRESNO
PLANNING AND DEVELOPMENT DEPARTMENT
ENVIRONMENTAL ASSESSMENT - INITIAL STUDY
Application No. A-04-26/R-04-84/C-04-272/T-5433

PROJECT DESCRIPTION

John Allen and WCM Land have filed applications pertaining to approximately 56 acres of property located on the easterly side of North Figarden Drive, south of West Bullard Avenue. Plan Amendment Application No. A-04-26 proposes to amend the planned land use designations of the 2025 Fresno General Plan and the Bullard Community Plan from medium high density residential to medium density residential for 10 acres; community commercial to medium density residential for 12 acres; and medium high density residential to community commercial for 11 acres. The plan amendment application also proposes to delete Gates Avenue between North Figarden Drive and West Bullard Avenue and a portion of West Bullard Avenue between North Brunswick and North Bulletin Avenues from the circulation element of the 2025 Fresno General Plan and repeal the official plan lines for these streets. Rezone Application No. R-04-84 proposes to rezone 22 acres of the subject site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the R-2/UGM (*Low Density Multiple Family Residential/Urban Growth Management*) zone district and to rezone 34 acres of the project site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the C-2/BA-20/UGM (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management*) zone district. Vesting Tentative Tract Map No. T-5433/UGM proposes to subdivide the easterly 22-acre portion of the site into a 168-lot single family residential subdivision with 2 outlots. Conditional Use Permit Application No. C-04-272 proposes to allow the subdivision to be developed as a gated planned unit development with private streets and reduced front, side and rear yard setbacks.

Bordering Property Information

	Planned Land Use	Existing Zoning	Existing Use
North	Light Industrial	M-1/BA-20/UGM/cz <i>Light Industrial/Boulevard Area 20 Feet/Urban Growth Management</i>	Vacant
	Office Commercial	C-P/UGM/cz <i>Administrative and Professional Office/Urban Growth Management/conditions of zoning</i>	Vacant <i>(Church approved for site)</i>
	Neighborhood Commercial	C-1/BA-20/UGM/cz <i>Neighborhood Commercial/Boulevard Area 20 Feet/Urban Growth Management</i>	Shopping Center
South	Medium High Density Residential	R-2/BA-20/UGM <i>Low Density Multiple Family Residential/Boulevard Area 20 Feet/Urban Growth Management</i>	Apartment Complex

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East	Medium High Density Residential	R-A/UGM <i>Single Family Residential-Agricultural/ Urban Growth Management</i>	Single Family Residences
	Railroad	Not Applicable	B.N.S.F. Railroad Tracks
West	Public Facilities-Middle School	C-P/BA-20/UGM <i>Administrative and Professional Office/ Commercial/Boulevard Area 20 Feet/ Urban Growth Management</i>	Vacant
	Office Commercial	C-P/BA-20/UGM <i>Administrative and Professional Office/ Commercial/Boulevard Area 20 Feet/ Urban Growth Management</i>	Vacant

Staff has reviewed the above-referenced project proposal and consulted with affected agencies and interest groups. Approval of the project may contribute to the creation of certain moderate environmental effects or the project may be adversely impacted by existing conditions as addressed below.

The project area is located within the northwestern portion of the City of Fresno's adopted Sphere of Influence and Urban Boundary area and is designated for community commercial and medium high density residential planned land uses by the Bullard Community Plan, updated in 2002, and the 2025 Fresno General Plan, adopted in 2002.

Environmental documents for previous plan actions include Final EIR No. 10130 (2025 Fresno General Plan). Additional environmental documents have been certified for major public facilities to accommodate population growth and urban development including Final EIR No. 10118 (Fresno/Clovis Regional Wastewater Treatment and Reclamation Facility Capacity Expansion) and Final EIR No. SCH 95022029 (Fresno Metropolitan Water Resource Management Plan). These environmental impact analyses and conclusions, together with supporting technical studies, address the impacts of population growth and the necessary public facility capacity expansion associated with the urban development that will accommodate this growth within the City of Fresno's 2025 General Plan Urban Area Boundary and Sphere of Influence.

Certification or approval of these environmental documents identified potentially significant adverse environmental impacts, appropriate mitigation measures, and findings of overriding considerations with respect to unavoidable significant impacts. The following impacts were identified by City Council Resolution No. 2002-378 certifying Final EIR No. 10130 (2025 Fresno General Plan).

1. Transportation and Circulation
2. Air Quality
3. Preservation of Agricultural Land
4. Noise

Resolution No. 2002-378 also contains a statement of overriding considerations for the above unavoidable significant effects. The benefits of implementing the 2025 Fresno General Plan outweigh unavoidable significant effects.

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1.0-TOPOGRAPHIC, SOIL, GEOLOGIC CONSIDERATIONS

There are no geologic hazards or unstable soil conditions known to exist on the project site. The existing topography is relatively flat with no apparent unique or significant land forms such as vernal pools. Development of the property requires compliance with grading and drainage standards of the City of Fresno and Fresno Metropolitan Flood Control District Standards. Grade differentials at property lines must be limited to one foot or less, or a cross-drainage covenant must be executed with affected adjoining property owners.

2.0-AIR QUALITY

As a result of the San Joaquin Valley's climate and topography, the San Joaquin Valley Air Basin (SJVAB) is predisposed to poor air quality. High mountain ranges surrounding the Valley frequently create air layer inversions that prevent mixing of air masses. The large number of sunny days per year and high temperatures in the summer favor the formation of ozone. In the winter, inversions form that often trap particulate matter.

With respect to the Fresno area, the SJVAB has been classified as follows:

Ozone. Recently reclassified from "severe nonattainment" to "extreme nonattainment" by the U.S. E.P.A.

- PM_{10} . Classified as "serious nonattainment" at the federal level. Classified as "nonattainment" by the State.
- CO. Recently reclassified from "nonattainment" to "attainment" by the U.S. E.P.A.
- NO_2 . Unclassified/Attainment at the federal level. Classified "attainment" at the State level.
- SO_2 . Unclassified at the federal level. Classified "attainment" at the State level.
- Sulfates. (No federal standard.) Classified "attainment" at the State level.
- Lead. (No federal standard.) Classified "attainment" at the State level.
- H_2S . (No federal standard.) Unclassified by the State.
- Visibility. (No federal standard.) Unclassified by the State.

In response to the SJVAB's nonattainment status for Ozone (O_3) and particulate matter (PM_{10}), the San Joaquin Valley Air Pollution Control District (SJVAPCD) has adopted air quality attainment plans as required by State and federal regulations. Table VC-1 of MEIR No. 10130 lists the air quality attainment plans that have been adopted by the SJVAPCD.

On April 16, 2004, the EPA issued a final rule classifying the SJVAB as extreme non-attainment, effective May 17, 2004 (69 FR 20550). Under this rulemaking, the SJVAB's attainment date is November 15, 2010. An Extreme Ozone Attainment Demonstration Plan (OADP) must be prepared which is a roadmap that identifies emission reductions needed to attain the air quality standard by this date. According to the final rule reclassifying the SJVAB as extreme nonattainment for the federal 1-hour ozone standard, the Extreme OADP was adopted in October, 2004.

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The principal components of an OADP consist of a baseline emissions inventory, data describing measured ozone levels in the atmosphere for the area in question, descriptions of emissions controls that will reduce future emissions, a future emissions inventory that reflects decreases due to implementation of emissions controls as well as increases due to increased population, and a description of the results from a photochemical model relating emissions to ambient ozone levels and demonstrating attainment of the appropriate standard at a future date.

In addition, this plan fulfills requirements of the California Clean Air Act regarding the development of a triennial update and California Air Quality Attainment Plan revision that examines air pollutant exposure data, control measure implementation, and other air quality information with emphasis on meeting California ambient air quality standards.

As stated in the current Air Quality Attainment Plan, it is SJVAPCD's strategy to implement multiple tactics or control measures. These measures are, in turn, implemented through the extensive collection of District rules, regulations and permitting requirements established by the SJVAPCD.

The Air District has suggested that the URBEMIS 2002 computer model be used to project future air pollutant emissions that can be expected to be generated from vehicular traffic generated from the urban uses developed on the project site. The computer model evaluated the following emissions: ROG (Reactive Organic Gasses), NOX (Nitrogen Oxides), CO (Carbon Monoxide), PM₁₀ (Particulates) and SOX (Sulfur Oxides) which are summarized below.

URBEMIS 2002 AIR QUALITY IMPACTS**

<i>All data in tons/year</i>	ROG	NOX	CO	PM10	SOX
Area Source Emissions	11.09	7.42	23.27	3.34	0.07
Operational Emissions	107.27	127.59	1136.05	87.61	0.90
Totals	118.36	135.01	1159.32	90.95	0.97
Level of Significance or Requirements for Offset	10	10	100	14.6	27.37

**Based on 168 single family residences and 385,000 square feet of commercial uses (25% site build-out)

The URBEMIS 2002 model projections indicate that the proposed project will exceed the threshold limits for the emissions listed. This particular analysis included the prohibition of wood burning devices. It also included the mitigation measures which are listed below.

The Master Environmental Impact Report (MEIR No. 10130) adopted for the 2025 Fresno General Plan was prepared based on land use designations, for this project area, of community commercial (34± acres), medium high density residential (22± acres). The plan amendment application is a request to reduce the intensity of residential uses for the portion of the subject site currently planned for medium high density residential uses. This results in a decrease in the number of residential units that may have been constructed in accordance with the 2025 Fresno General Plan and in the amount of emissions predicted in the MEIR prepared for the adoption of the general plan. This area is now being proposed for single family residential development which creates a significantly lower impact on the air. In addition, the

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amount of commercial planned land uses will remain the same; it is only the re-configuration of the area which is proposed at this time. Therefore, although the plan amendment was not anticipated as a subsequent project under MEIR No. 10130, the development of the proposed project will create a lesser impact on air quality than the project that was anticipated by the MEIR.

The SJVAPCD has developed the San Joaquin Valley 1991 California Clean Air Act Air Quality Attainment Plan (AQAP), which continues to project nonattainment for the above-noted pollutants in the future. This project will be subject to applicable Air District rules, regulations, and strategies. In addition, the construction phase of the project will be subject to the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) Regulation VIII, Fugitive Dust Rules, related to the control of dust and fine particulate matter. This rule mandates the implementation of dust control measures to reduce the potential for dust to the lowest possible level. The plan includes a number of strategies to improve air quality including a transportation control strategy and a vehicle inspection program. In addition, the District encourages innovations in measures to reduce air quality impacts such as energy efficient building materials and household appliances as well as site design features including landscaping, pedestrian and transit access features.

To provide continuous travel, bike lanes are also required on East Hamilton and South Armstrong Avenues. Other mitigation measures in addition to the required bike lanes are required sidewalks and pedestrian paths, pedestrian connections, lighting and other safety features for pedestrians and cyclists, street lighting and appropriate signage and signalization that will promote pedestrian and other modes of transportation. These will be implemented through the conditions of approval for any future subdivision map for single family residential development.

The 2025 Fresno General Plan and the Roosevelt Community Plan major street design standards and bikeway plans provide for thorough distribution of alternative transportation improvements. These facilities assure convenient accessibility to neighborhood uses including schools, parks, and commercial centers using alternative nonvehicular means of transportation. Neighborhood parks are acquired and developed with urban growth management fees, frequently located in conjunction with an elementary school site that facilitate related academic, athletic, recreational, and other community activities that promote combined trip-making and encourage the use of nonvehicular modes of transportation.

In addition, the City of Fresno continues to plan and implement the expansion of its fixed-route bus public transportation system in order to serve developing urban areas. Adopted standards and conditions of development require the provision of adequate bus stop facilities at appropriate major street locations to facilitate future public transportation services.

Mitigation Measures

1. The proposed project shall implement and incorporate, as applicable, the air quality related mitigation measures as noted in the attached Project Specific Monitoring Checklist dated January 19, 2005.
2. The proposed project shall implement and incorporate, as applicable, the air quality related mitigation measures as identified in the attached Master Environmental Impact Report No. 10130-2025 Fresno General Plan Mitigation Monitoring Checklist dated January 19, 2005.

3.0-WATER

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Fresno is one of the largest cities in the United States still relying entirely on groundwater for its public water supply. While the aquifer exceeds a depth of 300 feet and is large enough to provide adequate quantities of safe drinking water to the metropolitan area well into the twenty-first century, groundwater degradation, increasingly stringent water quality regulations, as well as high consumptive use of water on a per capita basis (267 gallons per day capita), have resulted in a decline in the total usable potable water supply.

The City of Fresno is currently implementing a number of strategies aimed at managing existing groundwater resources, including location and construction of groundwater recharge facilities to purify and replenish the ground water; construction of a surface water treatment and distribution facility; and routine testing of groundwater to identify contaminants and construct well head treatment facilities as necessary to remove contaminants from the groundwater. The City of Fresno Department of Public Utilities has confirmed that an adequate source of water is available to serve the proposed project. The nearest public water mains (existing and proposed) are located in East Jensen, East Church and South Sunnyside Avenues.

Mitigation Measures:

1. The proposed project shall implement and incorporate, as appropriate, the water related mitigation measures as noted in the attached Project Specific Monitoring Checklist dated January 19, 2005.
2. The proposed project shall implement and incorporate, as appropriate, the water related mitigation measures as identified in the attached Master Environmental Impact Report No. 10130- 2025 Fresno General Plan Mitigation Monitoring Checklist dated January 19, 2005.

4.0-PLANT LIFE; and 5.0-ANIMAL LIFE

There are no native plants or significant wildlife populations known to exist on the project site. The extensive landscaping proposed on the site will provide habitat for certain species of birds and small animals suited for an urban environment.

6.0-HUMAN HEALTH

Aside from temporary dust generation during construction, the project is not expected to have any other impacts on human health.

7.0-NOISE

The subject site is located adjacent to the Burlington Northern/Santa Fe Railroad mainline and the Figarden Loop. The railroad and the major street are potentially significant sources of noise and vibration which could disrupt the habitability of a single family residential area. The City of Fresno Noise Element of the General Plan identifies the maximum appropriate noise level exposure for outdoor activity areas to be 60 dB CDNL, and for interior living areas a noise level exposure of not more than 45 dB CDNL. The entire site is within a 60 to 70 decibel contour according to the Master Environmental Impact Report for the 2025 Fresno General Plan. This condition requires that an acoustical analysis for the project be submitted, evaluated, and accepted by the Planning and Development Department. The acoustical analysis performed for the project found the noise levels to be substantial.

The acoustical analysis, prepared by Brown-Buntin Associates, dated September 28, 2004, used models from the Federal Highway Administration (FHWA), as well as field measurements conducted at the project site. The study prepared for the project took into account noise from traffic along Figarden Drive as well

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as from the BNSF railroad. Field measurements recorded noise levels at the project site of 78 dB(A), without any sound walls or other mitigation. It is concluded that a 12-foot high wall, or approved combination of wall and berm, is necessary to fully reduce the noise levels along the easterly boundary of the project site. The sound wall shall be constructed in accordance with the acoustical analysis. A 6-foot wall is required around the perimeter of the remaining project site. These barriers will reduce the exterior noise level to 60.7 dB(A) at the first floor height.

Interior noise levels will be reduced to an acceptable level through standard construction mandated by the California Building Code. Specifically, exterior walls will be constructed with stucco, over 2"x4", 16" o.c. wood framing, with 1/2" gypsum board with cavity insulation inside. All exterior doors will be weather-stripped and have threshold seals and windows will be operable with dual glazing and low air infiltration rate frames. Additionally, mechanical ventilation (HVAC) will be provided to allow temperature control when doors and window are closed during high noise periods.

Any development of this site must be in compliance with the Railroad/Single Family Residential Interface Standards of Section 5.4.2 of the Bullard Community Plan.

Mitigation Measures

1. The proposed project shall implement and incorporate, as applicable, the noise related mitigation measures as noted in the attached Project Specific Monitoring Checklist dated January 19, 2005.
2. The proposed project shall implement and incorporate, as applicable, the noise related mitigation measures as identified in the attached Master Environmental Impact Report No. 10130-2025 Fresno General Plan Mitigation Monitoring Checklist dated January 19, 2005.

9.0-LAND USE

The plan amendment application proposes to amend the planned land use designations of the 2025 Fresno General Plan and the Bullard Community Plan from medium high density residential to medium density residential for 10 acres; community commercial to medium density residential for 12 acres; and medium high density residential to community commercial for 11 acres. The plan amendment application, if approved, would maintain the same amount of commercial and residential uses that currently exists and would decrease the intensity of the residential uses. The plan amendment application also proposes to delete Gates Avenue between North Figarden Drive and West Bullard Avenue and a portion of West Bullard Avenue between North Brunswick and North Bulletin Avenues from the circulation element of the 2025 Fresno General Plan and repeal the official plan lines for these streets. The rezone application proposes to rezone 22 acres of the subject site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the R-2/UGM (*Low Density Multiple Family Residential/Urban Growth Management*) zone district and to rezone 34 acres of the project site from the R-A/UGM (*Single Family Residential-Agriculture/Urban Growth Management*) and C-2/BA-20/UGM/cz (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management/conditions of zoning*) zone districts to the C-2/BA-20/UGM (*Community Commercial/Boulevard Area-20 Feet/Urban Growth Management*) zone district. These proposed zone districts correspond with the requested planned land use designations. This would allow for the project site to be developed with a 168-lot single family residential subdivision and a community commercial center.

Goal 5.5.1-1 of the Bullard Community Plan states that the City should, in regards to the Bullard-Brawley Loop/Figarden Drive area, "Provide for a viable 'community center' (focal area of community activity) integrating commercial, medium-high density residential, cultural, social, educational and recreational facilities at a location accessible to the community at large". The development of the entire project site,

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which is surrounded by urban uses, meets the goals of this policy. The project provides office, commercial and residential facilities for the community as well as the future residents of the proposed subdivision.

The proposed land use is compatible with the applicable community and general plan goals, policies, and implementation measures intended to provide for the efficient uses of natural resources and public facilities; the construction of adequate public improvements by the development which generates the demand for these facilities; and, the implementation of a functional land use pattern consistent with the population and economic growth projects of the Fresno General Plan.

Based on the applicability of adopted development standards, plan policies/implementation measures, and applicable mitigation measures of the above-referenced environmental documents, and with consideration of the proposed land use relationship, and recommended neighborhood unifying design principles, it is concluded that the proposed plan amendment will further promote the achievement of the planned urban form and land use objectives of the 2025 Fresno General Plan and the Bullard Community Plan.

10.0-TRANSPORTATION AND CIRCULATION; 10.1 Generation of Vehicular Traffic Sufficient to Cause Capacity Deficiencies

The circulation system near the project site has been altered to accommodate substantial interruptions to the established citywide grid system. Particularly, west of Marks Avenue, the circulation system makes significant deviations from the established grid system due to the two railroads cutting diagonally through the area in a northwest to southeast direction. The central circulation design feature in the western Bullard Community is the Bullard-Brawley Loop, which is named Figarden Drive, and was conceived in 1975 as a way to minimize the number of grade crossings of the BNSF railroad tracks. The Figarden Drive loop also provides a central circulation feature to facilitate the planned community center function of this area as contemplated by Objective C-4 of the 2025 Fresno General Plan. Radiating outward from the central core are five major streets: two collector streets, Sierra and Gates Avenues; and three arterial streets, Brawley, Santa Fe, and Bullard Avenues. Figarden Drive connects back to the grid system by becoming Bullard Avenue just west of the Bullard/Marks Avenue intersection and by becoming Brawley Avenue at approximately the Barstow Avenue alignment.

The reconfiguration of the grid system and creation of Figarden Drive was recommended to increase safety and reduce the expense of multiple railroad crossings. The two mainline railroads that run diagonally through the Bullard Community Plan area were disruptive to the circulation system and to adjacent land uses, and imposed a safety hazard at the various existing at-grade-level crossings that existed prior to the Figarden Drive Loop. The intersection and railroad crossing that currently exists at Figarden Drive/Santa Fe Avenue was designed and built specifically to direct traffic across the Figarden Drive/Santa Fe Avenue intersection so traffic at that intersection would operate safely and properly.

Large employment intensive uses attract trips from throughout the region and thus might facilitate the use of public transportation or other alternatives to the use of the private vehicle. However, it is apparent that a substantial portion of the predicted vehicle trips impacting the plan area's major street system would be generated from land uses that are not equitably contributing to the cost of constructing adequate street capacity or other transportation systems. Widely dispersed semi-urban or rural residential developments occurring beyond the Fresno Metropolitan Area are poorly suited for alternative forms of public transportation and typically would not contribute to the construction of additional major street capacity.

A traffic analysis, dated August 26, 2004, was prepared by Peters Engineering Group for the proposed project. The traffic analysis has identified several potential mitigation measures for the proposed project which are incorporated into the attached "Project Specific Mitigation Measures". In addition, the development of the project site with the proposed 168 single family residences and a 34 acre commercial center, and the surrounding planned urban uses designated by the 2025 Fresno General Plan and Bullard

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Community Plan, will be required to complete the planned major street network in accordance with applicable development policies and standards including the Urban Growth Management program. Both plans designate North Figarden Drive and West Bullard Avenue (west of Figarden) as arterial streets and West Bullard (east of Figarden) and North Gates Avenues as collector streets. Arterial streets are required to be developed with two travel lanes in each direction separated by a median island to control left-turn and crossing vehicular movements. Arterials can accommodate approximately 32,000 vehicle trips per day (VTD). Collector streets are typically developed with a total of two to four lanes without a median island although in some locations they may have a continuous left-turn lane. All street standards provide for a widened pavement width at major street intersections to allow for exclusive left-turn and right-turn lanes as well as bus bays or turnouts.

The plan amendment application proposes to delete Gates Avenue between North Figarden Drive and West Bullard Avenue and a portion of West Bullard Avenue between North Brunswick and North Bulletin Avenues from the circulation element of the 2025 Fresno General Plan and repeal the official plan lines for these streets. The portion of Bullard between Brunswick and Bulletin will be a local collector street and have one lane of travel in each direction as well as a continuous turn lane. The existing traffic signal at the intersection of Figarden and Gates will remain as the main ingress and egress point to the commercial center. With the rearrangement of the land uses for the site and the decreased intensity of the residential portion, it is no longer necessary to construct the major streets as they are shown in the general plan.

Based upon the existing planned land use designations of community commercial and medium high density residential (assuming maximum build-out with 330 units), the 2025 General Plan anticipated this site would generate 18,712 vehicle trips per day (based upon the American Institute of Traffic Engineers (ITE) Manual). The proposed project, with a 34 acre commercial center (assuming 385,000 square feet of building area, or 25% build-out) and a 168-lot single family residential subdivision, generates 18,132 vehicle trips per day. The proposed project represents a slight decrease in the amount of the planned trips for the subject property.

These trips would be directed mainly onto Figarden Drive, which is designated as an arterial according to the 2025 General Plan and the Bullard Community Plan and is currently operating at a LOS D for PM peak hours. Figarden Drive was designed as a four-lane divided arterial street, with traffic control signalization at intersections with major streets and other major access points. The right-of-way width is 116 feet to accommodate the four vehicular travel lanes plus two bike lanes. The designed daily capacity of a four-lane arterial is about 32,000 trips per day.

The study analyzed the following 12 intersections: Herndon/Golden State, Carnegie/Golden State, Milburn/Palo Alto, Bullard/Polk, Bullard/Dante, Bullard/Marks, Bullard/Carnegie, Bullard/Cecelia, Figarden/Bullard, Figarden/Santa Fe, Figarden/Gates and Figarden/Sierra. It was determined that all intersections would require some level of improvement in the future, with or without the proposed project. Per the recommended mitigation measures in the traffic analysis, the project owner/developer will be required to construct the intersection of Bullard at Figarden Avenue northbound and southbound approaches complete with dual left turn lanes, two through lanes, separate right-turn lanes (westbound and eastbound approaches only), and modify median noses to accommodate WB-50 truck turn template. The mitigation measures also include the reconstruction and modification of the Figarden/Gates intersection and the project shall pay its Traffic Signal Mitigation Impact Fee at the time of building permit based on the trip generation rates as set forth in the latest edition of the ITE Generation Manual, excluding the intersections mentioned with required mitigation measures. The developer/owner shall reconstruct the north and southbound median island noses (at Figarden Drive) to accommodate the dual left turns from Gates Avenue and follow the intersection geometry as depicted in Exhibit C.

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The proposed future development of the site will require several streets, existing and planned, to be vacated. This includes portions of the following streets: Gates Avenue, Verdona Avenue, Endich Avenue, Brunswick Avenue, Lob Ingir Avenue, Aidin Avenue, Figarden Avenue, Meander Avenue, Verba Avenue and Endor Avenue. There is an existing 3-foot pedestrian easement along Bullard Avenue which must also be vacated. The vacation of these streets is consistent with the land use and circulation elements of both the 2025 Fresno General Plan and the Bullard Community Plan, as amended by Plan Amendment Application No. A-04-26.

Caltrans

The California Department of Transportation (Caltrans), District 6, Office of Intergovernmental Relations has asserted that proposed project will contribute additional vehicle trips which will impact State Route (SR) 99 interchanges at Herndon Avenue and at Shaw Avenue. In a letter dated December 22, 2004, Caltrans requests that a traffic study be completed and that the city consider a transit alternative for the project. A traffic study was completed by Peters Engineering Group and has been given to Caltrans for their review. In addition, there is Fresno Area Express bus stop (Line 20) located approximately a half-mile to the south of the site.

State highway facilities appear to have failed to meet 20-year capacity design criteria during a period of time when the area's pace of population growth decreased to a rate well below previous state projections. This highway facility "under-design" and consequently the capacity deficiencies, which may now be prematurely occurring, are at least partially the result of resource allocation decisions made by the State of California rather than land use decisions made by the City of Fresno.

An appropriate, reasonable and legally permissible method of addressing capacity deficiencies has been presented to Caltrans for consideration. This method utilizes the master storm water drainage facility planning and fee program established by the Fresno Metropolitan Flood Control Agency as a model. Using this model, Caltrans is responsible for providing a master facilities plan, development fee schedule and assurances of compliance with constitutional and statutory requirements (Mitigation Fee Act - AB 1600) that apply to the City of Fresno. Should Caltrans develop a master facilities plan and development impact fee program consistent with this model it will be applied to any final tract map or other applicable development entitlement for this project. Finally, with or without the implementation of freeway impact fees, the project is not anticipated to adversely impact the area's circulation system as conditioned and mitigated.

It is also noted that the City of Fresno's staff has met with Caltrans representatives to review citywide impacts on State facilities; the CEQA process; and the legal requirements for determining the nexus (demonstration of the direct relationship between the project and the potential impact) and the proportionality (fair share contribution towards mitigating the impact) required by State law. While the Caltrans representatives have previously assured the City that Caltrans legal staff would provide evidence of compliance with State statutes, no response has been received to date by the City of Fresno.

However, in response to these discussions, a partnership in planning grant was obtained through which the City of Fresno and Caltrans will participate with other jurisdictions to complete a freeway deficiency study. This study will detail the traffic impacts anticipated to occur to freeway facilities within the greater Fresno-Madera-Clovis Metropolitan Area. This study will focus upon facilities identified to be most impacted by the projected increases in traffic; identification of the sources of the vehicle traffic within the greater metropolitan area; and the improvements necessary to provide adequate vehicular capacity. Findings from this study may allow proportionate traffic impact fees to be legally implemented by the cities of Fresno and Clovis as well as the County of Fresno upon adoption by the respective jurisdictions.

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In order to alleviate the impact of this project upon the City of Fresno's street system and to provide for a smooth flow of traffic to and from the project, the property owner/developer will be required to dedicate a portion of the subject sites for street purposes in accordance with adopted plans and policies such as the Major Street and Highway Plan, the Circulation Element of the General Plan, an Official Plan Line, a Director's Determination, or a local street public improvement standard as determined by the Director. Each development must also construct a portion of the planned major street system, including off-site extensions as required by Urban Growth Management Policies. In addition, the residents of the proposed project will contribute to the construction of state highway facilities and regionally significant streets through the Measure "C" local transportation sales tax program.

Mitigation Measures

1. The proposed project shall implement and incorporate, as applicable, the traffic and circulation related mitigation measures as noted in the attached Project Specific Monitoring Checklist dated January 19, 2005.
2. The proposed project shall implement and incorporate, as applicable, the traffic and circulation related mitigation measures as identified in the attached Master Environmental Impact Report No. 10130-2025 Fresno General Plan Mitigation Monitoring Checklist dated January 19, 2005.

11.0-URBAN SERVICES

11.1-Availability of Fire Protection

The project site is located within the city's Urban Growth Management Area and must comply with the applicable service delivery requirements necessary to provide not less than the minimum acceptable level of fire protection facilities and services appropriate for urban uses. The proposed project is located within two miles of City of Fresno Fire Station No. 14.

11.4-Overcrowding of School Facilities

The project site is served by the Fresno Unified School District. The district has adopted development fees in accordance with current state law. Development of the project site will be subject to the fees in place at the time fee certificates are obtained.

11.6-Availability of Sewer Lines of Adequate Capacity

The Public Utilities Department has determined that there is adequate service for the proposed project. The nearest available sewer mains are located in North Figarden Drive and North Gates Avenues.

Mitigation Measures

1. The proposed project shall implement and incorporate, as applicable, the sewer related mitigation measures as identified in the attached Master Environmental Impact Report No. 10130-2025 Fresno General Plan Mitigation Monitoring Checklist dated January 19, 2005.

INITIAL STUDY

Environmental Assessment No. A-04-26/R-04-84/C-04-272/T-5433

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11.7-Availability of Storm Water Drainage Facilities On or Off Site

In order to avoid or reduce the discharge of pollutants into the storm water sewer system, the U.S. Environmental Protection Agency requires that a Notice of Intent for a general National Pollutant Discharge Elimination System permit be filed for a variety of industrial uses and for any construction site of five or more acres of land. The property owner of this development site has been informed of that requirement and of his, and any business owner's, responsibility to ensure that the Notice of Intent is filed in accordance with the regulations published in Volume 55, No. 222, of the Federal Register.

14.0-HISTORICAL/ARCHAEOLOGICAL

There are no adjacent historical or archaeological sites. To ensure that any possible sites will be protected, the following conditions have been added to this special permit approval:

1. If archaeological and/or animal fossil material is encountered during project surveying, grading, excavating, or construction, work shall stop immediately.
2. If there are suspected human remains, the Fresno County Coroner shall be immediately contacted. If the remains or other archaeological material is possibly Native American in origin, the Native American Heritage Commission shall be immediately contacted, and the California Archaeological Inventory/Southern San Joaquin Valley Information Center shall be contacted to obtain a referral list of recognized archaeologists. An archaeological assessment shall be conducted for the project, the site shall be formally recorded, and recommendations made to the City as to any further site investigation or site avoidance/preservation.
3. If animal fossils are uncovered, the Museum of Paleontology at U.C. Berkeley shall be contacted to obtain a referral list of recognized paleontologists. An assessment shall be conducted by a paleontologist and, if the paleontologist determines the material to be significant, it shall be preserved.

DETERMINATION

Based upon these previous actions and the applicability of adopted development standards, plan policies/implementation measures, and applicable mitigation measures of the above-referenced environmental documents, it is concluded that the proposed land uses will not result in a significant indirect adverse environmental effect.

On the basis of this initial evaluation, it is determined that the proposed project is consistent with all applicable city plans and policies and conforms to all applicable zoning standards and requirements. Pursuant to Section 15070 of the California Environmental Quality Act (CEQA) Guidelines, it is further determined that there is no substantial evidence in the record that the proposed project may have a significant effect on the environment. **This is based upon the mitigation measures required as conditions of project approval which are referenced by this environmental assessment and are conditions upon which a mitigated negative declaration can be recommended.** A MITIGATED NEGATIVE DECLARATION WILL BE PREPARED.

**MASTER ENVIRONMENTAL IMPACT REPORT (MEIR) NO. 10130
2025 FRESNO GENERAL PLAN
Mitigation Monitoring Checklist**

Project/EA No. A-04-26/R-04-84/C-04-272/T-5433

Date: January 19, 2005

- A - Incorporated into Project
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Following is the mitigation monitoring checklist from MEIR No. 10130 as applied to the above-noted Project Environmental Assessment as required by City Council Resolution No. 2002-378 and Exhibit "E", thereof, adopted on November 19, 2002, certifying the MEIR for the 2025 Fresno General Plan Update.

NOTE: Letters B-Q in mitigation measures refer to the respective section of Chapter V of MEIR No. 10130

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
<p>B-1. Development projects that are consistent with plans and policies but that could affect conditions on major street segments predicted by the General Plan MEIR traffic analysis to perform at an Average Daily Traffic (ADT) level of service (LOS) D or better in 2025, with planned street improvements, shall not cause conditions on those segments to be worse than LOS E before 2025 without completing a traffic and transportation evaluation. This evaluation will be used to determine appropriate project-specific design measures or street/transportation improvements that will contribute to achieving and maintaining LOS D.</p>	<p>Prior to approval of land use entitlement application</p>	<p>Public Works Dept./ Transportation Planning/Planning and Development Dept.</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>
<p>B-2. Development projects that are consistent with plans and policies but that could affect conditions on major street segments predicted by the General Plan MEIR traffic analysis to perform at an ADT LOS E in 2025, with planned street improvements, shall not cause conditions on those segments to be worse than LOS E before 2025 without completing a traffic and transportation evaluation. This evaluation will be used to determine appropriate project-specific design measures or street/ transportation improvements that will contribute to achieving and maintaining LOS E.</p>	<p>Prior to approval of land use entitlement application</p>	<p>Public Works Dept./ Transportation Planning/Planning and Development Dept.</p>	<p></p>	<p></p>	<p></p>	<p></p>	<p></p>	<p>X</p>
<p>B-3. Development projects that are consistent with plans and policies but that could affect conditions on major street segments predicted by the General Plan MEIR traffic analysis to perform at an ADT LOS F shall not cause further substantial degradation of conditions on those segments before 2025 without completing a traffic and transportation evaluation.</p> <p>This evaluation will be used to determine appropriate project-specific design measures or street/ transportation improvements that will contribute to achieving and maintaining a LOS equivalent to that anticipated by the General Plan. Further substantial degradation is defined as an increase in the peak hour vehicle/capacity (v/c) ratio of 0.15 or greater for roadway segments whose v/c ratio is estimated to be 1.00 or higher in 2025 by the General Plan MEIR traffic analysis.</p>	<p>Prior to approval of land use entitlement application</p>	<p>Public Works Dept./ Transportation Planning/Planning and Development Dept.</p>	<p></p>	<p></p>	<p></p>	<p></p>	<p></p>	<p>X</p>

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
<p>B-4. For development projects that are consistent with plans and policies, a site access evaluation shall be required to the satisfaction of the Public Works Director. This evaluation shall, at a minimum, focus on the following factors:</p> <p>a. Disruption of vehicular traffic flow along adjacent major streets, appropriate design measures for on-site vehicular circulation and access to major streets (number, location and design of driveway approaches), and linkages to bicycle/pedestrian circulation systems and transit services.</p> <p>b. In addition, for development projects that the City determines may generate a projected 100 or more peak hour vehicle trips (either in the morning or evening), the evaluation shall determine the project's contribution to increased peak hour vehicle delay at major street intersections adjacent or proximate to the project site. The evaluation shall identify project responsibilities for intersection improvements to reduce vehicle delay consistent with the LOS anticipated by the 2025 Fresno General Plan. For projects which affect State Highways, the Public Works Director may direct the site access evaluation to reference the criteria presented in Caltrans Guide for the Preparation of Traffic Impact Studies.</p>	<p>Prior to approval of land use entitlement application</p>	<p>Public Works Dept./Transportation Planning/Planning and Development Dept.</p>	<p align="center">X</p>			<p align="center">X</p>		
<p>B-5. Circulation and site design measures shall be considered for development projects so that local trips may be completed as much as possible without use of, or with reduced use of, major streets and major street intersections. Appropriate consideration must also be given to compliance with plan policies and mitigation measures intended to promote compatibility between land uses with different traffic generation characteristics.</p>	<p>Prior to approval of land use entitlement application</p>	<p>Public Works Dept./Transportation Planning/Planning and Development Dept.</p>	<p align="center">X</p>					
<p>B-6. New development projects and major street construction projects shall be designed with consideration and implementation of appropriate features (considering safety, convenience and cost-effectiveness) to encourage walking, bicycling, and public transportation as alternative modes to the automobile.</p>	<p>Prior to approval or prior to funding of major street project.</p>	<p>Public Works Dept./Transportation Planning/Planning and Development Dept.</p>	<p align="center">X</p>					
<p>B-7. Bicycle and pedestrian travel and use of public transportation shall be facilitated as alternative modes of transportation including, but not limited to, provision of bicycle, pedestrian and public transportation facilities and improvements to connect residential areas with public facilities, shopping and employment. Adequate rights-of-way for bikeways, preferably as bicycle lanes, shall be provided on all new major streets and shall be considered when designing improvements for existing major streets.</p>	<p>Ongoing</p>	<p>Public Works Dept./Transportation Planning/Planning and Development Dept.</p>	<p align="center">X</p>				<p align="center">X</p>	

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
<p>C-1. In cooperation with other jurisdictions and agencies in the San Joaquin Valley Air Basin, the City shall take the following necessary actions to achieve and maintain compliance with state and federal air quality standards and programs.</p> <p>a. Develop and incorporate air quality maintenance considerations into the preparation and review of land use plans and development proposals.</p> <p>b. Maintain internal consistency within the General Plan between policies and programs for air quality resource conservation and the policies and programs of other General Plan elements.</p> <p>c. City departments preparing environmental review documents shall use computer models (software approved by local and state air quality and congestion management agencies) to estimate air pollution impacts of development entitlements, land use plans and amendments to land use regulations.</p> <p>d. Continue to route information regarding land use plans, development projects, and amendments to development regulations to the SJVAPCD for that agency's review and comment on potential air quality impacts.</p>	Ongoing	Planning and Development Department	X					
<p>C-2. The City shall continue efforts to improve technical performance, emissions levels and system operations of the Fresno Area Express transit system, through such measures as:</p> <p>a. Selecting and maintaining bus engines, transmissions, fuels and air conditioning equipment for efficiency and low air pollution emissions.</p> <p>b. Siting new transit centers and other multi-modal transportation transfer facilities to maximize utilization of mass transit.</p> <p>c. Continuing efforts to improve transit on-time performance, increase frequency of service, extend hours of operation, add express bus service and align routes to capture as much new ridership as possible.</p> <p>d. Initiating a program to allow employers and institutions (e.g., educational facilities) to purchase blocks of bus passes at a reduced rate to facilitate their incentive programs for reducing single-passenger vehicle use.</p>	Ongoing	Fresno Area Express					X	
<p>C-3. The City shall implement all of the Reasonably Available Control Measures (RACM) identified in Exhibit A of Resolution No. 2002-119, adopted by the Fresno City Council on April 9, 2002. These measures are presented in full detail in Table VC-3 of the MEIR.</p>	Ongoing	Various city departments	X				X	X

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
D-1. The City shall monitor impacts of land use changes and development project proposals on metropolitan water supply facilities and the groundwater aquifer.	Ongoing	Dept of Public Utilities and Planning and Development Dept	X		X		X	
D-2. The City shall ensure the funding and construction of facilities to mitigate the direct impacts of land use changes and development within the 2025 General Plan boundaries. Groundwater wells, pump stations, recharge facilities, water treatment and distribution systems shall be expanded incrementally to mitigate increased water demands. Site specific environmental evaluations shall precede the construction of these facilities. Results of this evaluation shall be incorporated into each project to reduce the identified environmental impacts.	Ongoing	Department of Public Utilities and Planning and Development Department	X		X		X	
D-3. The City shall implement the Fresno Metropolitan Water Resources Management Plan and update this plan as necessary to ensure the cost-effectiveness use of water resources and continued availability of good-quality groundwater and surface water supplies.	Ongoing	Department of Public Utilities					X	
D-4. The City shall work with the Fresno Metropolitan Flood Control District to prevent and reduce the existence of urban stormwater pollutants to the maximum extent practical and ensure that surface and groundwater quality, public health, and the environment shall not be adversely affected by urban runoff, and shall comply with NPDES standards.	Ongoing	Planning and Development Department	X			X	X	
D-5. The City shall preserve undeveloped areas within the 100-year floodway within the city and its general plan area, particularly the San Joaquin Riverbottom, for uses that will not involve permanent improvements which would be adversely affected by periodic floods.	Ongoing	Planning and Development Department						X
D-6. The city shall establish special building standards for private structures, public structures and infrastructure elements in the San Joaquin Riverbottom that will protect: a. Construction in this area from being damaged by the intensity of flooding in the riverbottom; and, b. Water quality in the San Joaquin River watershed from flood damage-related nuisances and hazards (e.g., the release of raw sewage); and, c. Public health, safety and general welfare from the effects of flood events.	Ongoing	Planning and Development Department						X

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D-7. The City shall advocate that the San Joaquin River not be channelized and that levees shall not be used in the river corridor for flood control, except those alterations in river flow that are approved for surface mining and subsequent reclamation activities for mined sites (e.g. temporary berms and small side-channel diversions to control water flow through ponds).	Ongoing	Planning and Development Department						X
D-8. The City shall maintain a comprehensive, long-range water resource management plan that provides for appropriate management of all sources of water available to the planning area which is periodically updated to ensure that sufficient and sustainable water supplies of good quality will be economically available to accommodate existing and planned urban development.	Ongoing	Department of Public Utilities				X		
D-9. If the City is unable to renew its 60,000-acre foot USBR water supply contract due to the city's Charter meter prohibition, replacement water supplies and/or conservation measures of equal benefit shall be secured.	Ongoing	Department of Public Utilities					X	
D-10. The City will conform to the requirements of Waste Discharge Requirements Order 5-01-254, including groundwater monitoring and subsequent Best Practical Treatment and Control (BPTC) assessment and findings.	Ongoing	Department of Public Utilities					X	
E-1. The City shall continue to implement and pursue strengthening of urban growth management service delivery requirements and annexation policy agreements, including urging that the county continue to implement similar measures within the boundaries of the 2025 Fresno General Plan, to promote contiguous urban development and discourage premature conversion of agricultural land.	Ongoing	Planning and Development Department					X	
E-2. To minimize the inefficient conversion of agricultural land, the City shall pursue the appropriate measures to ensure that development within the planned urban boundary occurs consistent with the General Plan and that urban development occurs within the city's incorporated boundaries.	Ongoing	Planning and Development Department						X
E-3. The City shall pursue appropriate measures, including recordation of right to farm covenants, to ensure that agricultural uses of land may continue within those areas of transition where planned urban areas interface with planned agricultural areas.	Ongoing	Planning and Development Department						X

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A B C D E F						
			A	B	C	D	E	F	
<p>E-4. Development of agricultural land, or fallow land adjacent to land designated for agricultural uses, shall incorporate measures to reduce the potential for conflicts with the agricultural use. Implementation of the following measures shall be considered:</p> <p>a. Including a buffer zone of sufficient width between proposed residences and the agricultural use.</p> <p>b. Restricting the intensity of residential uses adjacent to agricultural lands.</p> <p>c. Informing residents about possible exposure to agricultural chemicals.</p> <p>d. Where feasible and permitted by law, exploring opportunities for agricultural operators to cease aerial spraying of chemicals and use of heavy equipment near proposed residences.</p> <p>e. Recordation of right to farm covenants to ensure that agricultural uses of land can continue.</p> <p>F-1. The City shall ensure the provision for adequate trunk sewer and collector main capacities to serve existing and planned urban and economic development, including existing developed uses not presently connected to the public sewer system, consistent with the Wastewater Master Plan. Where appropriate, the City will coordinate with the City of Clovis and other agencies to ensure that planning and construction of facilities address regional needs in a comprehensive manner.</p> <p>F-2. The City shall continue the development and use of citywide sewer flow monitoring and computerized flow modeling to ensure the availability of sewer collection system capacity to serve planned urban development.</p> <p>F-2-a. The City shall provide for containment and management of leathers and sludge adequate to prevent groundwater degradation.</p>	<p>Ongoing</p>	<p>Planning and Development Department</p>						X	
			X		X			X	
					X			X	X
									X

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
<p>F-3. The City shall ensure the provision of adequate sewage treatment and disposal by using the Fresno-Clovis Regional Wastewater Reclamation Facility as the primary facility when economically feasible for all existing and new development within the General Plan area. Smaller, subregional wastewater treatment facilities may also be constructed as part of the regional wastewater treatment system, when appropriate. Site specific environmental evaluation and development of Waste Discharge Requirements by the Regional Water Quality Control Board shall precede the construction of these facilities. Mitigation measures identified in these evaluations shall be incorporated into each project to reduce the identified environmental impacts.</p>	Ongoing	Dept. of Public Utilities			X		X	X
<p>F-4. The City shall ensure that adequate trunk sewer capacity exists or can be provided to serve proposed development prior to the approval of rezoning, special permits, tract maps and parcel maps, so that the capacities of existing facilities are not exceeded.</p>	Ongoing/prior to approval of land use entitlement application	Dept. of Public Utilities and Planning and Development Department	X		X		X	
<p>F-5. The City shall provide adequate solid waste facilities and services for the collection, transfer, recycling, and disposal of refuse for existing and planned development within the City's jurisdiction. Site specific environmental evaluation shall precede the construction of these facilities. Results of this evaluation shall be incorporated into each project to reduce the identified environmental impacts.</p>	Ongoing/prior to construction	Dept. of Public Utilities	X		X		X	
<p>G-1. Site specific environmental evaluation shall precede the construction of new police and fire protection facilities. Results of this evaluation shall be incorporated into each project to reduce the identified environmental impacts.</p>	Ongoing/prior to construction	Fire Dept/Police Dept/ Planning and Development Dept.						X
<p>H-1. Site specific environmental evaluation shall precede the construction of new public parks. Results of this evaluation shall be incorporated into the park design to reduce the environmental impacts.</p>	Ongoing/prior to construction	Parks and Recreation Dept./Planning and Development Dept.						X
<p>I-1. Projects that could adversely affect rare, threatened or endangered wildlife and vegetative species (or may have impacts on wildlife, fish and vegetation restoration programs) may be approved only with the consent of the California Department of Fish and Game (and the U.S. Fish and Wildlife Service, as appropriate) that adequate mitigation measures are incorporated into the project's approval.</p>	Ongoing/prior to approval of land use entitlement application	Planning and Development Dept.						X

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A B C D E F						
			A	B	C	D	E	F	
1-2. Where feasible, development shall avoid disturbance in wetland areas, including vernal pools and riparian communities along rivers and streams. Avoidance of these areas shall include siting structures at least 100 feet from the outermost edge of the wetland. If complete avoidance is not possible, the disturbance to the wetland shall be minimized to the maximum extent possible, with restoration of the disturbed area provided. New vegetation shall consist of native species similar to those removed.	Ongoing/prior to approval of land use entitlement application	Planning and Development Dept.							X
1-3. Where wetlands or other sensitive habitats cannot be avoided, replacement habitat at a nearby off-site location shall be provided. The replacement habitat shall be substantially equivalent in nature to the habitat lost and shall be provided at a ratio suitable to assure that, at a minimum, there is no net loss of habitat acreage or value. Typically, the U.S. Fish and Wildlife Service and California Department of Fish and Game require a ratio of three replacement acres for every one acre of high quality riparian or wetland habitat lost.	Ongoing/prior to approval of land use entitlement application and during construction	Planning and Development Dept.							X
1-4. Existing and mature riparian vegetation shall be preserved to the extent feasible, except when trees are diseased or otherwise constitute a hazard to persons or property. During construction, all activities and storage of equipment shall occur outside of the drip lines of any trees to be preserved.	Ongoing/prior to approval of land use entitlement application and during construction	Planning and Development Dept.							X
1-5. Within the identified riparian corridors, environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values and only uses consistent with these values shall be allowed (e.g., nature education and research, fishing and habitat enhancement and protection).	Ongoing/prior to approval of land use entitlement application and during construction	Planning and Development Dept.							X
1-6. All areas within identified riparian corridors shall be maintained in a natural state or limited to recreation and open space uses. Recreation shall be limited to passive forms of recreation, with any facilities that are constructed required to be non-intrusive to wildlife or sensitive species.	Ongoing/prior to approval of land use entitlement application and during construction	Planning and Development Dept.							X

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
<p>J-1. If the site of a proposed development or public works project is found to contain unique archaeological or paleontological resources, and it can be demonstrated that the project will cause damage to these resources, reasonable efforts shall be made to permit any or all of the resource to be scientifically removed, or it shall be preserved in situ (left in an undisturbed state). In situ preservation may include the following options, or equivalent measures:</p> <ul style="list-style-type: none"> a. Amending construction plans to avoid the resources. b. Setting aside sites containing these resources by deeding them into permanent conservation easements. c. Capping or covering these resources with a protective layer of soil before building on the sites. d. Incorporating parks, green space or other open space into the project to leave these resources undisturbed and to provide a protective cover over them. e. Avoiding public disclosure of the location of these resources until or unless the site is adequately protected from vandalism or theft. 	<p>Ongoing/prior to approval of land use entitlement application</p>	<p>Planning and Development Dept.</p>	<p align="center">X</p>		<p align="center">X</p>		<p align="center">X</p>	
<p>J-2. An archaeological assessment shall be conducted for the project if prehistoric human relics are found that were not previously assessed during the environmental assessment for the project. The site shall be formally recorded, and archaeologists' recommendations shall be made to the City on further site investigation or site avoidance/ preservation measures.</p>	<p>Ongoing/prior to submittal of land use entitlement application</p>	<p>Planning and Development Dept.</p>	<p align="center">X</p>					
<p>J-3. If there are suspected human remains, the Fresno County Coroner shall be contacted immediately. If the remains or other archaeological materials are possibly of Native American origin, the Native American Heritage Commission shall be contacted immediately, and the California Archaeological Inventory's Southern San Joaquin Valley Information Center shall be contacted to obtain a referral list of recognized archaeologists.</p>	<p>Ongoing</p>	<p>Planning and Development Dept./ Historic Preservation Commission staff</p>	<p align="center">X</p>					
<p>J-4. Where maintenance, repair stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (Weeks and Grimmer, 1995), the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus not significant.</p>	<p>Ongoing</p>	<p>Planning and Development Dept./ Historic Preservation Staff</p>						<p align="center">X</p>
<p>K-1. The City shall adopt the land use noise compatibility standards presented in Figure VK-2 for general planning purposes.</p>	<p>Ongoing</p>	<p>Planning and Development Dept.</p>	<p align="center">X</p>		<p align="center">X</p>		<p align="center">X</p>	

**CITY OF YESNO
MITIGATED NEGATIVE DECLARATION
PROJECT SPECIFIC MITIGATION MONITORING CHECKLIST
ENVIRONMENTAL ASSESSMENT NO. A-04-26/R-04-84/C-04-272/T-5433**

	Mitigation Measure	Implemented By	When Implemented	Verified By
2.1 <i>Air Quality</i>	There shall be no wood burning devices permitted as part of this project.	Planning and Development Department	At issuance of building permit	Planning Development Department
2.1 <i>Air Quality</i>	Pay Indirect Source Review Fee for all structures constructed subsequent to the adoption of the fee by the San Joaquin Valley Air Pollution Control District.	Planning and Development Department	At time of issuance of building permit	Planning and Development Department, San Joaquin Valley Air Pollution Control District
2.1 <i>Air Quality</i>	Approval of the proposed project shall be conditioned upon compliance with the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Regulation VIII, Rule 8020, as related to fine particulate matter and dust.	Development Dept., Building Section and Public Works Dept., Construction Management Div.	Prior to occupancy of any building within the project.	Development Dept., Building Section and Public Works Dept., Construction Management Div.
7.0 <i>Noise</i>	Construct an 8 to 12-foot effective height solid wall as required by the acoustical analysis, dated September 28, 2004, prepared by Brown-Buntin Associates Inc.	Planning and Development Department	Prior to occupancy of any building within the project	Planning and Development Department
7.0 <i>Noise</i>	Comply with acoustical analysis dated September 28, 2004 regarding two-story construction along the northeasterly portion of the tract.	Planning and Development Department	At time of issuance of building permit	Planning and Development Department
10.0 <i>Traffic/ Circulation</i>	The project owner/developer will be required to construct the intersection of Bullard at Figarden Drive northbound and southbound approaches complete with dual left turn lanes, two through lanes, separate right-turn lanes (westbound and eastbound approaches only), and modify median noses to accommodate WB-50 truck turn template.	Planning and Development Department, Public Works Department	Prior to occupancy of any building within the project	Planning and Development Department, Public Works Department
10.0 <i>Traffic/ Circulation</i>	Reconstruct and modify the intersection and traffic signal and add left turn phasing on all approaches at the intersection of Figarden/Gates. This proposed construction of the signals shall include, but is not limited to, the following: dual left turn lanes for the eastbound and westbound approaches on Gates Avenues, and 250' separate northbound right turn pocket along Figarden Drive.	Planning and Development Department, Public Works Department	Prior to occupancy of any building within the project	Planning and Development Department, Public Works Department

	Mitigation Measure	Implemented By	When Implemented	Verified By
10.0 Traffic/ Circulation	This project shall pay its Traffic Signal Mitigation Impact Fee at the time of building permit based on the trip generation rates as set forth in the latest edition of the ITE Generation Manual, excluding the intersections mentioned with required mitigation measures.	Planning and Development Department, Public Works Department	At time of issuance of building permit	Planning and Development Department, Public Works Department
10.0 Traffic/ Circulation	The developer/owner shall reconstruct the north and southbound median island noses (at Figarden Drive) to accommodate the dual left turns from Gates Avenue and follow the intersection geometry as depicted in Exhibit C.	Planning and Development Department, Public Works Department	Prior to occupancy of any building within the project	Planning and Development Department, Public Works Department

**PG&E Gas and Electric Advice
Filing List
General Order 96-A, Section III(G)**

ABAG Power Pool
Accent Energy
Aglet Consumer Alliance
Agnews Developmental Center
Ahmed, Ali
Alcantar & Elsesser
Ancillary Services Coalition
Anderson Donovan & Poole P.C.
Applied Power Technologies
APS Energy Services Co Inc
Arter & Hadden LLP
Avista Corp
Barkovich & Yap, Inc.
BART
Bartle Wells Associates
Blue Ridge Gas
Bohannon Development Co
BP Energy Company
Braun & Associates
C & H Sugar Co.
CA Bldg Industry Association
CA Cotton Ginners & Growers Assoc.
CA League of Food Processors
CA Water Service Group
California Energy Commission
California Farm Bureau Federation
California Gas Acquisition Svcs
California ISO
Calpine
Calpine Corp
Calpine Gilroy Cogen
Cambridge Energy Research Assoc
Cameron McKenna
Cardinal Cogen
Cellnet Data Systems
Chevron Texaco
Chevron USA Production Co.
Childress, David A.
City of Glendale
City of Healdsburg
City of Palo Alto
City of Redding
CLECA Law Office
Commerce Energy
Constellation New Energy
CPUC
Cross Border Inc
Crossborder Inc
CSC Energy Services
Davis, Wright, Tremaine LLP
Defense Fuel Support Center
Department of the Army
Department of Water & Power City
DGS Natural Gas Services
Douglass & Liddell
Downey, Brand, Seymour & Rohwer
Duke Energy
Duke Energy North America
Duncan, Virgil E.
Dutcher, John
Dynergy Inc.
Ellison Schneider
Energy Law Group LLP
Energy Management Services, LLC
Exelon Energy Ohio, Inc
Exeter Associates
Foster Farms
Foster, Wheeler, Martinez
Franciscan Mobilehome
Future Resources Associates, Inc
G. A. Krause & Assoc
Gas Transmission Northwest Corporation
GLJ Energy Publications
Goodin, MacBride, Squeri, Schlotz &
Hanna & Morton
Heeg, Peggy A.
Hitachi Global Storage Technologies
Hogan Manufacturing, Inc
House, Lon
Imperial Irrigation District
Integrated Utility Consulting Group
International Power Technology
Interstate Gas Services, Inc.
IUCG/Sunshine Design LLC
J. R. Wood, Inc
JTM, Inc
Luce, Forward, Hamilton & Scripps
Manatt, Phelps & Phillips
Marcus, David
Matthew V. Brady & Associates
Maynor, Donald H.
McKenzie & Assoc
McKenzie & Associates
Meek, Daniel W.
Mirant California, LLC
Modesto Irrigation Dist
Morrison & Foerster
Morse Richard Weisenmiller & Assoc.
Navigant Consulting
New United Motor Mfg, Inc
Norris & Wong Associates
North Coast Solar Resources
Northern California Power Agency
Office of Energy Assessments
OnGrid Solar
Palo Alto Muni Utilities
PG&E National Energy Group
Pinnacle CNG Company
PITCO
Plurimi, Inc.
PPL EnergyPlus, LLC
Praxair, Inc.
Price, Roy
Product Development Dept
R. M. Hairston & Company
R. W. Beck & Associates
Recon Research
Regional Cogeneration Service
RMC Lonestar
Sacramento Municipal Utility District
SCD Energy Solutions
Seattle City Light
Sempra
Sempra Energy
Sequoia Union HS Dist
SESCO
Sierra Pacific Power Company
Silicon Valley Power
Smurfit Stone Container Corp
Southern California Edison
SPURR
St. Paul Assoc
Stanford University
Sutherland, Asbill & Brennan
Tabors Caramanis & Associates
Tecogen, Inc
TFS Energy
Transcanada
Turlock Irrigation District
U S Borax, Inc
United Cogen Inc.
URM Groups
Utility Cost Management LLC
Utility Resource Network
Wellhead Electric Company
Western Hub Properties, LLC
White & Case
WMA