



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

Planning Commission Staff Report Agenda Item No. 2 April 13, 2017

SUBJECT: Classified Conditional Use Permit Application No. 3557

Allow swimming lessons in conjunction with a single-family residence on a 10,470 square-foot parcel in the R-1-B(nb)(Single-Family Residential, 12,500 square-foot minimum parcel size, Neighborhood Beautification Overlay) Zone District.

LOCATION: The subject parcel is located on the north side of East Sierra Madre Avenue, approximately 300 feet east of its intersection with Maroa Avenue, approximately 350 feet southwest of the nearest city limits of the City of Fresno(1003 East Sierra Madre Avenue) (SUP. DIST. 2) (APN 425-081-08).

**OWNER/
APPLICANT:** Ann L. Buchanan-Philpott

STAFF CONTACT: Jeremy Shaw, Planner
(559) 600-4207

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Approve Classified Conditional Use Permit (CUP) No. 3557 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plans and Detail Drawings
6. Applicants Operational Statement
7. Fig Garden Home Owners Association provisional approval
8. Site photos
9. Site aerial

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Low-Density Residential in the County-Adopted Fig Garden Community Plan	No change
Zoning	R-1-B(nb) (Single-Family Residential, 12,500 square-foot minimum parcel size, Neighborhood Beautification Overlay) Zone District	No change
Parcel Size	10,470 square feet	No change
Project Site	2,594 square-foot single-family residence, 400 square-foot garage, 423 square-foot swimming pool	No change
Structural Improvements	Single-Family Residence with attached garage	No change
Nearest Residence	North - Approximately 430 feet South - Approximately 110 feet East - Approximately 15 feet West - Approximately 15 feet	No change
Surrounding Development	North - Professional Office and Commercial Retail	No change

Criteria	Existing	Proposed
	South - Single-Family Residential East - Single-Family Residential West - Single-Family Residential	
Operational Features	None	Large-group swimming lessons (five or more students per day)
Employees	None	Three
Customers	None	Up to 25 students per day maximum
Traffic Trips	None	Up to 35 Round Trip traffic trips per day
Lighting	Existing outdoor lighting typically associated with a single-family residence	No change
Hours of Operation	N/A	From 9:00 AM to 5:00 PM Monday through Thursday From 9:00 AM to 12:00 PM on Friday

EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15061.b.3 of the California Environmental Quality Act (CEQA) guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 75 property owners within 600 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

The subject parcel is zoned R-1-B(nb) (Single-Family Residential, 12,500 square-foot minimum parcel size, Neighborhood Beautification Overlay). Section 824.3.I of the County Zoning Ordinance allows for large-group (five [5] or more children per day) swimming lessons in the R-1-B Zone District, subject to a Conditional Use Permit, and subject to section 855-N.34 property development standards, which state that: Large-group swimming lessons shall provide for the

teaching of five or more children per day, subject to the maintenance of records for a period of not less than one year indicating the names of each person and the dates on which lessons were given, and making the records available upon demand to authorized County personnel.

A Classified Conditional Use Permit (CUP) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

The decision of the Planning Commission on a Classified Conditional Use Permit (CUP) Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

BACKGROUND INFORMATION:

The existing residence was constructed prior to March 1958. Since the original construction, the residence has been remodeled several times, and building permits were issued for those remodels; additionally, building permits for the existing swimming pool were issued on February 27, 1970, per County records. On December 9, 2010 the Planning Commission approved Variance No. 3914 to allow a reduced front-yard setback on the subject property to accommodate a structural improvement to the residence.

Amendment to Text (AT) No. 127 was approved in 1975 to allow swimming lessons in residential zone districts, subject to the approval of a Conditional Use Permit. Subsequently, Conditional Use Permit (CUP) No. 1370 was approved on April 22, 1976 to allow swimming lessons in conjunction with a single-family residence. The permitted use approved by CUP No. 1370 was limited to three years from the date of approval. Following the expiration, a complaint was received regarding the operation of swimming lessons beyond the approved time limit. Subsequently, Classified Conditional Use Permit No. 2087 was approved on August 2, 1984 to allow swimming lessons for a period of 15 years. On September 11, 1984 the County Board of Supervisors approved an appeal of the Conditions for CUP No. 2087 and subsequently reduced the time period of the approved use from 15 years to 7 years. CUP No. 2087 effectively expired on August 2, 1991.

The Applicant continued to conduct swimming lessons beyond the approved time limit until staff from another County Department discovered upon routine inspection that the Use Permit for the operation had expired. The current application, Classified Conditional Use Permit Application No. 3557, is intended to rectify this situation.

Finding 1: That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Division, to adjust said use with land and uses in the neighborhood.

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front Yard 35 feet Side Yard 10 feet Rear Yard 20 feet	No change	Yes
Parking	One space in a garage or carport	No change	Yes

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Lot Coverage	35 percent (maximum)	No change	Yes
Space Between Buildings	Six feet	No change	Yes
Wall Requirements	Five to Six Feet in height	No change	Yes
Septic Replacement Area	Municipal sewer	N/A	N/A
Water Well Separation	Municipal Water	N/A	N/A

Reviewing Agency/Department Comments Regarding Site Adequacy:

Building Section of the Fresno County Department of Public Works and Planning: If this application is approved, plans permits and inspections will be required, including, but not limited to: pool barrier; pool accessibility, including parking and path of travel; and bathroom and pool drain anti-entrapment requirements. This requirement will be included as a Project Note.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: See comments under Finding Two on page six of the Staff Report.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

Analysis:

The proposal entails allowing large-group swimming lessons for a maximum of 25 students per day, broken up into classes of five to six students, one class per hour, Monday through Thursday, from 9:00 AM and 5:00 PM, and five to six students per class, with one class every half hour on Friday from 9:00 AM to 12:00 PM. The duration of the proposed operation will be limited to Spring and Summer, between May and July. Two previous Conditional Use Permits to allow swimming lessons have been approved on the subject property. Staff believes that on-site parking will be adequate for the proposed use and is available both in the existing driveway and within a paved area along the property frontage. Staff also notes that it is likely that some parking will occur along the shoulder of the road in front of neighboring properties, however staff believes that the existing facilities are adequate to handle the anticipated parking. Additionally, the proposed operation will be conducted during business hours, on weekdays and for a limited duration, approximately two and one-half to three months out of the year.

Staff finds that the proposed use is adequate in size and shape to accommodate the proposed use.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Finding 1 can be made.

***Finding 2:** That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*

		Existing Conditions	Proposed Operation
Private Road	No	Public road	No change
Public Road Frontage	Yes	105 feet	No change
Direct Access to Public Road	Yes	Sierra Madre Avenue	No change
Road ADT		200	No change
Road Classification		Local	No change
Road Width		20.3 feet	No change
Road Surface		Excellent condition	No change
Traffic Trips		Approximately 200 Average Daily Trips, according to the Development Engineering Division, of the Fresno County Department of Public Works and Planning	Approximately 35 additional round trip, traffic trips per day (drop off, pick up) anticipated with this proposal
Traffic Impact Study (TIS) Prepared	No	N/A	No significant increase to traffic expected with this proposal, and no Traffic Impact Study was requested by any reviewing agency
Road Improvements Required		N/A	None required

Reviewing Agency/Department Comments Regarding Adequacy of Streets and Highways:

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: The Applicant has indicated that there is approximately 19 feet of paved parking area along the property frontage. Angle parking in residential areas within the road right-of-way is not permitted per County Code. Given the parcel frontage of 105 feet, it may not be able to supply adequate parking capacity for three employees and student/client vehicles which will likely use on-street parking in front of neighboring properties.

Design Division of the Fresno County Department of Public Works and Planning: No comments.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Sierra Madre Avenue is classified as a Local Road with an existing 30-foot right-of-way north of the centerline. Sierra Madre is a County-maintained road and records indicate that this section of Sierra Madre from Maroa Avenue to College Avenue has an ADT of 200, a paved width of 20 feet 3.6 inches, a structural section of 0.08 feet AC and is in excellent condition.

Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an encroachment permit form the Road Maintenance and Operations Division. If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at an exiting driveway.

According to FEMA, FIRM Panel 3250H, the parcel is not subject to flooding from the one percent-chance storm event. According to U.S.G.S. Quad maps, there are no existing natural drainage channels adjacent to or running through the parcels.

The project is located within the Fresno Metropolitan Flood Control District (FMFCD) Boundary Drainage Zone District DD. FMFCD should be consulted for their requirements, and any additional runoff generated by development cannot be drained across property lines and should be retained or disposed of per County Standards.

Typically, if the subject property is within the City Sphere of Influence, in this case the City of Fresno, the City should be consulted regarding their requirements for any future off-site improvements and driveway placement relative to the property line.

No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

Analysis:

This proposal would entail up to 100 traffic trips (50 round trips) per day associated with the operation, and a potential temporary increase in on-street parking during operational hours; however, the increased traffic trips and parking will be staggered throughout the day and will be limited in hours of operation and time duration. Staff also notes that the number of traffic trips anticipated is increased from the prior approval associated with CUP No. 2087 where up to 80 trips (40 round trips) per day were anticipated. A Condition of Approval shall be included which will require that classes will be scheduled with a minimum of 15 minutes between sessions to minimize traffic and parking conflicts associated with the arrival and departure of students. None of the reviewing agencies expressed concern with regard to the number of traffic trips.

Based on the above information, staff believes that East Sierra Madre Avenue and the surrounding streets and highways are adequate to accommodate the proposed use.

Recommended Conditions of Approval:

None

Conclusion:

Finding 2 can be made.

Finding 3: That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof.

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North	0.27 acres	Commercial/Retail	C-P	Approximately 85 feet
South	0.23 acres	Single-Family Residential	R-1-B(nb)	Approximately 100 feet
East	0.23 acres	Single-Family Residential	R-1-B(nb)	Approximately 15 feet
West	0.24 acres	Single-Family Residential	R-1-B(nb)	Approximately 15 feet

Reviewing Agency/Department Comments:

Environmental Health Division of the Fresno County Department of Public Health:

Environmental Health staff of the Department of Public Health met with the Applicant/owners of the swimming pool and discussed the requirements to operate the residential pool for swimming lessons. The following Conditions of Approval were agreed upon during the meeting between the owner and the Department of Public Health, Environmental Health Division.

- a. The three (3) existing entry gates into the swimming pool area shall be self-closing and self-latching; east side gate, west side gate, and front-yard entrance gate.
- b. The existing door from the garage to the pool area shall be a self-closing door.
- c. Prior to opening for swim lessons each year, the facility shall have an Environmental Health pool facility inspection.
- d. All required safety and capacity signs shall be posted during the May through July swim lesson season.
- e. During the swim season (May through July), a shepherds crook (reaching pole) and ring buoy with attached throw line shall be readily available and easily accessible within the pool area.
- f. The pool and pool area shall be maintained in accordance with the California Health and Safety Code and in a manner approved by the Public Health Department, Environmental Health Division.
- g. The property owner/swim lesson operator shall measure chlorine and pH levels of the pool water at least once every two hours during the period that swim lessons are being offered, with the first measurement being taken just prior to the first swim lesson each day. An accurate record of the pool chemical readings shall be maintained and kept available for inspection by Environmental Health.
- h. If the residence/facility changes ownership and the new owners wish to continue providing swim lessons to the public, the residential pool facility will be required to comply with all public pool facility construction standards.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: Refer to comments under Finding 2 of this Staff Report.

No other comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

Analysis:

The subject property is located in a residential area with neighboring properties in close proximity and is adjacent to some Administrative and Professional Office-Zoned properties to the north. The proposed large-group swimming lessons are allowed in the R-1-B Zone District subject to a Conditional Use Permit (see discussion under Procedural Considerations in this Staff Report). The proposed operation is not expected to generate any noise that may be a disturbance to neighboring properties; additionally, the proposed operation will be limited to the hours between 9:00 AM and 5:00 PM, Monday through Thursday, and 9:00 AM to 12:00 PM on Friday. There is adequate parking to minimize any potential on-street parking in front of neighboring properties.

Based on the limited hours and duration of the operation, staff believes the proposal will not have an adverse effect upon surrounding properties.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Finding 3 can be made.

Finding 4: That the proposed development is consistent with the General Plan.

Reviewing Agency Comments:

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

Analysis:

The subject property is designated Low-Density Residential in the Fig Garden Neighborhood Plan. The Fig Garden Neighborhood Plan does not contain any policies that specifically address swimming lessons in conjunction with a single-family residence. The subject parcel is zoned R-1-B(nb) (Single-Family Residential, 12,500 square-foot minimum parcel size, Neighborhood Beautification Overlay). Large-group swimming lessons are an allowed use subject to the approval of a Conditional Use Permit.

Based on these factors, the proposal to allow swimming lessons in conjunction with a single-family residence is consistent with the General Plan.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

A letter was received from the Fig Garden Homeowners Association indicating provisional approval of this Conditional Use Permit Application. The letter is included as Exhibit 7 of the Staff Report.

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the Classified Conditional Use Permit can be made. Staff therefore recommends approval of Classified Conditional Use Permit No. 3557, subject to the recommended Conditions.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to determine the required Findings can be made and move to approve Classified Conditional Use Permit No. 3557, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Classified Conditional Use Permit No. 3557; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

JS:ksn
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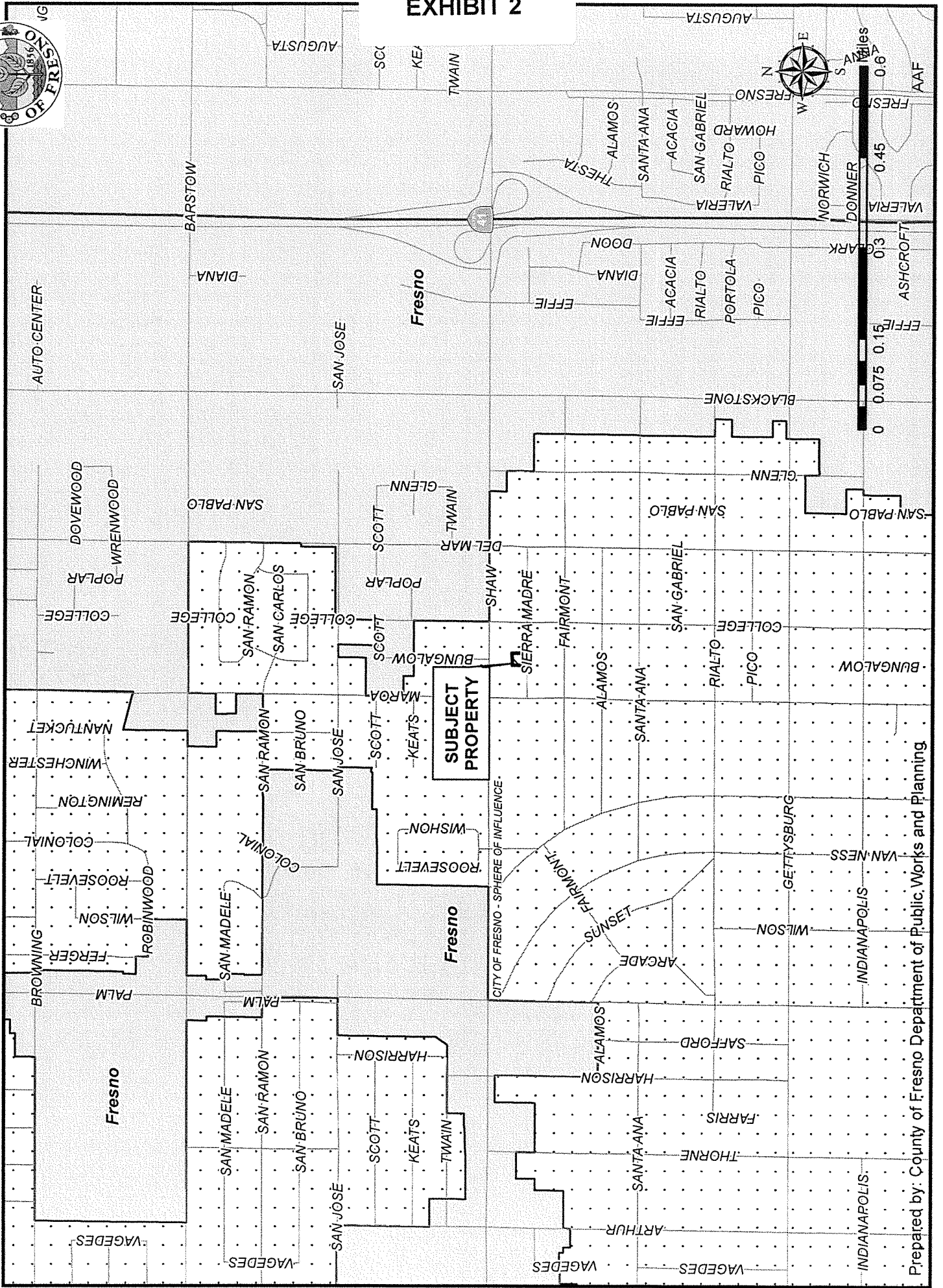
**Conditional Use Permit Application No. 3557
Conditions of Approval and Project Notes**

EXHIBIT 1

Conditions of Approval	
1.	The proposed operation shall be in substantial compliance with the approved site plan, and operational statement as approved by the Planning Commission.
2.	Classes shall be scheduled with a minimum of 15 minutes between sessions to avoid traffic and parking conflicts related to arrival and departure times of the students.
3.	<p>To meet the requirements of large-group swimming lessons operation based upon review of the Fresno County Department of Public Health, Environmental Health Division, the Operational Statement shall:</p> <ul style="list-style-type: none"> a. Prior to opening for swim lessons each year, the facility shall have an Environmental Health pool facility inspection. b. The three entry gates into the swimming pool area shall be self-closing and self-latching. Additionally, the door from the garage to the pool area shall be a self-closing door. c. All required safety and capacity signs shall be posted during the May through July swim lesson season. d. During the swim season (May through July), a shepherds crook (reaching pole) and ring buoy with attached throw line shall be readily available and easily accessible within the pool area. e. The pool and pool area shall be maintained in accordance with the California Health and Safety Code and in a manner approved by the Public Health Department, Environmental Health Division. f. The owner/operator shall measure chlorine and pH levels of the pool water at least once every two hours during the period that swim lessons are being offered, with the first measurement being taken prior to the first swim lesson each day. An accurate record of the pool chemical readings shall be maintained and kept available for inspection. g. If the facility changes ownership and the new owners wish to continue providing swim lessons to the public, the residential pool facility will be required to comply with all public pool facility construction standards. h. Swimming lessons shall be limited to weekdays, Monday through Thursday, between the hours of 9:00 AM and 5:00 PM, and Friday, between the hours of 9:00 AM and 12:00 PM.
Conditions of Approval reference recommended Conditions for the project.	
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	If approved, plans, permits and inspections will be required, including, but not limited to: a pool barrier; pool accessibility, including parking and path of travel; and bathroom and pool drain anti-entrapment requirements.

LOCATION MAP

EXHIBIT 2



CUP 3557

Prepared by: County of Fresno Department of Public Works and Planning

EXHIBIT 4



EXISTING LAND USE MAP

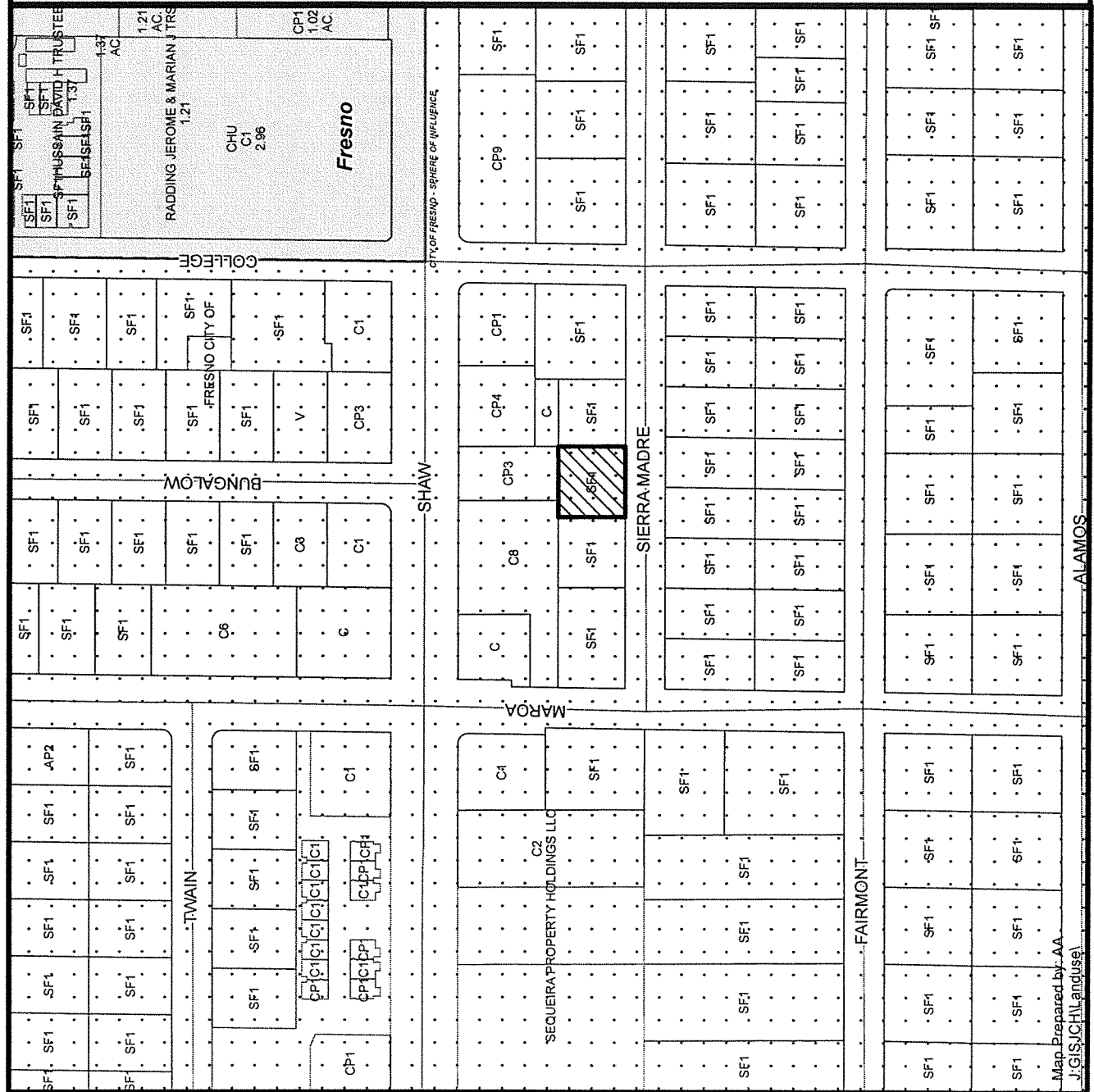
CUP 3557

LEGEND	
CN# - CONDOMINIUM	
AP1 - APARTMENT	
C - COMMERCIAL	
C# - COMMERCIAL	
CHU - CHURCH	
CP# - OFFICE COMM./PROF	
REC - RECREATION	
SF# - SINGLE FAMILY RESIDENCE	
V - VACANT	

LEGEND:



Subject Property



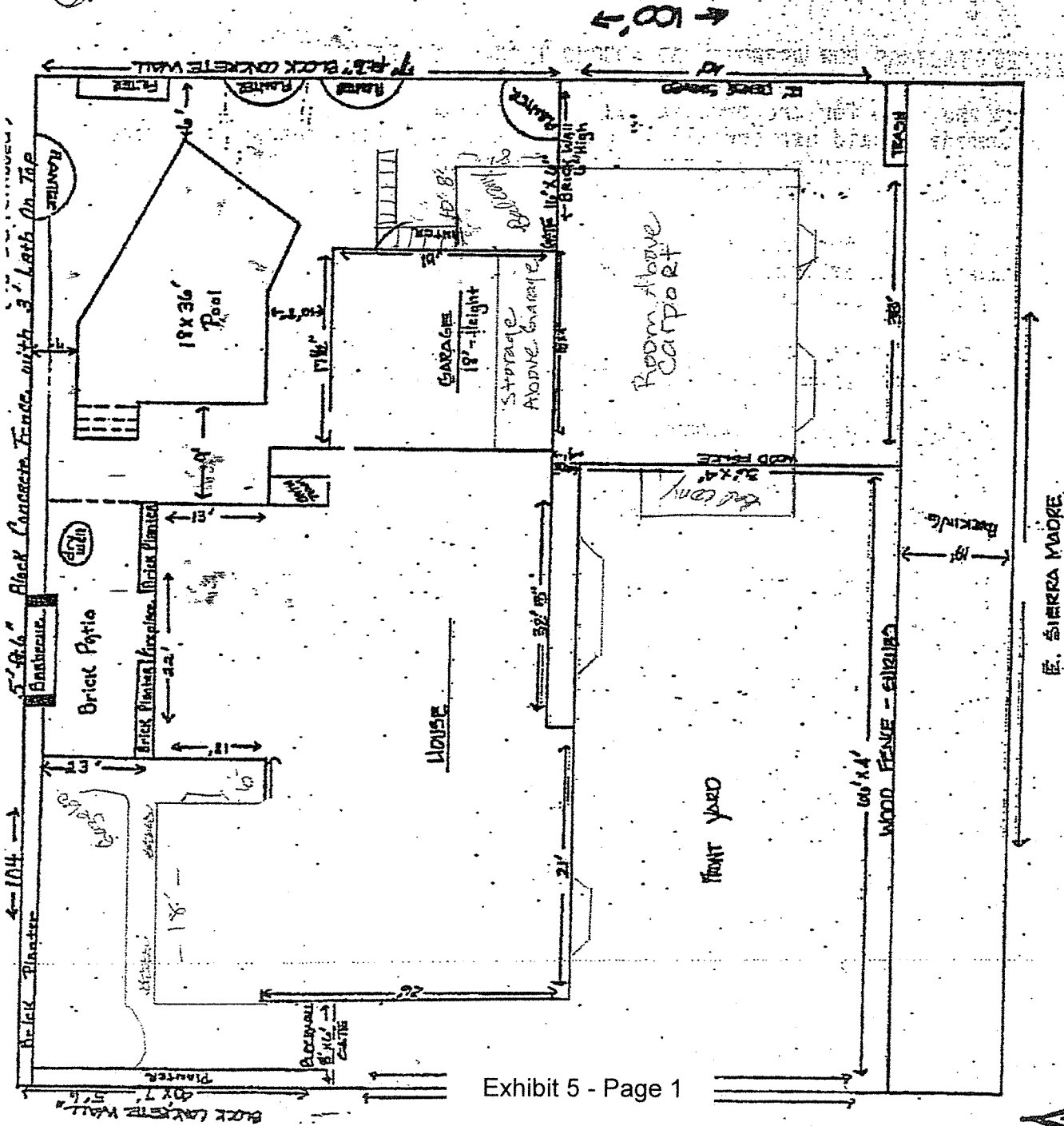
Map Prepared by: AA
J.G.S./C.H.L./Landuse

Department of Public Works and Planning
Development Services Division

EXHIBIT 5

RECEIVED
 COUNTY OF FRESNO
 DEC 07 2016
 DEPARTMENT OF PUBLIC WORKS
 AND PLANNING
 DEVELOPMENT SERVICES DIVISION
 CUP 3557

Second Floor
 (Above car port)



47

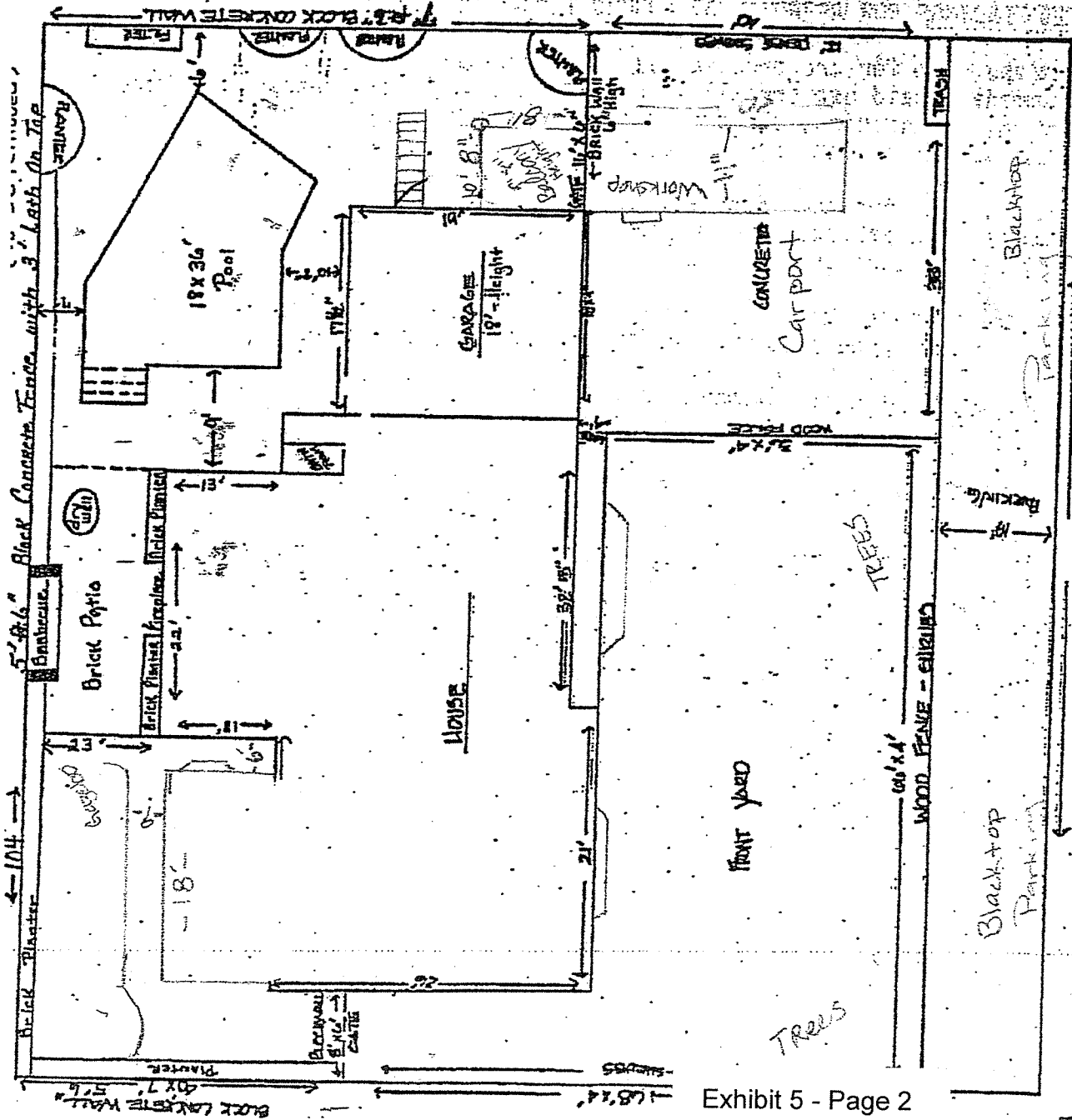
Main floor

RECEIVED
COUNTY OF FRESNO

DEC 07 2016

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

CVP 3557



E. SIERRA MADRE

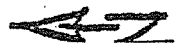


EXHIBIT 6

Ann Buchanan

1003 E. Sierra Madre Ave

Fresno, CA 93704

Conditional Use Permit #~~2087~~³⁵⁵⁷

RECEIVED
COUNTY OF FRESNO

DEC 28 2016

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

PROJECT DESCRIPTION/OPERATIONAL STATEMENT

The nature of my operation is to allow seasonal swim lessons to be taught at my home (May-July) in conjunction with a single family residence. The maximum number of students would be 25 per day, Monday through Thursday, and 5 or 6 students per day only on Friday (1/2 day) for private lessons. The lessons are taught in my backyard pool and the pool is uncovered.

I employ three people plus myself, so we have adult supervision at all times. My employees work from 12-5 Monday through Thursday. I have only private lessons on Friday mornings, which I teach myself. The inside of my home is used for parents viewing their children's private lessons and the outside patio is used for parents watching the class lessons.

There are no delivery vehicles at any time. The access to the site is a public road paved with black top and 10-12 parking spaces on the south side of the property. No goods are sold on-site. Pool supplies are stored in an enclosed, locked area not visible to the children or adults. During swim lessons no equipment or cleaning supplies are out in the open. All such items are securely locked behind a fenced area.

No advertising or promotional signage are on the premises. No new landscaping, fencing or buildings are being proposed. The pool is a 26,000 gallon pool and we may use 5 gallons a day from evaporation and splashing. Our water supply comes from Fresno County.

My husband does all the pool maintenance and the water is checked three times daily to ensure the levels of ph alkalinity and chorine are correct. All levels are recorded in a log.

My yard is surrounded by six foot fencing and is accessed through spring-loaded gates. Parents and pupils enter the premises through a spring-loaded gate in the front yard and follow an even, well-maintained sidewalk around the side of the house to the backyard area where the pool is located. My backyard area is enclosed by a six-foot privacy fence.

No outdoor lighting or sound amplification system is used.

My husband, Dean Philpott and I (Ann Buchanan Philpott) are sole owners of this swim school. I have taught swim lessons at this location for 48 years and beyond that, 10 years in Reedley. I have never advertised and have never had an incident of any sort in all these years. I am asking for 15 years on ~~CMP~~. My son will inherit this house and hopefully carry on my legacy. He taught swim lessons with me for many years as a young man and looks forward to doing it again in retirement.

EXHIBIT 7



FIG · GARDEN
HOME · OWNERS
ASSOCIATION

Jeremy Shaw, Planner
Dept. of Public Works
County of Fresno

Dear Mr. Shaw,

I am writing you to inform you of The Fig Garden Homeowner's Association's provisional support of Ann Buchanan-Philpott's application for a Conditional Use Permit. We understand that she historically has had a CUP to operate her swim school, and we support its continuation provided there are no objections by her neighbors. Ann has explained to us her desire to continue teaching children to swim in her home pool, and to date, we know of no neighbor's objection, therefore we support her application.

If you have any questions, please feel free to call me at 760-4819

Thank you,

A handwritten signature in black ink, appearing to read 'Dan Gallagher'.

Dan Gallagher

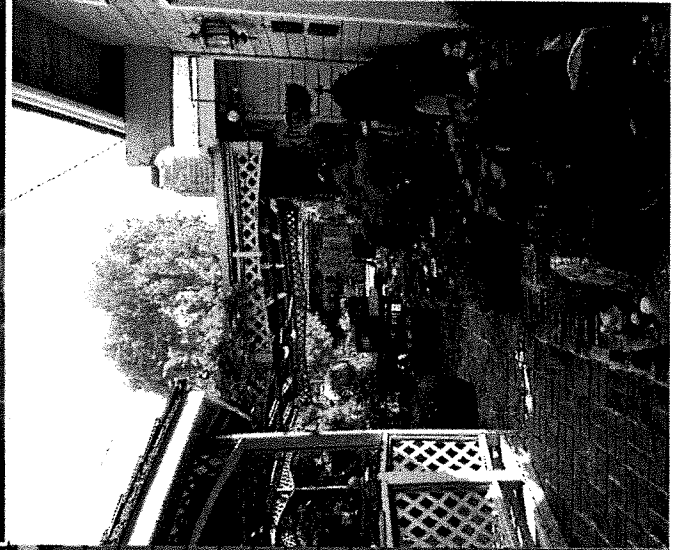
President

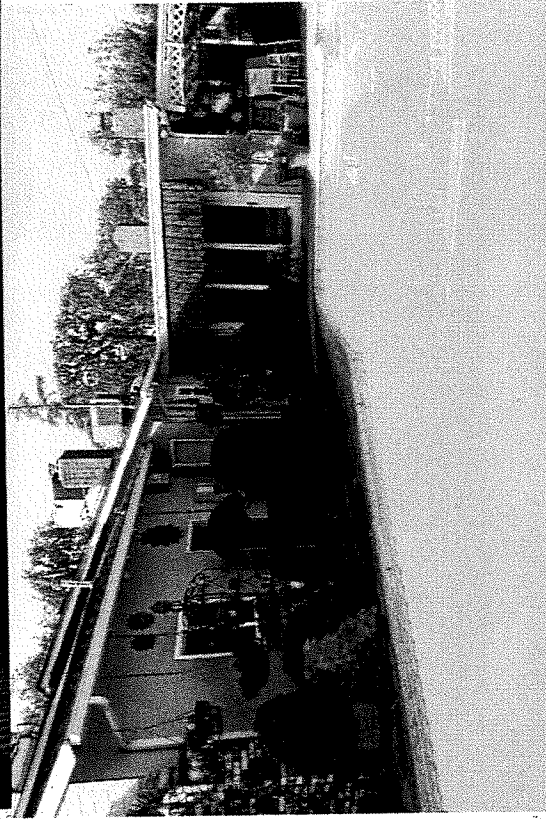
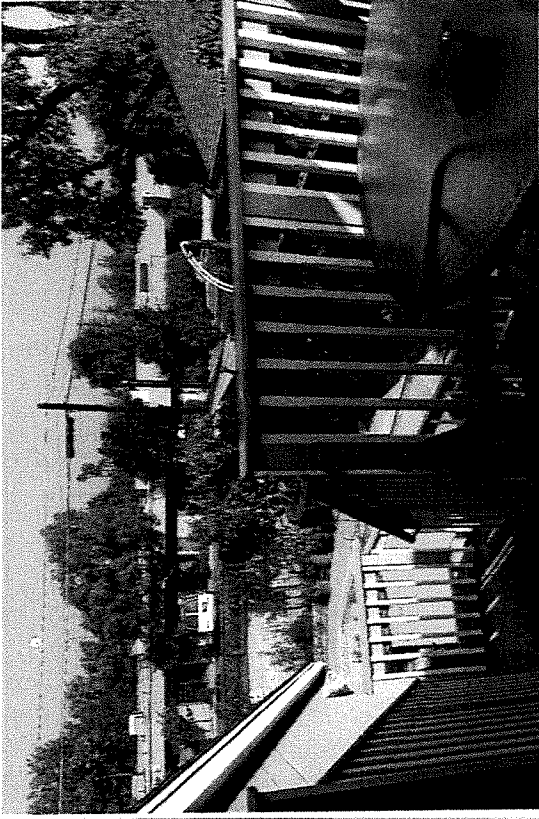
Fig Garden Home Owners Association

EXHIBIT 8









CUP3557
1003 East Sierra Madre Avenue



1003 E Sierra Madre Ave