



County of Fresno

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

ADDENDUM

Planning Commission Staff Report Agenda Item No. 3 October 20, 2016

SUBJECT: Variance Application No. 3963

Allow a six-foot rear-yard setback (20-foot required) and an increase in lot coverage (46% proposed where limited to 40% by ordinance) for a proposed addition to an existing single-family residence. The property is a 6,526 square-foot parcel in the R-1(m) (Single-Family Residential, 6,000 square-foot minimum parcel size, Mountain Overlay) Zone District

LOCATION: The project site is located on the south side of Lakeview Drive, opposite its intersection with Plaza Avenue, within the unincorporated community of Shaver Lake (44423 Lakeview Avenue) (SUP. DIST. 5) (APN 120-313-20).

OWNERS: Tom and Grace Vorhees
APPLICANT: Harold Graham

STAFF CONTACT: Christina Monfette, Planner
(559) 600-4245

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Deny Variance No. 3963; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Staff Report and Exhibits dated August 25, 2016
2. Conditions of Approval and Project Notes
3. Location Map
4. Existing Zoning Map
5. Existing Land Use Map
6. Variance Map
7. Site Plan and Detail
8. Floor Plans and Elevations
9. Applicant's Submitted Findings
10. Public Comment

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Mountain Residential	No change
Zoning	R-1(m) (Single-Family Residential, 6,000 square-foot minimum parcel size, Mountain Overlay)	No change
Parcel Size	6,494 square feet	No change
Project Site	N/A	N/A
Structural Improvements	Single-family residence, well, accessory structures, Liquefied Petroleum Gas (LPG) tank	No change
Nearest Residence	50 feet east of the residence	10 feet east of the addition
Surrounding Development	North: Residential East: Residential South: Lakeside West: Recreational	No change
Operational Features	N/A	N/A
Employees	N/A	N/A

Criteria	Existing	Proposed
Customers	N/A	N/A
Traffic Trips	Residential	No change
Lighting	Residential	No change
Hours of Operation	N/A	N/A

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

Violation number 15-108491 was issued on December 2, 2014 for the remodel and alteration of a single-family residence without permits. Approval of this Variance is not necessary for the Applicant to correct this violation.

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15305 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. A letter dated August 24, 2016 questioned the adequacy of this determination. The first concern was that the project would not qualify as a 'minor' setback and lot coverage variance because a waiver of the setback requirement was being requested, as opposed to a reduction. Since that time, the project description has been revised to include a six-foot setback.

Staff acknowledges that there are some locations on the property, which have steep slope, but these locations are scattered throughout the site. The Sewage Disposal Design Report prepared by Lyle Brewer Engineering describes the topographic relief as "a gentle slope (2%-5%) in a southerly direction". Therefore, staff has determined that Section 15305 of the CEQA guidelines applies to the subject application and that it is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 150 property owners within 1,320 feet of the subject parcel for the August 25, 2016 Hearing, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance. Since the Planning Commission set the next Hearing date as part of its motion to continue the item, it was not re-noticed to the public.

PROCEDURAL CONSIDERATIONS:

A Variance (VA) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

The decision of the Planning Commission on a Variance Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

BACKGROUND INFORMATION:

At the Planning Commission's regularly-scheduled August 25, 2016 Hearing, the Commission approved a motion continuing the item to allow the Applicant time to discuss the proposal with his neighbors and to provide time for revision. Since that time, the Applicant has revised the Findings and submitted a revised site plan. The proposed lot coverage has been reduced from 53% to 46% (40% maximum allowed) and the proposed rear-yard setback has been increased from zero-foot to six-foot (20-foot minimum required).

The subject 0.14-acre parcel was created as lot number 20 of the Shaver Lake Point Subdivision in April of 1946. The parcel west of the subject property is dedicated for public use of Shaver Lake to the south, and the parcels north and west are improved with single-family residences. Homes within this subdivision are primarily used as vacation homes. In 1967, the entire subdivision was rezoned from A-1 (Agricultural) to its current R-1 (Single-Family Residential) zoning.

Pursuant to the Fresno County Zoning Ordinance, Section 826.5(E)(4), development of the property is limited to 40% coverage and must meet a rear-yard setback standard of 20 feet. The purpose of this application is to request relief from these requirements and permit 46% lot coverage with a six-foot rear-yard setback. One single-family residence has been built on the property and the subject of this Variance applies to an addition proposed to that existing home.

The R-1 Zone District has a height restriction for buildings of 25 feet; however, the proposed addition has a height of 34 feet, 8 inches, permitted under Ordinance Section 850.A.5-D.1.c, which allows a building height of up to 35 feet where sprinklers are installed, or where there are community fire protection facilities capable of providing water delivery. The Fresno County Fire Protection District reviewed the request and determined that the existing water service in the area is sufficient to provide water delivery and therefore, buildings in the area may be up to 35 feet in height.

Since this application contains two requests (allowance for a rear-yard setback encroachment and allowance for excessive lot coverage), the Planning Commission, at its discretion, could deny both requests as recommended, approve both requests, or approve one request and deny the other.

On December 2, 2015, a violation was issued for the remodel and alteration of a single-family residence without permits. Approval of the Variance is not necessary in order for the Applicant to correct this violation; however, the Planning Commission's decision on this application will determine the scope of the renovations.

In addition to the subject application, there have been thirteen other Variance (VA) applications within a mile of the subject property. Of those applications, one Variance was denied, one applied to a public facility, two proposed reduced side-yard setbacks, four proposed reduced front-yard setbacks, and the remaining five applications are detailed in the following table as relevant to the current request:

Application/Request	Date of Action	Staff Recommendation	Final Action
VA No.3007: Allow a 13-foot front-yard setback and a 9-foot rear-yard setback	2/18/1986	Approval	Approved by Planning Commission
VA No. 3804: Allow a three-foot front-yard setback and permit 42% lot coverage	2/17/2005	Approval	Approved by Planning Commission
VA No. 3937: Allow a zero-foot rear-yard setback and 55.2% total lot coverage	12/13/2012	Denial	Approved by Planning Commission
VA No. 3953: Allow 57% lot coverage	2/20/2014	Approval	Approved by Planning Commission
VA No. 3988: Allow a single-family residence with 53.7% lot coverage and a zero-foot rear-yard setback	4/28/2016	Denial	Approved by Planning Commission

In addition to the variance requests that have been acted on by the Planning Commission, Shaver Lake Point has a history of minor variances that were approved by the Director. Of the eight minor variances approved, five requested minor increases in lot coverage, one approved excessive building height, and the others requested minor reductions in setback requirements.

Although there is a history of variance requests within proximity of the subject parcel, each variance request is considered on its own merit, based on unique site conditions and circumstances.

Findings 1 and 2: There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and

Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front (north): 20 feet Rear (south): 20 feet Side (east and west): 5 feet	Front: 28 feet, 10 inches Rear: 6 feet, 9 inches East: 5 feet West: 5 feet	Yes No Yes Yes
Parking	N/A	N/A	N/A
Lot Coverage	40%	46%	No

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Space Between Buildings	Six feet between main and accessory structures	N/A	N/A
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent	No change	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	N/A

Reviewing Agency/Department Comments Regarding Site Adequacy:

Building and Safety/Plan Check Sections of the Fresno County Department of Public Works and Planning: If approved, plans, permits, and inspections are required, including site development, based upon the California Codes in effect at the time of plan check submittal.

Design Division of the Fresno County Department of Public Works and Planning: No comments; no Traffic Impact Study is required.

Development Engineering Division of the Fresno County Department of Public Works and Planning: Lakeview Avenue is classified as a Local with an approximate 20-foot right-of-way south of the centerline along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way south of the centerline is 30 feet. Lakeview Avenue is a County-maintained road. Records indicate this section of Lakeview Avenue from Cascade Avenue to Plaza Avenue has an Average Daily Traffic (ADT) of 200, a road width of 17.6 feet, structural section of 0.08 inches Asphalt Concrete (AC) and is in good condition, while the section from Cascade Avenue to the end of the maintained road has an ADT of 200, a road width of 19 feet, structural section of 0.08 inches AC and is in good condition.

Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from 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 the exiting driveway onto Lakeview Avenue.

According to FEMA, FIRM Panel 0450H, the parcel is not subject to flooding from the 1%-chance storm. According to U.S.G.S. Quad Maps, there are no existing natural drainage channels adjacent to or running through the parcel.

Typically, any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards. Because the subject parcel is located within the SRA (State Responsibility Areas) boundary, any future development shall be in accordance with the applicable SRA Fire Safe Regulations as they apply to driveway construction and access. A grading permit or voucher is required for any grading proposed with this application.

Department of Public Health, Environmental Health Division: This Division has reviewed the requested Variance and revised sewage disposal system design report submitted by Lyle Brewer Engineering (dated June 23, 2016). The subject design is unique in that there is an existing house and septic system. The on-site wastewater treatment system (septic system) shall be installed in accordance with the California Well Standards, California Plumbing Code and the engineered system as approved.

This entire parcel lies within 200 feet of Shaver Lake, resulting in an inability to meet the 200-foot leach field setback as stated in the California Regional Water Quality Control Board Basin Plan; however, it can meet the 100-foot water body setback mandated by the California Plumbing Code. Based upon the site plan provided with the proposed design, a small area outside the 100-foot lake setback is available for sewage disposal.

California Plumbing Code Appendix H prohibits pavement, concrete, or any other material that can reduce or inhibit possible evaporation of sewage effluent over disposal fields. Therefore, the leach line and reserve area shall not be paved over.

The leach line absorption capacity is based on a four-bedroom residence; therefore, the new residence shall have at a maximum four bedrooms. Paving over the leach lines (or covering with concrete) is prohibited as per the California Plumbing Code. The leach lines shall maintain setbacks as per the California Plumbing Code: 8 feet from footings and foundations; 5 feet from property lines; and, 100 feet from the high-water line of Shaver Lake.

With the limitations of this lot, no cut banks or retaining walls shall be created that may adversely affect the sewage disposal area. Leach lines are required to maintain a setback distance of four times the height of cut banks.

Fresno County Fire Protection District (FCFPD): FCFPD has performed a preliminary review of the project and has not identified any significant concerns with the overall proposal. The project shall comply with California Code of Regulations Title 24-Fire Code. Prior to receiving FCFPD conditions of approval for the subject application, plans must be submitted to the County of Fresno Public Works and Planning for review. It is the Applicant's responsibility to deliver a minimum of three sets of plans to FCFPD.

The subject project may be subject to joining Community Facilities District (CFD) No 2010-01. Before plans are submitted to the Fresno County Fire Protection District, the Applicant must fill out the Fire Permit Application to submit with the plans. A determination will be made and information provided to the Applicant on how to join the CFD based on the application.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: No comments.

Southern California Edison (SCE): The Applicant must not encroach on SCE property during construction. If encroachment cannot be avoided, the Applicant shall contact SCE in advance of any work.

Zoning Section of the Fresno County Department of Public Works and Planning: All proposed additions and structures require permits. The current remodeling of the existing home requires permitting to correct Violation No. 15-108491.

Analysis:

In support of Findings 1 and 2, the Applicant states that the lot is both irregular in shape and nonconforming to the R-1 zoning requirement of 100-foot minimum depth, resulting in limited buildable space. Additionally, the high-water line setback forces a septic system design that, in addition to zoned yard setbacks, further limits buildable space. This requirement has effectively reduced by 400 square feet the area to the front of the lot otherwise allowed to be built upon. The net result is that the building area (37.5%) of the lot is less than the allowed 40% coverage. Lot shape is not uniform, and subsequently, the resulting building area shape does not facilitate full use of the 37.5% given the design and construction typical of the area. The westerly adjacent lot is preserved for public use. A substantial majority of property owners in the vicinity are not restricted by these circumstances and those few that are have applied for and been granted a variance in part to restore enjoyment of property rights limited by similar circumstance.

This project was continued from the previous Planning Commission hearing in order to allow the Applicant to revise the design. The revisions show a reduction in the rear-yard encroachment, allowing for a six-foot rear-yard setback rather than a zero-foot rear-yard setback. This was accomplished by reducing the size of the deck and reducing the size of the "Great Room" area of the addition. Overall, this reduces the proposed lot coverage from 52% to 46%.

In regard to Findings 1 and 2, staff would like to note that every variance application is considered on its own merit, due to circumstances unique to each site. The approval of other variances in the area does not provide precedent to approve this Variance.

Additionally, staff concurs with the Applicant that the subject property is irregular in shape and substandard in depth for the R-1(m) District. However, of the 170 parcels that comprise the Shaver Lake Point subdivision, 53 parcels fall short of the standard depth requirements. Twelve of those parcels have rear yards that abut Shaver Lake, as the subject parcel does. Two parcels within the subdivision have been dedicated for public use. One such parcel is directly west of and adjacent to the subject parcel. In general, these parcels are more severely nonconforming than the residential lots. Since the two parcels are provided for public access, they do not factor into the analysis of the property owner's position as it relates to Finding 2.

However, staff does not concur with the assessment that the parcel has less than 40% buildable area without the Variance. Based on the required setbacks, staff estimates that approximately 3,416 square feet (about 52%) of the property is proscribed from building by ordinance. A standard parcel in this Zone District has a width of 60 feet, a depth of 100 feet and minimum area of 6,000 square feet. A typical lot has 50% of the property proscribed from building by the setback requirements.

The construction of the leach lines must maintain setbacks of 5 feet from property lines, 100 feet from the high-water line of Shaver Lake, and 8 feet from footings and foundations. In this case, the major restrictor is the 100-foot setback from Shaver Lake. This leaves the northeastern corner of the lot for the leach lines; however much of that space is also within the front-yard setbacks, where the Applicant already cannot build. The 63-foot leach trench is fully within the front-yard setbacks, however, the 30-foot reserve line is not. California Plumbing code requires a certain distance between two leach lines which does require the placement within the buildable area of the parcel. Since the leach lines require an 8-foot setback from buildings, this removes an additional 315 feet from buildable area for the applicant. Overall, based on restrictions from the setback and placement of the septic, the Applicant retains 43% of the

property as buildable area, which is only 7% less than a typical parcel and 3% more than is permitted by right.

Approval of a variance application is intended to correct the deficit of a property right of the Applicant. In this case, the Applicant intends to build a two-story addition and deck on the subject parcel. The entirety of the deck is east of the proposed addition, next to the existing two-story residence on the eastern lot. The stated deficit relates to the right of the Applicant to build a large home.

Staff notes that the 38 other residential parcels which are adjacent to Shaver Lake are similarly limited in the placement of their septic systems in relation to their buildings. Setback and lot coverage requirements define the rights of the property owners by their restrictions. No property owners in the area have the right to build beyond those requirements and staff does not recognize an exceptional circumstance that would be corrected by permitting an expansion of this parcel to 46% lot coverage.

The existing residence has a rear-yard setback of six feet, ten inches. Since this house was built prior to 1958, a variance is not required to permit this encroachment. However, the proposed deck and addition are subject to existing regulations. That there is already an encroachment in the rear-yard setbacks does not provide an exceptional circumstance to increase the encroachment. Staff has additional concerns that the encroachment will be two stories in height, potentially affecting the view of the lake from the adjacent parcel, which is reserved for public use.

A consideration in addressing variance applications is whether there are alternatives that would avoid the need for the variance. In this case, the Applicant could choose to build a smaller addition, which would meet the 20-foot rear-yard setback. This would reduce the usable space within the addition and on the deck from what was proposed, but such improvements would be permitted by right, or with the approval of a minor variance for limited encroachments or lot coverage.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 2.

Conclusion:

Findings 1 and 2 cannot be made.

Finding 3: The granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.

Surrounding Parcels (from east to west)				
	Size:	Use:	Zoning:	Nearest Residence:
North	0.22 acres	Residential	R-1	150 feet
South	Shaver Lake	Recreational	RC-40	None
East	0.13 acres	Residential	R-1	75 feet

Surrounding Parcels (from east to west)				
West	0.1 acres	Recreational	R-1	None

Reviewing Agency/Department Comments:

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

Analysis:

In support of Finding 3, the Applicant states that the granting of the Variance will increase property values by permitting a substantial improvement to the property and enhancing the resident’s view of Shaver Lake and the aesthetic character of the neighborhood. The proposed single-family residence encroaches no further than the existing and the removal of the existing deck results in an increased viewshed from the adjacent recreational parcel. The proposed encroachment into the rear yard setback and the additional lot coverage in this Variance are similar and less than those enjoyed by adjacent residences.

Staff notes that financial concerns are not a motivating factor in the determination of a variance. Staff does not concur that the improvements will not affect the viewshed of the recreational parcel to the west of the subject parcel. The configuration of the shoreline is such that the entirety of the recreational parcel is north of the 20-foot rear-yard setback required by the zone district. Additional improvements beyond that line would block some of the eastern view of the lake. In this case, there is a length of SCE land that runs between the lake and the rear property lines of the parcels within the subdivision which is reserved for backyard use and provides a partial viewshed that may not be encroached; however, the majority of the lake lies east of the public parcel, beyond the proposed addition. It is unknown if the proposed addition would affect this viewshed more than the existing trees but replacing them with a man-made structure could be considered an adverse impact on the otherwise natural view from that parcel.

The revised design allows for a six-foot setback. The existing residence currently encroaches into the required rear yard and is set back from the property line by six feet, ten inches. The proposed decking is now one inch closer to the property line than the corner of the house and the proposed addition will be set back eight feet, ten inches. The previous request was to allow a buildout of the deck and addition up to the property line.

In analyzing this proposal, staff considered the intent of the restrictions on setbacks and lot coverage. A primary purpose of the setback standard is to protect the aesthetic character of an area by providing an offset of structures from the adjacent properties. Similarly, limitations imposed on lot coverage are to allow consistency between residential developments and the look of homes in a neighborhood.

In this case, the development would be to the rear and side of the existing property. There is no encroachment into the side-yard setbacks proposed as part of this application; however, the proposed addition will represent a complete buildout of the parcel between the required side-yard setbacks.

The proposed two-story addition is planned for the east side of the property, which has the potential to affect the row of trees that currently screens the subject parcel from the one

adjacent. That property has also been built out to the side-yard setbacks and so there would be only ten feet separating the two homes from one another. This may create a privacy concern if the Applicant is unable to retain the trees during construction. Staff would like to note that both homes meet the required 5-foot setbacks of the Zone District. However, based on the requirement to place the septic system beyond the 100-foot high-water mark for Shaver Lake and the proposed buildout to the rear property line, there are few other possible configurations which could accommodate the proposed addition while maintaining the proposed size of the home.

Recommended Conditions of Approval:

None

Conclusion:

If the Planning Commission determines that the proposed encroachment into the rear-yard setbacks will not create an adverse impact on neighboring parcels, then Finding 3 can be made.

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

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: This section has reviewed the application and determined that there are no General Plan or Williamson Act issues with the application.

Analysis:

In support of Finding 4, the Applicant states that the two-story addition is planned for the east side of the parcel adjacent to the neighboring two-story residence, leaving the westerly portion of the existing one-story single-family residence as it is. This preserves the existing panorama view facilitated by the adjacent westerly lot already preserved for public use. The design of the single-family residence enhances and reflects the mountain character while at the same time improving and protecting the panoramic view of Shaver Lake consistent with the relevant policy objectives in Shaver Lake Community Plan Section 609-03.5.00.

Staff notes that the Fresno County General Plan does not include any policies that relate to lot coverage in areas designated as Rural Residential. The General Plan includes policies relating to the use and sizes of parcels, but does not include guidance on required setbacks. The proposal is therefore consistent with the General Plan.

The Shaver Lake Community Plan Section 609-03 defines environmental resource policies to address conservation and open space, noise, scenic highways, and aesthetics issues. Specifically, Section 5 outlines three policies: aesthetic standards should be developed in order to maintain the mountain character and to minimize adverse impacts on the natural setting; new residential and commercial development shall reflect the mountain character of the area; and outstanding scenic views and panoramas should be preserved wherever possible.

Staff believes that the design of the house is consistent with other homes in the Shaver Lake Point area. The Applicant's stated purpose is to recapture the viewshed of the lake from their

home, which remains consistent with this policy. No reviewing agency expressed concern that the proposal would be in violation of any relevant policies.

Based on this analysis, Staff is able to make Finding 4.

Recommended Conditions of Approval:

None

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

Ten letters were received in opposition to the application.

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings 1 and 2 for granting the Variance cannot be made. Staff therefore recommends denial of Variance No. 3963.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 3963; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 3963, 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.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 2.

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EXHIBIT 1



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 4 August 25, 2016

SUBJECT: Variance Application No. 3963

Allow a zero-foot rear-yard setback (20-foot required) and an increase in lot coverage (52% proposed where limited to 40% by ordinance) for a proposed addition to an existing single-family residence. The property is a 6,526 square-foot parcel in the R-1(m) (Single-Family Residential, 6,000 square-foot minimum parcel size, Mountain Overlay) Zone District

LOCATION: The project site is located on the south side of Lakeview Drive, opposite its intersection with Plaza Avenue, within the unincorporated community of Shaver Lake (44423 Lakeview Avenue) (SUP. DIST. 5) (APN 120-313-20).

OWNERS: Tom and Grace Vorhees

APPLICANT: Harold Graham

STAFF CONTACT: Christina Monfette, Planner
(559) 600-4245

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Deny Variance No. 3963; 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. Variance Map

6. Site Plan and Detail
7. Floor Plans and Elevations
8. Applicant's Submitted Findings
9. Public Comment

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Mountain Residential	No change
Zoning	R-1(m) (Single-Family Residential, 6,000 square-foot minimum parcel size, Mountain Overlay)	No change
Parcel Size	6,494 square feet	No change
Project Site	N/A	N/A
Structural Improvements	Single-family residence, well, accessory structures, Liquefied Petroleum Gas (LPG) tank	No change
Nearest Residence	50 feet east of the residence	10 feet east of the addition
Surrounding Development	North: Residential East: Residential South: Residential West: Recreational	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential	No change
Lighting	Residential	No change
Hours of Operation	N/A	N/A

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15305 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 150 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

A Variance (VA) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

The decision of the Planning Commission on a Variance Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

BACKGROUND INFORMATION:

The subject 0.14-acre parcel was created as lot number 20 of the Shaver Lake Point Subdivision in April of 1946. The parcel west of the subject property is dedicated for public use of Shaver Lake to the south, and the parcels north and west are improved with single-family residences. Homes within this subdivision are primarily used as vacation homes. In 1967, the entire subdivision was rezoned from A-1 (Agricultural) to its current R-1 (Single-Family Residential) zoning.

Pursuant to the Fresno County Zoning Ordinance, Section 826.5(E)(4), development of the property is limited to 40% coverage and must meet a rear-yard setback standard of 20 feet. The purpose of this application is to request relief from these requirements and permit 53% lot coverage with a zero-foot rear-yard setback. One single-family residence has been built on the property and the subject of this Variance applies to an addition proposed to that existing home.

The R-1 Zone District has a height restriction for buildings of 25 feet. The proposed addition has a height of 34 feet, 8 inches, which is permitted under Ordinance Section 850.A.5-D.1.c, which allows a building height of up to 35 feet where sprinklers are installed, or where there are community fire protection facilities capable of providing water delivery. The Fresno County Fire Protection District reviewed the request and determined that the existing water service in the area is sufficient to provide water delivery and therefore, buildings in the area may be up to 35 feet in height.

Since this application contains two requests (allowance for a rear-yard setback encroachment and allowance for excessive lot coverage), the Planning Commission, at its discretion, could deny both requests as recommended, approve both requests, or approve one request and deny the other.

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determine the scope of the renovations.

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VA No. 3953: Allow 57% lot coverage	2/20/2014	Approval	Approved by Planning Commission
VA No. 3988: Allow a single-family residence with 53.7% lot coverage and a zero-foot rear-yard setback	4/28/2016	Denial	Approved by Planning Commission

In addition to the variance requests that have been acted on by the Planning Commission, Shaver Lake Point has a history of minor variances that were approved by the Director. Of the eight minor variances approved, five requested minor increases in lot coverage, one approved excessive building height, and the others requested minor reductions in setback requirements.

Although there is a history of variance requests within proximity of the subject parcel, each variance request is considered on its own merit, based on unique site conditions and circumstances.

Findings 1 and 2: There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and

Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front (north): 20 feet	Front: 28 feet, 10 inches	Yes

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
	Rear (south): 20 feet Side (east and west): 5 feet	Rear: 4 feet, 1 inch East: 5 feet West: 5 feet	No Yes Yes
Parking	N/A	N/A	N/A
Lot Coverage	40%	52%	No
Space Between Buildings	Six feet between main and accessory structures	N/A	N/A
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent	No change	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	N/A

Reviewing Agency/Department Comments Regarding Site Adequacy:

Building and Safety/Plan Check Sections of the Fresno County Department of Public Works and Planning: If approved, plans, permits, and inspections are required including site development based upon the California Codes in effect at the time of plan check submittal.

Design Division of the Fresno County Department of Public Works and Planning: No comments; no Traffic Impact Study is required.

Development Engineering Division of the Fresno County Department of Public Works and Planning: Lakeview Avenue is classified as a Local with an approximate 20-foot right-of-way south of the centerline along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way south of the centerline is 30 feet. Lakeview Avenue is a County-maintained road. Records indicate this section of Lakeview Avenue from Cascade Avenue to Plaza Avenue has an Average Daily Traffic (ADT) of 200, a road width of 17.6 feet, structural section of 0.08 inches Asphalt Concrete (AC) and is in good condition, while the section from Cascade Avenue to the end of the maintained road has an ADT of 200, a road width of 19 feet, structural section 0.08 inches AC and is in good condition.

Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from 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 the exiting driveway onto Lakeview Avenue.

According to FEMA, FIRM Panel 0450H, the parcel is not subject to flooding from the 1%-chance storm. According to U.S.G.S. Quad Maps, there are no existing natural drainage channels adjacent to or running through the parcel.

Typically, any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards. Because the subject parcel is located within the SRA (State Responsibility Areas) boundary, any future development shall be in accordance with the applicable SRA Fire Safe Regulations as they apply to driveway construction and access. A grading permit or voucher is required for any grading proposed with this application.

Department of Public Health, Environmental Health Division: This Division has reviewed the requested Variance and revised sewage disposal system design report submitted by Lyle Brewer Engineering (dated June 23, 2016). The subject design is unique in that there is an existing house and septic system. The on-site wastewater treatment system (septic system) shall be installed in accordance with California Well Standards, California Plumbing Code and the engineered system as approved.

This entire parcel lies within 200 feet of Shaver Lake, resulting in an inability to meet the 200-foot leach field setback as stated in the California Regional Water Quality Control Board Basin Plan; however, it can meet the 100-foot water body setback mandated by the California Plumbing Code. Based upon the site plan provided with the proposed design, a small area outside the 100-foot lake setback is available for sewage disposal.

California Plumbing Code Appendix H prohibits pavement, concrete, or any other material that can reduce or inhibit possible evaporation of sewage effluent over disposal fields. Therefore, the leach line and reserve area shall not be paved over.

The leach line absorption capacity is based on a four-bedroom residence; therefore, the new residence shall have at a maximum four bedrooms. Paving over (or covering with concrete) the leach lines is prohibited as per California Plumbing Code. The leach lines shall maintain setbacks as per California Plumbing Code: 8 feet from footings and foundations; 5 feet from property lines; 100 feet from the high water line of Shaver Lake.

With the limitations of this lot, no cut banks or retaining walls shall be created that may adversely affect the sewage disposal area. Leach lines are required to maintain a setback distance of four times the height of cut banks.

Fresno County Fire Protection District: FCFPD has performed a preliminary review of the project, and has not identified any significant concerns with the overall proposal. The project shall comply with California Code of Regulations Title 24-Fire Code. Prior to receiving FCFPD conditions of approval for the subject application, plans must be submitted to the County of Fresno Public Works and Planning for review. It is the Applicant's responsibility to deliver a minimum of three sets of plans to FCFPD.

The subject project may be subject to joining Community Facilities District (CFD) No 2010-01. Before plans are submitted to the Fresno County Fire Protection District, the Applicant must fill out the Fire Permit Application to submit with the plans. A determination will be made and information provided to the Applicant on how to join the CFD based on the application.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: No comments.

Southern California Edison (SCE): The Applicant must not encroach on SCE property during construction. If encroachment cannot be avoided, the Applicant shall contact SCE in advance of any work.

Zoning Section of the Fresno County Department of Public Works and Planning: All proposed additions and structures require permits. The current remodeling of the existing home requires permitting to correct Violation No. 15-108491.

Analysis:

In support of Findings 1 and 2, the Applicant states that the lot is both irregular in shape and nonconforming to the R-1 zoning requirement of 100-foot minimum depth, resulting in limited buildable space. The westerly adjacent lot is preserved for public use. The lot's value relies predominantly on its view of and access to Shaver Lake. The location of the residence on the eastern lot extends two stories high and fifteen feet into the required 20-foot rear-yard setback.

In regard to Findings 1 and 2, staff concurs with the Applicant that the subject property is irregular in shape and substandard in depth for the R-1 (m) District. However, of the 170 parcels that comprise the Shaver Lake Point subdivision, 53 parcels fall short of the standard depth requirements. Twelve of those parcels have rear yards that abut Shaver Lake, as the subject parcel does.

Two parcels within the subdivision have been dedicated for public use. One such parcel is directly west of and adjacent to the subject parcel. In general, these parcels are more severely nonconforming than the residential lots. Since the two parcels are provided for public access, they do not factor into the analysis of the property owner's position as it relates to Finding 2.

Approval of a variance application is intended to correct the deficit of a property right of the Applicant. In this case, the Applicant intends to build a two-story addition and deck on the subject parcel. The entirety of the deck is east of the proposed addition, next to the existing two-story residence on the eastern lot. The stated deficit relates to the view of the lake. Staff did not identify any rock outcroppings, stands of trees, wetlands, or easements which present a significant hardship for the Applicant.

Due to the configuration of the parcels along the natural curve of Shaver Lake's shoreline, the parcel to the east extends approximately 20 feet further south than the subject parcel. Staff does not consider this to create an exceptional situation for the Applicant, since all homes that have frontage on the lake are affected by the irregular shoreline. A stretch of land that is owned by Southern California Edison (SCE) provides for a linear rear parcel line for lakeside homeowners.

A consideration in addressing variance applications is whether there are alternatives that would avoid the need for the variance. In this case, the Applicant could choose to build a smaller addition, which would meet the 20-foot rear-yard setback. This would reduce the usable space within the addition and on the deck from what was proposed, but such improvements would be permitted by right, or with the approval of a minor variance for limited encroachments or lot coverage.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Findings 1 and 2 cannot be made.

Finding 3: The granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.

Surrounding Parcels (from east to west)				
	Size:	Use:	Zoning:	Nearest Residence:
North	0.22 acres	Residential	R-1	150 feet
South	Shaver Lake	Recreational	RC-40	None
East	0.13 acres	Residential	R-1	75 feet
West	0.1 acres	Recreational	R-1	None

Reviewing Agency/Department Comments:

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

Analysis:

In support of Finding 3, the Applicant states that the granting of the Variance will increase property values by permitting a substantial improvement to the property and enhancing the resident's view of Shaver Lake and the aesthetic character of the neighborhood.

Staff notes that financial concerns are not a motivating factor in the determination of a variance. Staff does not concur that the improvements will not affect the viewshed of the recreational parcel to the west of the subject parcel. The configuration of the shoreline is such that the entirety of the recreational parcel is north of the 20-foot rear-yard setback required by the zone district. Additional improvements beyond that line would block some of the eastern view of the lake. In this case, there is a length of SCE land that runs between the lake and the rear property lines of the parcels within the subdivision which is reserved for backyard use and provides a partial viewshed that may not be encroached; however, the majority of the lake lies east of the public parcel, beyond the proposed addition. It is unknown if the proposed addition would affect this viewshed more than the existing trees but replacing them with a man-made structure would be considered an adverse impact on the otherwise natural view from that parcel.

In analyzing this proposal, staff considered the intent of the restrictions on setbacks and lot coverage. A primary purpose of the setback standard is to protect the aesthetic character of an area by providing an offset of structures from the adjacent properties. Similarly, limitations imposed on lot coverage are to allow consistency between residential developments and the look of homes in a neighborhood.

In this case, the development would be to the rear and side of the existing property. There is no encroachment into the side-yard setbacks proposed as part of this application; however, the proposed addition will represent a complete buildout of the parcel between the required side-yard setbacks.

The proposed two-story addition is planned for the east side of the property, which has the potential to affect the row of trees that currently screens the subject parcel from the one adjacent. That property has also been built out to the side-yard setbacks and so there would be only ten feet separating the two homes from one another. This may create a privacy concern if the Applicant is unable to retain the trees during construction. Staff would like to note that both homes meet the required 5-foot setbacks of the Zone District. However, based on the requirement to place the septic system beyond the 100-foot high water mark for Shaver Lake and the proposed buildout to the rear property line, there are few other possible configurations which could accommodate the proposed addition.

Recommended Conditions of Approval:

None

Conclusion:

Finding 3 cannot be made.

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

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: This section has reviewed the application and determined that there are no General Plan or Williamson Act issues with the application.

Analysis:

In support of Finding 4, the applicant states that the two-story addition is planned for the east side of the parcel adjacent to the neighboring two-story residence, leaving the westerly portion of the existing one-story single-family residence as it is. This preserves the existing panoramic view facilitated by the adjacent westerly lot already preserved for public use. The design of the single-family residence enhances and reflects the mountain character while at the same time improving and protecting the panoramic view of Shaver Lake consistent with the relevant policy objectives in Shaver Lake Community Plan Section 609-03.5.00.

Staff notes that the Fresno County General Plan does not include any policies that relate to lot coverage in areas designated as Rural Residential. The General Plan includes policies relating to the use and sizes of parcels, but does not include guidance on required setbacks. The proposal is therefore consistent with the General Plan.

The Shaver Lake Community Plan Section 609-03 defines environmental resource policies to address conservation and open space, noise, scenic highways, and aesthetics issues. Specifically, Section 5 outlines three policies: Aesthetic standards should be developed in order to maintain the mountain character and to minimize adverse impacts on the natural setting; new

residential and commercial development shall reflect the mountain character of the area; and outstanding scenic views and panoramas should be preserved wherever possible.

Staff believes that the design of the house is consistent with other homes in the Shaver Lake Point area. The Applicant's stated purpose is to recapture the viewshed of the lake from their home, which remains consistent with this policy. No reviewing agency expressed concern that the proposal would be in violation of any relevant policies.

Based on this analysis, Staff is able to make Finding 4.

Recommended Conditions of Approval:

None

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

Two letters were received in opposition to the application.

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the Variance cannot be made. Staff therefore recommends denial of Variance No. 3963.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 3963; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 3963, 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.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

CMM:
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**Variance Application No. 3963
Conditions of Approval and Project Notes**

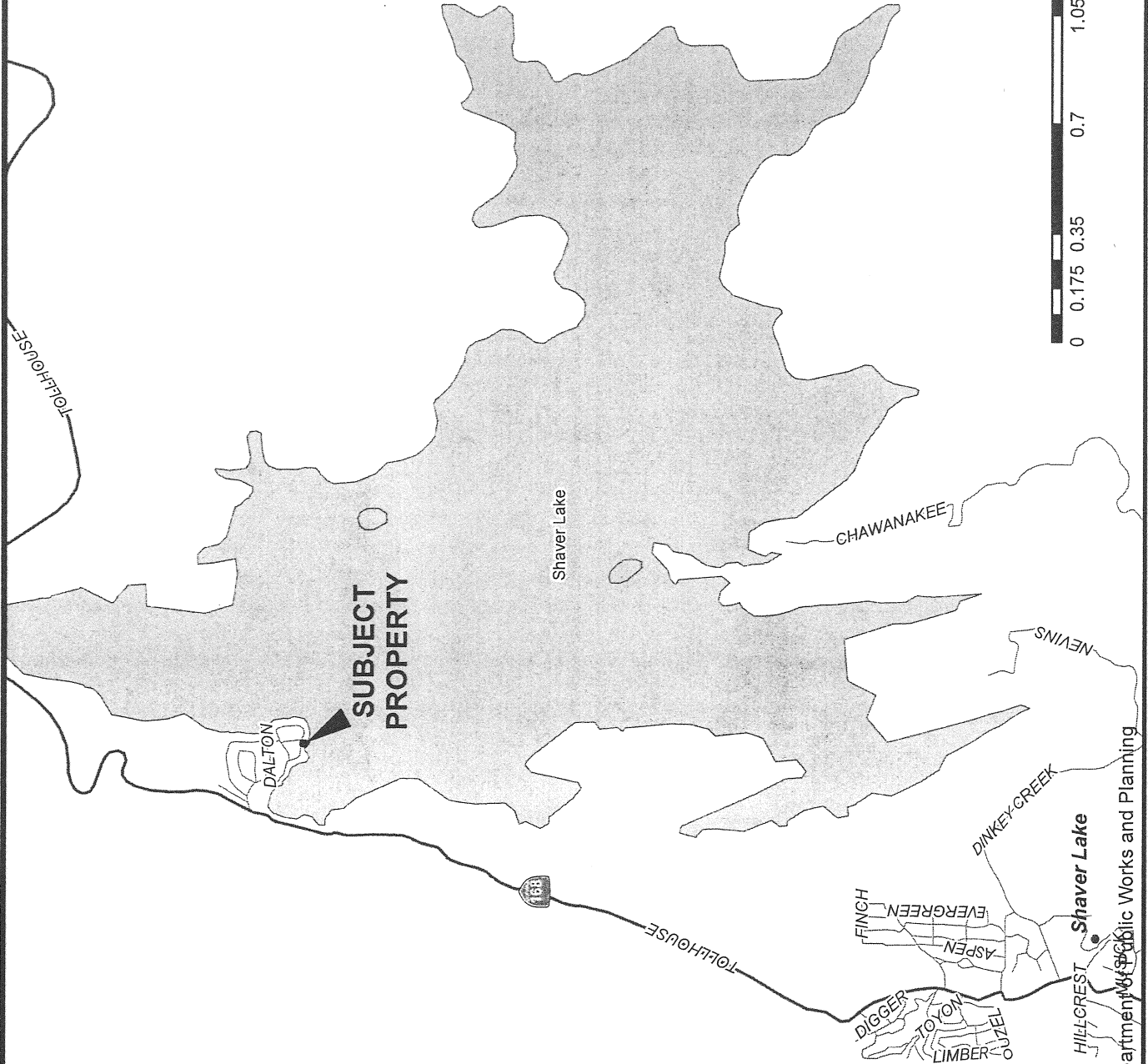
Conditions of Approval	
1.	Development of the property shall be in accordance with the revised Site Plan approved by the Planning Commission to allow for 52 percent lot coverage and a zero-foot rear yard setback.
2.	<p>The sewage disposal system shall be installed in accordance with the Engineered Design prepared by Lyle Brewer Engineering, or as otherwise approved by the Fresno County Department of Public Health, Environmental Health Division. The sewage disposal system shall be further limited by the following:</p> <ul style="list-style-type: none"> • The new residence shall have at a maximum four bedrooms. • The leach lines shall maintain setbacks as per the California Plumbing Code: 8 feet from footings and foundations; 5 feet from property lines; 100 feet from the high water line of Shaver Lake. • The leach line and reserve area shall NOT be paved over. • No cut banks or retaining walls shall be created that may adversely affect the sewage disposal area. Leach lines are required to maintain a setback distance of four times the height of cut banks.

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.	Plans, permits, and inspections are required including site development based upon the California Codes in effect at the time of plan check submittal.
2.	The project shall not encroach on Southern California Edison property (Shaver Lake) in any way, including during construction. In the event that development requires relocation of facilities on the subject property held by Southern California Edison, which facilities exist by right of easement or otherwise, the owner/developer shall bear the cost of such relocation and provide Southern California Edison with suitable replacement rights. Such costs and replacement rights are required prior to the performance of the relocation.
3.	Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division.
4.	If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway onto Lakeview Avenue.
5.	The project shall comply with California Code of Regulations Title 24-Fire Code and may be subject to joining Community Facilities District (CFD) No 2010-01. Before plans are submitted to the Fresno County Fire Protection District, the Applicant must fill out the Fire Permit Application to submit with the plans. A determination will be made and information provided to the Applicant on how to join the CFD based on the application.

LOCATION MAP

EXHIBIT 2



JCH1111

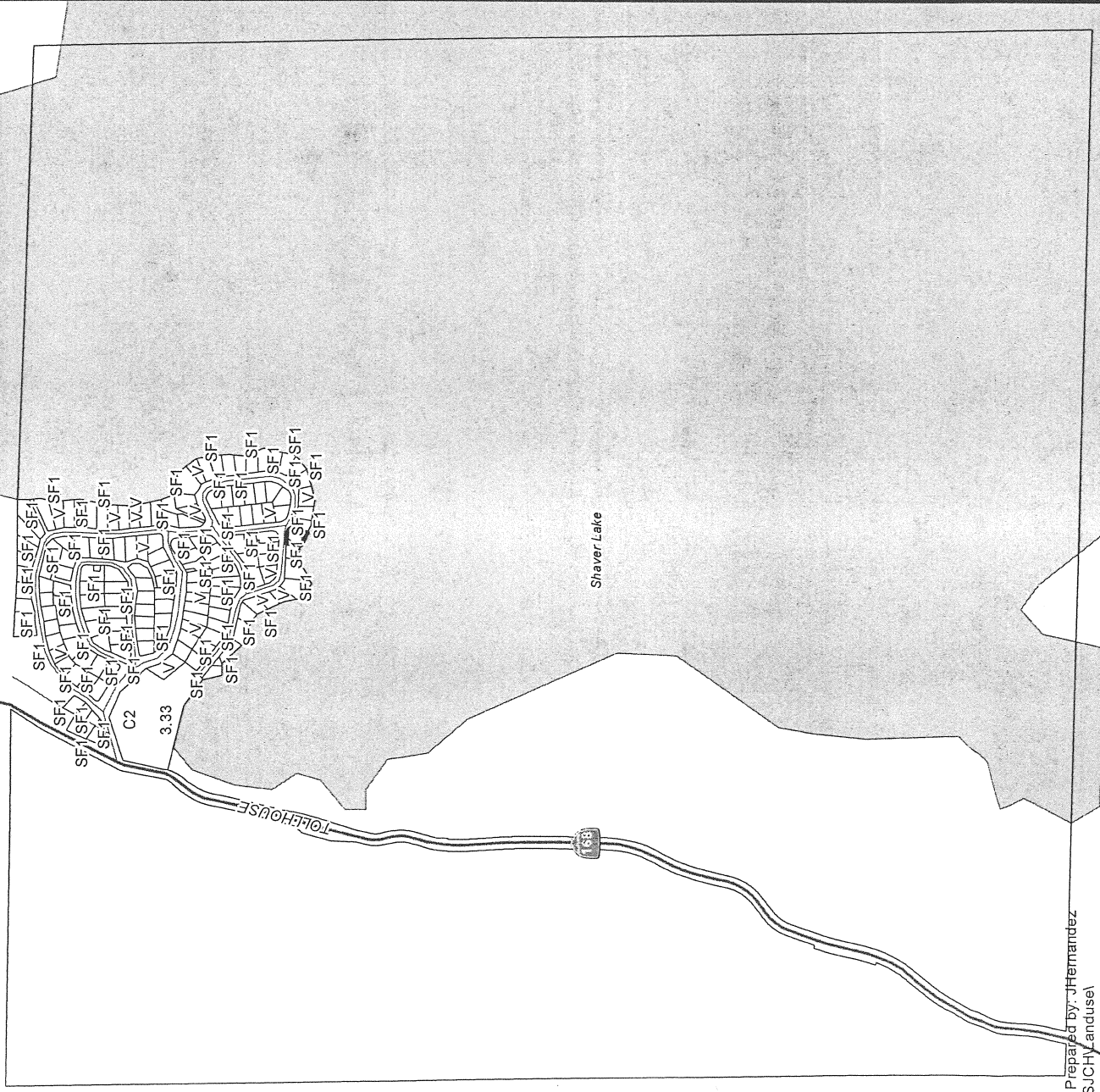
VA 3963

EXISTING LAND USE MAP

VA 3963




EXHIBIT 4

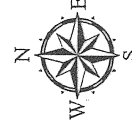


LEGEND

- C# - COMMERCIAL
- SF# - SINGLE FAMILY RESIDENCE
- V - VACANT

LEGEND:

 Subject Property

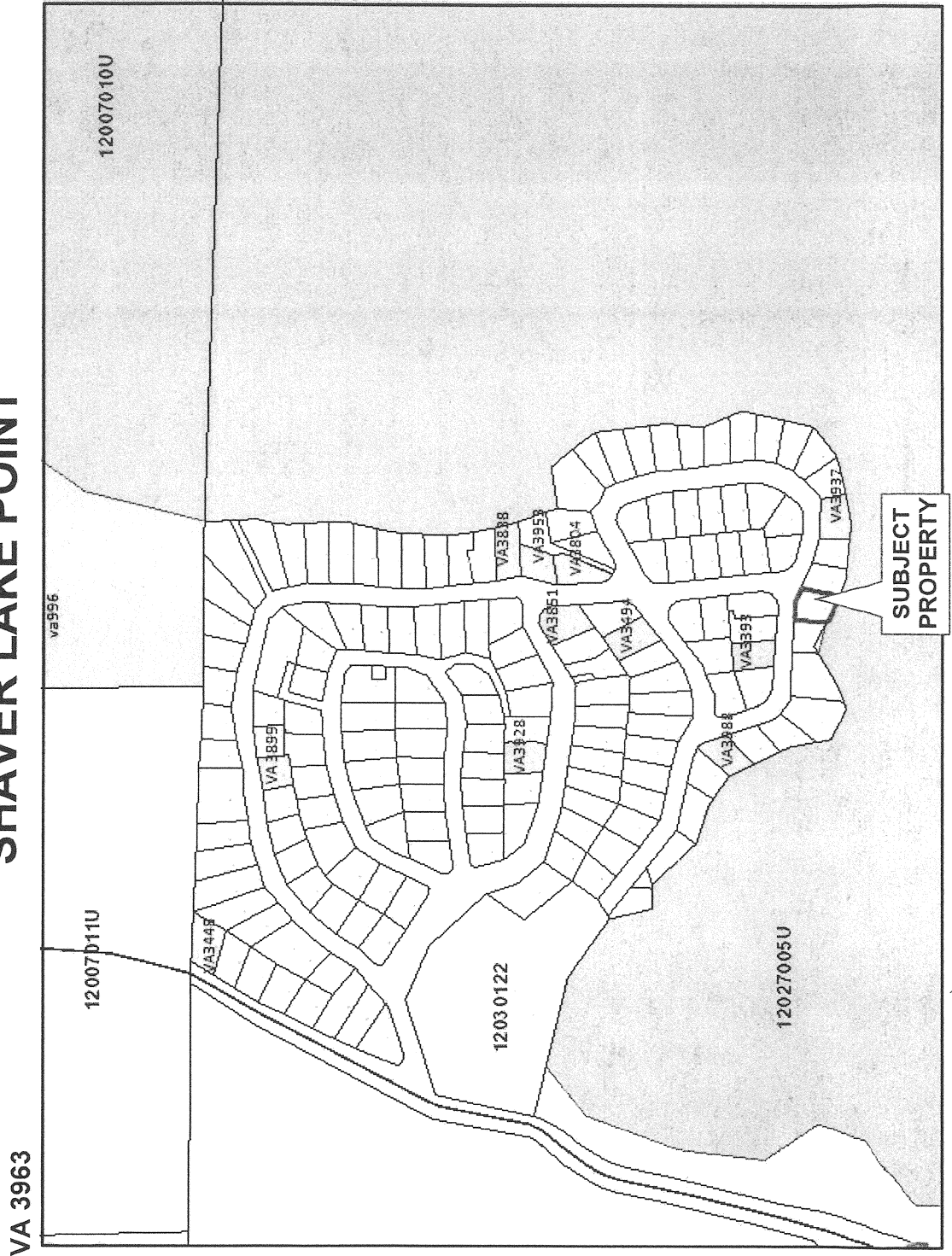


Department of Public Works and Planning
Development Services Division

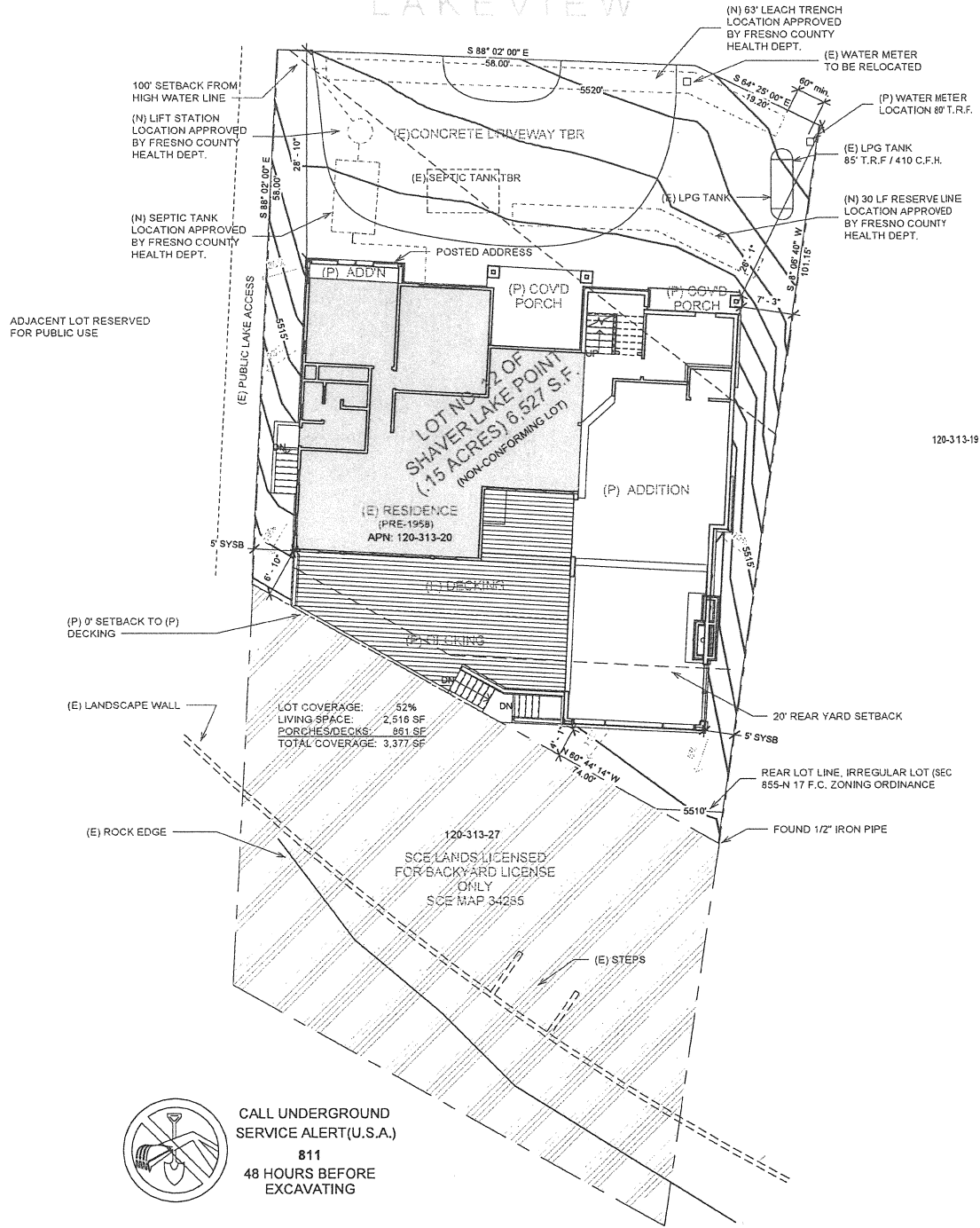
Map Prepared by: JHernandez
J.GISUCHY and use!

EXHIBIT 5

VARIANCE MAP
SHAVER LAKE POINT



LAKEVIEW



LOT COVERAGE: 52%
 LIVING SPACE: 2,316 SF
 PORCHES/DECKS: 891 SF
 TOTAL COVERAGE: 3,377 SF

CALL UNDERGROUND
 SERVICE ALERT (U.S.A.)
811
 48 HOURS BEFORE
 EXCAVATING

1 Site Plan
 1" = 10'-0"

GROUND DISTURBANCE: No Yes Cut: cubic yds. 40 Maximum Height 3'
 Fill: cubic yds. _____ Maximum Height _____

EARTHWORK QUANTITIES IN THIS PLAN ARE FOR INFORMATION ONLY.
 CONTRACTORS ARE TO PERFORM THEIR OWN QUANTITY TAKE OFFS.

EXHIBIT 7

NOTES:

1. Provide lighting as shown on the lighting schedule. All lighting shall be provided in accordance with the applicable code requirements.
2. Provide electrical as shown on the electrical schedule. All electrical shall be provided in accordance with the applicable code requirements.
3. Provide mechanical as shown on the mechanical schedule. All mechanical shall be provided in accordance with the applicable code requirements.
4. Provide plumbing as shown on the plumbing schedule. All plumbing shall be provided in accordance with the applicable code requirements.
5. Provide fire protection as shown on the fire protection schedule. All fire protection shall be provided in accordance with the applicable code requirements.
6. Provide finish materials as shown on the finish materials schedule. All finish materials shall be provided in accordance with the applicable code requirements.
7. Provide floor coverings as shown on the floor coverings schedule. All floor coverings shall be provided in accordance with the applicable code requirements.
8. Provide wall coverings as shown on the wall coverings schedule. All wall coverings shall be provided in accordance with the applicable code requirements.
9. Provide ceiling coverings as shown on the ceiling coverings schedule. All ceiling coverings shall be provided in accordance with the applicable code requirements.
10. Provide doors and windows as shown on the doors and windows schedule. All doors and windows shall be provided in accordance with the applicable code requirements.
11. Provide stairs and ramps as shown on the stairs and ramps schedule. All stairs and ramps shall be provided in accordance with the applicable code requirements.
12. Provide elevators as shown on the elevators schedule. All elevators shall be provided in accordance with the applicable code requirements.
13. Provide mechanical equipment as shown on the mechanical equipment schedule. All mechanical equipment shall be provided in accordance with the applicable code requirements.
14. Provide fire alarm and notification as shown on the fire alarm and notification schedule. All fire alarm and notification shall be provided in accordance with the applicable code requirements.
15. Provide life safety as shown on the life safety schedule. All life safety shall be provided in accordance with the applicable code requirements.
16. Provide accessibility as shown on the accessibility schedule. All accessibility shall be provided in accordance with the applicable code requirements.
17. Provide energy conservation as shown on the energy conservation schedule. All energy conservation shall be provided in accordance with the applicable code requirements.
18. Provide sustainability as shown on the sustainability schedule. All sustainability shall be provided in accordance with the applicable code requirements.
19. Provide security as shown on the security schedule. All security shall be provided in accordance with the applicable code requirements.
20. Provide other requirements as shown on the other requirements schedule. All other requirements shall be provided in accordance with the applicable code requirements.

LOWER FLOOR PLAN

Revision: 06/01/2014

Drawing No: 060102014

Project: Planning - Design - Cad Challenge - BIM

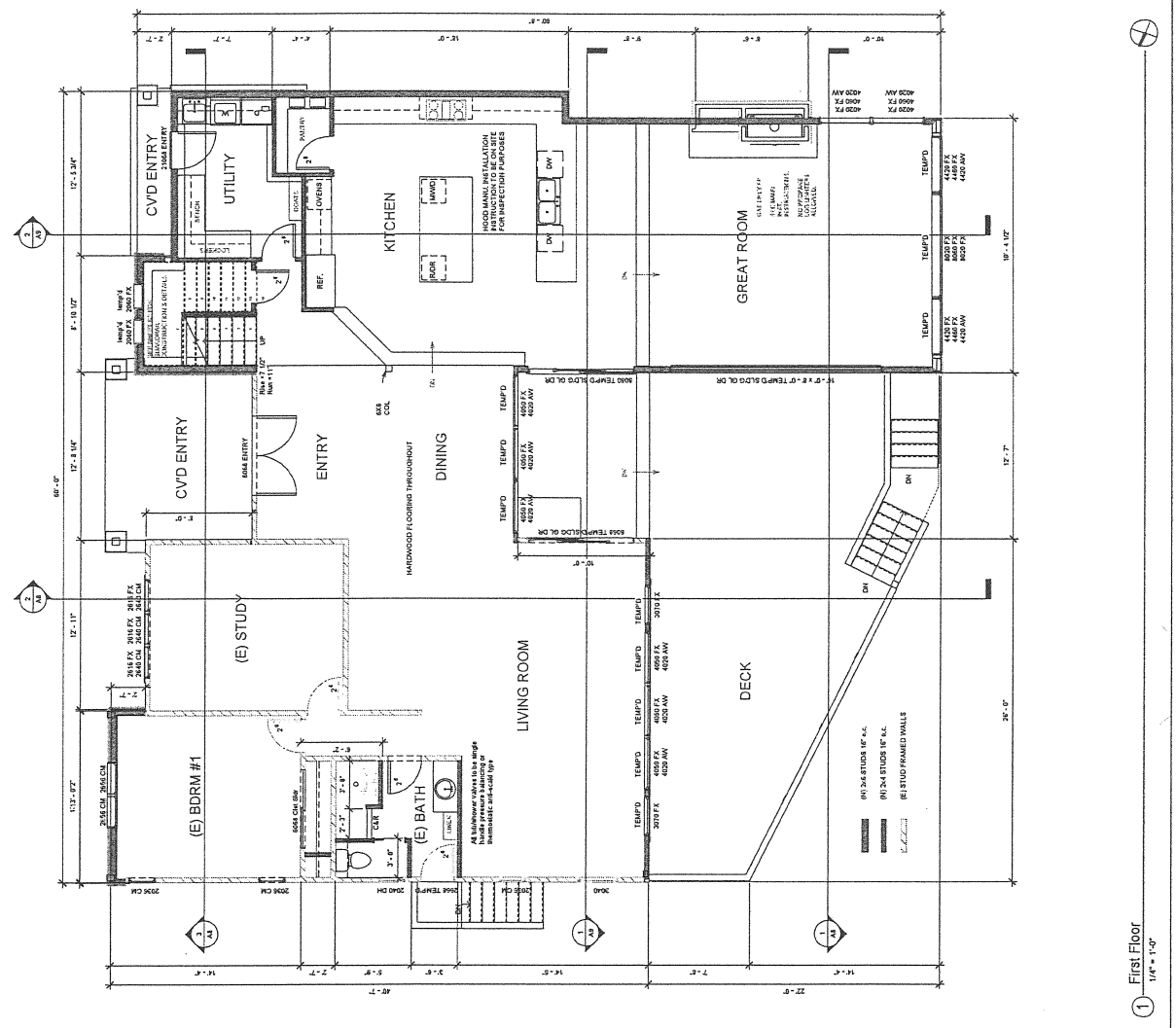
Client: HAROLD GRAHAM

Address: 2800 BUCKINGHAM BLVD, GLENDALE, CA 91201

Phone: (626) 445-1528 Fax: (626) 445-1529

Company: Integrated Design Engineering
ALYSIUS GUNNEWECH

Professional Engineer
9411 N. Buckhorn Ave., Fresno, CA 93720
Tel: (559) 455-9700 Fax: (559) 560-8111



Window Schedule					
Type	Width	Height	Head Height	Count	SHGC U-Value
2020 CM	2'-0"	7'-0"	6'-0"	3	0.27 0.35
2020 FX	2'-0"	7'-0"	6'-0"	2	0.27 0.35
2020 FX	2'-0"	7'-0"	7'-0"	1	0.78 0.85
2030 CM	2'-0"	3'-0"	7'-0"	3	0.27 0.35
2030 CM	2'-0"	4'-0"	7'-0"	2	0.27 0.35
2030 CM	2'-0"	4'-0"	7'-0"	1	0.27 0.35
2030 FX	2'-0"	7'-0"	7'-0"	2	0.27 0.35
2030 FX	2'-3"	1'-6"	9'-0"	3	0.27 0.35
2030 FX	2'-3"	4'-6"	7'-6"	3	0.27 0.35
2030 FX	2'-6"	4'-0"	7'-0"	3	0.27 0.35
2030 FX	2'-6"	7'-0"	7'-0"	2	0.27 0.35
2030 FX	3'-0"	4'-0"	7'-0"	4	0.27 0.35
2030 FX	3'-0"	7'-0"	7'-0"	2	0.27 0.35
2030 FX	3'-0"	7'-0"	7'-6"	2	0.27 0.35
2030 FX	3'-0"	5'-0"	7'-6"	10	0.28 0.35
2030 FX	4'-0"	1'-11"	1'-11"	2	0.27 0.35
2030 FX	4'-0"	5'-0"	7'-0"	6	0.27 0.35
2030 FX	4'-0"	5'-0"	7'-0"	4	0.27 0.35
2030 FX	4'-4"	1'-10"	1'-10"	4	0.27 0.35
2030 FX	4'-4"	5'-10"	7'-0"	4	0.27 0.35
2030 FX	8'-0"	1'-10"	1'-10"	3	0.27 0.35
2030 FX	8'-0"	3'-6"	3'-6"	1	0.27 0.35
2030 FX	7'-2"	4'-11"	4'-11"	1	0.27 0.35
2030 FX	8'-0"	5'-10"	5'-10"	2	0.27 0.35

Door Schedule					
Count	Door Size	Width	Head Height	Fire Rating	Rating
4	2488 INT	12'-4"	6'-8"	6'-8"	
2	2488 POCKET	12'-4"	6'-8"	6'-8"	
10	2488	7'-6"	6'-8"	6'-8"	
1	2488 TEMPD	7'-6"	6'-8"	6'-8"	
1	4008 BIFOLD	14'-0"	7'-0"	7'-0"	
1	6008 CHL SWL	6'-0"	6'-8"	6'-8"	
1	6008 ENTRY	6'-0"	6'-8"	6'-8"	
1	6008 EMPD SLOG	6'-0"	6'-8"	6'-8"	
1	6068 TEMPD SLOG	7'-11 1/2"	6'-8"	6'-8"	
1	6008 EMPD SLOG	7'-11 1/2"	6'-8"	6'-8"	
1	21068 ENTRY	2'-10"	6'-8"	6'-8"	
1	SGD090-020	11'-6"	7'-0"	7'-0"	
1	SGD 8418 TEMPD	18'-0"	6'-0"	6'-0"	

Mechanical Equipment Schedule			
Type	Count	Efficiency	Rating
FAU	2	84%	
MH	2	90%	

Vitr Schedule			
Type	Area	Insulation	Rating
EMMR - Cultured Stone on Wood Stud	104 SF		
HG - B' Masonry	576 SF		
HG - CS on P' Masonry	876 SF		
HG - EMMR - CS on FEB on 2x4	470 SF		
HG - HS 2x4	1500 SF		
HG - Interior 2x4	184 SF		
IG - Interior 2x4	144 SF		
IG - Glass on 2x4	50 SF		

1 First Floor
1/4" = 1'-0"

1. ALL STAIRS SHALL BE FINISHED TO THE FINISH FLOOR LEVEL UNLESS OTHERWISE NOTED.

2. ALL STAIRS SHALL BE FINISHED TO THE FINISH FLOOR LEVEL UNLESS OTHERWISE NOTED.

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15. ALL STAIRS SHALL BE FINISHED TO THE FINISH FLOOR LEVEL UNLESS OTHERWISE NOTED.

16. ALL STAIRS SHALL BE FINISHED TO THE FINISH FLOOR LEVEL UNLESS OTHERWISE NOTED.

17. ALL STAIRS SHALL BE FINISHED TO THE FINISH FLOOR LEVEL UNLESS OTHERWISE NOTED.

18. ALL STAIRS SHALL BE FINISHED TO THE FINISH FLOOR LEVEL UNLESS OTHERWISE NOTED.

19. ALL STAIRS SHALL BE FINISHED TO THE FINISH FLOOR LEVEL UNLESS OTHERWISE NOTED.

20. ALL STAIRS SHALL BE FINISHED TO THE FINISH FLOOR LEVEL UNLESS OTHERWISE NOTED.

UPPER FLOOR PLAN

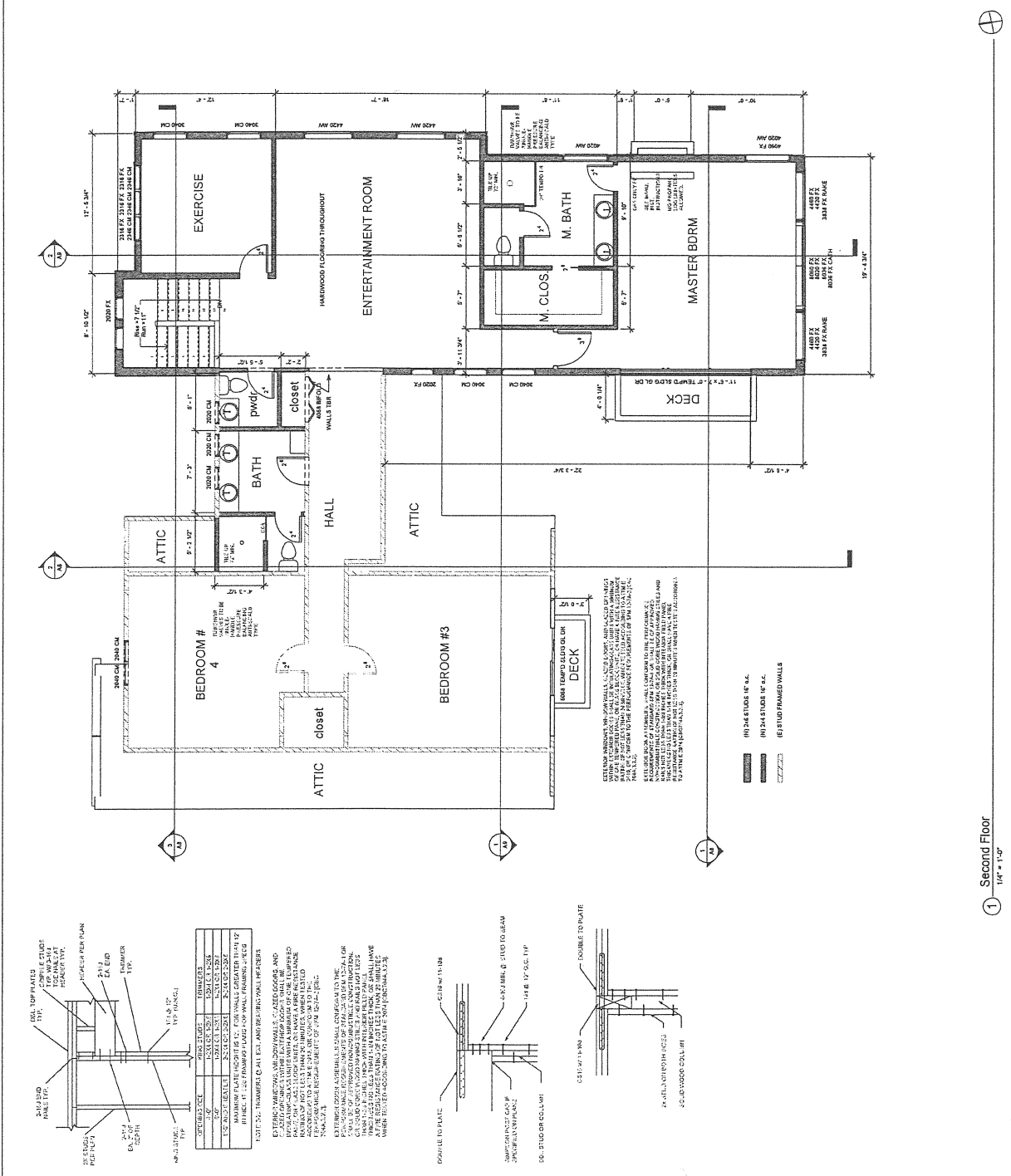
PROJECT NUMBER: 06012014
 SHEET TITLE: 06012014
 DRAWN BY: [REDACTED]

Planning - Design - Cad Drafting - EIRI
 HAROLD GRAHAM
 2100 CALIFORNIA, SUITE 100, CA 95111
 TEL: (916) 486-9200 FAX: (916) 486-9207

PROJECT ENGINEER
 Integrated Design Engineering
 ALOYSIUS GUNJEVICH
 PROFESSIONAL CHIEF ENGINEER
 9011 N. Diabert Ave., Fresno, CA 93720
 TEL: (559) 455-9792 FAX: (559) 455-9711

A2

REVISED



1 Second Floor
 1/4" = 1'-0"

Vorhees Addition

A6

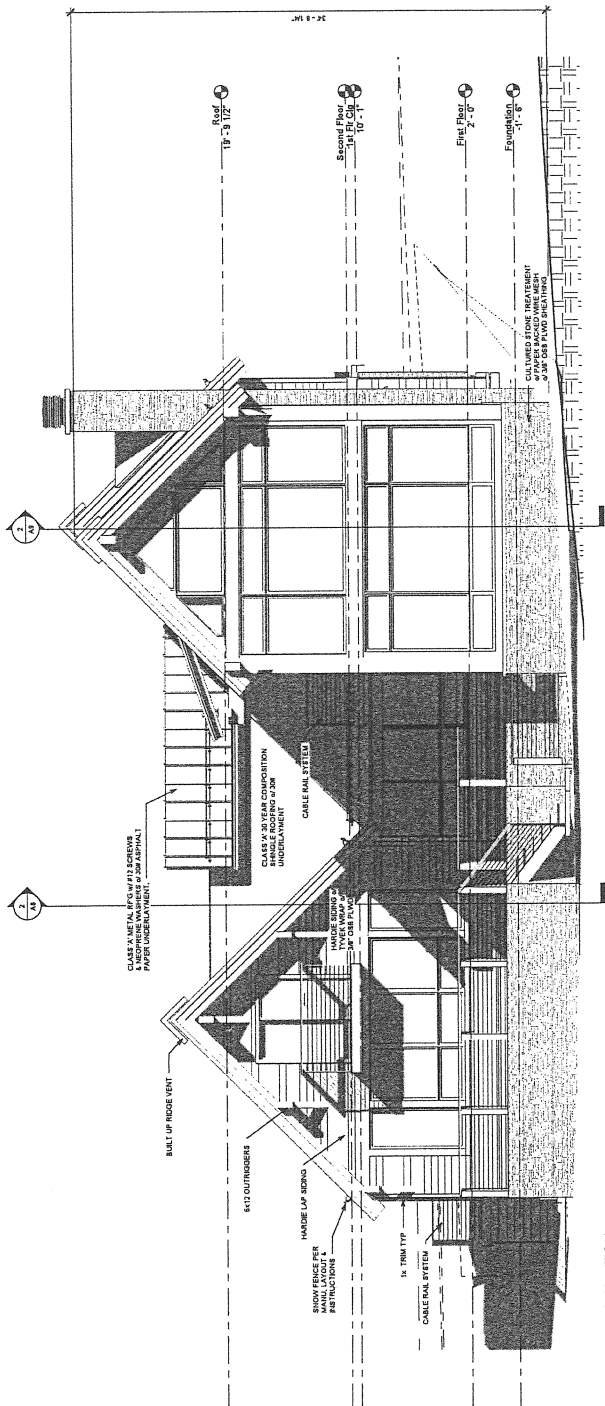


ELEVATIONS

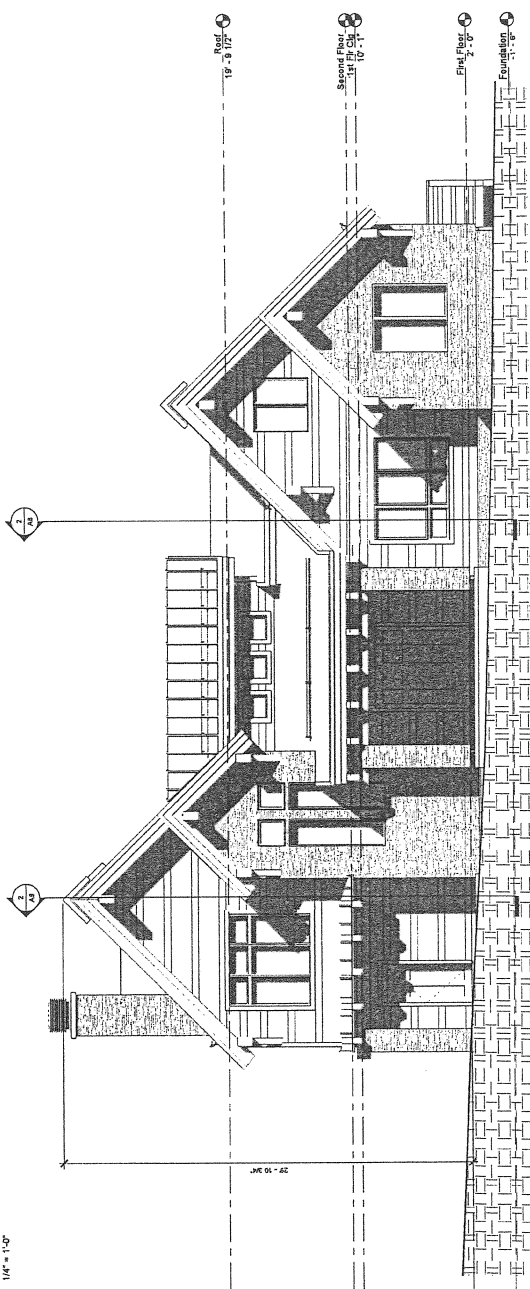
DATE: 06/07/2014
SCALE: AS SHOWN

Planning - Design - Civil Drafting - BIM
HAROLD GRAHAM
7480 ESCALON AVE. CLOVIS, CA 95311
PH: 551-274-4192 FAX: 551-314-4012

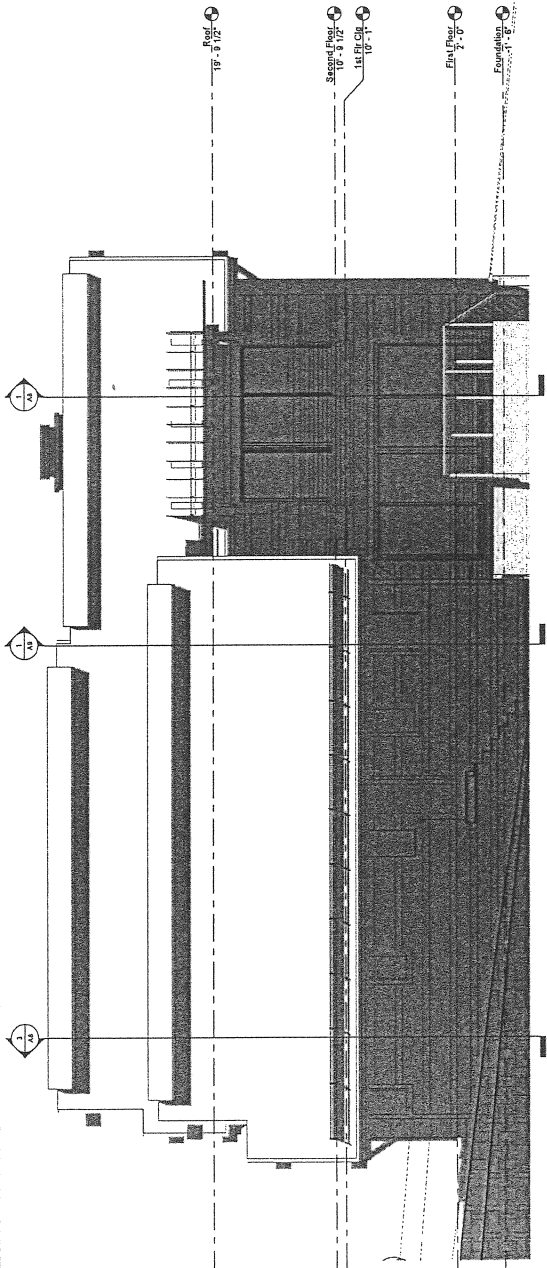
Integrated Design Engineering
ALOYSIUS GUNNEVEIGH
Professional Civil Engineer
9041 N. Baker Ave., Fresno, CA 93720
off: (559) 433-8785 FAX: (559) 570-0111



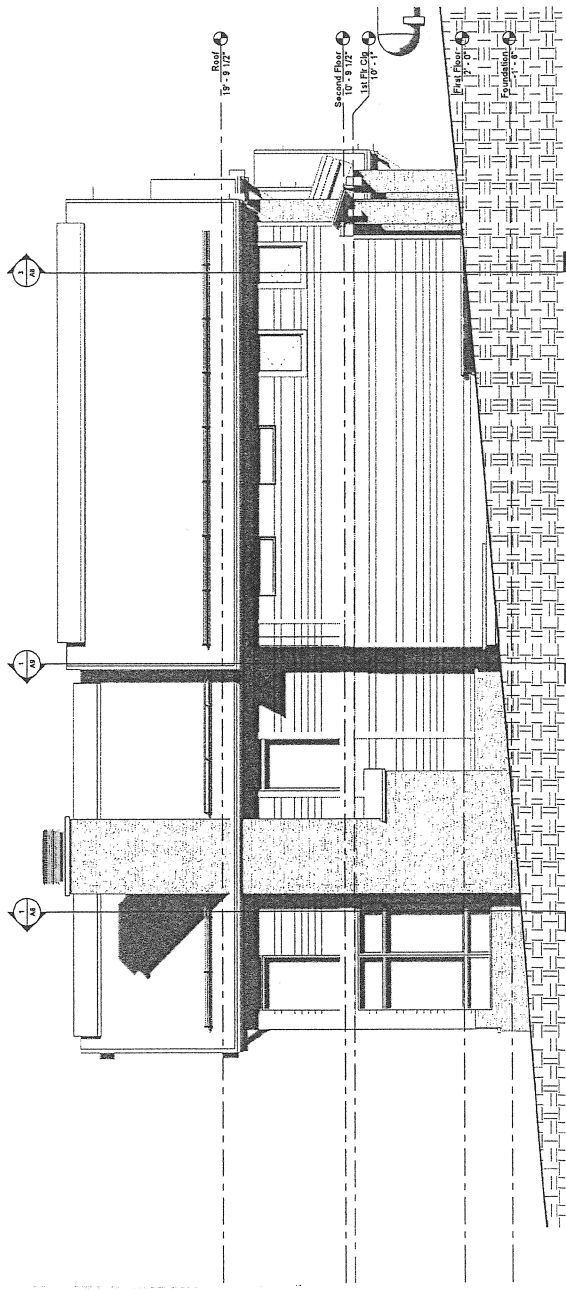
1 SOUTH ELEVATION
1/4" = 1'-0"



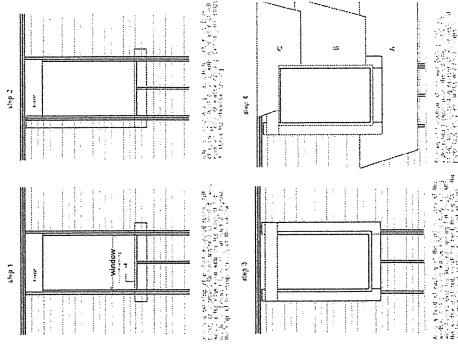
2 NORTH ELEVATION
1/4" = 1'-0"



① WEST ELEVATION
1/4" = 1'-0"



② EAST ELEVATION
1/4" = 1'-0"



WINDOW FLASHING DETAILS

ALL WINDOW FLASHING DETAILS MUST BE CERTIFIED BY THE MANUFACTURER OF THE FLASHING. THE FLASHING MUST BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS. THE FLASHING MUST BE INSTALLED OVER THE WINDOW FRAME AND UNDER THE WINDOW SILL. THE FLASHING MUST BE INSTALLED OVER THE WINDOW FRAME AND UNDER THE WINDOW SILL. THE FLASHING MUST BE INSTALLED OVER THE WINDOW FRAME AND UNDER THE WINDOW SILL.

ELEVATIONS		
PRELIMINARY	06/07/2014	
DESIGN	06/07/2014	Planning - Design - Civil Drafting - Bill HAROLD GRIFFITH 2475 BUCHANAN BLVD. SUITE 101-111 FOLSOM, CA 95630 TEL: (916) 939-1000 FAX: (916) 939-1001
CONSTRUCTION	06/07/2014	
PROJECT OWNER: ALOTINOS SCHRIENER Professional Civil Engineer 3641 N. BUCKLEY AVENUE, SUITE 100 OAKLAND, CA 94612 TEL: (510) 438-8775 FAX: (510) 530-0111		A7 Vorhees Addition

EXHIBIT 8

To:

Fresno County
Department of Public Works and Planning
Development Services Division
2220 Tulare St., 6th Floor
Fresno, CA 93721

Subject Property:

44423 Lakeview
Shaver Lake, CA 93664
APN: 120-313-20

VA 3963
RECEIVED
COUNTY OF FRESNO

JUL 02 2014

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Re:

Variance Findings

1. Lot size is both irregular in shape, and non-conforming to R-1 zoning requirement of 100' minimum depth resulting in limited buildable space.
The westerly adjacent lot is preserved for public use.
2. This lot's value and the enjoyment of its residents relies predominantly on its view of and access to, Shaver Lake. The SFR location on the easterly adjacent lot, extends two stories high and 15' into the required 20' rear yard setback. This restricts the south-easterly view of Shaver Lake. Approval of this VA would recapture much of that view.
Many neighboring lots have been granted a VA for both additional lot coverage and rear yard encroachment up to the rear property line.
3. The granting of this VA will increase property values by permitting a substantial improvement to an existing SFR thereby enhancing both the resident's view of Shaver Lake as well as the aesthetic character of the neighborhood.
The proposed encroachment into the rear yard setback and the additional lot coverage in this VA are similar and less than those of surrounding residences.
For these reasons the granting of this VA will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.
4. The 2 story addition is planned for the east side of the parcel adjacent the neighboring 2 story residence leaving the westerly portion of the existing one-story SFR as is. This preserves the existing panorama view facilitated by the adjacent westerly lot already preserved for public use. The design of the SFR in this VA enhances and reflects the mountain character while at the same time improving and protecting the panoramic view of Shaver Lake consistent with the relevant policy objectives in Shaver Lake Community Plan Section 609-03:5.00.

EXHIBIT 9

WANGER JONES HELSLEY PC ATTORNEYS

OLIVER W. WANGER
TIMOTHY JONES*
MICHAEL S. HELSLEY
PATRICK D. TOOLE
SCOTT D. LAIRD
JOHN P. KINSEY
KURT F. VOTE
TROY T. EWELL
PETER M. JONES**
JAY A. CHRISTOFFERSON**
MARISA L. BALCH
JENA M. HARLOS***
JOSIAH M. PRENDERGAST
MICAELA L. NEAL
CAMERON M. PEYTON
DYLAN J. CROSBY

* Also admitted in Washington
** Of Counsel
*** Also admitted in Wisconsin

265 E. RIVER PARK CIRCLE, SUITE 310
FRESNO, CALIFORNIA 93720

MAILING ADDRESS
POST OFFICE BOX 28340
FRESNO, CALIFORNIA 93729

TELEPHONE
(559) 233-4800

FAX
(559) 233-9330



OFFICE ADMINISTRATOR
LYNN M. HOFFMAN

Writer's E-Mail Address:
jkinsey@wjhatorneys.com

Website:
www.wjhatorneys.com

RECEIVED
DEC 17 2015

Fresno County
Dept. of Public Works & Planning
Administration

REQUEST FOR SPECIAL NOTICE

December 16, 2015

VA 3963
RECEIVED
DEC 17 2015

VIA UNITED STATES MAIL

Alan Weaver
Director, Public Works and Planning
COUNTY OF FRESNO
2220 Tulare Street, 6th Floor
Fresno, CA 93721

Bernice E. Seidel
Clerk to the Board of Supervisors
COUNTY OF FRESNO
2281 Tulare Street, #301
Hall of Records
Fresno, CA 93721-2198

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Re: **Request for Special Notice**
44423 Lake View Avenue, Shaver Lake, California

Dear Mr. Weaver and Ms. Seidel:

Through this letter, I am requesting special notice of: (1) any and all applications or requests made to the County of Fresno to construct, develop, modify, improve, rehabilitate, repair, or expand any residential structure located at 44423 Lake View Avenue, Shaver Lake, California (the "Subject Property"); and (2) any and all actions proposed to be taken by the County relating to the construction, development, modification, improvement, rehabilitation, repair, or expansion of any residential structure on the Subject Property.

This request includes, but is not limited to, notice of any public meetings or hearings in connection with the above requests, or any environmental review performed in connection therewith under the California Environmental Quality Act, Public Resources Code, § 21000, et seq. ("CEQA"). This request also includes, but is not limited to, any meetings or hearings by the Board of Supervisors or the Planning Commission where any such item is discussed, or any other consideration of any such item by the Department of Public Works and Planning.

{7654/002/00590442.DOCX}

WANGER JONES HELSLEY PC

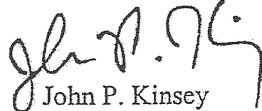
Alan Weaver
Bernice E. Seidel
December 16, 2015
Page 2

The notices and information should be directed to me, as follows:

John P. Kinsey, Esq.
WANGER JONES HELSLEY PC
265 E. River Park Circle, Suite 310
Fresno, California, 93270
Office: (559) 233-4800
Facsimile: (559) 233-9330

Please contact me if you have any questions or concerns or need any additional information. Thank you in advance for your assistance and cooperation in this matter.

Very truly yours,


John P. Kinsey

LEWIS C.
NELSON
AND SONS, INC

CONTRACTORS AND BUILDERS SINCE 1928

RECEIVED
OCT 19 2015

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

E-MAILED
10/15/15
10/15/15
10/15/15

October 15, 2015

Sent Via Email bsholars@co.fresno.ca.gov & US Mail

Department of Public Works & Planning
Attn: Briza Sholars, Planner III
2220 Tulare Street
Fresno, Ca. 93721

Subject: 44423 Lakeview, Shaver Lake, California/VA-3963 and Activities Related
to New Construction

Dear Ms. Scholars:

Thank you very much for forwarding your correspondence with the Property Owner of 44423 Lakeview and you information regarding the setback issues with construction at that site.

I am confirming the County that Mr. Dwight Nelson is the owner of the property adjacent to the East, which is 44437 Lakeview. As such Mr. Nelson has interest in any further activities regarding the seeking of variances and/or construction or expansion and related matters regarding the property at 44423 Lakeview.

As such, we advise the County to honor Mr. Nelson's rights as the property owner and forward any new correspondence or updates regarding variance and/or construction activities at 44423 Lakeview, Shaver Lake, California.

Respectfully yours,

NELSON PROPERTIES



Michael Lewison

ML/dm

3400 MCCALL AVENUE, SUITE 100 SELMA, CA 93662
PHONES: 559-896-1443 OR 559-834-1078 FAX: 559-896-8609

LICENSE NO.

INCORP.

Monfette, Christina

From: Janet Tingley <thatsomegoodeatin@sbcglobal.net>
Sent: Tuesday, August 16, 2016 3:31 PM
To: Monfette, Christina
Subject: Re: Variance Application No. 3963

I am against both the rear setback as well as the increase in lot coverage. As a neighbor at 44342 Dalton, I enjoy walking the area at the point on Lakeview Ave. I feel that all setbacks and the size of the house (40% by ordinance) should be maintained to assure lake views for other property owners. The character and feel of the neighborhood is being affected by allowing such variances to take place. I feel that limiting views to others in the neighborhood is an exclusionary action that should not be allowed to take place. Thank you for considering my request.

Janet Tingley
4630 Nogales Ave.
Atascadero, Ca. 93422

Sent from my iPhone

**Variance Application No. 3963
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development of the property shall be in accordance with the revised Site Plan approved by the Planning Commission to allow for 46-percent lot coverage and a six-foot rear-yard setback.
2.	<p>The sewage disposal system shall be installed in accordance with the Engineered Design prepared by Lyle Brewer Engineering, or as otherwise approved by the Fresno County Department of Public Health, Environmental Health Division. The sewage disposal system shall be further limited by the following:</p> <ul style="list-style-type: none"> • The new residence shall have at a maximum four bedrooms. • The leach lines shall maintain setbacks as per the California Plumbing Code: 8 feet from footings and foundations; 5 feet from property lines; 100 feet from the high-water line of Shaver Lake. • The leach line and reserve area shall NOT be paved over. • No cut banks or retaining walls shall be created that may adversely affect the sewage disposal area. Leach lines are required to maintain a setback distance of four times the height of cut banks.

Conditions of Approval reference recommended Conditions for the project.

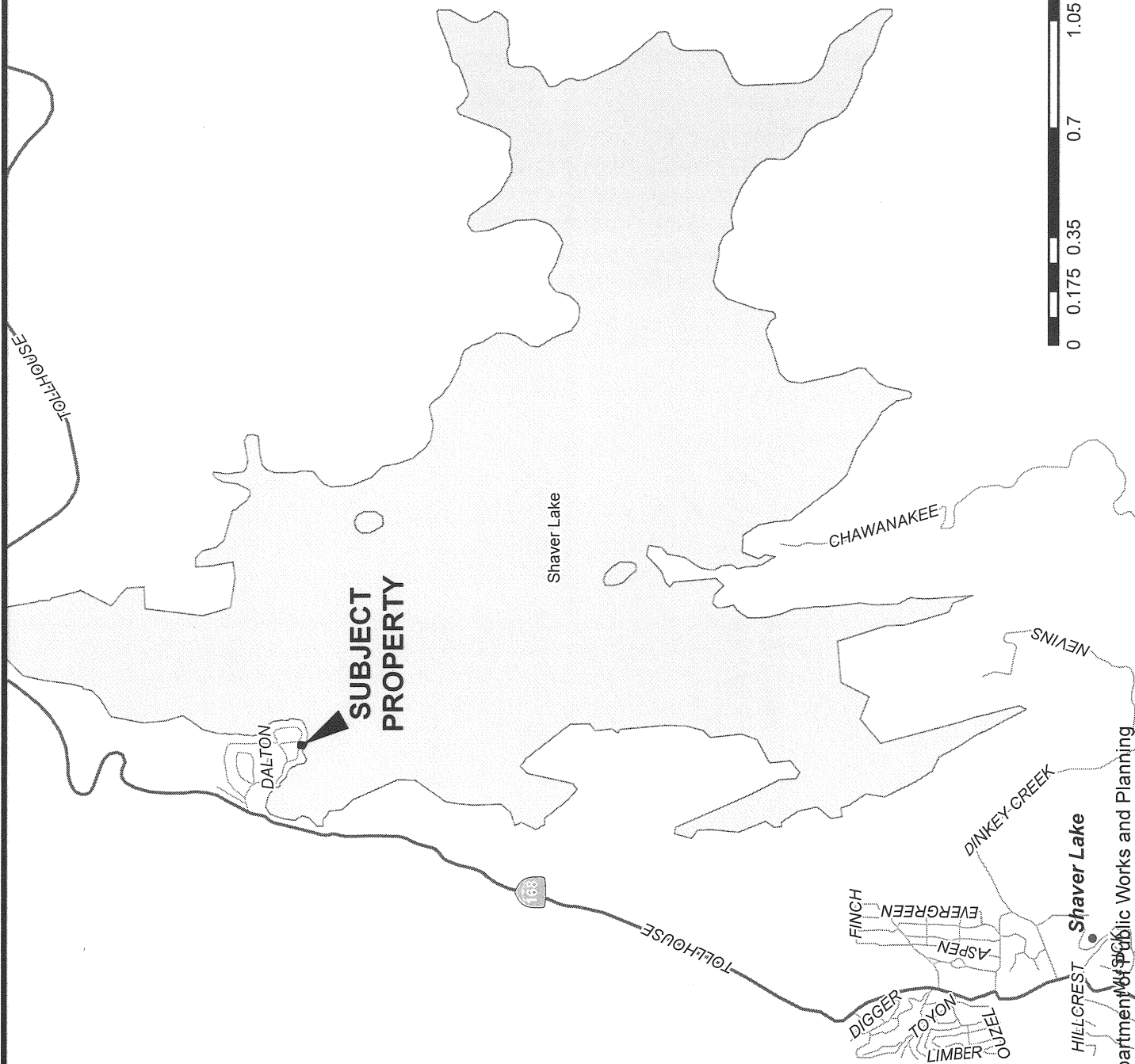
EXHIBIT 2

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Plans, permits, and inspections are required, including site development, based upon the California Codes in effect at the time of plan check submittal.
2.	The project shall not encroach on Southern California Edison property (Shaver Lake) in any way, including during construction. In the event that development requires relocation of facilities on the subject property held by Southern California Edison, which facilities exist by right of easement or otherwise, the owner/developer shall bear the cost of such relocation and provide Southern California Edison with suitable replacement rights. Such costs and replacement rights are required prior to the performance of the relocation.
3.	Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division.
4.	If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway onto Lakeview Avenue.
5.	The project shall comply with California Code of Regulations Title 24-Fire Code and may be subject to joining Community Facilities District (CFD) No 2010-01. Before plans are submitted to the Fresno County Fire Protection District, the Applicant must fill out the Fire Permit Application to submit with the plans. A determination will be made and information provided to the Applicant on how to join the CFD based on the application.



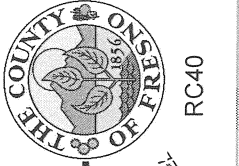
LOCATION MAP

VA 3963



EXISTING ZONING MAP

EXHIBIT 4



TOLLE

RC40

TPZ

RC40

RC40

RC40

R1

R1

C4 R2

DALTON

R1

**SUBJECT
PROPERTY**

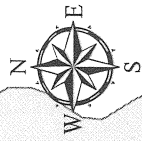
Shaver Lake

TOLLEHOUSE

RE

RE

AL20



EXISTING LAND USE MAP


VA 3963



LEGEND

- C# - COMMERCIAL
- SF#- SINGLE FAMILY RESIDENCE
- V - VACANT

LEGEND:

-  Subject Property



Department of Public Works and Planning
Development Services Division

EXHIBIT 6

VARIANCE MAP
SHAVER LAKE POINT

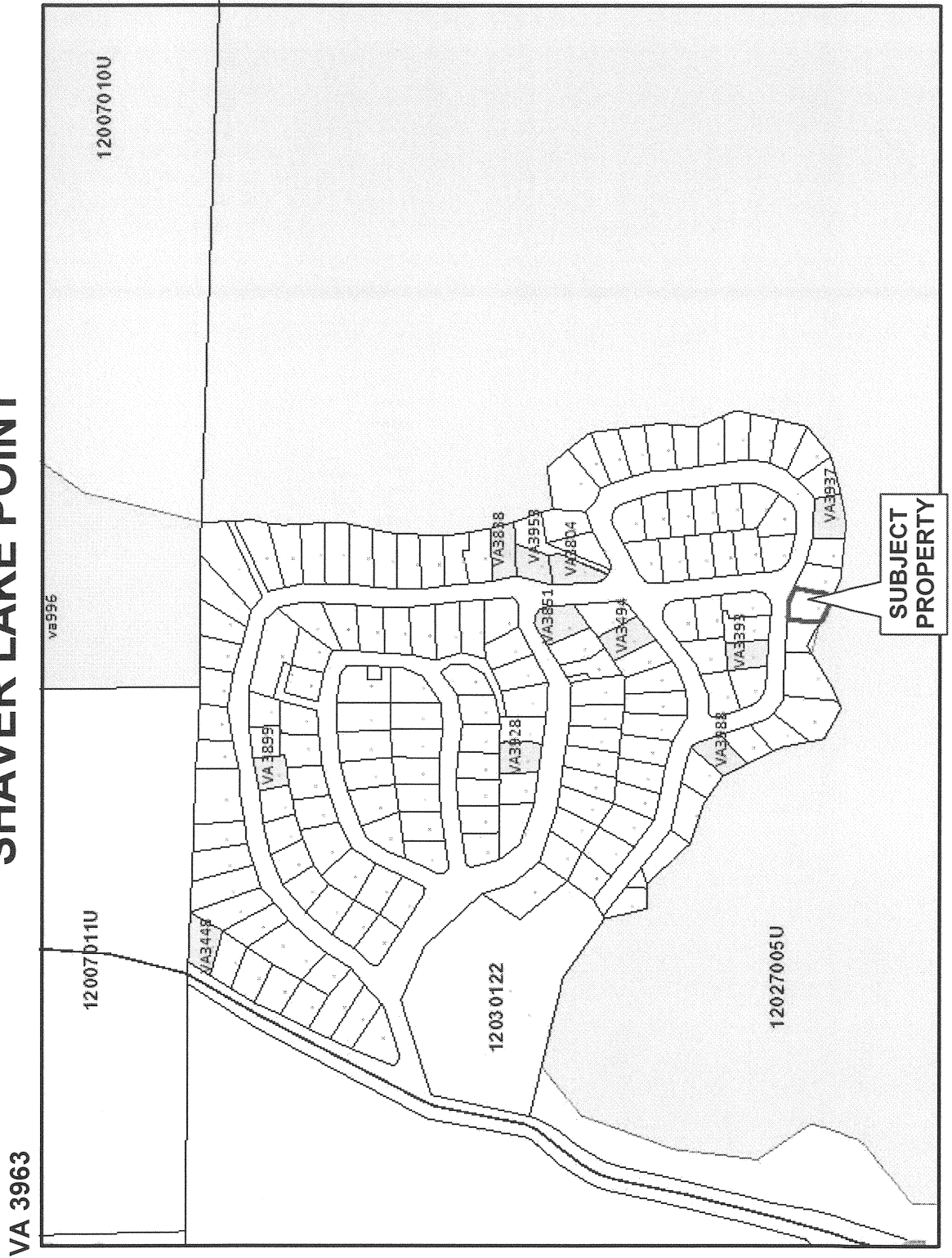
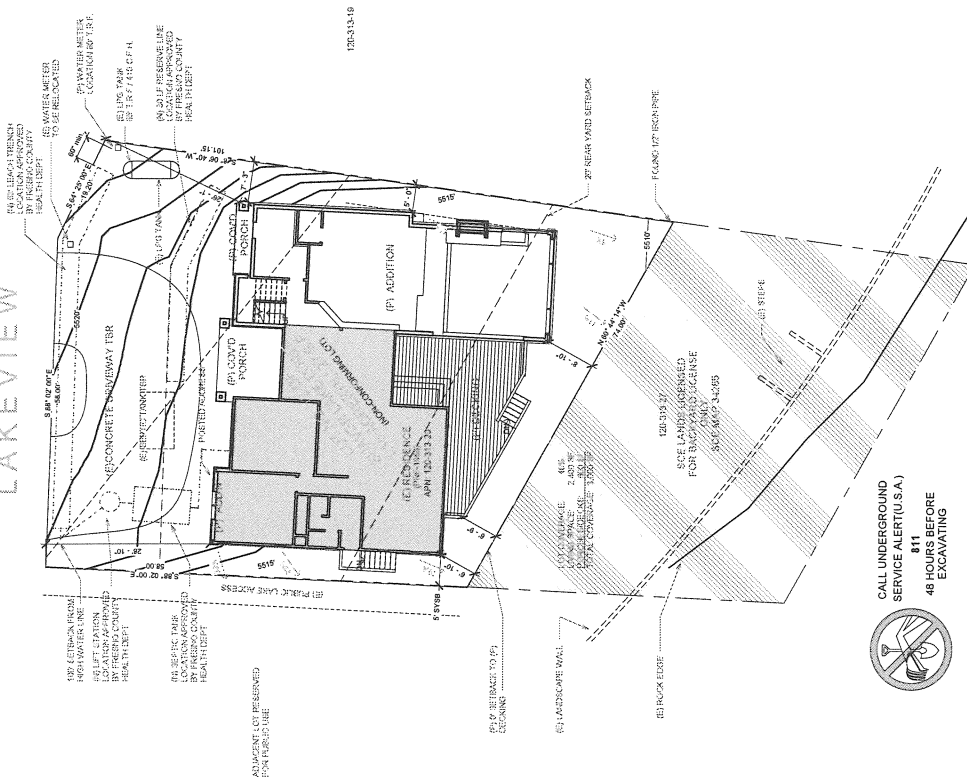


EXHIBIT 7

THESE PLANS SHALL BE USED WITHOUT AUTHORIZATION OF H.R.S. GRAHAM ARCHITECTS, INC. (DATE: 1/1/2018)

THESE PLANS SHALL BE USED WITHOUT AUTHORIZATION OF H.R.S. GRAHAM ARCHITECTS, INC. (DATE: 1/1/2018)

LAKEVIEW



CALL UNDERGROUND SERVICE ALERT(U.S.A.) 811 48 HOURS BEFORE EXCAVATING



1 Site Plan

1" = 10' 0"
 GROUND DISTURBANCE: YES, NO, DUE TO 1/8" MAXIMUM BOUNDED DISTURBANCE.
 EARTHWORK QUANTITIES IN THIS PLAN ARE FOR INFORMATION ONLY. CONTRACTORS ARE TO PERFORM THEIR OWN QUANTITY TAKE OFFS.

SITE PLAN

Vorhees Addition

C1

PRELIMINARY 06/01/2014 ELEMENTAL 06/01/2014

DRAWN BY: REVD/GAS

Planning - Design - Cad Drafting - BIM

HAROLD GRAHAM

2409 E. CALAVATE, CLAYTON, CA 94511

PH: (925) 935-5522 FAX: (925) 935-5522



Integrated Design Engineering

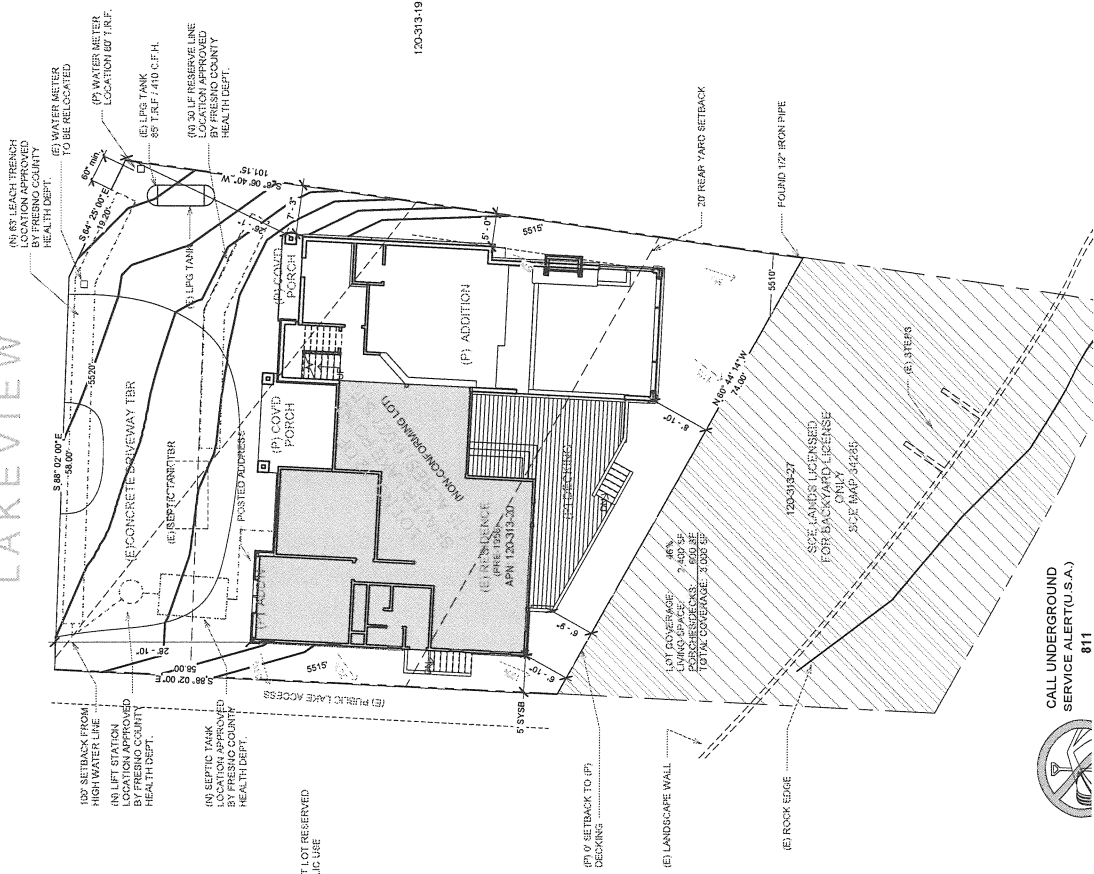
ALOYSIUS QUINNEVECH

Professional Civil Engineer

9041 N. Esplanade, Fresno, CA 93725

off: (559) 433-5755 FAX: (559) 570-0111

LAKEVIEW



CALL UNDERGROUND SERVICE ALERT (U.S.A.)
 811



UPPER FLOOR PLAN

PROJECT NO: 06012014 | SHEET NO: 06012014 | REV: 015

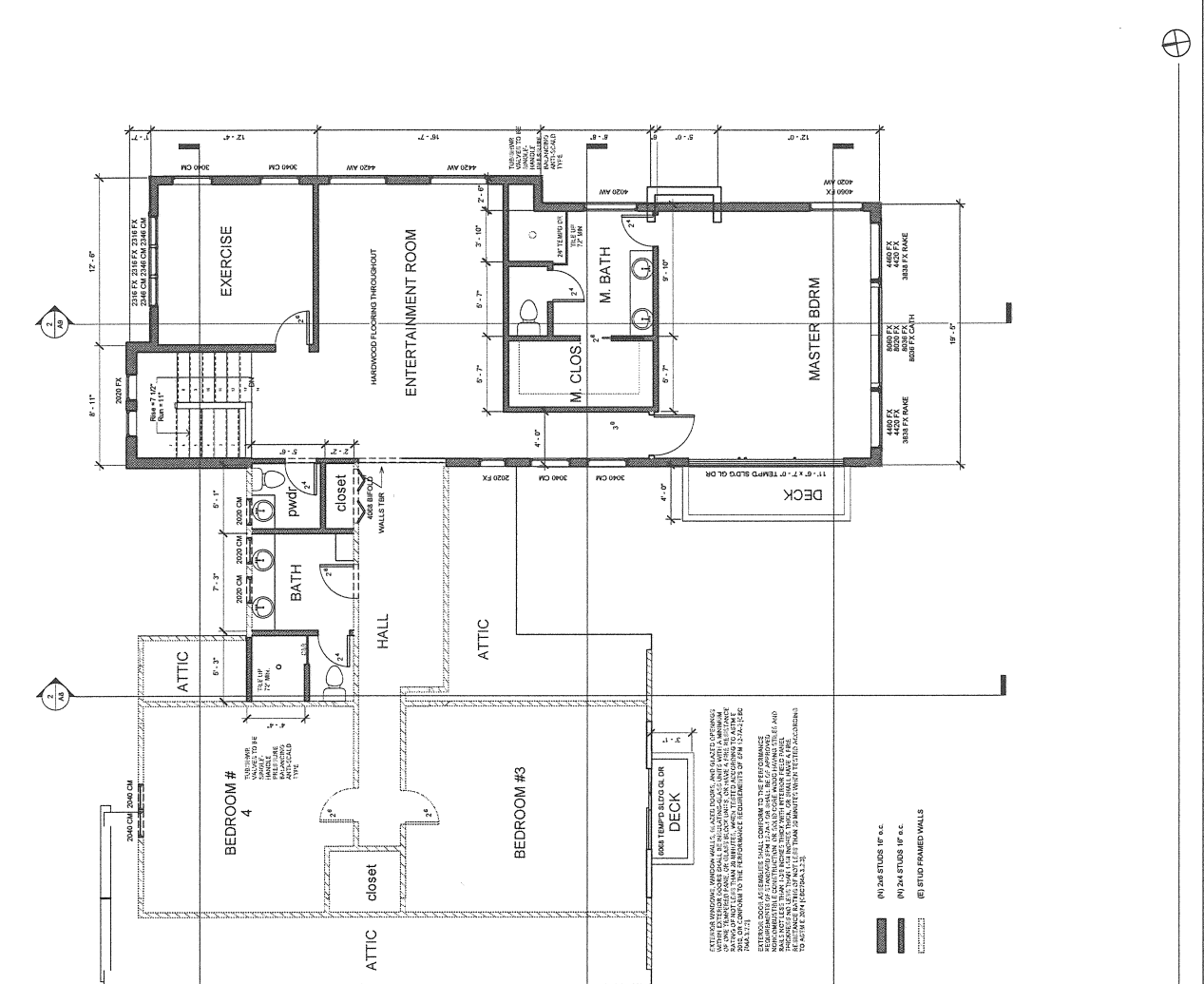
DATE: 06/12/14 | DRAWN BY: [Name]

CLIENT: HAROLD GRAHAM | PROJECT: VORNEES ADDITION

DESIGNER: INTEGRATED DESIGN ENGINEERING

REGISTERED PROFESSIONAL ENGINEER
No. 006666
Exp. 6/30/2011

604 N. Bascom Ave. | Palo Alto, CA 94304
Tel: (650) 435-5750 | Fax: (650) 570-0311



SECTION 1: WINDOW DETAIL

ITEM	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	2x6 STUDES IF S.E.	1	LINEAL FT	1.50	1.50
2	2x4 STUDES IF S.E.	1	LINEAL FT	1.20	1.20
3	STUD FRAMED WALLS	1	SQ. FT	10.00	10.00

SECTION 2: WINDOW DETAIL

WINDOW DETAIL: 1/2" MIN. GLASS AND 1/2" MIN. FINISH. WINDOW SHALL BE 1/2" MIN. GLASS AND 1/2" MIN. FINISH. WINDOW SHALL BE 1/2" MIN. GLASS AND 1/2" MIN. FINISH.

Exhibit 8 - Page 3

Vorrees Addition

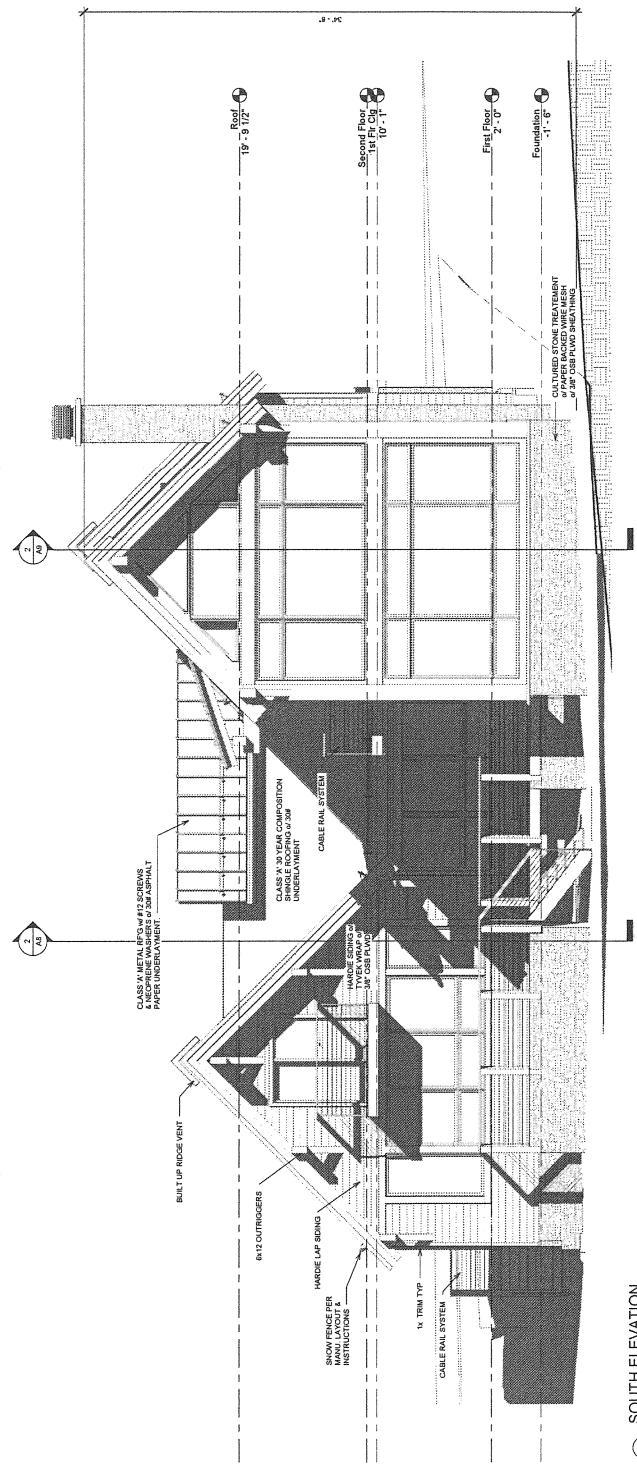
A6

ELEVATIONS

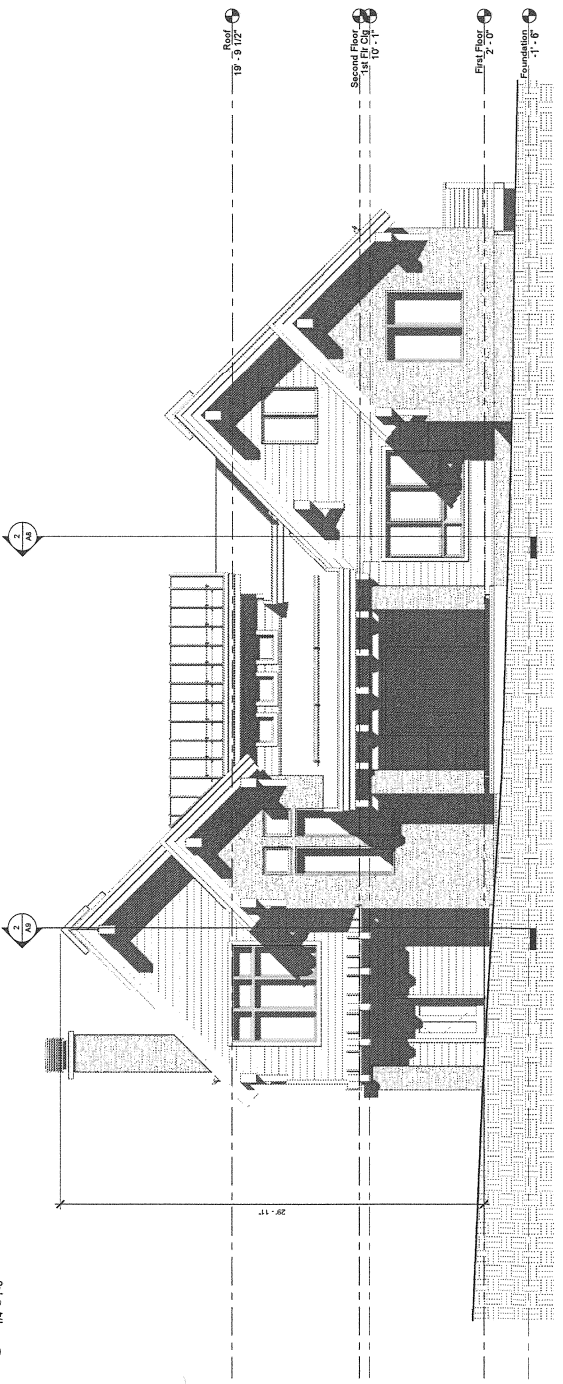
PROJECT NO.	068072014
DATE	06/01/2014
DESIGNED BY	Harold Graham
DRAWN BY	Harold Graham
CHECKED BY	Harold Graham
APPROVED BY	Harold Graham



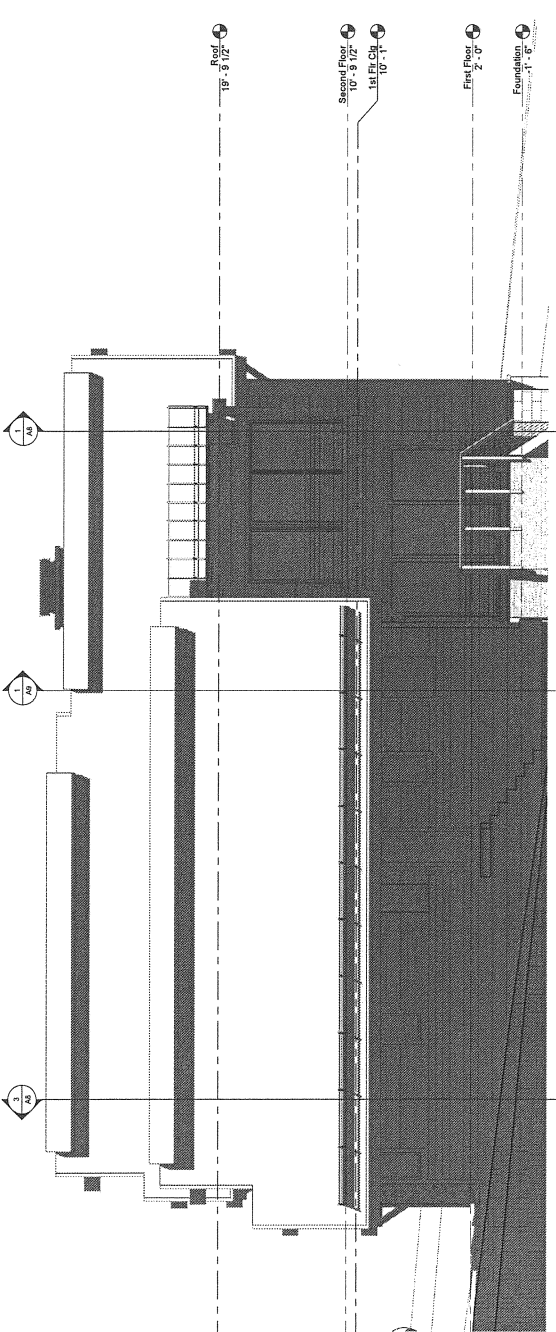
Integrated Design Engineering
 ALCIUS CONNORTECH
 Professional Civil Engineer
 9641 N. Bascom Ave., Fresno, CA 93726
 Off: (559) 433-8787 Fax: (559) 270-0111



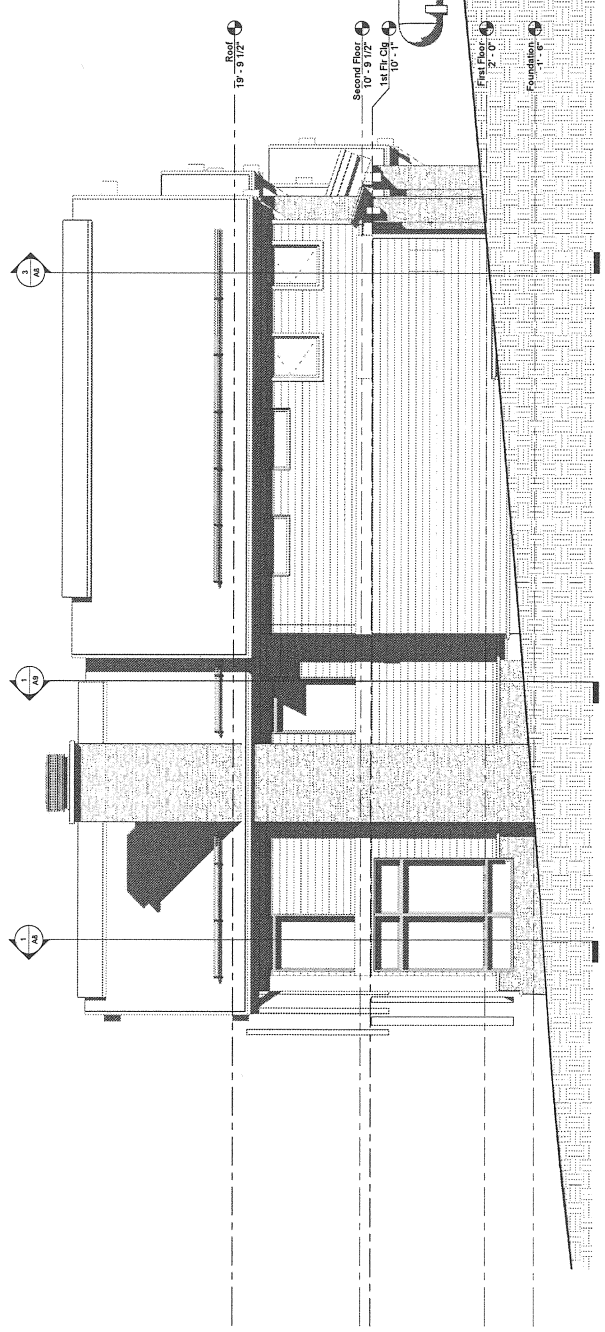
1 SOUTH ELEVATION
 1/4" = 1'-0"



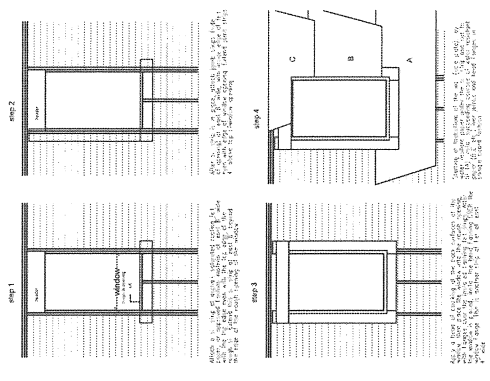
2 NORTH ELEVATION
 1/4" = 1'-0"



① WEST ELEVATION
1/4" = 1'-0"



② EAST ELEVATION
1/4" = 1'-0"



WINDOW FLASHING DETAILS

ALL WINDOW FLASHING DETAILS MUST BE CHECKED BY THE ARCHITECT. ALL WINDOW FLASHING DETAILS MUST BE CHECKED BY THE ARCHITECT. ALL WINDOW FLASHING DETAILS MUST BE CHECKED BY THE ARCHITECT. ALL WINDOW FLASHING DETAILS MUST BE CHECKED BY THE ARCHITECT. ALL WINDOW FLASHING DETAILS MUST BE CHECKED BY THE ARCHITECT.

ELEVATIONS		PROJECT NO. 06012014	
DATE: 06/01/2014		SHEET NO. 06012014	
DRAWN BY: [Name]		REVISED: [Date]	
Planning - Design - Cad Drafting - BIM HAROLD GRAHAM 2980 BROADWAY, SUITE 100, OAKLAND, CA 94612 PH: 510-794-4700 FAX: 510-794-4712			
PROJECT ARCHITECT: Integrated Design Engineering ALYSSUS GUNAWESCH Professional Civil Engineer 9641 N. Buena Vista Avenue, Fremont, CA 94573 PH: 510-453-9185 FAX: 510-453-9111			

A7



Vorhees
Addition

EXHIBIT 9

RECEIVED
COUNTY OF FRESNO

OCT 05 2016

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

VA 3963

To:

Fresno County
Department of Public Works and Planning
Development Services Division
2220 Tulare St., 6th Floor
Fresno, CA 93721

Subject Property:

44423 Lakeview
Shaver Lake, CA 93664
APN: 120-313-20

Re:

Revised Variance Findings

1. Lot size is non-conforming to R-1 zoning requirement of 100' minimum depth.
High water line setback forces a septic system design that, in addition to zoned yard setbacks, further limits buildable space. This requirement has effectively reduced by 400 s.f. the area to the front of the lot otherwise allowed to be built upon.
The net result is that the building area of the lot is less than the allowed 40% lot coverage (37.5%).
Lot shape is not uniform and subsequently, the resulting building area shape does not facilitate full use of the 37.5% given the design and construction typical of the area.
The westerly adjacent lot is preserved for public use.
2. A substantial majority of property owners in the vicinity are not restricted by the circumstances in finding #1 and those few that do have applied for and been granted a variance in part to restore enjoyment of property rights limited by a similar circumstance.
3. The granting of this VA will increase property values by permitting a substantial improvement to an existing SFR, maintaining the resident's view of Shaver Lake as well as enhancing the aesthetic character of the neighborhood.
The proposed SFR encroaches no further than the existing and the removal of the existing deck results in an increased viewshed from the adjacent recreational parcel.
The proposed encroachment into the rear yard setback and the additional lot coverage in this VA are similar and less than those enjoyed by adjacent residences.
For these reasons the granting of this VA will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.
4. The 2 story addition is planned for the east side of the parcel adjacent the neighboring 2 story residence leaving the westerly portion of the existing one-story SFR as is. This preserves the existing view facilitated by the adjacent recreational lot enjoyed by property owners directly across from the recreational lot. The design of the SFR in this VA enhances and reflects the mountain character while at the same time improving and protecting the panoramic view of Shaver Lake consistent with the relevant policy objectives in Shaver Lake Community Plan Section 609-03:5.00.

EXHIBIT 10

Subject: Planning Commission Variance Application # 3963
To: cmonfette@co.fresno.ca.us

Dear Ms. Monfette:

Thank you very much for forwarding this letter to the Members of The Fresno County Planning Commission with regard to Harold Graham's request for variance.

We are residents of "The Point," and therefore have a vested interest in the outcome of this application.

We wish to voice a

*(see next page
- cmm)*

Monfette, Christina

From: Doug Cords <douglascords@gmail.com>
Sent: Wednesday, August 24, 2016 11:03 AM
To: Monfette, Christina
Subject: Fwd: Planning Commission Variance Application # 3963

{Letter continued, with apologies}

STRONG OBJECTION TO THIS REQUEST. The following represent our rationale for the Commission to reject the application:

*the Petitioner asks for a "zero-foot rear-yard setback;" in effect, this represents **NO SETBACK AT ALL** - the original development had a 20-foot requirement for strong and valid reasons! When we constructed our home, we followed every article of the setback requirements, which clearly continues the ambiance of The Point and has no overcrowding.

*the Petitioner requests that the lot coverage be increased by almost a third...the resulting building would cover 52% of the lot, whereas the maximum allowed is 40%.

Why have construction regulations on lot coverage and setback only to **VOID THEM FOR AN INDIVIDUAL HOMEOWNER TO THE DETRIMENT OF ALL NEIGHBORS?**

*we have good friends (William and Sharlene Spangler) who 3 years ago purchased a lovely home and paid lots of additional dollars for the lake view from their porches - if approved, the Graham project would obliterate that view and change the entire enjoyment level for this (and at least four other) family.

There is absolutely no good reason to allow this Petition to be approved - it will benefit only the homeowner and change forever both the ambiance of this lakefront area of The Point - and - literally make a statement that "regulations for setback and lot coverage" mean nothing.

Thank You -

Wendy and Doug Cords
44393 Hillcrest
Shaver Lake CA 93664
559-907-3300

----- Forwarded message -----
From: **Doug Cords** <douglascords@gmail.com>
Date: Wed, Aug 24, 2016 at 10:51 AM

Dear Supervisors Poochigian, Mendes, Pacheco, Borgeas and Perea

Re: Variance # 3988 and Variance #3963, Shaver Lake Point

I am writing in response to Variance No. 3988 and Variance #3963, to make you aware of current and past requests, to the Planning Commission, to give variances to front (20 feet), back (20 feet), and side (5 feet) set back requirements and also for variances over the maximum of 40% lot coverage, at the Point, Shaver Lake.

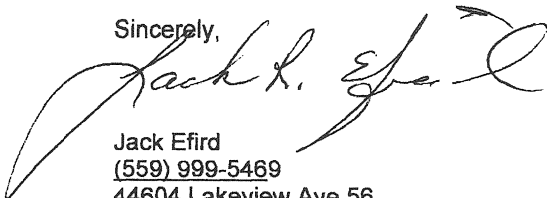
I understand that there are times and circumstances, that variances should be given for the some lots located the Point. In the past, I and others have filed objections against, what we felt were unreasonable, variance requests. When the Planning Commission goes ahead and approves a variance request, we as lot owners, to my knowledge, have not been notified of the granting of the variance and therefore we have assumed that the variance was denied. Having no knowledge that the variance was approved, we therefore did not have the opportunity to appeal to you, the supervisors.

Variances are being requested for zero setbacks and above 50% and sometimes getting close to 60% lot coverage. This variance is requesting a zero set back lakeside and a lot coverage variance of 54%, all trees will be removed from this lot except 3 trees on the roadside next to Lakeview road.

We now have several lots, on the Point, that these types of variances have been allowed. With all of the lots, allocated at the Point, being small square footage, after these variances are granted, we now have lots with no trees, just homes. It is the neighbor's trees that are proving the esthetics of the mountains, not these lots that have removed a vast majority of the trees. These variances cannot continue, because in the future, if every lot got the variance, then the majority of trees will be removed at the Point.

In conclusion, as a home owner at the Shaver Lake Point, I strongly object to the Variance #3988 before Planning Commission, which is being reviewed May 26th, I hope that you will re-examine Variance # 3988 and Variance #3963 and also future variance requests, at the Point.

Sincerely,



Jack Eford
(559) 999-5469
44604 Lakeview Ave 56
Shaver Lake

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DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

August 15, 2016

Variance Application No. 3963

To the Honorable Fresno County Planning Commission

To Steven E. White, Director, Department of Public Works and Planning, Secretary-Fresno County Planning Commission

My name is Jim Efird and I am a property/cabin owner at 44449 Dalton, Shaver Lake California.

I am very concerned about what may be a very dangerous precedence being set by the Planning Commission in allowing increased building foot prints to be constructed on the very edge of Shaver Lake. I ask each member to seriously question your staff's determination that the subject proposal is exempt from the California Environmental Quality Act.

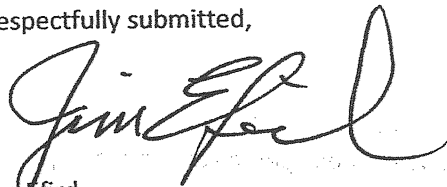
Minor Alterations in Land Use Limitations?

This is a lot on the lake front. The entire lot slopes only to the lake. The applicant is asking that a lot that has and should be limited to 40% lot coverage by ordinance be increased by a full 30% of area to 52%. **In addition the applicant is asking that the set back from the lake be reduced from 20 feet to Zero.**

Each of you are being asked allow a significantly increased roof surface to divert down pours and snow that ought to be soaking into the soil surface. That a significantly increased volume of runoff will be delivered to a zero setback from the lake. A lake these ordinances were intended to protect? A lake's edge that in most all cases, and in the case of this very lot, will have a steep, erodible, granite sand embankment down to wherever the water's edge may be during any given winter. This is simply not "a minor alteration in land use limitations".

I urge you to stand by the setback that has been imposed to protect this beautiful lake and hold to the more than reasonable 40% lot coverage. At a minimum the applicant is not exempt from the California Environmental Quality Act.

Respectfully submitted,



Jim Efird

Cell 805-441-4414 Email jimefird101@gmail.com

Monfette, Christina

From: Russel Efird <refird51@yahoo.com>
Sent: Thursday, August 18, 2016 5:26 PM
To: Monfette, Christina
Subject: Variance Application No. 3963

To: Steven White, Director
Department of Public Works and Planning
Fresno County Planning Commission

Christina Mofette

Re: Variance No, 3963

From: Russel and Kathleen Efird
44439 Dalton
Shaver Lake, CA

As a home owner at the shaver Lake Point, I would like the Fresno County Planning Commission to deny Variance No. 3963, and any and all future requests. Most owners have had to adhere to the setbacks and the 40% by ordinance for lot coverage.

Russel And Kathleen Efird

August 19, 2016

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FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Steven E White, Director

Department of Public Works and Planning

County of Fresno

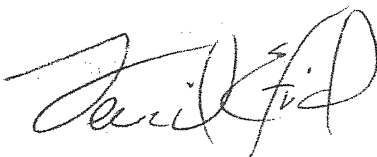
Dear Sir:

This letter is written in opposition to Variance Application 3963, filed by Harold Graham. His wish to increase the lot coverage from the required 40% to 52% will result in another enormous home on the shore of Shaver Lake. In addition, his request for a zero-foot setback from the lake instead of the required 20 foot setback will further block the view of the lake for all the other residents of Shaver Lake Point, including their next door neighbors. My family has had a cabin right around the corner from the lot in question since 1963. At that time, all the residences on Shaver Lake Point were cabins. We could walk around the point and enjoy beautiful views of the lake between and over the rooflines of the cabins on the shore. Appropriately, the name of that road is LAKEVIEW. Variances like the one being proposed have been granted to individuals in the past, resulting in enormous structures, that extend to the edges of the property on the right and left.

Mr. Graham is now proposing to do the same. If this trend is allowed to continue, only those residents of the point who own property on the shoreline will be the ones lucky enough to actually see the lake. In addition, the current 40% lot coverage formula allows space for proper placement of trees to maintain the canopy of Shaver Lake Point. Just as in Carmel, California, the shade and microclimate produced by these trees help create the unique atmosphere of Shaver Lake Point. If more lot coverage is allowed, there will be much less area for the planting and maintaining of the large coniferous trees that make Shaver Lake Point what it is today. The ground space necessary to appropriately space these trees is more important now than ever, given the continuing devastating loss of trees to the drought and the bark beetle.

Thank you for your attention. Please do not approve this application.

Sincerely yours,



Terril A. Efirid, M.D.

44378 Cascade , Lot 54

Shaver Lake Point

Mailing Address:

7620 N Marks Avenue

Fresno, CA, 93711

McFarlane
Post Office Box 1079 • Clovis, California
44327 Lakeview Drive • Shaver Lake, California

August 18, 2016

Mr. Daniel Brannick and Fresno County Planning Commission
2220 Tulare Street
Fresno, California 93721

RE: Variance Application No. 3963
Shaver Lake

Dear Mr. Brannick and Planning Commissioners:

We own property to the west of the applicant's and do not support approval of the subject variance request. The established zoning regulations provide for improvements to the property without compromising the preservation of our rural and wooded family environment.

As we understand it, there are several findings which must be made to support granting a variance:

Finding 1: There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having identical zoning classification.

The Graham property is a 6,526 square foot parcel situated on a beautiful site that does not appear to have any exceptional or extraordinary circumstances that would create building challenges. Their parcel size permits a significant residence to be built within the 40% lot coverage allowed by zoning regulations. They also have the option of increasing their lot coverage to 44% without a variance.

Finding 2: Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owner under like conditions in the vicinity having the identical zoning classification.

A number of owners at the Point believe that the 55% lot coverage and zero-foot rear-yard setback approved in a previous situation has become the benchmark for all other projects. However, we have been assured that each variance request is to be considered on its own merit and, while it is a consideration that prior variances have been allowed, they do not constitute justification for granting future variances. We appreciate your considering this request based on the unique size, shape and topography of this specific parcel rather than previously approved variances.

We are firm believers in property rights and wish the Grahams well on their project, provided they comply with the County ordinances that were adopted to protect communities and homeowners from aggressive over-building within the Sierra Nevada forest on a scale more appropriate to urban densities.

We strongly oppose approval by the Fresno County Planning Commission of the Graham variance application.

Sincerely,



Jane McFarlane Gamble

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** Of Counsel
*** Also admitted in Wisconsin

August 24, 2016

VIA HAND DELIVERY

Christina Monfette
Department of Public Works & Planning
County of Fresno
2220 Tulare Street
Fresno, CA 93721

**Re: Fresno County Variance Application No. 3963
44423 Lakeview Drive, Shaver Lake, CA**

Dear Ms. Monfette:

My law firm represents Dwight and Robyn Nelson (the "Nelsons"), who own the property located at 44437 Lakeview Drive in Shaver Lake, California. On the Nelsons' behalf, I am writing in response to the Notice of Public Hearing on the Fresno County Planning Commission's consideration of Variance Application No. 3963 for the expansion of an existing residence (the "Project"), which concerns real property located at 44423 Lakeview Drive, Shaver Lake, CA (the "Subject Property").

After reviewing the Staff Report for the August 25, 2016, Planning Commission meeting, I understand County staff recommends denial of the proposed Project because the County cannot make the findings necessary to support the requested variance. The Nelsons concur with staff's analysis, and likewise believe substantial evidence does not exist to support the required findings.

In addition, and as a separate ground for denial of the requested variance, the County cannot find the Project is exempt from the California Environmental Quality Act, Public Resources Code, § 21000 ("CEQA"), pursuant to Section 15305 of the CEQA Guidelines. Because Section 15305 is inapplicable, the County cannot consider the Project until the County undertakes the environmental review process and considers a legally adequate environmental document.

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AND PLANNING
DEVELOPMENT SERVICES DIVISION

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As a result of the foregoing, the Nelsons request that the Planning Commission denies the Project.

A. The Planning Commission Cannot Make the Findings Necessary to Approve Variance Application No. 3963

Variations are a mechanism that allow landowners to use their property “in a manner basically consistent with the established regulations [of a local agency] with some minor variations as will place him in parity with other property owners in the same area.” (Longtin, *California Land Use* (2d ed. 1987; 2010 update) at 349-50.) Variations thus permit administrative adjustments when application of a general regulation would be “confiscatory” or “produce unique hardship.” (*Id.* at 350.) The variance process is designed to “bring the applicant to substantial parity with other owners in the zone”; “they are not created to give the applicant a better position than enjoyed by his neighbors in the zone.” (*Hamilton v. Bd. of Supers.* (1969) 269 Cal.App.2d 64, 66.)

Section 65906 of the Government Code governs variations. Section 65906 provides that “Variations . . . shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.” (Govt. Code, § 65906.) Moreover, “[a]ny variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.” (*Id.*)

Section 877 of the County’s Zoning Code provides additional conditions for the granting of a variance. Section 877 states, in relevant part:

A. CONDITIONS NECESSARY TO GRANTING OF A VARIANCE

A Variance may be granted only when all of the following conditions exist in reference to the property being considered.

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification.
2. Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.

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3. The granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.
4. The granting of such a Variance will not be contrary to the objectives of the General Plan.

(Fresno County Zoning Code, § 877(A).) Many of the above requirements are similar to those imposed by Section 65906 of the Government Code, except that Section 877(A)(1) is *more restrictive* than Section 65906, as it requires a showing of “exceptional or extraordinary circumstances or conditions,” as opposed to mere “special circumstances.” (*Compare* Fresno County Zoning Code, § 877(A)(1) *with* Govt. Code, § 65906.)

The County cannot meet the above conditions, and as a result the Planning Commission must deny the requested variance for the Project.

Exceptional/Extraordinary Circumstances Do Not Exist. To receive a variance, an applicant must establish there “are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification.” (Zoning Code, § 877; *cf.* Govt. Code, § 65906.) This language emphasizes disparities between properties within the same zoning district, and that “at best only a small fraction of any one zone can qualify for a variance.” (Longtin, *California Land Use, supra*, at 352 [citing *Topanga Ass’n for a Scenic Cmty. v. County of Los Angeles* (1974) 11 Cal.3d 506, 520].) “In other words, the plight of an applicant for a variance must be due to peculiar circumstances and conditions, and” – in the context of Section 877 of the County’s Zoning Code – it must be exceptional or extraordinary “in contrast with that of other property owners in the same district” (*Zakessian v. City of Sausalito* (1972) 28 Cal.App.3d 794, 799.)

As recognized by staff, exceptional/extraordinary circumstances applicable to the Subject Property compared to other similarly-zoned properties in the area do not exist in this case. In support of this finding, the Applicant points to the fact that the lot is purported “both irregular in shape, and non-conforming to the R-1 zoning requirement of 100’ minimum depth resulting in limited buildable space.” (July 2, 2014, Proposed Variance Findings, No. 1.) As explained by staff, however, many of the parcels within the Shaver Lake Point subdivision “fall short of the standard depth requirements” and, like the Subject Property, many of those properties “have rear yards that abut Shaver Lake” (Staff Report at 7.)

The Applicant also argues there is a need to “recapture” the “viewshed” from various locations on the Subject Property. This issue, however, is not “exceptional” or “extraordinary,” as the properties within the subdivision all have unique, and sometimes obstructed, views of Shaver Lake from different points on their respective properties. Indeed, as explained in the Staff Report, “Staff does not consider this to create an exceptional situation for

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the Applicant, since all homes that have frontage on the lake are affected by the irregular shoreline.” (Staff Report at 7.)

In short, because the above issues are common to many of the properties in the subdivision, the circumstances are not “exceptional” or “extraordinary” compared to other properties within the area. (See Govt. Code, § 65906; Fresno County Zoning Code, § 877; *Topanga Ass’n, supra*, 11 Cal.3d at 520; *Zakessian, supra*, 28 Cal.App.3d at 799.)

The Applicant Cannot Show the Requisite “Hardship” for a Variance to Be Granted. To receive a variance, an applicant must make the requisite showing of “hardship” – *i.e.*, that “the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.” (Govt. Code, § 65906.) As explained in *Zakessian*:

It is fundamental that the difficulties or hardships must be unique to justify a variance; they must be peculiar to the application of zoning restrictions to particular property and not general in character, since difficulties or hardships shared by all go to the reasonableness of the zoning restrictions broadly and render them invalid or call for their modification by amendatory ordinance. In other words, the plight of an applicant for a variance must be due to peculiar circumstances and conditions, and it must be special or unique in contrast with that of other property owners in the same district. . . .

(*Zakessian v. City of Sausalito* (1972) 28 Cal.App.3d 794, 799-80.)

To establish the requisite “hardship,” the benefits to the surrounding community are irrelevant. (*Broadway, Laguna, Vallejo Ass’n v. Bd. of Permit Appeals* (1967) 66 Cal.2d 767, 777-79.) The fact that a building may be less profitable, or that the landowner may suffer economic hardship, is likewise irrelevant. (*Id.* at 775.) Rather, to meet this factor, the applicant must show the strict application of the ordinance would “prevent [the applicant] from profitably developing a lot within the strictures of the planning code” (*Id.*) Likewise, mere increased costs associated with practical constraints that result from the nature of the site are insufficient to establish hardship. (*Id.* at 778-79.)

As explained by staff, the County also cannot make the requisite finding of hardship necessary to support a variance. In support of this argument, the Applicant asserts that the “lot’s value and the enjoyment of its residents relies predominantly on its view of and access to, Shaver Lake.” (July 2, 2014, Proposed Variance Findings, No. 2.) The Applicant similarly asserts that other properties have received variances, and that this action is “necessary” to “recapture” a better view from the property. (*Id.*)

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First, the Subject Property currently enjoys direct access to Shaver Lake, and the proposed variance does not appear intended to modify or enhance that access. As a result, the issue of access is irrelevant.

Moreover, the issue of viewshed appears primarily focused on enhancing the value of the property and surrounding property values. As explained above, however, the fact that a building may be less profitable, or that the landowner may suffer economic hardship, is irrelevant to a finding of hardship. (See, e.g., *Broadway, Laguna, supra*, 66 Cal.2d at 775.) The fact that a variance may “benefit” a surrounding community is likewise irrelevant. (See *id.* at 777-79.)

In addition, as explained by staff, the asserted viewshed “deficit relates to the view of the lake. Staff did not identify any rock outcroppings, stands of trees, wetlands, or easements which present a significant hardship for the Applicant.” (Staff Report at 7.) Staff has also identified several alternatives the applicant has to completely “avoid the need for a variance.” For example, the Applicant could choose to build an addition that is designed somewhat differently in a manner that “would meet the 20-foot rear-yard setback.” (Staff Report at 7.)

Further, as explained by staff, any alleged “hardship” is similar to that experienced by many properties in the subdivision. (See Staff Report at 7.) As explained by the Court in *Zakessian*, difficulties or hardships shared by all are irrelevant to the issue of “hardship” to the Applicant for purposes of a variance. “In other words, the plight of an applicant for a variance must be due to peculiar circumstances and conditions, and it must be special or unique in contrast with that of other property owners in the same district. . . .” (*Zakessian, supra*, 28 Cal.App.3d at 799-80.) Here, any hardship is not particular to the Subject Property, and thus irrelevant for purposes of the County’s consideration of the proposed variance.

In short, the Applicant cannot demonstrate “the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.” (Govt. Code, § 65906.)

The Requested Variance Would Confer a Special Privilege. The goal of a variance is to promote parity as a result of exceptional circumstances existing on a particular lot compared to others within the zoning district. A variance may not confer a “special privilege” upon the applicant’s property. Here, as explained by staff, many of the properties in the subdivision have the same issues with lot dimension and viewshed as the Subject Property. As a result, the issuance of a variance would confer a special privilege upon the Subject Property.

The Fact that Other Properties in the Area May Have Received Variances Is Irrelevant. The applicant may argue that other properties within the area have received variances. This is irrelevant. In the event the County wishes to increase lot coverages and reduce setbacks in the residential zoning districts with mountain overlays, the proper method to

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achieve this objective would be amendments to the zoning code – and not the issuance of variances for properties within the overlay district on a piecemeal basis, which is prohibited. (See *Topanga*, *supra*, 11 Cal.3d 506, 522 [“By granting variances for tracts of this size, a variance board begins radically to alter the nature of the entire zone. Such change is a proper subject for legislation, not piecemeal administrative adjudication.”] [citing *Sinclair Pipe Line Co. v. Village of Richton Park* (1960) 19 Ill.2d 370; *Appeal of the Catholic Cemeteries Ass’n* (1954) 379 Pa. 516; *Civil City of Indianapolis v. Ostrom R. & Constr. Co.* (1931) 95 Ind.App. 376].) Indeed, California courts have repeatedly rejected such arguments. (See *id.*; see also *Hill v. City of Manhattan Beach* (1971) 6 Cal.3d 279, 286.)

The Requested Variance Would Be Injurious to the Public and Neighboring Properties. Section 877 of the County’s Zoning Code also requires a showing that the “granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.” (Zoning Code, § 877(A)(3).)

The County cannot make this finding, as the proposed Project would affect neighboring properties. As explained in the Staff Report, the Project would adversely affect the viewshed of the adjacent recreational parcel:

Staff does not concur that the improvements will not affect the viewshed of the recreational parcel to the west of the subject parcel. The configuration of the shoreline is such that the entirety of the recreational parcel is north of the 20-foot rear-yard setback required by the zone district. Additional improvements beyond that line would block some of the eastern view of the lake. In this case, there is a length of SCE land that runs between the lake and the rear property lines of the parcels within the subdivision which is reserved for backyard use and provides a partial viewshed that may not be encroached; however, the majority of the lake lies east of the public parcel, beyond the proposed addition. It is unknown if the proposed addition would affect this viewshed more than the existing trees but replacing them with a man-made structure would be considered an adverse impact on the otherwise natural view from that parcel.

(Staff Report at 8.) Further, a “purpose of the setback standard is to protect the aesthetic character of an area by providing an offset of structures from the adjacent properties. Similarly, limitations imposed on lot coverage are to allow consistency between residential developments and the look of homes in a neighborhood.” (*Id.*) The proposed variance, of course, would interfere with these policies.

The proposed variance would also affect my clients’ property, which is immediately to the east of the Subject Property. As explained by staff, the “proposed two-story addition is planned for the east side of the property, which has the potential to affect the row of trees that currently screens the subject parcel from the one adjacent.” Because there would only

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be “ten feet separating the two homes from one another,” and the trees that currently screen my clients’ property would likely be removed, this would create a significant privacy concern for my clients. (See Staff Report at 8.)

The Requested Variance Is Contrary to the General Plan. The County’s Zoning Code also requires a showing by the Applicant that the “granting of such a Variance will not be contrary to the objectives of the General Plan.” (Zoning Code, § 877(A)(4).)

As an initial matter, the proposed variance findings submitted by the applicant does not analyze the Project’s consistency with the General Plan. For this reason alone, the requested variance should be denied.

Nor can the Applicant make such a showing, as explained *infra* § C.

The Applicant may point to assertion in the draft findings that the proposed variance is “enhances and reflects the mountain character [of the area] while at the same time improving and protecting the panoramic view of Shaver Lake,” which allegedly makes the proposed variance consistent with the “relevant policy objectives in Shaver Lake Community Plan Section 609-03-5.00. (See Proposed Findings, No. 4.) First, whether the variance is consistent with the Shaver Lake Community Plan is irrelevant, as Section 877(A)(4) requires a finding of consistency with the “General Plan,” which has not been analyzed.

In any event, the proposed variance is not consistent with Section 609-03-5.00 of the Shaver Lake Community Plan. For example, Section 609-03-5.00(c) provides that “[o]utstanding scenic views and panoramas should be preserved wherever possible.” While the Applicant may be seeking the variance to *enhance* the *Applicant’s* view, the variance would actually substantially degrade the view from the recreational property, as well as the Nelsons’ viewshed.¹

Conclusion. The County cannot make any of the requisite findings for a variance in this case, as (i) the proposed findings are irrelevant and unsupported by fact, and (ii) any alternative findings would be contrary to the facts. As a result, the Planning Commission should deny Variance Application No. 3963.

B. The Planning Commission Cannot Find the Project Is Exempt From Environmental Review Under Section 15305 of the CEQA Guidelines

As explained above, proposed Variance Application No. 3963 should be denied on the merits. But the proposed variance should *also* be denied because the County has not performed the requisite environmental review under CEQA to evaluate the potential impacts of

¹ Nor is the proposed variance consistent with other provisions of the Shaver Lake Community Plan, as discussed *infra*, § C.

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the project. Specifically, the Notice of Public Hearing provided by the County states that “[s]taff has determined that the subject proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15305 – *Minor Alterations in Land Use Limitations*. In short, Section 15305 does not apply here and, in any event, the County cannot rely upon any categorical exemption, including but not limited to Section 15305, because “unusual circumstances” exist under Section 15300.2 of the CEQA Guidelines.

1. Section 15305 of the CEQA Guidelines Does Not Apply to Variance Application No. 3963

Exemptions under Section 15305 of the CEQA Guidelines are limited to “*minor alterations* in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density” (CEQA Guidelines, § 15305 [emphasis added].) These alterations include “[*m*]minor lot line adjustments, side yard, and set back variances,” the “[i]ssuance of minor encroachment permits,” and reversion to acreage. (*Id.*, subds. (a)-(c) [emphasis added].)

First, it is the County’s burden to support the applicability of the exemption with substantial evidence. (*Comm. to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1187.) No such facts have been provided.

In any event, the exemption does not apply here. This is not a minor adjustment to a setback, but rather nearly the complete removal of the setback. This cannot be considered “minor.” Indeed, staff has explained that a primary “purpose of the setback standard is to protect the aesthetic character of an area by providing an offset of structures from the adjacent properties.” (Staff Report at 8.) This Project, however, will interfere with the public’s viewshed from the recreational parcel.

In addition, the proposed increase in lot coverage is not “minor,” but rather an increase of 130% of what is otherwise allowed in the code. This is important because “limitations imposed on lot coverage are to allow consistency between residential developments and the look of homes in a neighborhood.” (Staff Report at 8.) The Project is inconsistent with this objective, further belying the fact that the proposed action is a “minor” alteration to land use limitations.

There is also no showing that the average slope of the Subject Property is less than 20%. In fact, the site plan suggests that, in the location of the residence, the average slope is in some places 19%, 23%, or 38%. Because Section 15305 is limited to “areas with an average slope of less than 20%,” the exemption is inapplicable.

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In short, the Applicant cannot rely upon Section 15305 as the basis for an exemption from CEQA.

2. **Even if Section 15305 Applied Here, and the Planning Commission Made Findings to Support the Requested Variance, the County Would Be Required to Find “Unusual Circumstances” Exist Under Section 15300.2(c) of the CEQA Guidelines, Requiring Further Analysis of the Project’s Environmental Effects**

Even if the categorical exemption provided under Section 15305 could arguably apply in this case – and it does not – the County would not be able to find the Project is “exempt” from CEQA. Specifically, the County cannot on the one hand make a finding that a “variance” is proper under Section 877(A) of the Zoning Code and at the same time assert “unusual circumstances” do not exist. This is because Section 877(A)(1) demands a showing that “[t]here are exceptional or extraordinary circumstances or conditions applicable to the property” that would make a variance appropriate. (See Zoning Code, § 877(A)(1).) As a result, if the County finds “unusual circumstances” exist for purposes of Section 877(A)(1), it must also find “unusual circumstances” exist for purposes of the claimed exemption. (CEQA Guidelines, § 15300.2.)

There are also unusual circumstances in the manner in which the Project is proposed to be carried out. Among other things, the Subject Property is adjacent to a public recreational parcel, and would result in a diminishment of the public’s viewshed. (See Staff Report at 8.)

In addition, the Project would result in features that are largely atypical of the existing community, including the significantly increased lot coverage from 40% to 55%, and the fact that the rear setback would essentially be removed.

Thus, unusual circumstances exist such that an analysis of the Project’s potential environmental impacts is required. (See CEQA Guidelines, § 15300.2.)

3. **A “Fair Argument” Exists that the Project Would Have Significant Environmental Effects**

“[W]hen there are ‘unusual circumstances,’ it is appropriate for agencies to apply the fair argument standard in determining whether ‘there is a reasonable possibility [of] a significant effect on the environment due to unusual circumstances.’” (*Citizens for Env’t Responsibility v. State ex rel. 14th Dist. Ag. Ass’n* (2015) 242 Cal.App.4th 555, 575 [citing *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1115].) “Under the fair argument test, “an agency is merely supposed to look to see if the record shows substantial evidence of a fair argument that there may be a significant effect. . . . In other words, the agency

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is not to weigh the evidence to come to its own conclusion about whether there will be a significant effect. It is merely supposed to inquire, as a matter of law, whether the record reveals a fair argument. . . ." (*Citizens, supra*, 242 Cal.App.4th at 575 [citing *Berkeley Hillside, supra*, 60 Cal.4th at 1103-04].) The agency "does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument." (*Id.*) "Thus, a lead agency must find there is a fair argument even when presented with other substantial evidence that the project will not have a significant environmental effect. (*Citizens, supra*, 242 Cal.App.4th at 575 [citing *Berkeley Hillside, supra*, 60 Cal.4th at 1111].)

A "fair argument" exists here that the proposed variance would have a significant environmental effect. Specifically, Staff has opined that the improvements would "affect the viewshed of the recreational parcel to the west of the subject parcel," which "would block some of the eastern view of the lake" from that parcel. (Staff Report at 8.) Moreover, the Project would entail replacing trees (a natural feature) with a manmade structure that would further interfere with views from the recreational parcel. (*Id.*) Thus, a fair argument exists that the proposed variance would have significant aesthetic impacts to the recreational parcel to the west of the Subject Property.

A "fair argument" also exists that the proposed variance would have significant aesthetic impacts to my clients' property. Project would result in the construction of a structure that would replace my clients' natural viewshed with a wall-like two-story structure adjacent to the west side of their residence. In addition to diminishing the viewshed, the adjacent structure also restricts my clients' access to sunlight. This also creates significant concerns with respect to my clients' property, particularly given that the proposed site plan contemplates several windows on the east side of the new structure.

In addition, a fair argument exists that there will be several significant land use impacts associated with the Project. As an initial matter, the Project is inconsistent with several requirements of the Zoning Code, including setbacks and lot coverage. As explained by staff, a "primary purpose of the setback standard is to protect the aesthetic character of an area by providing an offset of structures from the adjacent properties. Similarly, limitations imposed on lot coverage are to allow consistency between residential developments and the look of homes in a neighborhood." (Staff Report at 8.)

Moreover, as explained *infra* § C, there are several inconsistencies between the Project and the County's plan-level documents.

In short, Section 15305 does not apply here, as the Project does not contemplate "minor" alterations in land use. The Applicant also cannot rely upon Section 15305 because "unusual circumstances" exist, and there is a "fair argument" the Project would have significant environmental effects.

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C. The Project Is Inconsistent With the County's General Plan

State planning and zoning law requires that all land-use decisions of counties must be consistent with the county's General Plan. (Govt. Code, § 65860, subd. (a); see also *Corona-Norco Unif. Sch. Dist. v. City of Corona* (1993) 17 Cal.App.4th 985, 994.) A "project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." (*Corona-Norco, supra*, 17 Cal.App.4th at 994.) While perfect conformity may not be required, "a project *must* be compatible with the objectives and policies of the general plan." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782 [emphasis added] [citing *Families Unafraid to Uphold Rural etc. County v. Board of Supers.* (1998) 62 Cal.App.4th 1332, 1336].) "A project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear." (*Endangered Habitats, supra*, 131 Cal.App.4th at 782 [citing *Families Unafraid, supra*, 62 Cal.App.4th at 1341-42].)

The Project is inconsistent with several goals and policies in the County's General Plan, including, but not limited to:

- The Project would undermine General Plan Policy OS-K.1 by threatening the viewshed of the public recreation parcel to the west of the Subject Property. (Fresno County General Plan, Open Space and Conservation Element at 5-33.)
- The Project would undermine General Plan Policy OS-K.3 by interfering with the preservation of public access to scenic vistas. (*Id.*)
- The Project would interfere with General Plan Policy OS-K.4, which states that the County should "require development adjacent to scenic areas, vistas, and roadways to incorporate natural features of the site and be developed to minimize impacts to the scenic qualities of the site." (*Id.*)
- The Project is inconsistent with Section 609-03-5.00 of the Shaver Lake Community Plan, which provides, *inter alia*, that "[o]utstanding scenic views and panoramas should be preserved wherever possible." While the Applicant may be seeking the variance to *enhance* the *Applicant's* view, the variance would actually substantially degrade the view from the adjacent recreational property.

Because the proposed Project is inconsistent with the County's plan-level documents, including the General Plan, Variance Application No. 3963 should be denied.

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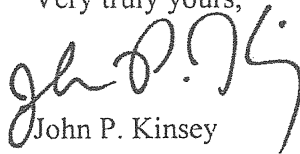
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D. Conclusion

For each of the foregoing reasons, the Planning Commission should deny the Project.

Very truly yours,

A handwritten signature in black ink, appearing to read "John P. Kinsey". The signature is stylized and cursive, with a large, sweeping flourish at the end.

John P. Kinsey

44467 Plaza
Shaver Lake, CA 93664

Steven E. White, Director
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, California 93721

August 16, 2016

RE: Variance Application No. 3963

Dear Fresno County Planning Commission:

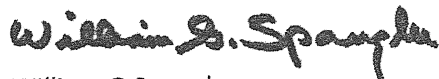
I have received notice of the hearing on August 25, 2016 to consider referenced variance application.

As a visitor to Shaver Lake for over 40 years and now a proud home owner, I would recommend the variance request be denied. My reasons are twofold: first, the proposed addition to the single family structure, once completed, will obstruct the small but extremely meaningful and valuable view of the lake from my residence and from several of my neighbors' residence. One of the factors in the purchase of our cabin and a contributor to the overall purchase price was a view of the lake and that view would be eliminated if the variance is approved. Second, the rules, regulations, and restrictions established for Shaver Lake were done so with considerable thought and for very sound reasons. One of those reasons was to prevent an action by someone or some organization that would negatively impact the overall beauty of the area and/or the quality of life of the residents. The setback limits were of particular importance – allowing this extreme intrusion on the regulations would allow a building literally right next to the property line – wood fence and neighbors. In the event of a fire, we can count upon the fact that one structure will bring fire to the neighbor's.

Approving of this variance exception would have an overall adverse effect on the property of others and the overall safety and beauty of the area.

Shaver Lake is a "little slice of heaven" that so many visitors and cabin owners enjoy. Please help it to stay that way.

Sincerely yours,



William G Spangler
805.405.1816

From: [Janet Tingley](#)
To: [Monfette, Christina](#)
Subject: Re: Variance Application No. 3963
Date: Tuesday, August 16, 2016 3:30:55 PM

I am against both the rear setback as well as the increase in lot coverage. As a neighbor at 44342 Dalton, I enjoy walking the area at the point on Lakeview Ave. I feel that all setbacks and the size of the house (40% by ordinance) should be maintained to assure lake views for other property owners. The character and feel of the neighborhood is being affected by allowing such variances to take place. I feel that limiting views to others in the neighborhood is an exclusionary action that should not be allowed to take place. Thank you for considering my request.

Janet Tingley
4630 Nogales Ave.
Atascadero, Ca. 93422

Sent from my iPhone

From: [Monfette, Christina](mailto:Monfette.Christina)
To: ["refird51@yahoo.com"](mailto:refird51@yahoo.com)
Cc: ["woods farms@earthlink.net"](mailto:woods farms@earthlink.net)
Subject: RE: Variance #3963
Date: Thursday, August 25, 2016 1:31:00 PM

Good afternoon,

Unfortunately, this letter of opposition was received after the start of the Planning Commission's hearing and as such it was not presented to the Commission prior to taking action on the subject application.

The Planning Commission voted to table a decision on the project until its meeting of October 20, 2016. This letter will be included in Staff's discussion of today's hearing as it relates to the future Planning Commission hearing.

Please let me know if you have any questions,

Chrissy Monfette, Planner I
Department of Public Works and Planning
Development Services Division
(559) 600-4245

From: Russel Efird [mailto:refird51@yahoo.com]
Sent: Thursday, August 25, 2016 11:31 AM
To: Monfette, Christina
Subject: Fw: Variance #3963

Sent from Yahoo Mail on Android

On Thu, Aug 25, 2016 at 9:28 AM, Randy Woods
<> wrote:

To Whom It May Concern;

As property owners at 44455 Plaza, Lot 68, Shaver Lake CA, we protest and oppose the proposed variance #3963.

Randy & Patricia Woods

Sent from my iPhone