

# PLANNING COMMISSION AGENDA

CHAIRPERSON:

Brett Taylor



VICE CHAIRPERSON:

Liz Wynn

COMMISSIONERS: Brett Taylor, Liz Wynn, Chris Gomez, Marvin Hansen, Sarrah Peariso

**MONDAY, OCTOBER 23, 2017; 7:00 P.M., COUNCIL CHAMBERS, 707 W. ACEQUIA, VISALIA CA**

1. THE PLEDGE OF ALLEGIANCE –
2. CITIZEN'S COMMENTS – This is the time for citizens to comment on subject matters that are not on the agenda but are within the jurisdiction of the Visalia Planning Commission. The Commission requests that a 5-minute time limit be observed for comments. Please begin your comments by stating and spelling your name and providing your street name and city. Please note that issues raised under Citizen's Comments are informational only and the Commission will not take action at this time.
3. CHANGES OR COMMENTS TO THE AGENDA–
4. CONSENT CALENDAR - All items under the consent calendar are to be considered routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of the Commission and made a part of the regular agenda.
  - Time Extension for Tentative Parcel Map No. 2015-06 & Conditional Use Permit No. 2015-26
5. PUBLIC HEARING – Paul Scheibel  
Variance No. 2017-24: A request to allow a second vehicle to be used in conjunction with Home Occupation Permit No. 2016-79 for a limousine service located at the Home Occupation Permit residence, 640 W. Kimball Avenue (APN: 126-570-007). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, Categorical Exemption No. 2017-77.
6. PUBLIC HEARING – Paul Bernal  
Conditional Use Permit No. 2017-33: A request by Lennar Homes of California, Inc., to establish a Planned Residential Development with modified rear yard setbacks for the 94-lot approved Eagle Meadows of Visalia 20 subdivision map. The Eagle Meadows of Visalia 20 subdivision map is located on the east side of North Mooney Boulevard between West Ferguson Avenue and West Riggan Avenue (APN: 090-010-008). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, Categorical Exemption No. 2017-75
7. DIRECTOR'S REPORT/ PLANNING COMMISSION DISCUSSION-

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

For the hearing impaired, if signing is desired, please call (559) 713-4359 twenty-four (24) hours in advance of the scheduled meeting time to request these services. For the visually impaired, if enlarged print or Braille copy is desired, please call (559) 713-4359 for this assistance in advance of the meeting and such services will be provided as soon as possible following the meeting.

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

**APPEAL PROCEDURE**

**THE LAST DAY TO FILE AN APPEAL IS THURSDAY, OCTOBER 19, 2017 BEFORE 5 PM**

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

**THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, OCTOBER 23, 2017**





# REPORT TO CITY OF VISALIA PLANNING COMMISSION

**HEARING DATE:** October 23, 2017

**PROJECT PLANNER:** Paul Scheibel, Principal Planner  
Phone No.: 713-4369, Email: paul.scheibel@visalia.city

**SUBJECT: Variance No. 2017-24:** A request to allow a second vehicle to be used in conjunction with Home Occupation Permit No. 2016-79 for a limousine service located at the Home Occupation Permit residence, 640 W. Kimball Avenue. (APN: 126-570-007)

## STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve Variance No. 2017-24 based upon the findings and conditions in Resolution No. 2017-76. Staff's recommendation is based on the required variance findings and the project's consistency with the policies and intent of the City's General Plan and Zoning Ordinance.

## RECOMMENDED MOTION

I move to approve Variance No. 2017-24, based on the findings and conditions in Resolution No. 2017-76.

## PROJECT DESCRIPTION

**Background:** This Variance request is based on the Planning Commission's direction on April 24, 2017, when it considered the applicant's appeal of the revocation of HOC No. 2016-79. The Planning Commission found in favor of the applicant's circumstances, and upheld the appeal of the HOC revocation. However, the Planning Commission determined that the aspect of the HOC that includes a second vehicle is in contravention with Zoning Code section 17.32.030.A.6, and that it lacked discretionary authority to unilaterally allow the Code deviation without formally voting on a Variance request. The Planning Commission determined that all other aspects of the HOC were in conformance with the Zoning Code.

**Variance Request: Zoning Code section 17.32.030.A6.**(Home Occupation Permits), states as follows:

*"Not more than one vehicle of not more than three-quarter ton capacity used in connection with the home occupation shall be kept on the site. Any trailer, wheeled equipment, or any*



*vehicle displaying or advertising the home occupation shall not be visible from off the premises.”*

The applicant requests that a second limousine that is used in conjunction with the HOC be allowed to continue to be dispatched from and stored from the HOC premises. The applicant contends that he is maintaining the intent of the Zoning Code by storing the vehicle in the rear yard of the house, does not use on-street parking, nor adds visible clutter to the appearance of the HOC residence which would otherwise detract from the residential character of the premises and the immediate neighborhood. Further the applicant contends that only one vehicle is normally in operation at any given time, and that all potentially noise or light generating activities (entering and exiting the sight, cleaning and servicing the vehicles) is not performed during late evening or early morning hours.

### **BACKGROUND INFORMATION**

General Plan Land Use Designation	Low Density Residential
Zoning	R-1-5 Single Family Residential
Surrounding Zoning and Land Use	North: R-1-5 – Single Family Residential South: R-1-5 – Single Family Residential East: R-1-5 – Single Family Residential West: R-1-5 – Single Family Residential
Environmental Review	Cat Exemption 2017-77, Sect. 15305 Class 5
Special District	None
Site Plan Review	N/A

### **RELATED PLANS & POLICIES**

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

### **RELATED PROJECTS**

None.

### **PROJECT EVALUATION**

Staff supports the variance to allow a second limousine to operate from the HOC premises. The operation was demonstrated to operate within the acceptable limits of both the applicant's neighbors, and to those of the Planning Commission when it heard testimony on the HOC revocation appeal on April 24, 2017. The Planning Commission's direction to prepare Variance findings were based on the conclusion that the second vehicle did not constitute an unacceptable intensification of the HOC to the extent it would adversely impact the premises or the surrounding neighborhood.

### **Required Variance Findings**

The Planning Commission is required to make five findings before a variance can be granted. The responses to the variance findings are provided as follows:

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



Findings: The business operation includes two limousine vehicles which are highly specialized vehicles, and which require extensive service and preparation in conjunction with their function of transporting customers. This necessitates that both vehicles be prepared for service at all times, which can most efficiently be performed at the HOC location. Requiring the applicant to maintain each vehicle at a separate location would result in inefficiencies that would compromise the business chances of success.

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

Findings: The applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: As answered in #2, the applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: As answered in #2 and #3, the applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: Public testimony and other evidence made part of the record of the April 24, 2017, public hearing regarding the subject HOC, provides evidence that the continued operation of the HOC; specifically, with the storage and operation of a second limousine at the HOC premises, will not produce adverse impacts on other residences in the immediate area.

### **Environmental Review**

The project is considered Categorical Exempt under Section 15305 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA). (Categorical Exemption No. 2017-77). This exemption is based on the project being characterized as a variance, which is a minor alteration to land use limitations that does not result in changes in land use or density.

## RECOMMENDED FINDINGS

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

Findings: The business operation includes two limousine vehicles which are highly specialized vehicles, and which require extensive service and preparation in conjunction with their function of transporting customers. This necessitates that both vehicles be prepared for service at all times, which can most efficiently be performed at the HOC location. Requiring the applicant to maintain each vehicle at a separate location would result in inefficiencies that would compromise the business chances of success.

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

Findings: The applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: As answered in #2, the applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: As answered in #2 and #3, the applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: Public testimony and other evidence made part of the record of the April 24, 2017, public hearing regarding the subject HOC, provides evidence that the continued operation of the HOC; specifically, with the storage and operation of a second limousine at the HOC premises, will not produce adverse impacts on other residences in the immediate area



## RECOMMENDED CONDITIONS OF APPROVAL

1. That no more than two commercial vehicles associated with HOC 2016-79 shall be allowed on the HOC premises.
2. That no more than one commercial vehicle associated with HOC 2016-79 shall be parked in such a manner as to be visible from Kimball Avenue.
3. That all other conditions of HOC 2016-79, except for the allowance of a second commercial vehicle to be stored on the HOC premises shall remain be in effect.
4. That all other federal, state, regional, and county laws and city codes and ordinances be complied with.

## APPEAL INFORMATION

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

### Attachments:

- Related Plans and Policies
- Resolution No. 2017-76
- Memorandum, Request for Fee Waiver, August 3, 2017
- Appeal Staff Report, April 24, 2017
- General Plan Land Use Zoning Map
- Location Map
- Aerial Map

## RELATED PLANS AND POLICIES

### 17.32.030 Home occupation permits.

- A. Home occupation permits may be processed as an administrative matter by the city planner and no hearing shall be required.
- B. For the purpose of this section, a home occupation shall be considered any conduct for pecuniary gain by an art or profession, the offering of a service or conduct of a business, or handicraft manufacture of products within or from a lawful residential use, which is clearly incidental and secondary to the use of the structure for a dwelling purpose, and which does not change the character of the residential use. A home occupation may be permitted by issuance of a home occupation permit by the planning department staff in accordance with the following regulations and no business license shall be issued beforehand:
1. A home occupation shall be clearly incidental to the use of a structure as a dwelling;
  2. A home occupation shall not be conducted in an accessory structure. There shall be no storage or display of equipment, supplies or products in an accessory structure or outside the dwelling;
  3. There shall be no sign of whatever nature identifying the home occupation;
  4. No person, other than a resident of the dwelling, shall be employed or subcontracted on the premises in the conduct of a home occupation;
  5. No commercial vehicles in excess of three-quarter ton capacity shall be used to deliver materials to or remove materials from the premises;
  6. Not more than one vehicle of not more than three-quarter ton capacity used in connection with the home occupation shall be kept on the site. Any trailer, wheeled equipment, or any vehicle displaying or advertising the home occupation shall not be visible from off the premises;
  7. The home occupation shall not involve the use of power equipment on the premises using motors exceeding one horsepower combined capacity;
  8. There shall be no external alteration of appearances of the dwelling in which the home occupation is conducted that would reflect the existence of said home occupation. Existence of a home occupation shall not be apparent;
  9. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family detached residence, or outside the dwelling unit if conducted in other than a single-family detached residence. No equipment or process shall be used that creates visual or audible electrical interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises;
  10. The home occupation shall not involve the storage or use of pesticides;
  11. The home occupation shall not require additional off-street parking spaces;
  12. Required covered or uncovered parking shall not be used for the conduction of home occupations;
  13. No home occupation shall be conducted between the hours of eleven p.m. and eight a.m.;
  14. The home occupation requiring the installation of additional plumbing within the existing dwelling shall be approved by planning commission;
  15. Additional requirements or conditions may be added as deemed necessary by the city planner;
  16. In order to limit commercial traffic in neighborhoods, no customers may come to your residence for any business transaction.
- C. A home occupation permit shall be revoked by the city planner upon violation of any condition or regulation, or any limitation of any permit issued, unless such violation is corrected within ten (10) days of notice of such violation. Any permit may be revoked for repeated violations.



D. In the event of denial or revocation, or objections to limitations placed thereon, an appeal may be made in writing to the planning commission as provided in Section 17.28.050.

## Zoning Ordinance Chapter 17.42: VARIANCES

### **17.42.010 Variance purposes.**

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

### **17.42.020 [Reserved]**

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

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

### **17.42.040 [Reserved]**

### **17.42.050 Application procedures.**

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

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

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

### **17.42.060 Hearing and notice.**

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

B. Notice of a public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by mailing a notice of the time and place of the hearing to property owners within

three hundred (300) feet of the boundaries of the area occupied or to be occupied by the use that is the subject of the hearing.

**17.42.070 Investigation and report.**

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

**17.42.080 Public hearing procedure.**

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

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

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

1. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;
2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;
3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;
4. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;
5. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

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

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

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

**17.42.100 [Reserved]**

**17.42.110 Appeal to city council.**

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

**17.42.120 Lapse of variance.**

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



period of one year; provided, that prior to the expiration of one year from the date when the variance became effective, an application for renewal of the variance is made to the commission. The commission may grant or deny an application for renewal of a variance.

**17.42.130 Revocation.**

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

**17.42.140 New application.**

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

**NOTICE OF EXEMPTION**

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

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

Variance No. 2017-22

**PROJECT TITLE**

The site is located at 1519 W. Kaweah Avenue, on the southeast corner of Kaweah Avenue and Divisadero Street. (APN: 096-061-001)

**PROJECT LOCATION**

Visalia

Tulare

**PROJECT LOCATION - CITY**

**COUNTY**

A request to allow a variance to the minimum rear yard setback associated with a conversion of carport to garage, for a residence in the R-1-5 (Single-Family Residential, 5,000 square foot minimum lot size) Zone.

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

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

**NAME OF PUBLIC AGENCY APPROVING PROJECT**

Vince & Betty Hutcheson, 1519 W. Kaweah Avenue, Visalia, CA 93277. Phone: (559) 740-2408

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

Tom Hayslett, 303 N. Church Street, Visalia, CA 93291, Email: thayslett@pacbell.net

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

**EXEMPT STATUS:** (Check one)

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

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

**REASON FOR PROJECT EXEMPTION**

Brandon Smith, Senior Planner

(559) 713-4636

**CONTACT PERSON**

**AREA CODE/PHONE**

October 9, 2017

**DATE**

**Paul Scheibel, AICP  
ENVIRONMENTAL COORDINATOR**



RESOLUTION NO. 2017-76

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA APPROVING VARIANCE NO. 2017-24: A REQUEST TO ALLOW A SECOND VEHICLE TO BE USED IN CONJUNCTION WITH HOME OCCUPATION PERMIT NO. 2016-79 FOR A LIMOUSINE SERVICE LOCATED AT THE HOME OCCUPATION PERMIT RESIDENCE, 640 W. KIMBALL AVENUE. (APN: 126-570-007)

**WHEREAS**, Variance No. 2017-24 is a request by Wayne Girard to allow a second vehicle to be used in conjunction with Home Occupation Permit No. 2016-79 for a limousine service located at the Home Occupation Permit residence, 640 W. Kimball Avenue (APN: 126-570-007); and,

**WHEREAS**, the Planning Commission of the City of Visalia, after published notice scheduled a public hearing before said commission on October 23, 2017; and

**WHEREAS**, the Planning Commission of the City of Visalia finds Variance No. 2017-24, as conditioned by staff, to be in accordance with Chapter 17.42 of the Zoning Ordinance of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and,

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

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

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

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

Findings: The business operation includes two limousine vehicles which are highly specialized vehicles, and which require extensive service and preparation in conjunction with their function of transporting customers. This necessitates that both vehicles be prepared for service at all times, which can most efficiently be performed at the HOC location. Requiring the applicant to maintain each vehicle at a separate location would result in inefficiencies that would compromise the business chances of success.

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

Findings: The applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: As answered in #2, the applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: As answered in #2 and #3, the applicant has constructed a driveway and parking pad to be able to park the vehicle out of public view. Consequently, the HOC can demonstrably operate in a similar fashion as a HOC that has only one vehicle associated with the homebased business.

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

Findings: Public testimony and other evidence made part of the record of the April 24, 2017, public hearing regarding the subject HOC, provides evidence that the continued operation of the HOC; specifically, with the storage and operation of a second limousine at the HOC premises, will not produce adverse impacts on other residences in the immediate area.

6. That the project is considered Categorical Exempt under Section 15305 of the Guidelines for Implementation of CEQA (Categorical Exemption No. 2017-77).

**BE IT FURTHER RESOLVED** that the Planning Commission hereby approves Variance No. 2017-24, as conditioned, on the real property herein above described in accordance with the terms of this resolution under the provision of Section 17.42.090 of the Ordinance Code of the City of Visalia, subject to the following conditions:

1. That no more than two commercial vehicles associated with HOC 2016-79 shall be allowed on the HOC premises.
2. That no more than one commercial vehicle associated with HOC 2016-79 shall be parked in such a manner as to be visible from Kimball Avenue.
3. That all other conditions of HOC 2016-79, except for the allowance of a second commercial vehicle to be stored on the HOC premises shall remain be in effect.
4. That all other federal, state, regional, and county laws and city codes and ordinances be complied with.



# City of Visalia

## Memo



To: Nick Mascia, Community Development Director  
From: Josh McDonnell, Assistant Community Development Director/City Planner  
Date: August 3, 2017  
Re: Request for Fee Waiver – Girard HOC Variance

---

**Recommendation:** Staff and the City Attorney recommend that the City waive the \$823 filing fee to receive and process a Variance application to be filed by Mr. Wayne Girard, owner of Prestige Limousine Service, LLC, located at 640 W. Kimball Avenue (Home Occupation Permit No. HOC 2016-79). This recommendation is based on the Planning Commission's determination on April 24, 2017, wherein the Planning Commission determined that a Variance approval is required to allow a second vehicle to be operated from the residential property. The Planning Commission further concluded that the owner legitimately relied on the City's previous erroneous action to amend the subject Home Occupation Permit to allow a second vehicle at the HOC location.

The City Attorney has concluded that compelling the owner to pay for the required Variance filing would put the City at risk of a successful legal challenge by the owner that they incurred considerable expense in constructing concrete driveway and parking apron improvements, as well as a screening gate in reliance of the City's actions to erroneously allow the second vehicle to be stored and operated in conjunction with the HOC.

**Discussion:** The Community Development Department will process a Variance application to be filed by the owner that seeks Planning Commission approval for a variance to the limit of one vehicle (ZO Section 17.32.030) that can be used in conjunction with a Home Occupation Permit. The Planning Commission heard an Appeal by the owner of an HOC Permit Revocation action on April 24, 2017.

The issue before the Planning Commission was whether the HOC should be revoked as a result of the owner failing to comply with the City's order to remove one of the business' limousines from the residence in order to comply with ZO Section 17.32.030, which specifically limits HOCs to one vehicle. The owner contended that the City staff specifically permitted the operation of a second vehicle through a previous approval of the HOC. Thus staff's erroneous action to subsequently amend the HOC to allow a second vehicle constitutes a valid permit for which they relied upon to make site improvements to store the second limousine in the back yard area. Their expenditure of substantial funds provides further evidence of their attempt to follow the HOC Permit. The owner asked that the



Planning Commission uphold the Appeal, and that it formally allow the second vehicle to remain at and to continue to be operated from the HOC residence.

The Planning Commission was sympathetic to the owner. However, it affirmed that the matter could only be resolved through the approval of a Variance to allow more than one HOC-related vehicle to be operated from the property. The Planning Commission thus continued the Revocation Appeal hearing to an indeterminate date, not to exceed six months. The Planning Commission's intent in doing so was to allow the owner to continue the current HOC operation (with two vehicles at the site), pending the filing of a Variance application. The Planning Commission also recommended that, if possible, the City should consider waiving the Variance application fee. However, it was noted that the Planning Commission lacks discretionary spending authority, as would be implicit by waiving a City application fee.

If the internal funding for the Variance application is authorized, staff will then coordinate with the Mr. Girard to file his Variance application. Upon receipt of his completed Variance application, staff will process the Variance and place the item on an upcoming Planning Commission public hearing, as prescribed by the Zoning Ordinance. Upon approval of the Variance, Mr. Girard's unique HOC situation will be resolved in his favor. In addition, the HOC regulations regarding limitations on vehicles used in conjunction with a HOC will remain intact.

The Community Development Department retains limited discretionary spending authority in the form of re-allocating budgeted funds from one internal account to another internal account. If authorized to proceed as recommended, it is anticipated that the \$823 Variance filing fee will be paid via account transfer from existing salary savings.

Approved

  
\_\_\_\_\_  
Director, Community Development Department

  
\_\_\_\_\_  
Date

Encl. Planning Commission Staff Report, dated April 24, 2017  
Email from City Attorney, dated July 18, 2017



## REPORT TO CITY OF VISALIA PLANNING COMMISSION

HEARING DATE: April 24, 2017

PROJECT PLANNER: Paul Scheibel, AICP, Principal Planner (713-4369)

**SUBJECT: Appeal of the Revocation of Home Occupation Permit (HOC) No. 2016-79 for a Limousine Service:** An Appeal by Wayne Girard of the revocation of Home Occupation Permit (HOC) No. 29016-79, to operate a limousine service with two limousines located at the HOC residence, 640 W. Kimball Avenue APN: 126-570-007

### STAFF RECOMMENDATION

Staff recommends that the Planning Commission receive the staff presentation, consider public testimony, and provide direction to staff regarding how to proceed with Home Occupation Permit No. 2016-79.

### OPTIONS

**1. For Upholding the HOC Revocation:** I move to deny applicant's appeal of the revocation of Home Occupation Permit No. 2016-79, based on the findings in Resolution No. 2017-23; or,

**2. For Restoring the HOC in Conformance with Zoning Ordinance Section 17.32.030:** I move to uphold the appeal and restore Home Occupation Permit No. 2016-79 as originally issued in accordance with the standard conditions contained in Zoning Ordinance Section 17.32.030; or,

**3. For Considering Modification to the HOC as Requested by the Appellant:** I move to continue the item and direct staff to prepare variance findings for confirming issuance of Home Occupation Permit No. 2016-79 for future consideration, and to hold in abeyance any enforcement action with respect to the permit pending a final decision from the Planning Commission on whether to grant a variance.

### PROJECT DESCRIPTION

**Summary:** This is an appeal of the City Planner's action to revoke the appellant's HOC, which was put into effect on January 31, 2017 pursuant to a 10 Day Notice & Order. The decision to revoke the HOC was later affirmed by the City Planner following a formal meeting between the appellant (Mr. Wayne Girard) and City staff, which was conducted on March 22, 2017.

HOC No. 2016-79 was originally issued on February 25, 2016, to operate a limousine service from the residence at 640 W. Kimball Avenue. The HOC was erroneously amended on August 25, 2016, to allow a second limousine to operate from the residence. This amendment was in error because it directly contradicted the

requirements of the Visalia Municipal Code ("VMC"). VMC Section 17.32.030 expressly states "[a] home occupation may be permitted by issuance of a home occupation permit by the planning department staff *in accordance with the following regulations* ... 6. Not more than one vehicle ... used in connection with the home occupation shall be kept on the site." (emphasis added). Staff does not have the authority to amend a permit so as to override an express requirement of the VMC.

The Code Compliance actions that ultimately led to the revocation of the HOC began on January 10, 2017, when complaints were received about limousines being parked in the street, and for excessive noise resulting from loud stereo music and limousine cleaning activities occurring late at night. Between January 18 and January 25, 2017, Code Enforcement staff verified the complaints and issued a 10-Day Notice & Order that included notice that the HOC was revoked due to noncompliance with the conditions placed on HOC 2016-79. Mr. Girard claims that the limousines were being parked in the street because he was making improvements to his property to allow both limousines to be parked in his back and side yard where they would be out of sight of his neighbors. He denies the accuracy of the complaints regarding excessive noise and cleaning activities occurring late at night.

Mr. Girard took action to appeal the HOC revocation on February 6, 2017, by requesting an administrative hearing, and to request a time extension on preparing for the administrative hearing. Both requests were honored and the administrative hearing was scheduled for March 22.

On March 22, 2017, City staff, including the City Planner, Code Enforcement staff, and the City Attorney met with Mr. Girard in-lieu of conducting the administrative hearing. The decision to forego a formal administrative hearing was made by the City Attorney pursuant to VMC Section 17.32.030(A), which provides that "[h]ome occupation permits may be processed as an administrative matter by the city planner and no hearing shall be required." At this meeting, City staff offered to restore the HOC, but for only one limousine to be maintained at the residence. Mr. Girard declined that offer and requested an appeal hearing before the Planning Commission.

**Discussion:** Specific Code violations precipitating the HOC revocation action- The HOC was found to be in violation of several sections of VMC 17.32.030 (Home Occupation Permits), as follows:

*A.4 – No person, other than a resident of the dwelling, shall be employed or subcontracted on the premises in the conduct of the home occupation.*

Two limousines were operating from the residence, and Yelp customer reviews cite a driver named Rick who presumably does not reside at the HOC address. Mr. Girard also admitted to the existence of a third employee at the March 22, 2017 meeting. However, Mr. Girard claims none of his employees work from, or are ever present at, his home and that therefore they are not "on the premises in the conduct of the home occupation."



*A.5. - No commercial vehicle in excess of three-quarter ton capacity shall be used to deliver materials or to remove materials from the premises.*

The second limousine maintained on the site is an extended length and height Cadillac limousine that staff determined exceeded ¾-ton capacity. The appellant specifically disputes this conclusion, stating the vehicle is less than ¾-ton capacity.

*A.6.- Not more than one vehicle of not more than three-quarter ton capacity used in connection with the home occupation shall be kept on the site. Any trailer, wheeled equipment, or any vehicle displaying or advertising the home occupation shall not be visible from off the premises.*

The second limousine maintained on the site is an extended length and height Cadillac limousine. This was, in part, the source of a complaint received in August, 2016, for the vehicle being parked in the street. The applicant requested, and staff erroneously amended the HOC to allow a second limousine at the residence. The applicant stated at the time the second vehicle did not represent an expansion of the HOC nor did it conflict with the other standard conditions for a HOC, such as restriction on having non-residents work for the HOC business. However, as noted above, staff lacked authority to grant a second vehicle in conjunction with the HOC for any reason. The latter administrative error has been addressed at the staff level to prevent similar errors in the future.

**Alternatives to Revocation:** In addition to upholding the revocation of the HOC, the Planning Commission may choose to direct staff to restore the original HOC (i.e., authorizing the operation of only one limousine) or to prepare variance findings to allow the operation of two limousines.

**Planning Commission Options:** The Planning Commission has three options to consider: Revoke the HOC (Option 1); Restore the HOC in conformance with Zoning Ordinance section 17.32.030 (Option 2); or, consider granting the appellant's request to operate the HOC with two vehicles, through the granting of a Variance (Option 3). Further discussion on Options 2 and 3 are provided as follows:

**Option 2- Restore the HOC, but with conditions that reflect the Zoning regulations for Home Occupation Permits:** The Planning Commission may vote to restore the original HOC by granting the appeal of the HOC revocation. In doing so, the appellant would not have to file for a new HOC if they choose to retain their business at the 640 W. Kimball Ave. residence. However, the appellant would only be permitted to keep one commercial limousine on site.

Selecting Option 2 would ensure that the conditions placed on this HOC and similar home occupations, as stated in Zoning Ordinance section 17.32.030, are affirmed and remain enforceable. The presence of the second limousine at the residence generated complaints from neighbors, including potential non-resident employees working from the HOC residence, parking on the street, and late night return and cleaning of either or both limousines, all to the detriment of the surrounding residences.

At the March 22, 2017, meeting between the appellant and staff, the appellant was offered the opportunity to revise their HOC to be compliant with the Code provisions-specifically relative to having one vehicle in connection with the HOC at the residence.

The appellant has stated in their appeal that this is an unacceptable solution to the success of their HOC business. Appellant claims to have made significant investments in his business on the assumption that he was authorized to operate two limousines in connection with his business, including the purchase of the second limousine and improvements to his property to allow both limousines to be parked in his back and side yard where they would be out of sight of his neighbors

If the HOC revocation is upheld, the appellant would then be free to file for a new HOC. The new HOC could be granted at the staff level, with the standard conditions for an HOC as specified in Zoning Ordinance 17.32.030.

**Option 3- Continue the item, and allow the applicant to file for a Variance:**

If the Planning Commission chooses this option, staff would facilitate the appellant filing a Variance application for future Planning Commission consideration. This would allow the applicant to request deviations from the standard HOC conditions of ZC 17.32.030. These could potentially include such current restrictions as the number of vehicles allowed, residency of persons associated with the HOC, and the size limitations of the vehicles associated with the HOC.

The Planning Commission's final determination would be based on the findings presented to warrant the Variance, and based on public testimony received in the course of the hearing on the Variance request. Following the final decision(s) for the Variance, the HOC would be modified, restored or revoked accordingly.

### **RECOMMENDED FINDINGS**

Findings for revocation of the HOC are contained in the Resolution upholding the HOC revocation. Findings for either Option 2 or Option 3 may be as included in the Planning Commission's direction.

### **APPEAL INFORMATION**

According to the City of Visalia Ordinance Section 17.32.030(D), an appeal to the City Council may be submitted within ten (10) days following the date of a decision by the Planning Commission. An appeal with applicable fees shall be in writing and shall be filed with the City Clerk at 220 N. Santa Fe Street, Visalia, CA 93292. The appeal shall specify errors or abuses of discretion by the Planning Commission, or decisions not supported by the evidence in the record. The appeal form can be found on the city's website [www.ci.visalia.ca.us](http://www.ci.visalia.ca.us) or from the City Clerk.

**Attachments:**

Zoning Code Extract

1- Resolution No. PC 2017-23, Upholding the Revocation of HOC 2016-79

2 – HOC 2016-79, dated February 24, 2016

3 - Letter Requesting Revision of the HOC, dated August 30, 2016

4 - Letter Appealing the Revocation of HOC 2016-79, dated March 22, 2017

5 - Administrative Hearing Packet, dated March 22, 2017

6 - Aerial Photo



**17.32.030 Home occupation permits.**

A. Home occupation permits may be processed as an administrative matter by the city planner and no hearing shall be required.

B. For the purpose of this section, a home occupation shall be considered any conduct for pecuniary gain by an art or profession, the offering of a service or conduct of a business, or handicraft manufacture of products within or from a lawful residential use, which is clearly incidental and secondary to the use of the structure for a dwelling purpose, and which does not change the character of the residential use. A home occupation may be permitted by issuance of a home occupation permit by the planning department staff in accordance with the following regulations and no business license shall be issued beforehand:

1. A home occupation shall be clearly incidental to the use of a structure as a dwelling;
2. A home occupation shall not be conducted in an accessory structure. There shall be no storage or display of equipment, supplies or products in an accessory structure or outside the dwelling;
3. There shall be no sign of whatever nature identifying the home occupation;
4. No person, other than a resident of the dwelling, shall be employed or subcontracted on the premises in the conduct of a home occupation;
5. No commercial vehicles in excess of three-quarter ton capacity shall be used to deliver materials to or remove materials from the premises;
6. Not more than one vehicle of not more than three-quarter ton capacity used in connection with the home occupation shall be kept on the site. Any trailer, wheeled equipment, or any vehicle displaying or advertising the home occupation shall not be visible from off the premises;
7. The home occupation shall not involve the use of power equipment on the premises using motors exceeding one horsepower combined capacity;
8. There shall be no external alteration of appearances of the dwelling in which the home occupation is conducted that would reflect the existence of said home occupation. Existence of a home occupation shall not be apparent;
9. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family detached residence, or outside the dwelling unit if conducted in other than a single-family detached residence. No equipment or process shall be used that creates visual or audible electrical interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises;

10. The home occupation shall not involve the storage or use of pesticides;
  11. The home occupation shall not require additional off-street parking spaces;
  12. Required covered or uncovered parking shall not be used for the conduction of home occupations;
  13. No home occupation shall be conducted between the hours of eleven p.m. and eight a.m.;
  14. The home occupation requiring the installation of additional plumbing within the existing dwelling shall be approved by planning commission;
  15. Additional requirements or conditions may be added as deemed necessary by the city planner;
  16. In order to limit commercial traffic in neighborhoods, no customers may come to your residence for any business transaction.
- C. A home occupation permit shall be revoked by the city planner upon violation of any condition or regulation, or any limitation of any permit issued, unless such violation is corrected within ten (10) days of notice of such violation. Any permit may be revoked for repeated violations.
- D. In the event of denial or revocation, or objections to limitations placed thereon, an appeal may be made in writing to the planning commission as provided in Section 17.28.050.

## Chapter 17.42 VARIANCES

### Sections:

- 17.42.010 Variance purposes.
- 17.42.020 [Reserved]
- 17.42.030 Variance powers of city planning commission.
- 17.42.040 [Reserved].
- 17.42.050 Application procedures.
- 17.42.060 Hearing and notice.
- 17.42.070 Investigation and report.
- 17.42.080 Public hearing procedure.
- 17.42.090 Variance action of the city planning commission.
- 17.42.100 [Reserved].
- 17.42.110 Appeal to city council.
- 17.42.120 Lapse of variance.
- 17.42.130 Revocation.
- 17.42.140 New application.

### 17.42.010 Variance purposes.

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

### 17.42.020 [Reserved]

### 17.42.030 Variance powers of city planning commission.

The city planning commission may grant variances to the regulations prescribed by this title with respect to fences and walls, site area, width, frontage coverage, front yard, rear yard, side yards, height of structures, distance between structures, off-street parking facilities, accessory dwelling



unit standards pursuant to Sections 17.12.140 through 17.12.200, and downtown building design criteria pursuant to Section 17.58.082 through 17.58.088; in accordance with the procedures prescribed in this chapter.

**17.42.040 [Reserved]**

**17.42.050 Application procedures.**

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

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

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

**17.42.060 Hearing and notice.**

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

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

**17.42.070 Investigation and report.**

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

**17.42.080 Public hearing procedure.**

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

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

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

1. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;
2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;
3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;
4. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;
5. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

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

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

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

17.42.100 [Reserved]

**17.42.110 Appeal to city council.**

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

**17.42.120 Lapse of variance.**

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

**17.42.130 Revocation.**

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

**17.42.140 New application.**

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



RESOLUTION NO 2017-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA DENYING THE APPEAL OF THE REVOCATION OF HOME OCCUPATION PERMIT NO. 2016-79 FOR A LIMOSUINE SERVICE WITH TWO LIMOSUINES TO BE LOCATED AT THE HOC RESIDENCE, 640 W. KIMBALL AVENUE (APN: 126-570-007)

**WHEREAS**, On February 25, 2007, the City of Visalia issued Home Occupation Permit (HOC) No. 2016-79 to Wayne Girard, hereinafter referred to as Appellant, for a limousine service to be located at the HOC residence, 640 W. Kimball Avenue (APN: 126-570-007); and

**WHEREAS**, the Appellant requested, and City staff erroneously amended said HOC 2016-79 to include two limousines to be located at the HOC residence; and

**WHEREAS**, on January 25, 2017, City staff, in the course of investigating complaints filed against said HOC, determined that the business was operating in violation of Municipal Code Article 17.32.030 (Home Occupation Permits), and took action to revoke HOC 2016-79 in order to abate said violations, including removal of a second limousine at the HOC residence, limitation of employees to those living at the residence, parking HOC vehicles on the public street, and generating audible levels of noise during restricted hours; and

**WHEREAS**, on February 6, 2017, the Appellant, appealed the order revoking HOC 2016-79, and requested an Administrative Hearing; and

**WHEREAS**, on March 22, 2017, a formal meeting between City staff and the Appellant was conducted in-lieu of said Administrative Hearing, wherein City staff offered to restore HOC 2016-79, provided that it be conducted in conformance with all provisions of Municipal Code Article 17.32.030 (Home Occupation Permits), including limitation of one limousine to be located at the HOC residence, to which the Appellant reiterated their need for, and their intent to maintain two limousines at the HOC residence, and requested an appeal of the revocation and limitation on one limousine to be located at the HOC residence; and

**WHEREAS**, on April 24, 2017, the Planning Commission of the City of Visalia, after duly published notice, including a 300-foot radius mailing, did hold a public hearing

before said Commission; and

**WHEREAS**, the Planning Commission of the City of Visalia finds the Revocation of said HOC 2016-79 to be in accordance with Chapter 17.32.030 D of the Zoning Ordinance of the City of Visalia based on the evidence contained in the staff report.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Visalia denies the appeal and sustains the revocation of HOC 2016-79, based on findings and evidence as follows:

*A.4 – No person, other than a resident of the dwelling, shall be employed or subcontracted on the premises in the conduct of the home occupation.*

Based on the facts that there were two limousines operating from the residence, and there were Yelp customer reviews citing a driver named Rick who reportedly does not reside at the HOC address.

*A.5. - No commercial vehicle in excess of three-quarter ton capacity shall be used to deliver materials or to remove materials from the premises.*

The second limousine maintained on the site is an extended length and height Hummer limousine that staff determined exceeded  $\frac{3}{4}$ -ton capacity. The appellant specifically disputes this conclusion, stating the vehicle is less than  $\frac{3}{4}$ -ton capacity.

*A.6.- Not more than one vehicle of not more than three-quarter ton capacity used in connection with the home occupation shall be kept on the site. Any trailer, wheeled equipment, or any vehicle displaying or advertising the home occupation shall not be visible from off the premises.*

The second limousine maintained on the site is an extended length and height Hummer limousine. This was, in part, the source of a complaint received in August, 2016, for the vehicle being parked in the street. The applicant requested, and staff erroneously amended the HOC to allow a second limousine at the residence. The applicant stated at the time the second vehicle did not represent an expansion of the HOC nor did it conflict with the other standard conditions for a HOC, such as restriction on having non-residents work for the HOC business. This claim was subsequently disproven. Further, staff had no Code authority to grant a second vehicle in conjunction with the HOC for any reason. The latter administrative error has been addressed at the staff level to preclude similar errors in the future.

*A.11. – The HOC shall not require additional off-street parking.*

See discussion for A.6., above.

New Business  
 Change of Address

RECEIVED  
FEB 24 2016

HOME OCCUPATION PERMIT  
(PURSUANT TO SECTION 17.32.030)  
315 E. ACEQUIA AVE.  
(559) 713-4359 BLDG5193

OFFICE USE ONLY:  
NO. 2016-79  
A.P.N. 126-570-007

Previous Address: COMM. DEVELOP.  
CITY OF VISALIA

Applicant's Name: WAYNE GIRARD Business Name: PRESTIGE LIMOUSINE SERVICE LLC

Home Address: 640 W. KIMBALL AVE. Mailing Address: 640 W. KIMBALL AVE

Phone: 559-936-9898 Website: WWW.RIDEPRESTIGE.NET

Description of Business: LIMOUSINE / COACH SERVICE, TWO LIMOUSINES ON SITE

Note: This permit is issued under provisions of the Zoning Regulations and does not supersede more stringent agreements or conditions between a tenant and landlord and does not supersede any deed restrictions or covenants, conditions or restrictions which may apply to the property.

CONDITIONS AND REGULATIONS

1. A home occupation shall be clearly incidental to the use of a structure as a dwelling.
2. A home occupation shall not be conducted in an accessory structure. There shall be no storage or display of equipment, supplies or products in an accessory structure or outside the dwelling.
3. There shall be no sign, of whatever nature, identifying the home occupation.
4. No person, other than a resident of the dwelling, shall be employed or subcontracted on the premises in the conduct of a home occupation.
5. No commercial vehicles in excess of three-quarter ton capacity shall be used to deliver materials to or remove materials from the premises.
6. Not more than one vehicle of not more than three-quarter ton capacity used in connection with the home occupation shall be kept on the site. Any trailer, wheeled equipment, or any vehicle displaying or advertising the home occupation shall not be visible from off the premises.
7. The home occupation shall not involve the use of power equipment on the premises using motors exceeding one horsepower combined capacity.
8. There shall be no external alteration of appearances of the dwelling in which the home occupation is conducted which would reflect the existence of said home occupation. Existence of a home occupation shall not be apparent.
9. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family detached residence, or outside the dwelling unit if conducted in other than a single-family detached residence. No equipment or process shall be used which creates visual or audible electrical interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises.
10. The home occupation shall not involve the storage or use of pesticides.
11. The home occupation shall not require additional off-street parking spaces.
12. Required covered or uncovered parking shall not be used for the conduction of home occupations.
13. No home occupation shall be conducted between the hours of 11:00 P.M. and 8:00 A.M.
14. The home occupation requiring the installation of additional plumbing within the existing dwelling shall be approved by Planning Commission.
15. Additional requirements or conditions may be added as deemed necessary by the City Planner.
16. In order to limit commercial traffic in neighborhoods, no customers may come to your residence for any business transaction.

A HOME OCCUPATION PERMIT shall be revoked by the City Planner upon violation of any condition or regulation, or any limitation of any permit issued, unless such violation is corrected within ten (10) days of notice of such violation. Any permit may be revoked for repeated violation.

In the event of denial or revocation, or objections to the limitations placed thereon, an appeal may be made in writing to the Planning Commission as provided in Section 17.28.050.

PLEASE OBTAIN A COPY OF YOUR APPROVED PERMIT PRIOR TO STARTING BUSINESS.

Additional Conditions: Only Two limousine, on site - out of sight if any advertising or logos.

I agree to meet all conditions stated above: X *Wayne Girard* Initial

I declare under penalty of perjury that the foregoing information is true and correct. *Wayne Girard* Initial

Applicant's Signature: *Wayne Girard*  
Printed Name: WAYNE T. GIRARD Date: 2-24-16

CITY STAFF COMPLETE BELOW:

Planning Department: *Susan Garcia*  Approval  Disapproval Date: 2/25/16



August 30, 2016

To: City of Visalia, Planning

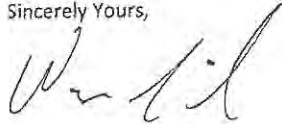
Re: Prestige Limousine Service, BL#045193

I am writing to request our home occupancy permit be amended to reflect having 2 (two) limousines on site at our home at 640 W. Kimball Ave., in Visalia.

This would allow myself, as the only driver, to have options for the amount of passengers / size of vehicle that is rented.

Thank you for your time and attention to this matter.

Sincerely Yours,



Wayne Girard

Prestige Limousine Service, LLC

3  
B. J. Girard, President

March 22, 2017

City Planner  
Josh McDonnell  
315 E. Acequia Ave.  
Visalia, CA 93291

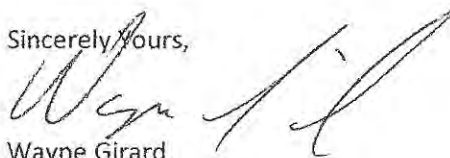
Re: CE 170051

I am writing to request permission from the Visalia Planning Commission to allow us to have our 2 limousines to be stored at our home as previously allowed. We were granted partial relief in our hearing today, to allow for one, however, in light of the recent events I believe the facts presented show that our business is invisible to the area, and our neighbors are in agreement. However, we must seek permission from the Planning Commission to continue with 2 limousines because the city is unable to permit 2 without planning commission approval.

After almost a year of operating, a misunderstanding between a neighbor has led to the original complaint regarding a limousine parked on the street. We had informed the city in advance of our intention to move a limousine to the street to allow the pouring of concrete and other construction to allow the parking of the 2 units in our newly constructed "RV Parking" area. The misunderstanding between the neighbor has been recognized, the issue has been corrected, and we are now trying to move forward.

Please hear our plea to revert to our original permit allowing 2 limousines. We assure the city and our neighbor that the issue has been long corrected, and will not happen in the future. Thank you for your consideration.

Sincerely yours,



Wayne Girard  
640 W. Kimball Ave.  
Visalia, CA 93277  
559-936-9898

ATTACHED 4

**ADMINISTRATIVE HEARING ON  
WEDNESDAY  
MARCH 22, 2017 AT  
9:00AM**

**VIOLATOR: GIRARD, WAYNE  
ACTING AGENT FOR PROPERTY  
OWNER, APRIL SLACK. BUSINESS  
OWNER OF  
“PRESTIGE LIMOUSINE”  
CODE ENFORCEMENT CASE  
CE170051 FOR PROPERTY  
LOCATION  
AT 640 W KIMBALL AVE**

**ISSUING DEPT: CODE  
ENFORCEMENT, TOMMY  
CONTRERAS**

*ATTACHMENT E*



City of Visalia

315 East Acequia Ave., Visalia, CA 93291



Neighborhood Preservation

Tel: (559) 713-4534 Fax: (559) 713-4811

REQUEST FOR ADMINISTRATIVE HEARING

CITATION NUMBER CE170051  
ISSUING AGENCY \_\_\_\_\_

I WAYNE GIRARD received an Administrative Citation on \_\_\_\_\_ and I am requesting an Administrative Hearing.

I certify that I have already paid the \$100.00 appeal fee to the Neighborhood Preservation Division located at 315 E. Acequia Avenue with the understanding that if the citation is not upheld at the hearing the fee will be returned.

Please provide a brief statement of the facts which you claim support your contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted (attached additional sheet if necessary):

THE ONLY THING WE'VE DONE WAS  
TEMPORARILY MOVE A LIMOUSINE TO  
THE STREET TO POUR DRIVEWAYS  
AND THE BACKYARD WHERE THEY  
ARE, AND HAVE BEEN MOVED. WE  
DO NOT HAVE "DRIVERS" AT OUR HOUSE,  
PLAY RADIOS, OR ANYTHING OF THE  
SORT LISTED IN THE VIOLATION. IT IS  
A 1/2-TON VEHICLE IN QUESTION. I  
WILL PROVIDE LETTERS FROM NEIGHBOR/  
PEOPLE CLOSE, OR THAT PERTAIN TO  
THIS ISSUE.

Address that you wish to receive notification:

640 W. KIMBALL AVE., VISALIA CA 93277

Signature

2/16/17  
Date

RECEIVED

February 3, 2017

City Of Visalia  
315 E. Acequia Ave.  
Visalia, California

FEB 08 2017  
COMM. DEVELOP.  
CITY OF VISALIA

NOTICE OF APPEAL  
Case: CE170051

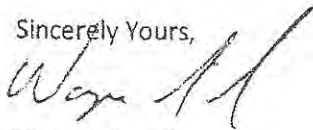
My name is Wayne Girard, owner of Prestige Limousine Service, LLC. I am in receipt of a "10 Day Notice and Order," which I received today from the USPS. I would like to formally give notice that I need to appeal this decision and findings by the City of Visalia, in regards to our Home Occupancy Permit.

I am not in violation of any of the terms of our occupancy permit or city ordinances. Only recently have I began parking a limousine on the street, as to allow for the completion of construction projects in the back yard. Nothing else in the notice we received is founded.

I plan on preparing some documentation and consulting with an attorney out of the area to handle this matter, should it need to be escalated. However, I am flying out of town tonight with my family for a 2 week trip, and will be returning from New York by February 14<sup>th</sup>, 2017 at the latest.

Please give me time to prepare for a hearing.

Sincerely Yours,



Wayne Girard  
640 W. Kimball Ave.,  
Visalia, CA 93277  
559-936-9898

# AGENCY AUTHORIZATION

OWNER:

I, April Slack, declare as follows:  
(Owners Name)

I am the owner of certain real property bearing assessor's parcel number (APN):

640 W Kimball Ave

Visalia, CA 93277

AGENT:

I designate Wayne Girard, to act as my duly authorized  
(Agent's Name) (Please type or print)


agent for all purposes necessary to file an application for, and obtain a permit to

\_\_\_\_\_  
(Action Sought)

relative to the property mentioned herein.

I declare under penalty of perjury the foregoing is true and correct.

Executed this 16 day of February, 2017.

<u>OWNER</u>	<u>AGENT</u>
 _____ <small>(Signature of Owner)</small>	_____ <small>(Signature of Agent)</small>
<u>640 W Kimball Ave</u> _____ <small>(Owner Mailing Address)</small>	_____ <small>(Agent Mailing Address)</small>
<u>Visalia, CA 93277</u> _____ <small>(Owner Telephone)</small>	_____ <small>(Agent Telephone)</small>

APPROVED:

CITY OF VISALIA

By: Julia Harper  
(Signature)

Date: 2/16/2017

\*NOTE: OWNER'S SIGNATURE MUST BE NOTARIZED. Attached is a copy of the signature(s) by Notary Public.

**NOTARY PUBLIC NOTARIAL WORKING**  
**PLEASE SEE ATTACHED JURAT OR**  
**ALL PURPOSE ACKNOWLEDGEMENT**



# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of TULARE

On 16 FEBRUARY 2017 before me, Craig E. Fromme, Notary Public  
(insert name and title of the officer)

personally appeared APRIL SLACK  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he (she) /they executed the same in his (her) /their authorized capacity(ies), and that by his (her) /their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Craig E. Fromme (Seal)





CITY OF VISALIA  
CODE ENFORCEMENT  
RECEIPT

RECEIPT NUMBER: Rec-669551  
TYPE: CODE ENFOR,B

Copy Reprinted on 03-02-2017 at 11:10:23

DESCRIPTION: VIOLATION OF HOME OCCUPATION PERMIT. PARKING LIMOUSINE ON STREET  
OUT FRONT OF  
HOUSE

CASE #: CE170051  
SITE ADDRESS: 640 W KIMBALL AVE VISA  
PARCEL: 126-570-007  
LOCATION: 640 W KIMBALL AVE

PAYMENT MADE BY: WAYNE GIRARD; ORG REC-669451  
TRANSACTION DATE: 02/16/2017  
TOTAL PAYMENT: 100.00

Payment Type	Payment Method	Check No/Description	Amount
Payment	Credit Crd	VISA	100.00

Item#	Description	Account Code	Total Paid	Prior Pymt.	Current Pymt.
424	Appeal Fee - Sub Hsg	6611-44210	100.00	.00	100.00

RECEIVED BY: PMSING, PS

DATE: 02/21/2017, 10:32 AM

*City of Visalia*

315 East Acequia Ave., Visalia, CA 93291



*Neighborhood Preservation*

Tel: (559) 713-4534 Fax: (559) 713-4811

March 2, 2017

WAYNE GERARD  
640 W KIMBALL AVE  
VISALIA CA 93277

Re: Code Enforcement Case CE170051  
640 W Kimball Ave

Dear Mr. Wayne Gerard,

Per your request I have scheduled you for an Administrative Hearing on Wednesday, March 22, 2017 at 9:00am at Visalia Council Chambers located at 707 W. Acequia Avenue, Visalia CA.

Please be advised that you can request a copy of the Administrative Hearing packet seven (7) days prior to the hearing for your records.

If you are unable to attend the hearing on the scheduled date, you must notify us immediately so that it can be rescheduled. Failure to attend or to reschedule in a timely manner may result in your hearing be held without you in attendance.

Sincerely,

A handwritten signature in cursive script that reads "Julie Harper".

Julie Harper  
Sr. Administrative Assistant  
(559) 713-4441

cc: Nicolas Cardella, City Attorney  
Tommy Contreras, Code Enforcement Technician  
Josh McDonnell, Community Development Assistant Director  
Tracy Robertshaw, Code Enforcement Manager

*City of Visalia*

315 East Acequia Ave., Visalia, CA 93291



*Neighborhood  
Preservation*

Tel: (559) 713-4194 Fax: (559) 713-4811

**STAFF REPORT**

HEARING DATE: March 22, 2017  
VIOLATION NUMBER: CE170051  
PROPERTY OWNER: April Slack  
SITUS ADDRESS: 640 W Kimball Ave.  
PARCEL NUMBER: 126-570-007-000

**ALLEGED VIOLATIONS:**

Violations of Home Occupation Permit

INSPECTORS: Tommy Contreras, Code Enforcement  
WITNESSES: Tommy Contreras

**VIOLATIONS:**

Violation No. 1 – Parking SUV limousine on street, loud noise at night. Operating Home Business after the permissible hours for a Home Occupation

NOTICE DATES: January 31, 2017: 10 Day Notice & Order  
February 6, 2017: Notice of Extension

DEADLINES: February 12, 2017: Home Occupation Permit Revoked.  
Cease all Operations. Option to Re-apply for Home Occupation that allows for 1 limousine on-site.

February 18, 2017: Apply for Administrative Hearing

COMPLIANCE DATE:

INSPECTORS: Tommy Contreras, Code Enforcement Technician



**SUMMARY:  
INSPECTIONS/ NOTICES/ MEETINGS**

January 10, 2017 - Complaint received of violation of Home Occupation Permit

January 17, 2017 - Case opened. Routed to Tommy Contreras for inspection.

January 18, 2017 - Code Enforcement inspector found SUV style limousine parked on the street in a residential neighborhood. Sedan style limousine parked in the driveway.

January 25, 2017 - Research conducted on property found violations for home occupation online via Yelp.com. Home business is advertised as being open 24 hours a day, 7 days a week. Furthermore, business owner submitted a statement with his application to amend his business to allow for a second limousine on site on August 30, 2016, that states, 'This would allow myself, as the only driver, to have options for the amount of passengers / size of vehicle that is rented', while reviews of business cite reference to a second driver named, "Rick".

January 31, 2017 - 10 Day Notice & Order sent to property owner regular and certified mail.

February 3, 2017 - Mr. Wayne Gerard, business owner, submitted a request for appeal notice and a request for extension in said notice.

February 4, 2017 - Inspector conducted inspection of property and found the SUV style is no longer on site.

February 6, 2017 - Notice of extension sent to property owner granting extension to request a hearing until February 18, 2017.

March 2, 2017 - Notice of scheduled Administrative Hearing sent to business owner.

CIVIL FINES, PENALTIES, COMPLIANCE AND INSPECTION FEES:  
\$0.00

**STAFF RECOMMENDATION:**

Staff recommends that the property owner be directed to complete the following:

- Revocation of amended Home Occupation Permit allowing for two (2) limousines on site.
- You may Re-Apply for a Home Occupation Permit allowing for one (1) limousine on site.
- Read, review and abide by ALL Conditions and Regulations listed in the Home Occupation Permit.
- Future violations will accrue fines of \$100.00 for the first violation, \$200.00 for the second violation, and \$500.00 for every violation thereafter.

City of Visalia

Neighborhood  
Preservation

315 East Acequia Ave., Visalia, CA 93291



Tel: (559) 713-4194 Fax: (559) 713-4811

## 10 DAY NOTICE & ORDER

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

January 31, 2017

APRIL SLACK  
640 W KIMBALL AVE  
VISALIA CA 93277

Ref: 640 W Kimball Ave.  
Case #: CE170051

Dear Property Owner:

**VIOLATION: Violation of Home Occupation Permit.**

On January 17, 2017 the Neighborhood Preservation Department and the Visalia Police Department received several complaints of *violation of home occupation permit and continuously parking large limousine on the street.*

January 18, 2017 the undersigned conducted research of the property and the business known as "Prestige Limousine Service, LLC" and found several violations of the Home Occupation Permit signed by the business owner. The SUV limousine exceeds the  $\frac{3}{4}$  ton weight of any vehicle used for the business. On social medial sites the business is advertised as a 24 hour a day, 7 day a week business. Reviews of customers mention a driver by name that is not the business owner. Police have received complaints of noise from the audio system in one or both of the limousines late at night.

**Because of these your property is in violation of the Visalia Municipal Code and your business is in violation of the Home Occupation Permit.**

**Corrections Required:** In order to resolve this problem, you must do the following on or before February 12, 2017:

- The current Home Occupation Permit allowing for 2 limousines on the property is hereby revoked immediately. You may re-apply for a Home Occupation Permit that allows for 1 limousine on-site.
- The SUV limousine exceeds the  $\frac{3}{4}$  ton capacity of a vehicle allowed on-site for any home occupation and that vehicle must be removed from the site and is not permitted to be stored in the residential zone. Remove this vehicle to an alternative location on or before February 12, 2017 unless proof is submitted that the SUV

limousine is less than ¾ ton gross weight. Future incidents of this vehicle found at this home business will incur fines for each incident.

- Cease the activities for the business such as employees coming to and going from the residence.
- Cease parking vehicles on the street that are a part of the home business immediately so as to remove the nuisance to the surrounding neighborhood.
- The Home Occupation Permit prohibits business being conducted between 11pm and 8am. Cease this activity immediately.
- Immediately cease the any activity that creates excessive noise from a vehicle, i.e., noise from car stereo systems, or ANY excessive noise during the prohibited times during weekdays and weekends respectively.
- Contact the undersigned officer to conduct a re-inspection of the property to verify all violations have been corrected.

**Visalia Municipal Code Section 15.44.090 Account and record of cost** *The enforcement officer shall keep an account of the cost of abating such nuisances and shall embody such account in the report and assessment list which shall be filed with the city clerk and presented to the city council. The allowable cost of abating such nuisance shall include a charge sufficient to cover the cost of administering this chapter. The report and assessment list shall refer to each separate lot or parcel of land by description sufficient to be assessed against each such separate lot or parcel.*

Cost Recovery Fee is \$128.38 per hour for a Code Enforcement Officer. Additional fees may be added for property research.

#### **APPLICABLE VISALIA MUNICIPAL CODE SECTION(S):**

##### **8.36.050 Exterior noise standards**

###### ***Mobile noise sources prohibition against use.***

*It is unlawful to operate any of the below-listed devices, appliances, equipment or vehicles on public or private property abutting noise sensitive land uses between the weekday hours of seven p.m. and six a.m., and between the weekend hours of seven p.m. and nine a.m.*

*B. Vehicle equipment, which equipment is not expressly regulated by state or federal statute, such as car radios or sound amplification equipment which is audible more than twenty-five (25) feet from the exterior of the vehicle;*

*D. Any other noises made by crying, shouting, or by means of whistle, rattle, bell, gong whether or not for the purpose of advertising or other such purposes.*

##### **8.40.030 Public Nuisances**

It is hereby declared to be a public nuisance and a violation of this Chapter for an owner or other person in control of said property or premises to keep or maintain property, premises or rights-of-way in such a manner that any of the following conditions exist:

I. (2) Any condition on a property that affects an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal

##### **17.32.030 Home occupation permits.**

*A. Home occupation permits may be processed as an administrative matter by the city planner and no hearing shall be required.*



B. For the purpose of this section, a home occupation shall be considered any conduct for pecuniary gain by an art or profession, the offering of a service or conduct of a business, or handicraft manufacture of products within or from a lawful residential use, which is clearly incidental and secondary to the use of the structure for a dwelling purpose, and which does not change the character of the residential use. A home occupation may be permitted by issuance of a home occupation permit by the planning department staff in accordance with the following regulations and no business license shall be issued beforehand:

4. No person, other than a resident of the dwelling, shall be employed or subcontracted on the premises in the conduct of a home occupation;

6. Not more than one vehicle of not more than three-quarter ton capacity used in connection with the home occupation shall be kept on the site. Any trailer, wheeled equipment, or any vehicle displaying or advertising the home occupation shall not be visible from off the premises;

9. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family detached residence, or outside the dwelling unit if conducted in other than a single-family detached residence. No equipment or process shall be used which creates visual or audible electrical interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises;

13. No home occupation shall be conducted between the hours of eleven p.m. and eight a.m.;

15. Additional requirements or conditions may be added as deemed necessary by the city planner;

16. In order to limit commercial traffic in neighborhoods, no customers may come to your residence for any business transaction.

C. A home occupation permit shall be revoked by the city planner upon violation of any condition or regulation, or any limitation of any permit issued, unless such violation is corrected within ten (10) days of notice of such violation. Any permit may be revoked for repeated violations.

D. In the event of denial or revocation, or objections to limitations placed thereon, an appeal may be made in writing to the planning commission as provided in Section 17.28.050. (Ord. 9605 § 30 (part), 1996: prior code § 7479)

#### **FAILURE TO COMPLY:**

**YOU ARE HEREBY NOTIFIED** that you shall abate the condition within ten (10) days (or otherwise noted) of the date of this Notice and Order. If the illegal condition has not been resolved within the time specified above, each day will be considered a separate violation and you will be charged a \$100.00 for the first day, \$200.00 for the second day and \$500.00 for each day thereafter the property is not compliant. This fee, and any other costs necessary to remove the violation will be charged to you personally and/or will be assessed against the land and can be foreclosed on or made a tax assessment which will be placed on the tax rolls to be collected.

A "Notice of Non-Compliance", may be filed with the State Franchise Tax Board, which may prevent you from claiming State Tax Deductions for taxes, depreciation, amortization, or interest expense connected with the property, as long as it remains sub-standard. This includes buildings that are unoccupied, vacated or abandoned for at least 90 days. (*Taxation & Revenue Code 17274 and 24436.5*)

**Declaration of Substandard Building and Notice of Pendency of Action/Proceedings ("Title Cloud")** may be filed with the County of Tulare Recorder's Office. Full compliance will be required for removal of this Pendency. A "Termination of Action" form must be obtained from this office at that time. This form must be presented at the Recorder's Office to complete release of action.

Failure to respond will result in additional enforcement action being taken to insure that your property is in compliance. Additional action may include a judicial citation and mandatory court appearances.

**ADMINISTRATIVE APPEAL:**

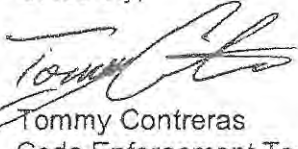
**YOU ARE FURTHER NOTIFIED** that you may appeal the Notice and Order within ten (10) days of the date this Notice and Order is served. This can be accomplished by filing a Notice of Appeal at City Hall East, 315 E. Acequia Avenue, Visalia, California. At the time the appeal is filed, an appeal fee of \$100 is due and payable and a deposit of the violation must be made, or evidence provided that a request for an advance deposit hardship waiver has been filed with the Neighborhood Preservation Division of the City of Visalia.

**YOU ARE FURTHER NOTIFIED** that at the above-stated hearing you may call witnesses to testify on your behalf, present documentary evidence, cross-examine witnesses, and otherwise show why said nuisance should not be ordered abated. You may be represented by legal counsel at your own expense.

**SHOULD YOU FAIL TO APPEAR AT SUCH HEARING** it shall be deemed a waiver of your right to a hearing.

**YOU ARE FURTHER NOTIFIED** that once this Order becomes final, you may seek review of this Order pursuant to California Code of Civil Procedure Section 1094.6. There are no appeals to City Council.

Sincerely,



Tommy Contreras  
Code Enforcement Technician  
(559) 713-4194

[tommy.contreras@visalia.city](mailto:tommy.contreras@visalia.city)

cc: Nick Mascia, Development Director  
Tracy Robertshaw, Neighborhood Preservation Manager

August 30, 2016

To: City of Visalia, Planning

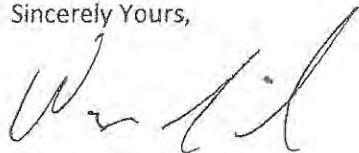
Re: Prestige Limousine Service, BL#045193

I am writing to request our home occupancy permit be amended to reflect having 2 (two) limousines on site at our home at 640 W. Kimball Ave., in Visalia.

This would allow myself, as the only driver, to have options for the amount of passengers / size of vehicle that is rented.

Thank you for your time and attention to this matter.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Wayne Girard". The signature is fluid and cursive, with a prominent initial "W" and a long, sweeping tail.

Wayne Girard

Prestige Limousine Service, LLC

RECEIVED

FEB 2 2017

COMM. OF VETS OF  
CITY OF VISALIA

February 3, 2017

City Of Visalia  
315 E. Acequia Ave.  
Visalia, California

NOTICE OF APPEAL

Case: CE170051

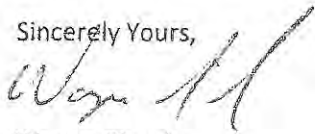
My name is Wayne Girard, owner of Prestige Limousine Service, LLC. I am in receipt of a "10 Day Notice and Order," which I received today from the USPS. I would like to formally give notice that I need to appeal this decision and findings by the City of Visalia, in regards to our Home Occupancy Permit.

I am not in violation of any of the terms of our occupancy permit or city ordinances. Only recently have I began parking a limousine on the street, as to allow for the completion of construction projects in the back yard. Nothing else in the notice we received is founded.

I plan on preparing some documentation and consulting with an attorney out of the area to handle this matter, should it need to be escalated. However, I am flying out of town tonight with my family for a 2 week trip, and will be returning from New York by February 14<sup>th</sup>, 2017 at the latest.

Please give me time to prepare for a hearing.

Sincerely Yours,



Wayne Girard  
640 W. Kimball Ave.,  
Visalia, CA 93277  
559-936-9898



## City of Visalia

315 East Acequia Ave., Visalia, CA 93291



## Neighborhood Preservation

Tel: (559) 713-4534 Fax: (559) 713-4811

February 6, 2017

Kelly Slack  
640 W Kimball Avenue  
Visalia CA 93277

RE: CE170051

Dear Ms. Slack:

I have been contacted by Wayne Girard regarding a business that he is conducting on a property that you are listed as the owner.

He has requested an extension for an appeal hearing regarding the Notice and Order that was sent to you for the business.

Please be advised that an extension was granted until February 18, 2017 for an appeal and the \$100 appeal fee. If you have additional questions regarding the hearing process, appeal fee, or waiver of the fee, please refer to Page 4 of your notice.

Additionally, since you are listed as the owner of the property, you must fill out the enclosed Agency Authorization form granting Mr. Girard the authority to submit the Hearing Request. However, you may also request the hearing instead of Mr. Girard if you would like to do so.

Thank you,

  
Tracy Robertshaw  
Neighborhood Preservation Manager  
City of Visalia  
(559)713-4187

Find tacos, cheap dinner, Max's

Near Newport Street, Visalia, CA, 93291, US

Restaurants Nightlife Home Services Write a Review Talk


Log in



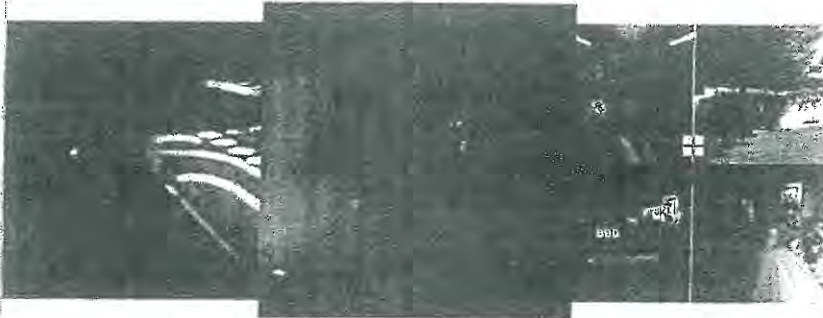
# Prestige Limousine Service, LLC Claimed

★★★★★ 9 reviews [in Details](#)

Limos [Edit](#)



**Serving Visalia and surrounding area**  
640 W Kimball Ave  
Visalia, CA 93277  
(559) 936-9898  
[rideprestige.net](http://rideprestige.net)  
[Message the business](#)



## Recommended Reviews for Prestige Limousine Service, LLC

Your trust is our top concern, so businesses can't pay to alter or remove their reviews. [Learn more.](#)

Search within the reviews

Sort by **Yelp Sort** Language **English (9)**



Start your review of Prestige Limousine Service, LLC.

**Tyler D.**  
Porterville, CA  
0 friends  
8 reviews  
1 photo

★★★★★ 12/29/2016

What a great night! Rick was our driver he made us feel instantly comfortable and made sure we had a great time. The limo itself was unbelievable! It was spacious, comfortable, and had awesome lighting. The drink selection was also perfect I chose to have Corona, 805, and Modelo. All in all, it was a great experience and a perfect way to celebrate getting engaged!

**Mallory B.**  
Davis, CA  
118 friends  
5 reviews  
7 photos

★★★★★ 10/11/2016

1 check-in

We had the best time with Prestige Limo Service! We went out to dinner in Fresno to celebrate a friends birthday and it was perfect. The limo was absolutely beautiful, inside and out. They had us covered with stocked ice for our drinks, cups, champagne glasses, auxiliary cord for the super loud sound system, and even a charger for our phone. We will definitely be using them again!

Today **Open 24 hours** [Open now](#)

### Hours

- Mon Open 24 hours
- Tue Open 24 hours
- Wed Open 24 hours [Open now](#)
- Thu Open 24 hours
- Fri Open 24 hours
- Sat Open 24 hours
- Sun Open 24 hours

[Edit business info](#)

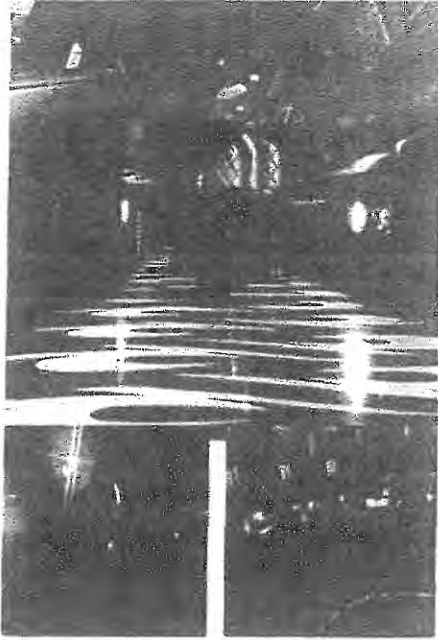
**Kimberly P.**  
First to review

### People also viewed

- High Class Limousines**  
★★★★★ 1 review
- A Wish Your Heart Makes**  
★★★★★ 9 reviews
- Classic Charter**  
★★★★★ 12 reviews

### Browse nearby

- Restaurants
- Cafes
- Food
- Bars
- Shopping
- Hotels



📍 Landmarks

⋮ Show all

People found Prestige Limousine Service, LLC by searching for...

Limo Service Visalia

See all photos from Mallory B. for Prestige Limousine Service, LLC



Andrea R.  
Porterville, CA  
👥 0 friends  
🗣️ 1 review

★★★★★ 1/9/2017

Great service all in all. From negotiating the contract to the day of our service on our wedding day. Wayne (the owner) was great in communicating with us. He made sure to check in the night before with myself and my husband to make sure everyone was on the right page. On our wedding day, Rick was our driver and he was great also. He was punctual and efficient. Prestige Limo helped our wedding day run smoothly.



Comment from Wayne G. of Prestige Limousine Service, LLC  
Business Owner

1/9/2017 · Thank you for your business!!  
Congratulations!!



Kimberly P.  
Tulare, CA  
👥 23 friends  
🗣️ 4 reviews  
📷 3 photos

★★★★★ 6/3/2016

👤 First to Review

What a fabulous time!! We rented a limousine from Prestige to just go have some fun, and they delivered!!

Cold beers, loud music, we had such a great time!!  
Coolest limo we've ever rode in, and we can't wait to do it again.



Brandon B.  
Visalia, CA  
213 friends  
1 review

★★★★★ 11/4/2016

Definitely the best experience I've ever had in a limo in my life. Driver was very respectful and nice. Well do this again very soon.



Jenny S.  
Fresno, CA  
0 friends  
3 reviews

★★★★★ 11/13/2016

I had the best time during my limo ride for my 16 Birthday highly recommend!!! The only complaint I have is one of the speakers weren't working on one side of the limo, either way had an amazing time!



Comment from Wayne G. of Prestige Limousine Service, LLC  
Business Owner

11/13/2016 · Thank you, glad you had a wonderful birthday!



Doreen B.  
Santa Clara, CA  
0 friends  
1 review

★★★★★ 9/19/2016

I called Wayne within a week of our event, my brother w/ Down's Syndrome was turning 40 and we wanted him to experience his first limo ride. Prestige Limousine hooked us up and made sure the limo was stocked with plenty of drinks for everyone, it has advanced technology allowing us to plug our phones in, play a slide show, and have super cool floor lighting along with lights that look like you are on a dance floor. My brother, and the whole family, was ecstatic. There were 17 of us and we had room or more. Once we got to the event Wayne stayed, opened up and the rest of our family got to enjoy all the features of the decked out limo. Prestige Limousine helped us start and end the night with tons of family fun; music, drinks, and dancing! It's a new business and they have top notch, new limos.



Justin B.  
Clovis, CA  
100 friends  
1 review

★★★★★ 6/13/2016

You get more than a limo ride with prestige, you get a great experience with excellent service! Called them about 2 hours before a wedding and he was able to accommodate us with punctuality and professionalism. Highly



<>

recommended! The limo surpassed expectations!!! Would recommend to anybody



April S.  
Visalia, CA  
29 friends  
2 reviews

★★★★★ 7/12/2016

Top notch service, I don't know a better way to put it. Never seen someone so happy to be of service!!! Love Love Love!!!

Page 1 of 1

12 other reviews that are not currently recommended

### From the business

#### Specialties

We deliver the quality and service you deserve, for ANY occasion. Special arrangements made for every customer, and individual attention given to every aspect.

#### History

Established in 2016.

We are fresh to the area and industry, getting started by providing the level of service and care not available anywhere else.

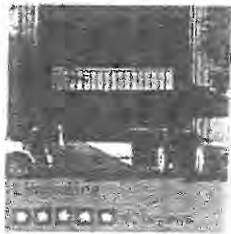
#### Meet the Manager



Wayne G.  
Manager

I love providing excellent service, and meeting new people. My goal is to have every customer feel the highest level of customer satisfaction.

### Best of Yelp Visalia – Limos



See More Limos in Visalia

#### About

- About Yelp
- Order Food on Eat24
- Careers
- Press
- Investor Relations
- Content Guidelines

#### Discover

- The Local! Yelp
- Yelp Blog
- Support
- Yelp Mobile
- Developers
- RSS

#### Yelp for Business Owners

- Claim your Business Page
- Advertise on Yelp
- Online Ordering from Eat24
- Yelp Reservations
- Business Success Stories
- Business Support

#### Languages

English

#### Countries

United States

## *Commercial Vehicles*

### 13.000 Commercial Vehicle Definition (CVC §260)

A commercial vehicle is a type of vehicle:

- Used or maintained for the transportation of persons for hire, compensation, or profit (for example, a taxi or limousine).
- Designed, used, or maintained primarily for the transportation of property.

#### Types of Commercial Vehicles

<i>Item</i>	<i>Definition</i>
Bus (CVC §233)	<p>A vehicle:</p> <ul style="list-style-type: none"> <li>• Used, or maintained to carry more than 15 persons, including the driver.</li> <li>• Designed to carry more than 10 persons, including the driver, when used to transport persons for compensation or profit, or used by a nonprofit organization.</li> </ul> <p>A bus is a commercial vehicle when:</p> <ul style="list-style-type: none"> <li>• Used to transport persons for hire, compensation, or profit.</li> <li>• Bus transportation is supplied by a profit-making entity and a customer ends up paying for the bus service as part of the overall consideration for the primary service.</li> </ul>
“For Hire” Passenger Vehicle	<p>A passenger-type vehicle that transports:</p> <ul style="list-style-type: none"> <li>• <b>Passengers</b> for hire, such as a taxi, rental limousine, or an ambulance, <b>must</b> be registered as a commercial vehicle. <ul style="list-style-type: none"> <li>— A charter-party carrier operating limousines that pick up and deliver airport passengers <b>must</b> be issued Livery License Plates.</li> </ul> </li> <li>• <b>Property for hire cannot</b> obtain commercial plates. <ul style="list-style-type: none"> <li>— <b>EXCEPTION:</b> Commercial registration may be obtained for multipurpose vehicles, station wagons, or hatchback-type vehicle when the owner is engaged in a business, trade, or commerce, and the vehicle is registered in the name of the business.</li> </ul> </li> </ul>
Motor Truck (CVC §410)	<p>A motor vehicle designed, used, or maintained primarily for the transportation of property.</p>

*City of Visalia*

315 East Acequia Ave., Visalia, CA 93291



*Neighborhood Preservation*

Tel: (559) 713-4534 Fax: (559) 713-4811

March 2, 2017

WAYNE GERARD  
640 W KIMBALL AVE  
VISALIA CA 93277

Re: Code Enforcement Case CE170051  
640 W Kimball Ave

Dear Mr. Wayne Gerard,

Per your request I have scheduled you for an Administrative Hearing on Wednesday, March 22, 2017 at 9:00am at Visalia Council Chambers located at 707 W. Acequia Avenue, Visalia CA.

Please be advised that you can request a copy of the Administrative Hearing packet seven (7) days prior to the hearing for your records.

If you are unable to attend the hearing on the scheduled date, you must notify us immediately so that it can be rescheduled. Failure to attend or to reschedule in a timely manner may result in your hearing be held without you in attendance.

Sincerely,

A handwritten signature in cursive script that reads 'Julie Harper'.

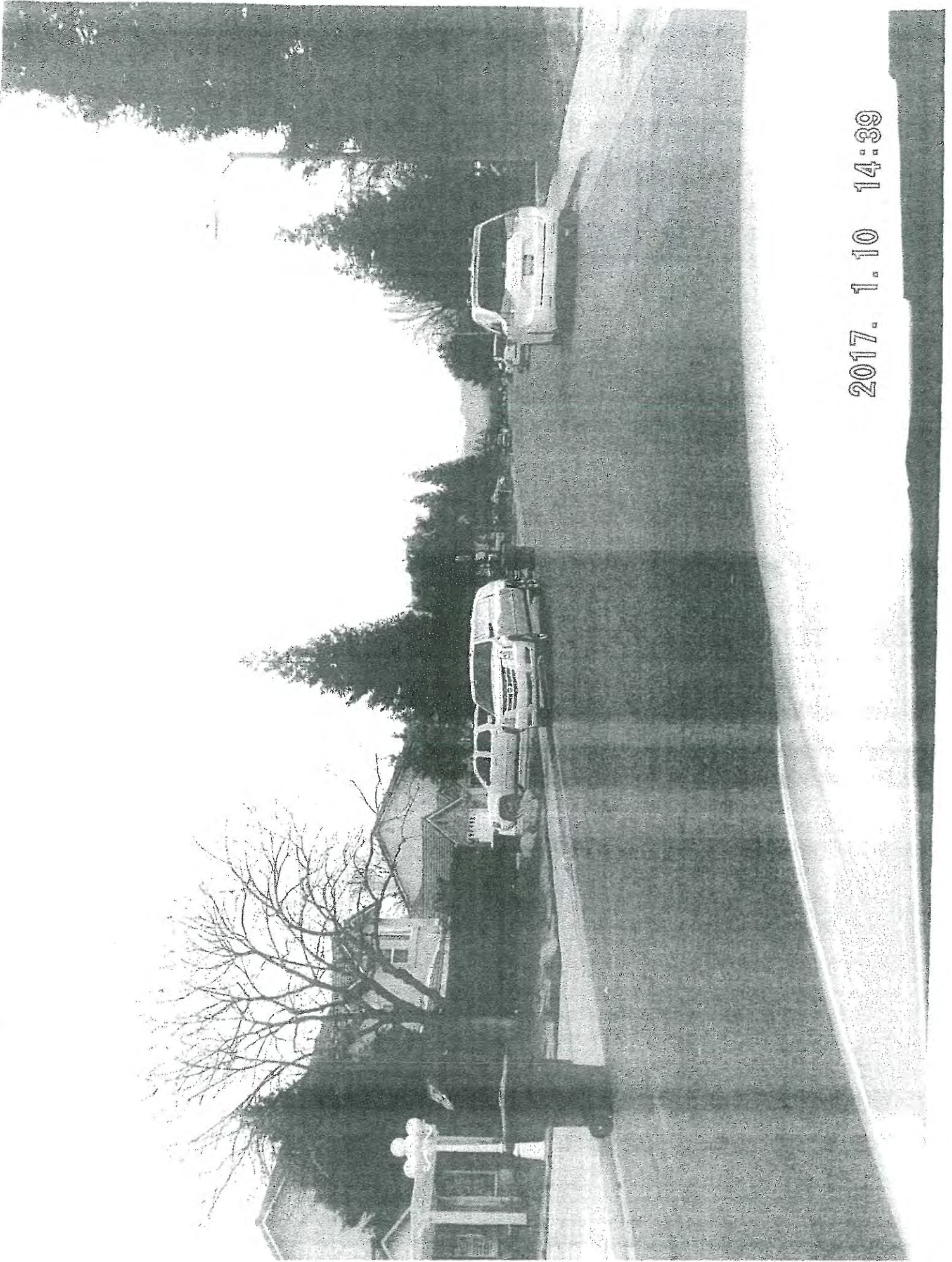
Julie Harper  
Sr. Administrative Assistant  
(559) 713-4441

cc: Nicolas Cardella, City Attorney  
✓Tommy Contreras, Code Enforcement Technician  
Josh McDonnell, Community Development Assistant Director  
Tracy Robertshaw, Code Enforcement Manager



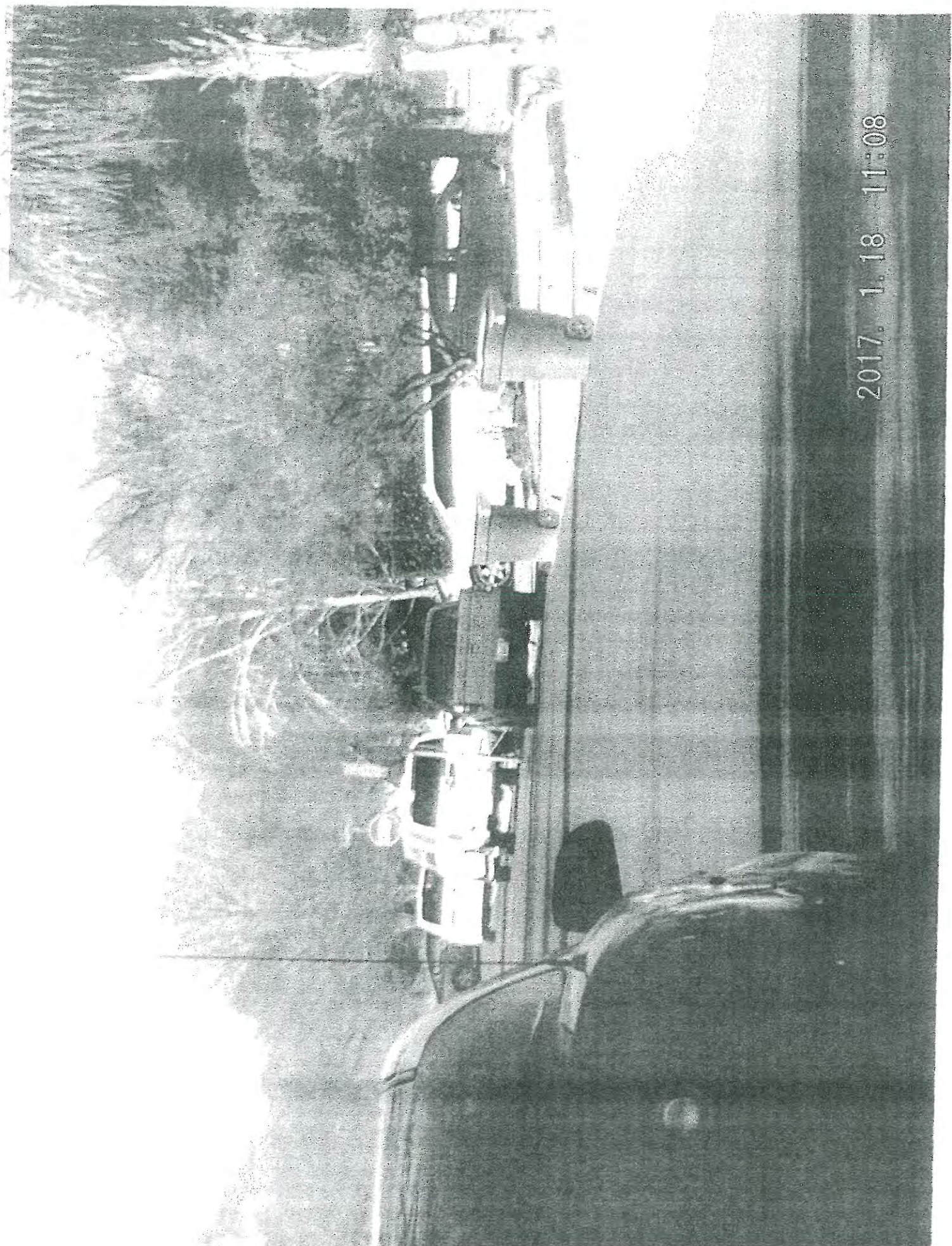






2017. 1. 10 14:39





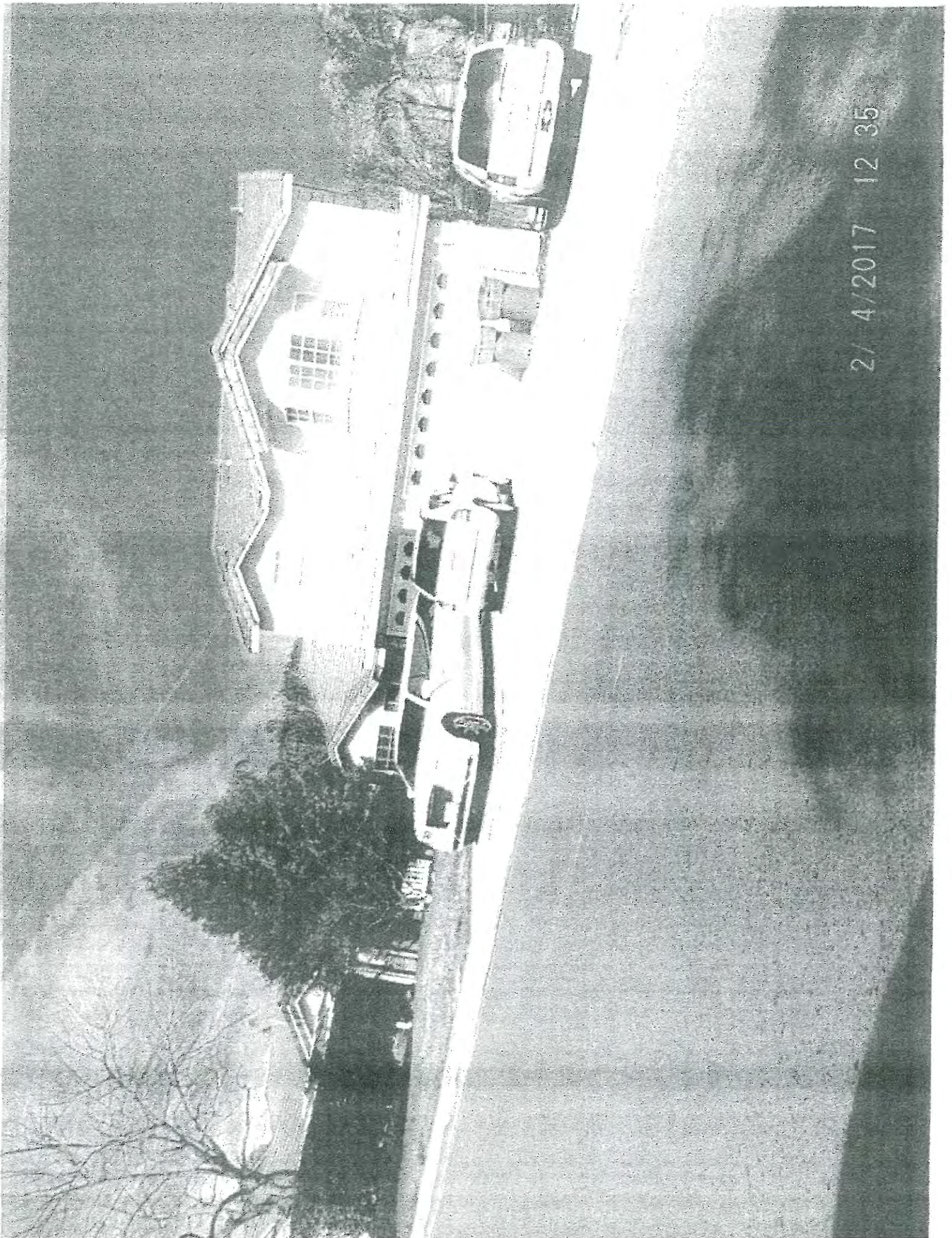
2017. 1. 18 11:08





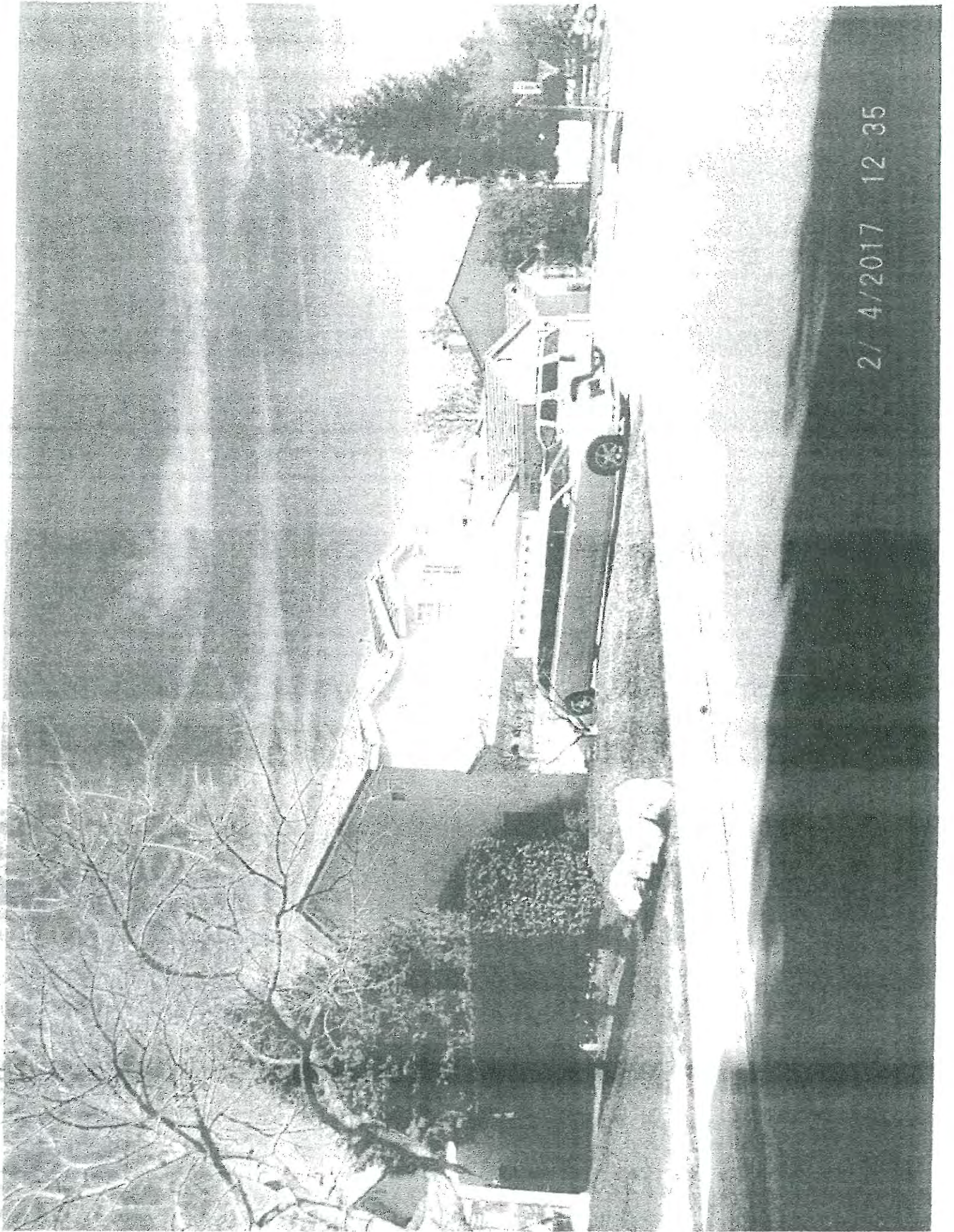
2017 1.18 11:09





2/ 4/2017 12 35





2/ 4/2017 12 35



City of Visalia, Code Enforcement Division

3/21/17

Attn; Julie Harper

email; Julie.harper@visalia.city

Re case 170051/ Prestige limousine, LLC

Ms. Harper,

We are the westerly next door residence to 640 W. Kimball Ave. where Prestige Limousine, LLC resides. Prestige Limousine has recently done a nice job of making the business invisible to the neighborhood. The changes made to control vehicle parking, reduce street congestion and limit disruption are a noticeable and appreciated improvement.

The continued use of their expanded parking area and consideration for others regarding the impact of the business on the area, should assure it remains as invisible as possible.

We appreciate the consideration extended and improvements made to limit the disruption of the business to our neighborhood.

We wish Prestige limousine continued success in their endeavor.

Best Regards,

Jerry and Carrie Rogala

702 w. Kimball ave

Visalia, Ca 93277

559-723-5021

Email; cjrogala@comcast.net

Handwritten signature of Jerry and Carrie Rogala, dated 3/21/17.

To Whom it may concern,

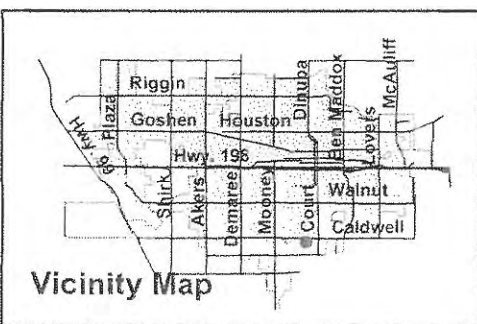
My name is Tony Rendon and I live next door to Mr. Wayne Girard. We have lived next to one another for some time now and I have never had any negative encounters with Wayne. Wayne has been a very respectable and courteous neighbor. There has never been an issue with his limousines blocking driveways, playing loud music, or just being in the way. He has always carried himself in a very professional manner. If you would like to contact me I can be reached at 559-799-8739.

Thank you,  
Tony Rendon

*Tony Rendon*

3/21/17





AERIAL MAP



ATTACHMENT 6



4/9/17

To Whom it may concern,

I am writing this letter on behalf of Prestige Limousine Service. We, the household at 727 W. Kimball ~~St~~ Ave, feel their business in no way, shape or form affects us. They run an extremely professional business and are always very courteous as well as friendly. If you have any further questions, you may contact us at the numbers below.

Irma Marraquin (home owner)  
559-280-9482

Tony Hafley  
559-802-6055

Reyna Hernandez  
559-730-4187

Britanie Marraquin  
559-799-4428

4-24-17

In regards to the hearing tonight, I was unable to attend. I have been living across the street from the Girard's for years. They have been operating the Limo business across the street for some time. They try to operate the business as invisibly as possible with as least nuisance to the neighbors as possible. As far as I am concerned, the business is invisible, not a nuisance. I am nearly directly across the street from them.

My address is

629 W Kimball ave

Visalia, CA 93277

With Best Regards

Samantha Mohar



If you have any questions please feel free to contact me.

April 20, 2017

To Visalia City Planning Commission.

We are writing in regards to the Public Hearing to be held on Monday April 24, 2017 for a Limosine Service Located at the HOC Residence, 640 W. Kimball Ave. We support and have no grievances against them or their limosine business.

Thank you



Paresh Soalnki

City of Visalia, Code Enforcement Division

3/21/17

Attn; Julie Harper

email; Julie.harper@visalia.city

Re case 170051/ Prestige limousine, LLC

Ms. Harper,

We are the westerly next door residence to 640 W. Kimball Ave. where Prestige Limousine, LLC resides. Prestige Limousine has recently done a nice job of making the business invisible to the neighborhood. The changes made to control vehicle parking, reduce street congestion and limit disruption are a noticeable and appreciated improvement.

The continued use of their expanded parking area and consideration for others regarding the impact of the business on the area, should assure it remains as invisible as possible.

We appreciate the consideration extended and improvements made to limit the disruption of the business to our neighborhood.

We wish Prestige limousine continued success in their endeavor.

Best Regards,

Jerry and Carrie Rogala  
702 w. Kimball ave  
Visalia, Ca 93277  
559-723-5021

Email; cjrogala@comcast.net

Handwritten signature of Jerry and Carrie Rogala, dated 3/21/17.



To Whom it may concern,

My name is Tony Rendon and I live next door to Mr. Wayne Girard. We have lived next to one another for some time now and I have never had any negative encounters with Wayne. Wayne has been a very respectable and courteous neighbor. There has never been an issue with his limousines blocking driveways, playing loud music, or just being in the way. He has always carried himself in a very professional manner. If you would like to contact me I can be reached at 559-799-8739.

Thank you,  
Tony Rendon

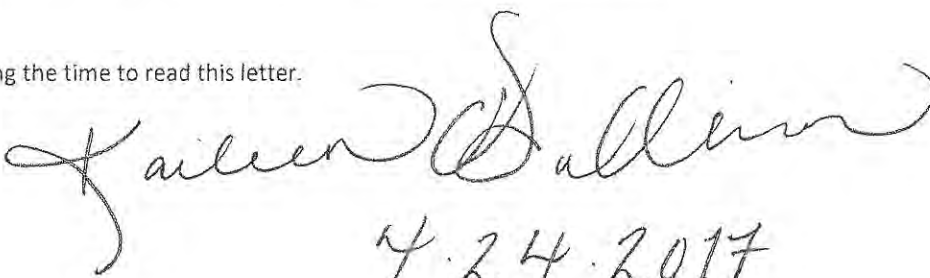
*Tony Rendon*

3/21/17

Kaileen O'Sullivan  
728 W. Kimball Ave.  
Visalia, Ca 93277

To whom it may concern; I am unable to attend the meeting at City Hall on April 24, 2017 due to a previous commitment, but I wanted to speak on the subject. I received the attached notice regarding the Limousine Service located down the street from my house. I have spoken with the owners of this service and they have always been extremely pleasant. I have never encountered any type of issue with them or their two limousines being on our street. I do not feel that this limousine service has been an inconvenience or a disruption to our neighborhood whatsoever. They keep their limousines in the RV parking along side of their home behind a gate. If you have any questions or concerns please do not hesitate to contact me, you can reach me at (559)471-9368 (preferably before or after the hours of 8am - 5pm) or at [Kailey.osullivan@gmail.com](mailto:Kailey.osullivan@gmail.com)

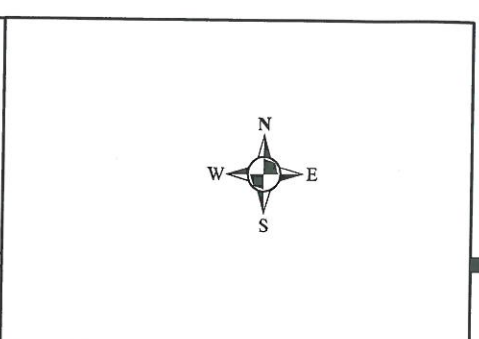
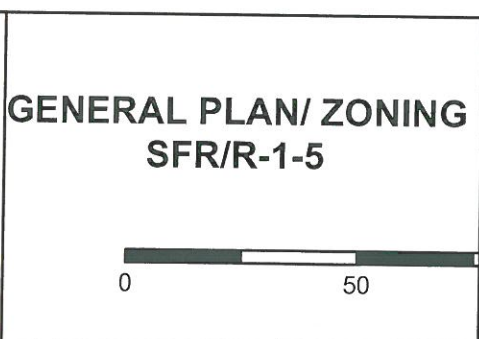
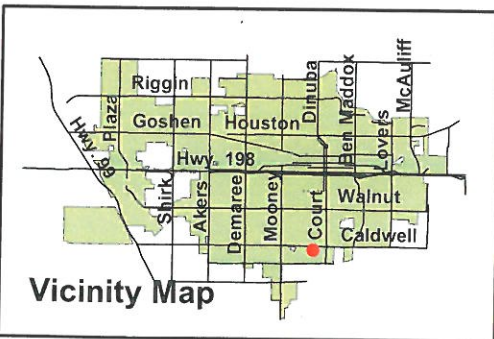
Thank you for taking the time to read this letter.



Kaileen O'Sullivan

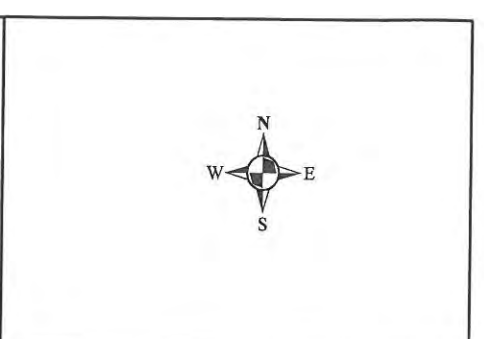
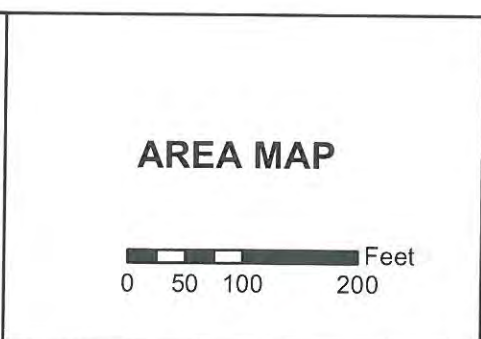
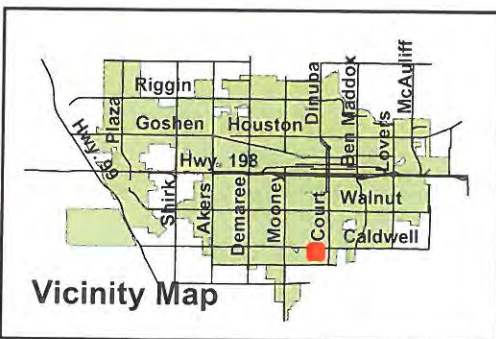
4.24.2017

VARIANCE 2017-24  
640 W. KIMBALL AVE.





VARIANCE 2017-24  
640 W. KIMBALL AVE.



VARIANCE 2017-24  
640 W. KIMBALL AVE.

