

# PLANNING COMMISSION AGENDA

CHAIRPERSON:

Brett Taylor



VICE CHAIRPERSON:

Liz Wynn

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

**TUESDAY, MAY 29, 2018; 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.
  - a. Time Extension for Maddox at Caldwell VII Tentative Subdivision Map No. 5531 and Conditional Use Permit No. 2007-09.
  - b. Time Extension for Conditional Use Permit No. 2016-07.
  - c. Request for a General Plan Finding of Consistency Pursuant to Public Resource Code §21151.2 and Government Code §65402 for the Disposition of Real Property Owned by College of the Sequoias located on the southeast corner of S. Mooney Blvd. and W. Myrtle Ave. (APN: 096-035-010).
  - d. Request for General Plan Consistency Finding Pursuant to Public Resource Code §21151.2 and Government Code §65402 for Visalia Unified School District's Acquisition of 649 S. County Center Dr. located on the northwest corner of S. County Center Dr. and W. Campus Ave. (APN: 095-010-063).
5. PUBLIC HEARING – Andy Chamberlain  
Conditional Use Permit No. 2018-06: A request by Champions Center, Crystal Hernandez to allow individual and group counseling in the OC (Office Conversion) zone. The site is located at 910 W. Center Street. (APN: 093-224-004) The project is Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, Categorical Exemption No. 2018-19.
6. PUBLIC HEARING – Andy Chamberlain  
Variance No. 2018-05: A request by Brandon Gee to allow a variance to fence setback standards in the OC (Office Conversion) zone. The site is located at 201 E. Noble Avenue (APN: 097-052-009). The project is Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, Categorical Exemption No. 2018-18.

7. PUBLIC HEARING – Paul Scheibel

Rose Estate Tentative Subdivision Map No. 5567: A request to subdivide 2.98 acres into six numbered lots and two lettered lots. Located within the R-1-5 (Single-family Residential, minimum 5,000 square foot lot size) Zone. The project site is located on the northwest corner of Roeben Street and Walnut Avenue (APN: 087-442-008). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Categorical Exemption No. 2018-31.

8. PUBLIC HEARING – Andy Chamberlain

a. Conditional Use Permit No. 2018-05: A request by River Management Group to install a new 105-foot high Monopine with a 100-foot high telecommunications tower, and outdoor equipment enclosure at the base of the tower. The site is zoned C-MU (Commercial Mixed Use). The site is located at 537 E. Houston Avenue. (APN: 094-130-005) The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, Categorical Exemption No. 2018-17.

b. Variance No. 2018-04: A request by River Management Group to install a new 105-foot high Monopine with a 100-foot high telecommunications tower which is less than the required 1 to 5 (vertical height to horizontal separation) from a property line. The site is zoned C-MU (Commercial Mixed Use). The site is located at 537 E. Houston Avenue. (APN: 094-130-005) The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, Categorical Exemption No. 2018-17.

9. PUBLIC HEARING – Brandon Smith

Candelas Tentative Subdivision Map No. 5566: A request by Lennar Homes of California, Inc. to subdivide five parcels totaling 33.71-acres into 149-lots for single-family residential use, five lettered lots for landscaping and lighting district purposes, and two remainder lots. This subdivision map will also modify the property lines of two existing parcels with existing residential uses that total 1.11 acres and will become the remainder parcels. The project site has a zoning designation of R-1-5 (Single-Family Residential, minimum 5,000 square foot lot size). The site is located on the northwest corner of McAuliff Street and Tulare Avenue within the City of Visalia, situated in Tulare County. (APN: 101-300-014, 017, 018; 101-310-010, 011) An Initial Study was prepared for the tentative subdivision map. Initial Study No. 2018-09 disclosed that environmental impacts are determined to be not significant. The Environmental Impact Report prepared for the City of Visalia General Plan was certified by Resolution No. 2014-37, adopted on October 14, 2014. Staff concludes that the Environmental Impact Report adequately analyzed and addressed the proposed project.

10. DIRECTOR'S REPORT/ PLANNING COMMISSION DISCUSSION-

- a. Reappointment of Commissioners.
- b. ARCO Appeal Update.

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

For Hearing Impaired – Call (559) 713-4900 (TTY) 48-hours in advance of the scheduled meeting time to request signing services.

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

**APPEAL PROCEDURE**

**THE LAST DAY TO FILE AN APPEAL IS FRIDAY, JUNE 8, 2018 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, JUNE 11, 2018**



# REPORT TO CITY OF VISALIA PLANNING COMMISSION

**HEARING DATE:** May 29, 2018

**PROJECT PLANNER:** Andrew Chamberlain  
Principal Planner (559) 713-4003  
[andrew.chambelain@visalia.city](mailto:andrew.chambelain@visalia.city)

**SUBJECT: Variance No. 2018-05:** A request by Brandon Gee to allow a variance to fence setback standards in the OC (Office Conversion) zone. The site is located at 201 E. Noble Avenue (APN: 097-052-009).

## STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve Variance No. 2018-05 based upon the findings in Resolution No. 2018-12. The recommendation is based upon meeting the required variance findings, as discussed in the report, and contained in the resolution.

## RECOMMENDED MOTION

I move to approve Variance No. 2018-05, based on the findings in Resolution No. 2018-12.

## PROJECT DESCRIPTION

The applicant is requesting a variance to allow a six-foot high wrought iron fence within the required 15-foot front yard setback along S. Church St. in the Office Conversion zone as shown in Exhibit "A". The fence was installed without permits during remodel work on the building and site. Per the street view photograph below, the wrought iron fence was not installed in the correct location and is located within the public right-of-way along S. Church St. and E. Noble Ave. In addition, there is a pedestrian gate located along the Noble Avenue frontage and a vehicle access gate along the alley.



The applicant has provided response to the variance findings in Exhibit "B". The responses identify the property owners desire to protect employees and patients from the homeless and related undesirable activities occurring in the area, and to protect the property from break-ins when the building is unoccupied.

## BACKGROUND INFORMATION

General Plan Land Use Designation	Office
Zoning	OC – Office Conversion
Surrounding Zoning and Land Use	North: Noble Ave. & Highway 198 South: OC – Office Conversion, Beauty Salon East: OC – Office Conversion, Medical Office

West: OC – Office Conversion, former Medical Office

Environmental Review

Categorical Exemption No. 2018-18 Section 15305

Site Plan Review

N/A

HPAC Review

HPAC No. 2018-02

### **Related Actions**

On February 26, 2018, the Planning Commission approved Variance No. 2018-02 for reduced building and fence setbacks at the Visalia Emergency Aid location at 217 NE 3<sup>rd</sup>. The fence portion of the variance allowed a wrought iron fence at the property line along Granite Street, and moved the existing fence along most of NE 3<sup>rd</sup> to the 10-foot setback. The Planning Commission found that the specific on-site use at the Emergency Aid facility and neighboring Rescue Mission facilities warranted the approval of a variance to setbacks along one street frontage.

On July 14, 2014, the Planning Commission approved Variance No. 2014-03 on the subject site to allow for reduced medical office parking. This reduced the required parking from 12 stalls to 10 parking stalls.

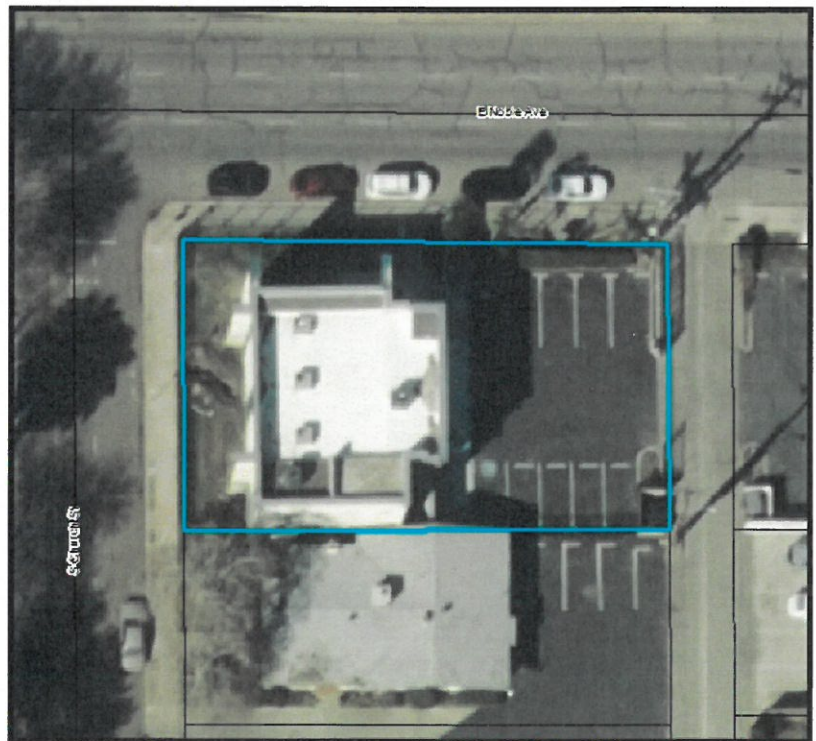
## **PROJECT EVALUATION**

Staff is recommending approval of the requested variance to setbacks as described below in the Variance Findings Analysis. Staff's recommendation is based on approval of a similar fence variance to setbacks based upon similar site security concerns.

### **Office Conversion Zone Setbacks**

The fence setbacks for the Office Conversion zone are 15-feet from property line along S. Church St. and 10-feet from property line along E. Noble Ave. for fences over four-feet in height. A four-foot high wrought iron fence may be located on property line.

The wrought iron fence along the Church St. frontage appears to be approximately one-foot into the right-of-way. The wrought iron fence along Noble Avenue appears to be approximately three feet six inches into the public right-of-way. The Engineering Division requires that the fence be relocated out of the public right-of-way.



Based on Exhibit "A", the proposed wrought iron fence location along E. Noble Ave. will comply with the required 10-ft. street side yard setback requirement. The proposed wrought iron fence along S. Church St. encroaches into the required front yard setback by 10-feet. The wrought iron fence along the alley and south property line meet the required setbacks for this site.

### **Discussion**

Staff recommends Planning Commission approval of Variance No. 2018-05 as shown in Exhibit "A" with the fence section along Church Street setback at five feet from property line instead of the required 15 feet, and the fence along Noble Avenue close to the required 10-foot setback which is just along the edge of the existing parking lot along the north side of the site. This will result in setbacks similar to those approved for Variance No. 2018-01 for Visalia Emergency Aid. The variance findings below and in the resolution support the variance request based upon relocating the fence as depicted in Exhibit "A".

### **Historic Preservation Advisory Committee**

The Historic Preservation Advisory Committee reviewed the variance request for the wrought iron fence (i.e., HPAC No. 2018-02) at their April 11, 2018 meeting, and recommends the Planning Commission approve the variance request. The Committee cited concerns related to undesirable actions by transient and homeless individuals in the City as the basis for their approval recommendation to Planning Commission. The wrought iron fence was also determined to be compatible with the Historic District regardless of its location on the site.

### **Required Variance Findings**

The Planning Commission is required to make five findings before a variance can be granted. The applicant has provided response to the variance findings in Exhibit "B", which are included as part of the *Variance Finding Analysis* below and in the resolution.

The staff recommendation of approval is based upon not being able to make the required findings as described in the section below.

### **Variance Finding Analysis**

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

*Applicant Finding: Strict setback enforcement would prevent our client from being able to protect his place of business. The current setbacks would cause the fence to interfere with the building and the parking lot that faces the Noble Ave. and also would interfere with the building on the Court St. side of the building. In which defeats the purpose of having a fence to deter the homeless.*

**Staff Analysis:** Locating the fence with a five-foot setback along Church Street and 10-foot setback along Noble Avenue would secure the site without interfering with the building or parking lot. These setbacks are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

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

*Applicant Finding:* Since the location of the Building is in an area where we are having homeless and other disruptive people constantly loitering around the our office, we feel that having the fence located at the property line will allow for employees and patients that are coming to the office to feel safe. As well as prevent the continuing of destruction and breaking of property by these homeless and others in the area. We have had several people break in to the building, which Visalia Police has had to come out and respond to events that have occurred prior to the install of the fence.

Staff Analysis: Locating the fence with a five-foot setback along Church Street and 10-foot setback along Noble Avenue would secure the site with the potential of reducing undesirable transient activity. These setbacks are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

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

*Applicant Finding:* Other buildings in the zoning district either have or need a fence for the protection of their business and there real property. And should be allowed to place the fence at the property line of which they are the rightful owners. Having the fence set back to the city's set back req. would defeat the propose of having the fence to keep unwanted people and thing away from the employee's and patients coming and going from the building. As well as protecting the building when the building isn't occupied.

Staff Analysis: The setbacks of five-feet on Church Street and 10-feet on Noble Avenue are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

4. The granting of such variance will not constitute a grant of special privilege inconsistent with the limitations on the properties classified in the same zone.

*Applicant Finding:* If we are granted the variance to have the fence at the property line. Other properties in the area do have fences around their properties. But the object of our fence is to keep the unwanted people from breaking in and stealing equipment and other items they may think are in the office.

Staff Analysis: The setbacks of five-feet on Church Street and 10 feet on Noble Avenue are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

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

*Applicant Finding:* Keeping the fence at the property line is not detrimental to the public health, safety and welfare. And the fence actually makes the place look a lot better. We also had the Historical Advisory Committee approve the fence and its location. The committee didn't agree with the setbacks from the city, and is OK with us having the fence 6' tall, due to the circumstances that are plaguing the area, and other places of businesses in the city.

Staff Analysis: Staff finds that the requested fence variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

## **Environmental Review**

The Variance is considered Categorical Exempt under Section 15305 (Class 5) of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA) as amended, based on minor alterations to land use limitations that do not result in changes in land use or density. (Categorical Exemption No. 2018-18) Adoption of an environmental finding is not required if an action is denied, should the action be approved the Exemption would be utilized.

### **RECOMMENDED FINDINGS**

Variances are intended to prevent unnecessary hardships resulting from strict or literal interpretation of regulations while not granting a special privilege to the applicant. The Planning Commission has the power to approve, deny or modify variances to regulations prescribed in the Zoning Ordinance.

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;*

Finding: Strict setback enforcement would prevent our client from being able to protect his place of business. The current setbacks would cause the fence to interfere with the building and the parking lot that faces the Noble Ave. and also would interfere with the building on the Court St. side of the building. In which defeats the purpose of having a fence to deter the homeless.

Locating the fence with a five-foot setback along Church Street and 10-foot setback along Noble Avenue would secure the site without interfering with the building or parking lot. These setbacks are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

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;*

Finding: Since the location of the Building is in an area where we are having homeless and other disruptive people constantly loitering around the our office, we feel that having the fence located at the property line will allow for employees and patients that are coming to the office to feel safe. As well as prevent the continuing of destruction and breaking of property by these homeless and others in the area. We have had several people break in to the building, which Visalia Police has had to come out and respond to events that have occurred prior to the install of the fence.

Locating the fence with a five-foot setback along Church Street and 10-foot setback along Noble Avenue would secure the site with the potential of reducing undesirable transient activity. These setbacks are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.



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;*

Finding: Other buildings in the zoning district either have or need a fence for the protection of their business and their real property. And should be allowed to place the fence at the property line of which they are the rightful owners. Having the fence set back to the city's set back req. would defeat the purpose of having the fence to keep unwanted people and things away from the employees and patients coming and going from the building. As well as protecting the building when the building isn't occupied.

The setbacks of five-feet on Church Street and 10-feet on Noble Avenue are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

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;*

Finding: If we are granted the variance to have the fence at the property line. Other properties in the area do have fences around their properties. But the object of our fence is to keep the unwanted people from breaking in and stealing equipment and other items they may think are in the office.

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.*

Finding: Keeping the fence at the property line is not detrimental to the public health, safety and welfare. And the fence actually makes the place look a lot better. We also had the Historical Advisory Committee approve the fence and its location. The committee didn't agree with the setbacks from the city, and is OK with us having the fence 6' tall, due to the circumstances that are plaguing the area, and other places of businesses in the city.

Staff finds that the requested fence variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

6. That on April 11, 2018, the Historic Preservation Advisory Committee reviewed the requested variance and recommends approval to the Planning Commission, finding that the requested wrought iron fence is consistent with the Historic District regardless of the setback location.

7. That the project is considered Categorical Exempt under Section 15305 of the Guidelines for Implementation of CEQA (Categorical Exemption No. 2018-08).

## **RECOMMENDED CONDITIONS OF APPROVAL**

1. That the fence be relocated to the five-foot setback on Church Street and to the 10-foot setback on Noble Avenue consistent with the site plan in Exhibit "A".
2. That a building permit be obtained for the fence relocation.
3. That all applicable federal, state and city laws, codes and ordinances be met.

## 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. 2018-12
- Exhibit "A" – Site Plan
- Exhibit "B" – Applicant Variance Findings
- Exhibit "C" – Site Plan Submitted by Applicant
- General Plan Land Use Map
- Zoning Map
- Aerial Map
- Location Sketch

## RELATED PLANS AND POLICIES

### Zoning Ordinance Chapter 17.42 VARIANCES AND EXCEPTIONS

#### 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. (Prior code § 7555)

#### 17.42.020 Exception purposes.

A. The planning commission may grant exceptions to ordinance requirements where there is a justifiable cause or reason; provided, however, that it does not constitute a grant of special privilege inconsistent with the provisions and intentions of this title.

B. The planning commission may grant exceptions or modifications to site development standards and zoning in accordance with the provisions of Chapter 17.32, Article 2, density bonuses and other incentives for lower and very low income households and housing for senior citizens. (Prior code § 7556)

#### 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 and off-street parking facilities, in accordance with the procedures prescribed in this chapter. (Prior code § 7557)

#### 17.42.040 Exception powers of city planning commission.

The city planning commission may grant exceptions to the regulations prescribed in this title, with respect to the following, consistent with the provisions and intentions of this title:

A. Second dwelling units, pursuant to Sections 17.12.140 through 17.12.200;

B. Downtown building design criteria, pursuant to Section 17.58.090;

C. Fences, walls and hedges; and

D. Upon the recommendation of the historic preservation advisory board and/or the downtown design review board, site area, width, frontage, coverage, front yard, rear yard, side yards, height of structures, distance between structures and off-street parking facilities;

E. In accordance with Chapter 17.32, Article 2, density bonuses, may grant exceptions or modifications to site development standards and/or zoning codes. (Prior code § 7558)

#### 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 which would result from the strict interpretation and enforcement of this title;
5. The application shall be accompanied by such sketches or drawings which 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. (Prior code § 7559)

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 which is the subject of the hearing. (Prior code § 7560)

17.42.070 Investigation and report.

The city planning staff shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the city planning commission. (Prior code § 7561)

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. (Prior code § 7562)

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. (Prior code § 7563)

17.42.100 Exception action of the city planning commission.

A. The city planning commission may grant an exception to a regulation prescribed by this title with respect to fences and walls, and, upon recommendation of the historic preservation advisory board, site area, width, frontage, coverage, front yard, rear yard, side yards, height of structures, distances between structures or landscaped areas, provided that all of the following criteria is applicable:

1. That the granting of the fence exception will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;

2. That the granting of the exception does not create an obstructed visibility that will interfere with traffic safety in the public right-of-way or to adjacent properties;

3. That the exception proposal becomes an integral part of the existing site development (e.g., design, material, contour, height, distance, color, texture).

B. The city planning commission may grant exceptions or modifications to zoning code requirements in accordance with the provisions of Chapter 17.32, Article 2, density bonuses. The granting of the exception shall become effective upon

the granting of the density bonus by the city council. (Prior code § 7564)

17.42.110 Appeal to city council.

A. Within five (5) working days following the date of a decision of the city planning commission on a variance or exception application, the decision may be appealed to the city council by the applicant or any other interested party. An appeal shall be made on a form prescribed by the commission and shall be filed with the city clerk. The appeal shall specify errors or abuses of discretion by the commission, or decisions not supported by the evidence in the record.

B. The city clerk shall give notice to the applicant and the appellant (if the applicant is not the appellant) and may give notice to any other interested party of the time when the appeal will be considered by the city council. (Ord. 2001-13 § 4 (part), 2001: prior code § 7565)

17.42.120 Action of city council.

A. The city council shall review and may affirm, reverse or modify a decision of the city planning commission on a variance or exception application; provided, that if a decision denying a variance or exception is reversed or a decision granting a variance or exception is modified, the city council shall, on the basis of the record transmitted by the city planner and such additional evidence as may be submitted, make the findings prerequisite to the granting of a variance or exception as prescribed in Section 17.42.090(A) or (B), or 17.42.100(A), whichever is applicable.

B. A variance which has been the subject of an appeal to the city council shall become effective immediately after review and affirmative action by the city council. (Ord. 9605 § 30 (part), 1996: prior code § 7566)

17.42.130 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 which was the subject of the variance application, or a certificate of occupancy is issued by the building official for the site or structure which 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. (Prior code § 7567)

17.42.140 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. (Prior code § 7568)

17.42.150 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. (Prior code § 7569)

RESOLUTION NO. 2018-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA APPROVING VARIANCE NO. 2018-05, A REQUEST BY BRANDON GEE TO ALLOW A VARIANCE TO FENCE SETBACK STANDARDS IN THE OC (OFFICE CONVERSION) ZONE. THE SITE IS LOCATED AT 201 E. NOBLE AVENUE. (APN: 097-052-009)

**WHEREAS**, Variance No. 2018-05, is a request by Brandon Gee to allow a variance to fence setback standards in the OC (Office Conversion) zone. The site is located at 201 E. Noble Avenue (APN: 097-052-009); and

**WHEREAS**, the Planning Commission of the City of Visalia, after published notice scheduled a public hearing before said commission on May 29, 2018; and

**WHEREAS**, the Planning Commission of the City of Visalia finds Variance No. 2018-05, as conditioned by staff, to be in accordance with Section 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 findings based on the evidence presented:

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

Finding: Strict setback enforcement would prevent our client from being able to protect his place of business. The current setbacks would cause the fence to interfere with the building and the parking lot that faces the Noble Ave. and also would interfere with the building on the Court St. side of the building. In which defeats the purpose of having a fence to deter the homeless.

Locating the fence with a five-foot setback along Church Street and 10-foot setback along Noble Avenue would secure the site without interfering with the building or parking lot. These setbacks are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

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;*

Finding: Since the location of the Building is in an area where we are having homeless and other disruptive people constantly loitering around the our office, we feel that having the fence located at the property line will allow for employees and patients that are coming to the office to feel safe. As well as prevent the continuing of destruction and breaking of property by these homeless and others in the area. We have had several people break in to the building, which Visalia Police has had to come out and respond to events that have occurred prior to the install of the fence.

Locating the fence with a five-foot setback along Church Street and 10-foot setback along Noble Avenue would secure the site with the potential of reducing undesirable transient activity. These setbacks are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

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;*

Finding: Other buildings in the zoning district either have or need a fence for the protection of their business and there real property. And should be allowed to place the fence at the property line of which they are the rightful owners. Having the fence set back to the city's set back req. would defeat the propose of having the fence to keep unwanted people and thing away from the employee's and patients coming and going from the building. As well as protecting the building when the building isn't occupied.

The setbacks of five feet on Church Street and 10 feet on Noble Avenue are consistent with Variance No. 2018-01 for Visalia Emergency Aid which was approved by the Planning Commission on March 12, 2018.

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;*

Finding: If we are granted the variance to have the fence at the property line. Other properties in the area do have fences around their properties. But the object of our fence is to keep the unwanted people from breaking in and stealing equipment and other items they may think are in the office.

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.*

Finding: Keeping the fence at the property line is not detrimental to the public health, safety and welfare. And the fence actually makes the place look a lot better. We also had the Historical Advisory Committee approve the fence and its location. The committee didn't agree with the setbacks from the city, and is OK with us having the fence 6' tall, Due to the circumstance that is being plagued in that area. And other places of businesses in the city.

Staff finds that the requested fence variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.



6. That on April 11, 2018, the Historic Preservation Advisory Committee reviewed the requested variance and recommends approval to the Planning Commission, finding that the requested wrought iron fence is consistent with the Historic District regardless of the setback location.
7. That the project is considered Categorical Exempt under Section 15305 of the Guidelines for Implementation of CEQA (Categorical Exemption No. 2018-08).

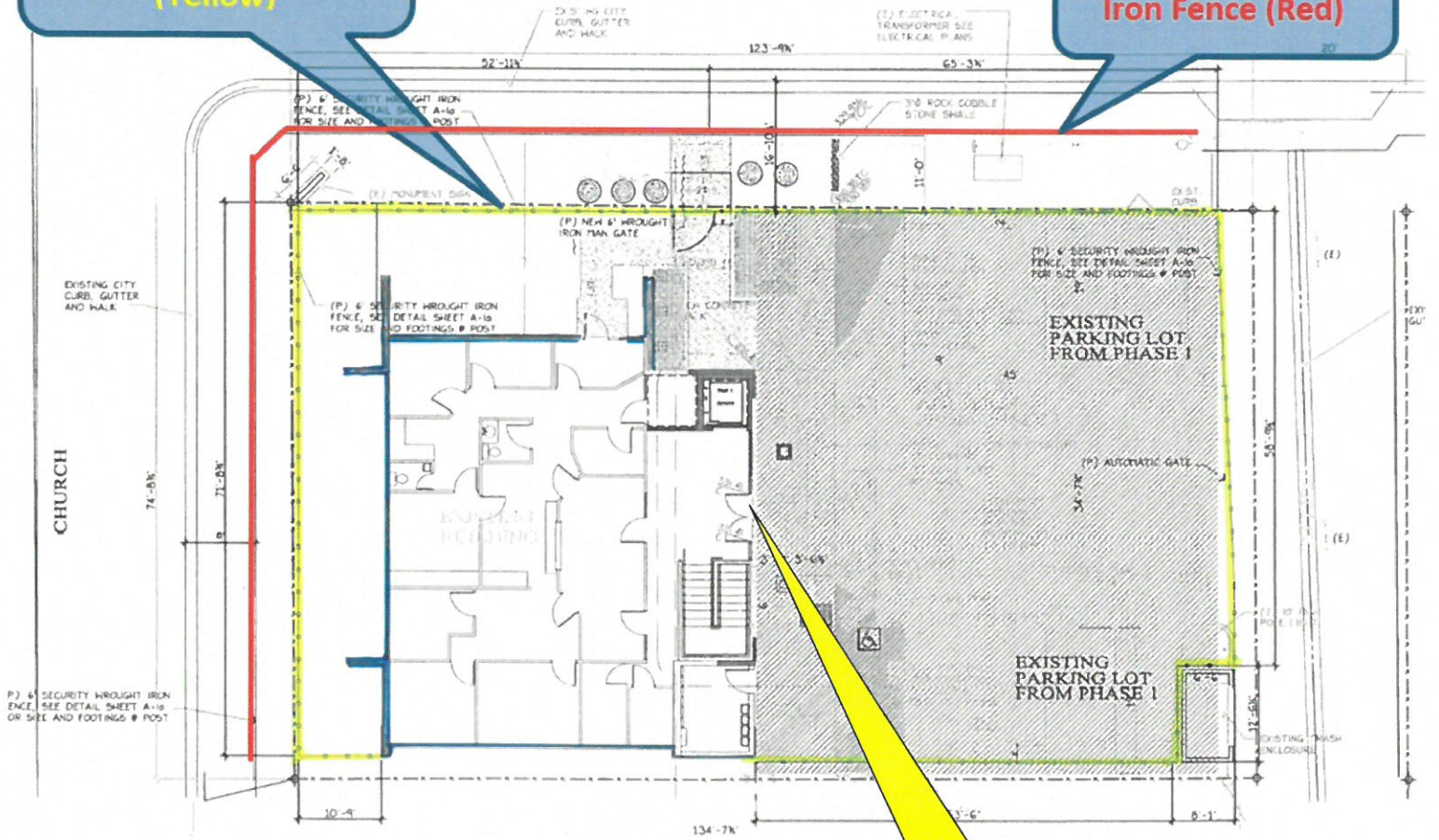
**BE IT FURTHER RESOLVED** that the Planning Commission hereby approves Variance No. 2018-05, as conditioned, on the real property herein above described in accordance with the terms of this resolution under the provision of Section 17.48.110 of the Ordinance Code of the City of Visalia, subject to the following conditions:

1. That the fence be relocated to the five-foot setback on Church Street and to the 10-foot setback on Noble Avenue consistent with the site plan in Exhibit "A".
2. That a building permit be obtained for the fence relocation.
3. That all applicable federal, state and city laws, codes and ordinances be met.

**EXHIBIT A**

**Proposed 6-foot High Wrought Iron Fence (Yellow)**

**Existing Wrought Iron Fence (Red)**



**Existing Building and Parking**

**Exhibit A – Site Plan**



# PLATINUM

Engineering Solutions, Inc.

**STRUCTURAL ENGINEERING**

*Residential • Commercial • Industrial •  
Towers*

## Variance Findings Analysis

Project: St. George Fence  
Address: 201 E. Noble Ave.  
City: Visalia  
APN# 097-052-009

State: Ca

Zip code: 93277

### Findings:

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

Reasoning: Strict setback enforcement would prevent our client from being able to protect his place of business. The current setbacks would cause the fence to interfere with the building and the parking lot that faces the Noble Ave. and also would interfere with the building on the Court St. side of the building. In which defeats the purpose of having a fence to deter the homeless,

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties classified in the same zoning district.

Reasoning: Since the location of the Building is in an area where we are having homeless and other disruptive people constantly loitering around the our office, we feel that having the fence located at the property line will allow for employees and patients that are coming to the office to feel safe. As well as prevent the continuing of destruction and breaking of property by these homeless and others in the area. We have had several people break in to the building, which Visalia Police has had to come out and respond to events that have occurred prior to the install of the fence.

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 zoning district.

Reasoning: Other buildings in the zoning district either have or need a fence for the protection of their business and there real property. And should be allowed to place the fence at the property line of which

**EXHIBIT B**

they are the rightful owners. Having the fence set back to the city's set back req. would defeat the propose of having the fence to keep unwanted people and thing away from the employee's and patients coming and going from the building. As well as protecting the building when the building isn't occupied.

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 zoning district.

Reasoning: If we are granted the variance to have the fence at the property line. Other properties in the area do have fences around their properties. But the object of our fence is to keep the unwanted people from breaking in and stealing equipment and other items they may think are in the office.

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.

Reasoning: Keeping the fence at the property line is not detrimental to the public health, safety and welfare. And the fence actually makes the place look a lot better. We also had the Historical Advisory Committee approve the fence and its location. The committee didn't agree with the setbacks from the city, and is OK with us having the fence 6' tall, Due to the circumstance that is being plagued in that area. And other places of businesses in the city.

---

Serving California, Nevada, Arizona, Washington, Oregon, Florida, Texas, and New Mexico  
10648 N. Hwy 41 • Madera CA 93638 • (559) 439-0500 • Fax: (559) 433-6433 •  
Info@platinumengineering.com

**EXHIBIT B**  
**Applicant Findings**

# EXHIBIT C Site Plan

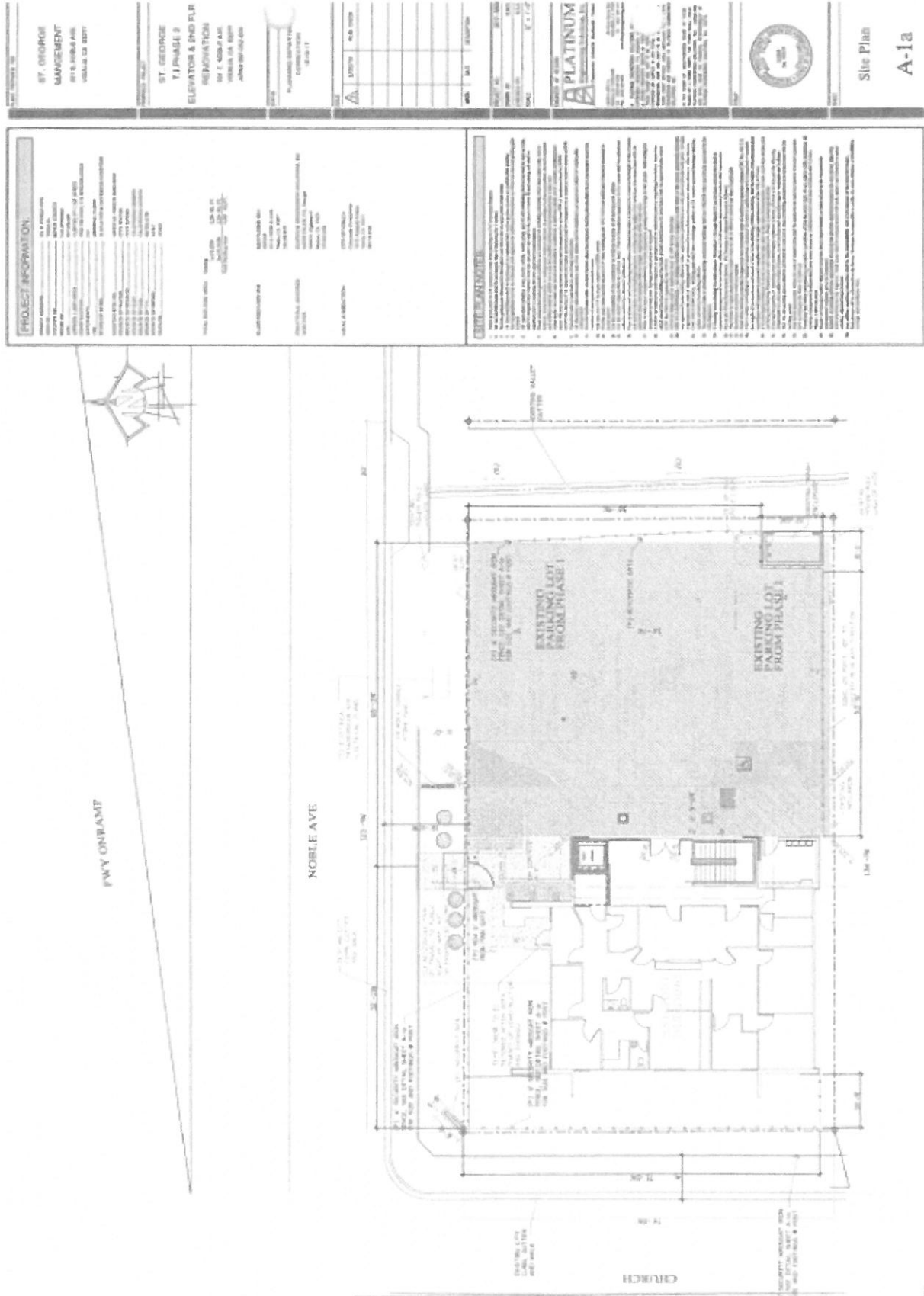
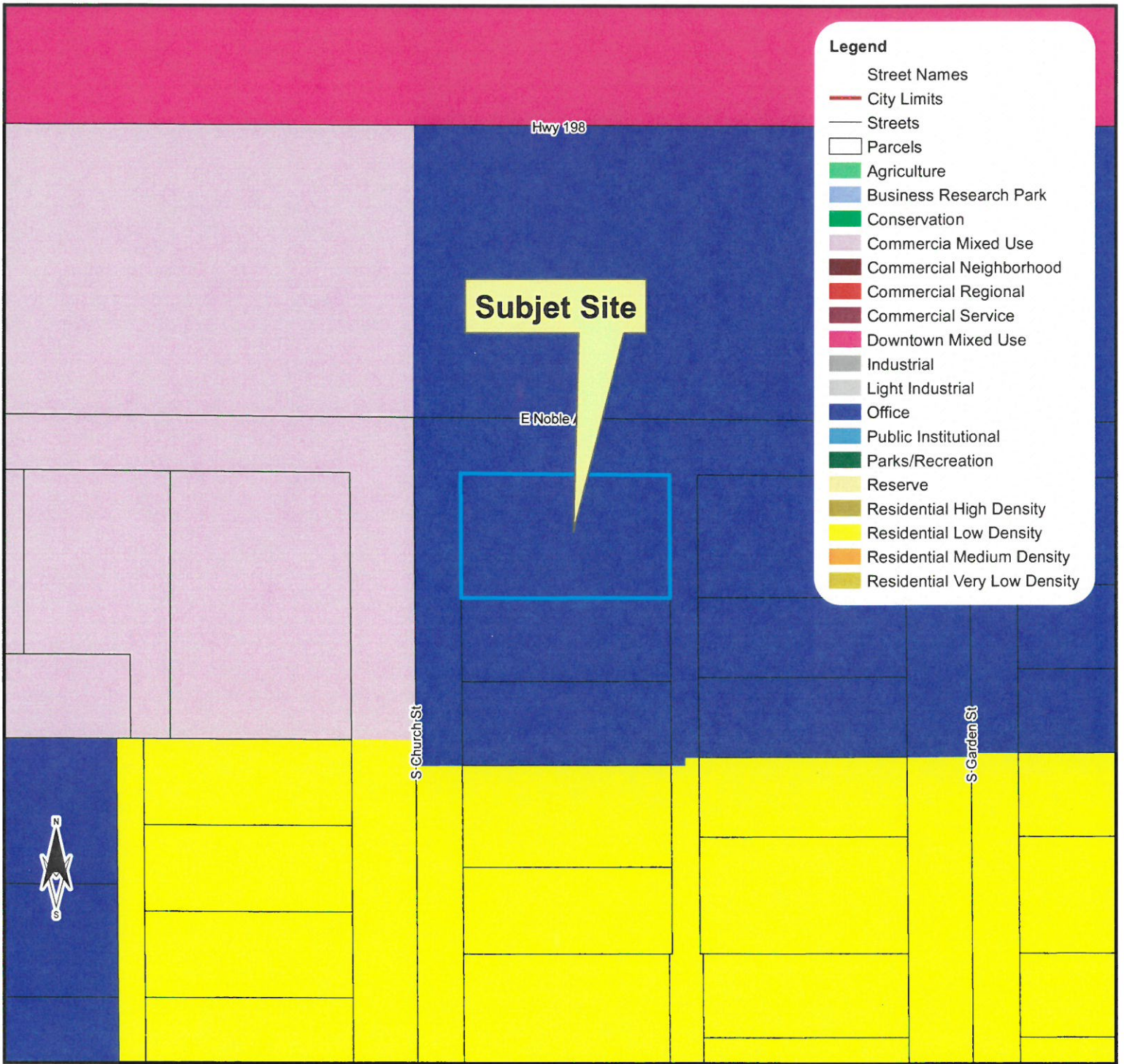
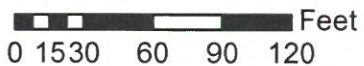


EXHIBIT C

# City of Visalia



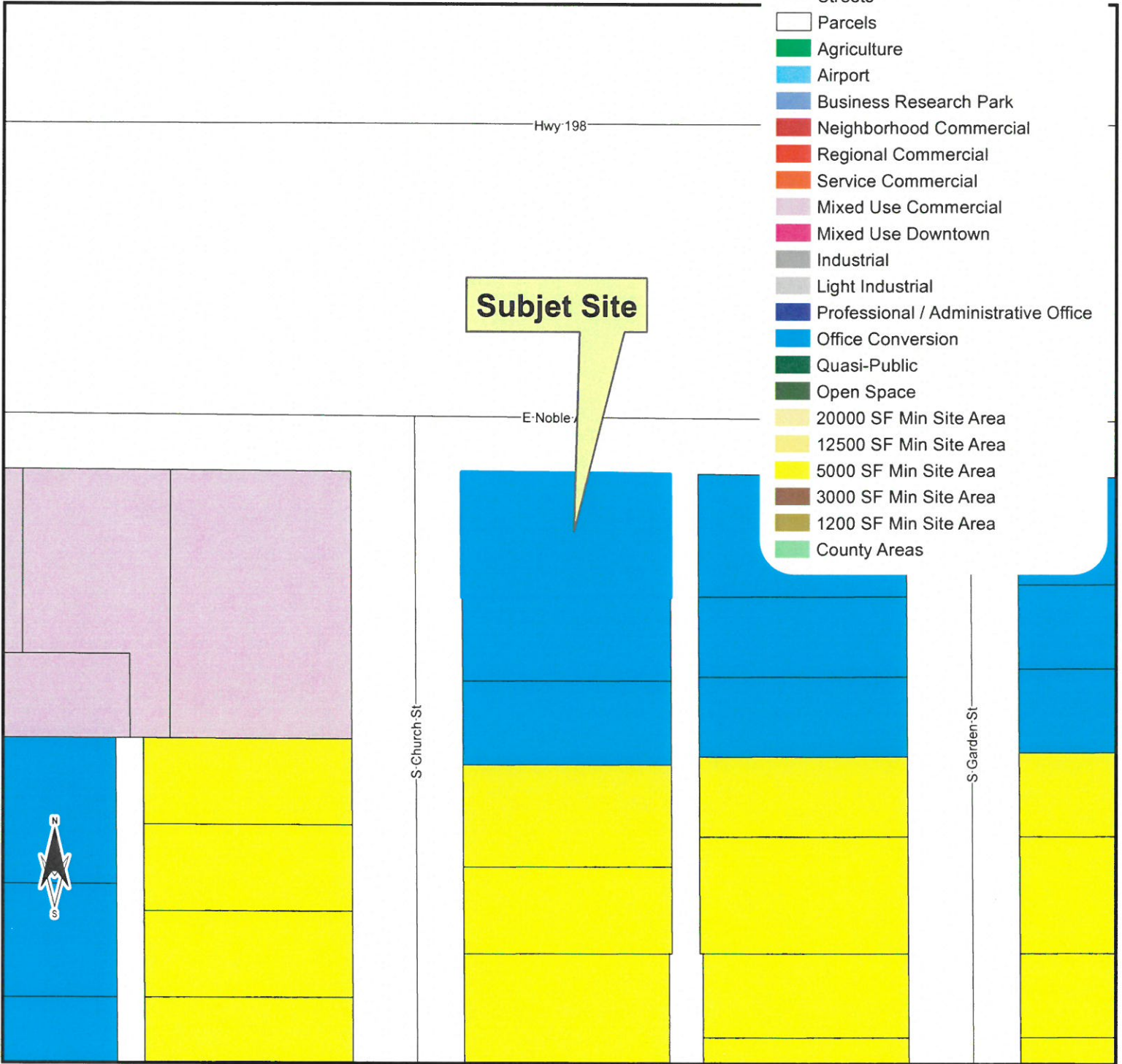
## Land Use Designations



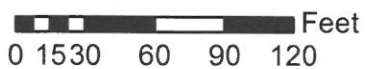
# City of Visalia

## Legend

- Street Names
- City Limits
- Streets
- ▭ Parcels
- ▭ Agriculture
- ▭ Airport
- ▭ Business Research Park
- ▭ Neighborhood Commercial
- ▭ Regional Commercial
- ▭ Service Commercial
- ▭ Mixed Use Commercial
- ▭ Mixed Use Downtown
- ▭ Industrial
- ▭ Light Industrial
- ▭ Professional / Administrative Office
- ▭ Office Conversion
- ▭ Quasi-Public
- ▭ Open Space
- ▭ 20000 SF Min Site Area
- ▭ 12500 SF Min Site Area
- ▭ 5000 SF Min Site Area
- ▭ 3000 SF Min Site Area
- ▭ 1200 SF Min Site Area
- ▭ County Areas



# Zoning Designations



# City of Visalia

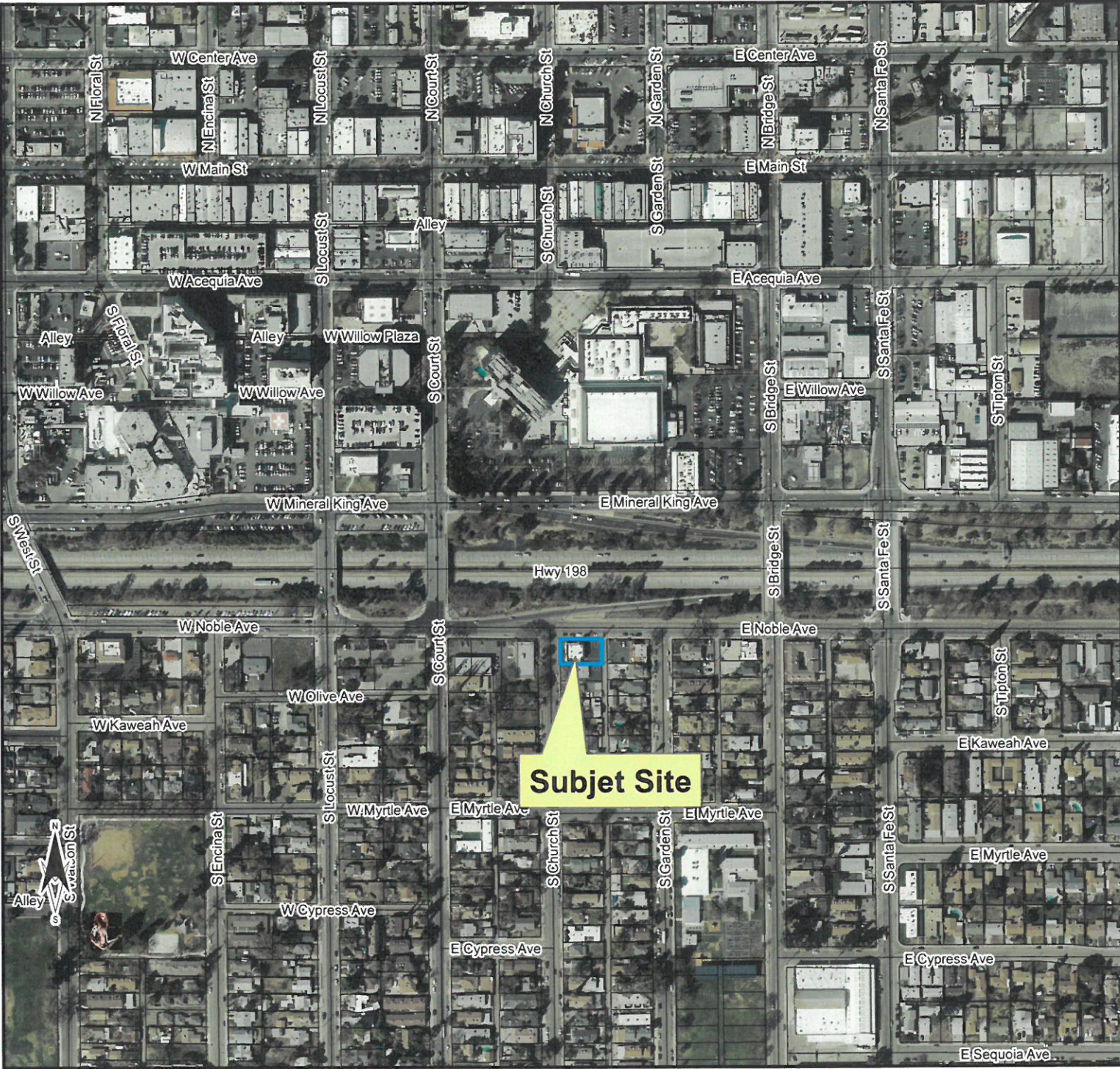


## Aerial Photo

0 5 10 20 30 40 Feet



# City of Visalia



## Location Map

