

# PLANNING COMMISSION AGENDA

CHAIRPERSON:

Chris Gomez



VICE CHAIRPERSON:

Marvin Hansen

COMMISSIONERS: Mary Beatie, Chris Gomez, Marvin Hansen, Sarrah Peariso, Adam Peck

**MONDAY, APRIL 12, 2021**

**VISALIA CONVENTION CENTER**

**LOCATED AT 303 E. ACEQUIA AVE. VISALIA, CA**

**MEETING TIME: 7:00 PM**

**Citizens may appear at the Planning Commission meeting in person and will be asked to maintain appropriate, physical distancing from others and wear a mask or face shield pursuant to the Governor's Executive Orders and public health guidance during the COVID-19 situation.**

1. CALL TO ORDER –
2. THE PLEDGE OF ALLEGIANCE –
3. 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. You may provide comments to the Planning Commission at this time, but the Planning Commission may only legally discuss those items already on tonight's agenda.  
  
The Commission requests that a five (5) minute time limit be observed for Citizen Comments. You will be notified when your five minutes have expired.
4. CHANGES OR COMMENTS TO THE AGENDA –
5. 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.
  - No Items on the Consent Calendar
6. PUBLIC HEARING – Cristobal Carrillo, Associate Planner  
  
Conditional Use Permit No. 2021-06: A request to establish a smoke shop in an existing 1,320 square foot building located at 1410 W. Houston Avenue in the C-MU (Commercial Mixed Use) zone (APN: 090-133-017). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Categorical Exemption No. 2021-14.

7. PUBLIC HEARING – Josh Dan, Associate Planner

Conditional Use Permit No. 2021-10: A request to establish a smoke shop in a 2,000 square foot tenant space located at 3401 West Noble Avenue in the C-MU (Commercial Mixed Use) zone (APN: 095-010-060). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Categorical Exemption No. 2021-13.

8. CITY PLANNER / PLANNING COMMISSION DISCUSSION –

- Next Planning Commission Meeting is Tuesday, April 27, 2021.

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 THURSDAY, APRIL 22, 2021 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 93291. 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 TUESDAY, APRIL 27, 2021**



# REPORT TO CITY OF VISALIA PLANNING COMMISSION

**HEARING DATE:** April 12, 2021

**PROJECT PLANNER:** Cristobal Carrillo, Associate Planner  
Phone No.: (559) 713-4443  
E-Mail: [cristobal.carrillo@visalia.city](mailto:cristobal.carrillo@visalia.city)

**SUBJECT: Conditional Use Permit No. 2021-06:** A request to establish a smoke shop in an existing 1,320 square foot building located at 1410 W. Houston Avenue in the C-MU (Commercial Mixed Use) zone (APN: 090-133-017).

## STAFF RECOMMENDATION

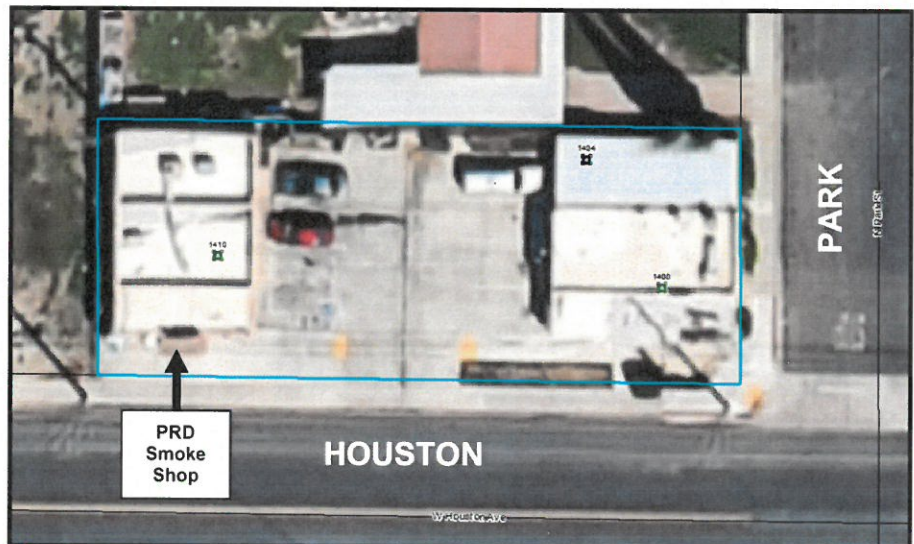
Staff recommends approval of Conditional Use Permit No. 2021-06, as conditioned, based upon the findings and conditions in Resolution No. 2021-09. Staff's recommendation is based on the conclusion that the request is consistent with the Visalia General Plan and Zoning Ordinance.

## RECOMMENDED MOTION

I move to approve Conditional Use Permit No. 2021-06, based on the findings and conditions in Resolution No. 2021-09.

## PROJECT DESCRIPTION

Conditional Use Permit No. 2021-06 is a request by Preet Dhaliwal to establish a smoke shop within an existing 1,320 square foot building (see Exhibit "A"). The structure was previously employed as a convenience store which ceased operations in November 2020. The smoke shop will be located on a 7,861 square foot parcel on which a 1,760 square foot restaurant is also located. Both uses will share an



existing seven-stall parking lot located between the two structures, which provides direct access to Houston Avenue. No exterior modifications are proposed to the building's façade.

Per the Floor Plan in Exhibit "B", the applicant will use the primary floor space for merchandise display, with an area at the rear of the building for storage use. The operational statement provided in Exhibit "C", states that the business will sell a variety of tobacco products with some ancillary retail merchandise sales. The business will employ three employees, working seven days seven days from 9:00 a.m. to 8:00 p.m. Hours for the adjacent restaurant are also provided, indicating that the two uses will not conflict with each other due to the reduced hours of the restaurant.

## BACKGROUND INFORMATION

General Plan Land Use Designation	Commercial Mixed Use
Zoning	C-MU (Mixed Use Commercial)
Surrounding Zoning and Land Use	North: C-MU, R-1-5 (Single Family Residential, 5,000 sq. ft. minimum site area) / Single family residences South: R-1-5 / W. Houston Avenue, Single family residences. East: C-MU / N. Park Street, Big Bang Grill restaurant, Doughboy Doughnuts bakery West: C-MU / Vacant land.
Environmental Review	Categorical Exemption No. 2021-14
Site Plan	2021-010

### **RELATED PLANS & POLICIES**

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

### **RELATED PROJECTS**

Conditional Use Permit No. 2020-12, approved by the Planning Commission on June 8, 2020, was a request to allow a smoke shop in a 555 square foot tenant space at 515 W. Murray Avenue and located in the in the D-MU (Downtown Mixed Use) zone.

Conditional Use Permit No. 2019-35, approved by the Planning Commission on October 28, 2019, was a request to allow a smoke shop in a 960 square foot tenant space at 1108 N. Ben Maddox Way and located in the C-MU (Mixed Use Commercial) zone.

## PROJECT EVALUATION

Staff recommends approval of the requested conditional use permit, as conditioned, based on the project's consistency with the General Plan and Zoning Ordinance.

### **Land Use Compatibility**

The site is primarily surrounded by residential uses, with retail, food, and service-oriented commercial uses located exclusively along the northern half of West Houston Avenue. The smoke shop will replace a previously established convenience store, which per Exhibit "C" also sold tobacco products. No physical changes are proposed to the building or the site that would result in impacts to surrounding areas, such as additional signage or parking lot lighting.

The site is located approximately 400 feet west of Houston Elementary School. Staff notified the Visalia Unified School District (VUSD) of the proposal through the regular public notification process. As of the publication of this staff report, no comments have been received from VUSD regarding this proposal.

Title 8 of the Visalia Municipal Code (VMC) contains two chapters that address tobacco usage. Chapter 8.48 addresses smoking in private/public spaces while Chapter 8.46 addresses exposure of tobacco products to minors. Both chapters are included under "Related Plans and Policies" for reference. The VMC provides provisions regulating where smoking is prohibited, banning the sale of tobacco products to minors, and banning the use of tobacco products in public places, such as schools. The VMC also requires any business entity selling tobacco

products to store them in secured areas. Though the VMC does not provide for the outright ban of tobacco stores within the vicinity of residences or schools, it provides sufficient measures to limit overall exposure in public areas.

It should also be noted that Section 17.04.030 of the Zoning Ordinance defines "Smoke Shop/Tobacco Store" as follows:

*"Business with sales of tobacco, either loose or prepared as cigarettes and products for smoking constituting more than thirty (30) percent of gross sales and/or thirty (30) percent of net lease area."*

Uses meeting the definition of a "Smoke Shop/Tobacco Store" are conditionally permitted in the C-MU zone with approval of a Conditional Use Permit (CUP). Alternatively, retail uses such as drugstores and grocery stores could be permitted "by-right" to engage in the sale of tobacco products without a CUP, so long as they do not exceed the 30% threshold.

### **Parking**

The parking requirement for retail stores is one parking space for each 300 square feet of building area. This puts the parking demand for the smoke shop use at four parking stalls. The adjacent restaurant would require an additional 12 parking stalls onsite per the parking requirements for restaurants listed within the Visalia Municipal Code (VMC).

However, per Zoning Ordinance Section 17.34.090 (Existing uses) *"No existing use of land or structure shall be deemed to be a non-conforming use solely because of the lack of off-street parking facilities."* The section also states that parking facilities *"...shall not be reduced in a capacity to less than the number of spaces or berths prescribed in this chapter or reduced in area to less than the minimum standards prescribed in this chapter."* As noted earlier in the report, the previous use within the subject building was a retail convenience store, which is similar in nature and intensity to the proposed smoke shop. Restaurant uses within the adjacent building to the east have been similarly well-established. The applicant is not seeking to increase the building square footage nor reduce the parking field. As such, the on-site parking is sufficient for both uses. In addition, as noted in Exhibit "C", the hours of operation for both uses will not conflict significantly, as the restaurant maintains limited operating hours.

### **Landscaping**

Per a site visit conducted April 7, 2021, the project site contains small unplanted landscape areas at the northwest, northeast, and southeast corners of the parking lot. Only an existing planter area at the eastern property boundary along Park Street contains living vegetation. Staff recommends that Condition No. 4 be included requiring replanting and maintenance of the landscape areas in order to comply with VMC rules for landscaping.

### **Environmental Review**

The requested action is considered Categorically Exempt under Section 15301 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA). (Categorical Exemption No. 2021-14).

Projects determined to meet this classification consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to interior or exterior

alterations involving such things as interior partitions, plumbing, and electrical conveyances for commercial structures.

## **RECOMMENDED FINDINGS**

### **Conditional Use Permit No. 2021-06**

1. That the proposed project will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed conditional use permit is consistent with the policies and intent of the General Plan and Zoning Ordinance. Specifically, the project is consistent with the required findings of Zoning Ordinance Section 17.38.110:
  - a. The proposed location of the conditional use permit is in accordance with the objectives of the Zoning Ordinance and the purposes of the zone in which the site is located. The proposed use is compatible subject to compliance with the conditions of Project Approval of this conditional use permit.
  - b. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
3. That the project is considered Categorical Exempt under Section 15301, Class 1 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA) (Categorical Exemption No. 2021-14).

Projects determined to meet this classification consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to conversion of a single-family residence to office use.

## **RECOMMENDED CONDITIONS OF APPROVAL**

### **Conditional Use Permit No. 2021-06**

1. That the Conditional Use Permit shall be developed consistent with the comments and conditions of Site Plan Review No. 2021-010, incorporated herein by reference.
2. That the use be operated in substantial compliance with the Site Plan in Exhibit "A", the Floor Plan in Exhibit "B", and the operational statement in Exhibit "C".
3. That a landscape and irrigation plan be submitted for Building Permit review and approval for the replanting and maintenance of existing landscape planters within the parking lot and public right-of-way areas along Houston Avenue and Park Street. All landscaping and irrigation systems shall be installed prior to operation of the use. The landscape and irrigation plan shall be compliant with all requirements of the Model Water Efficient Landscape Ordinance (MWELo).
4. All new building signage shall require a separate building permit and shall be designed consistent with the Sign Ordinance of the City of Visalia Chapter 17.48.
5. That all other federal and state 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 with applicable fees shall be in writing and shall be filed with the City Clerk at 220 N. Santa Fe Street, Visalia CA. 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. 2021-09
- Exhibit "A" – Site Plan
- Exhibit "B" – Floor Plan
- Exhibit "C" – Operational Statement
- Site Plan Review No. 2021-010 Comments
- General Plan Land Use Map
- Zoning Map
- Aerial Map
- Vicinity Map

## RELATED PLANS AND POLICIES

### Chapter 8.46 EXPOSURE OF MINORS TO TOBACCO PRODUCTS

#### Sections:

[8.46.010](#) Legislative purpose.

[8.46.030](#) Definitions.

[8.46.050](#) Use of tobacco by minor.

[8.46.060](#) Display of tobacco products.

#### **8.46.010 Legislative purpose.**

The city of Visalia has determined that in order to protect the health, safety, and welfare of those citizens within the city and metropolitan area, under the age of eighteen (18) years, it is necessary to regulate the sale, acquisition, or possession of tobacco products facilitated by self-service displays. (Ord. 2000-11 § 1 (part), 2000)

#### **8.46.030 Definitions.**

As used in this chapter, those terms identified in this section shall, unless the contexts indicates otherwise, be ascribed the meaning contained herein.

“Employee” means any person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed. Employee also includes any person volunteering his or her time or service.

“Minor” means any person under eighteen (18) years of age.

“Tobacco product” means any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhaling, snuffing, or other manner of ingestion or absorption in the human body.

“Tobacco shop” means a business establishment in which fifty (50) percent or more of any one or more of the following is devoted to or attributable to the sale of tobacco products:

1. Wall space or any other display area such as tables, racks, or display structures; or
2. Gross revenues.

“Wholesale retailer” means any large-scale retail establishment with supporting goods and services designated to service a regional service trade area and located within the PCR zone. (Ord. 2000-11 § 1 (part), 2000)

#### **8.46.050 Use of tobacco by minor.**

No minor shall, in the streets or in any public place, smoke a cigar, pipe, cigarette, or shall use tobacco in any form. (Ord. 2000-11 § 1 (part), 2000)

#### **8.46.060 Display of tobacco products.**

It shall be unlawful for any person, firm, corporation, business, partnership, or other entity doing business within the city of Visalia to store, stock, keep, or display for sale or transfer any tobacco product in any area other than a place that is locked and secured, or is otherwise made inaccessible to the public and which is accessible only to the employees of the business. This prohibition shall not apply to “tobacco shops” or “wholesale retailers.” (Ord. 2000-11 § 1 (part), 2000)



## Chapter 8.48 SMOKING

### Sections:

- [8.48.010](#) Purpose and findings.
- [8.48.020](#) Authority.
- [8.48.030](#) Definitions.
- [8.48.040](#) Smoking prohibitions, public places.
- [8.48.050](#) Stores.
- [8.48.060](#) Banks.
- [8.48.070](#) Hotels/motels.
- [8.48.080](#) Terminals.
- [8.48.090](#) Buses and taxis.
- [8.48.100](#) Theaters.
- [8.48.110](#) Recreational facilities.
- [8.48.120](#) Recreation halls.
- [8.48.130](#) Restaurants.
- [8.48.140](#) Places of exhibition.
- [8.48.150](#) Hospitals.
- [8.48.160](#) Schools.
- [8.48.170](#) Day care facilities.
- [8.48.180](#) Smoking prohibitions, workplace.
- [8.48.190](#) Places where smoking permissible.
- [8.48.200](#) Posting requirements.
- [8.48.210](#) Retaliation prohibited.
- [8.48.220](#) Violation--Smoking or posting.
- [8.48.230](#) Enforcement.
- [8.48.240](#) Other applicable laws.
- [8.48.250](#) Severability.

### **8.48.010 Purpose and findings.**

A. The U.S. Environmental Protection Agency (EPA) has determined that tobacco smoke is a major source of indoor air pollution, and the Surgeon General's 1986 report on the health consequences of involuntary smoking includes that exposure to tobacco smoke places healthy nonsmokers at increased risk for developing lung cancer. Other health hazards on involuntary smoking include respiratory infection, broncho-constriction, and broncho-spasm. While all members of the population are truly at increased risk due to exposure to second-hand tobacco smoke, it constitutes a special health hazard for children, the elderly and people with chronic lung disorders, including asthmatics and those with obstructive airway disease and cardiovascular disease.

B. The Surgeon General labels smoking "the largest single preventable cause of death and disability for the U.S. population."

C. Employees, subjected to prolonged exposure to second-hand smoke in the workplace, have been found in scientifically conducted studies to experience a loss of job productivity and some have been forced to take periodic sick leave because of reactions to said second-hand smoke. Furthermore, studies have shown higher costs to the employer are associated with smoking in the workplace due to increases in absenteeism, accidents, cost of medical care, loss of productivity, and cleaning and maintenance requirements. A recent scientific study has reported that second-hand smoke from tobacco may cause a significant amount of cardiovascular disease in the United States and that the number of deaths from this cause may exceed the deaths caused by lung disease associated with second-hand smoke.

D. Smoking in public places and workplaces is a major cause of fires and damage to merchandise and equipment as well as costly maintenance and repairs to furniture and fixtures.

E. The health care costs produced by smoking-related ailments and diseases constitute a heavy and avoidable financial drain on our community.

F. Opinion surveys show that a majority of the citizens of Visalia favor restriction on smoking in areas accessible to the general public.

G. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort of non-smokers and constitutes a public nuisance.

H. Research concludes that exposure to second-hand smoke is the third leading cause of preventable death, after smoking and alcohol.

I. Second-hand smoke has been found by the Environmental Protection Agency to be a known carcinogen.

J. The U.S. Surgeon General has concluded that second-hand smoke is a cause of lung cancer and other diseases in healthy nonsmokers.

K. The U.S. Surgeon General has concluded that children exposed to second-hand smoke have more respiratory infections and lung problems than children who are not exposed to secondary smoke.

L. Numerous government and privately sponsored scientific studies have concluded that approximately forty thousand (40,000) deaths per year occur from lung cancer, other cancers, and heart disease due solely to exposure to second-hand smoke.

M. Accordingly, the city council declares that the purpose of this chapter is to protect the health, safety and general welfare of the residents of, persons employed in, and persons who frequent the city who would benefit by the regulation of smoking, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke. (Prior code § 4047)

#### **8.48.020 Authority.**

This chapter is enacted pursuant to provisions of Health and Safety Code Sections 25946 and 25949 for the purpose of restricting and regulating smoking in order to reduce the hazards and nuisance which smoking causes those who are involuntarily exposed. (Prior code § 4048)

#### **8.48.030 Definitions.**

As used in this chapter, those terms identified in this section shall, unless the context indicates otherwise, be ascribed the meaning contained herein.

Bar. The term "bar" means an area which is devoted to the serving of alcoholic beverages for consumption on the premises, in which the serving of food, if any, is incidental to the consumption of alcoholic drinks. The dining area of a restaurant utilized primarily for the serving and consumption of food shall not constitute a bar, even though alcoholic beverages may be served therein.

Commercial Enterprise--Nonprofit Entity-- Person--Public Agency.

1. The term "commercial enterprise" means any business entity formed for the profit making purposes, including, but not limited to, professional corporations and other entities under which legal, medical, dental, engineering, architectural, or other professional services are delivered, and also any

person charged with the responsibility of controlling conduct on behalf of the enterprise upon any premises regulated by this chapter.

2. The term “nonprofit entity” means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character building, political, social or other similar purposes, the net proceeds from operations of which are committed to promotion of the objects or purposes of the organization and not to private gain, together with any person charged with the responsibility of controlling conduct on behalf of the entity upon any premises regulated by the provisions of this chapter.

3. A public agency is not a “nonprofit entity” within the meaning of this section.

4. The term “person” means any natural person, partnership, corporation, unincorporated association, joint venture, business trust, joint stock company, club or other organization of any kind.

5. For purposes of this chapter, and to the fullest extent allowed by law, public agencies and their facilities, located within the city, shall be subject to all provisions herein, in the same manner and to the extent as commercial enterprises, persons and non-profit entities.

**Employee.** The term “employee” means any person, who is employed by an employer in the consideration for direct or indirect monetary wages or profit and any person who volunteers his or her services for a nonprofit entity.

**Employer.** The term “employer” means any person, partnership, corporation, including any public entity, or nonprofit entity, who employs the services of one or more individuals.

**Enclosed Area.** The term “enclosed area” means all space between a floor and ceiling which is served by a common heating, ventilating and air conditioning system and is enclosed on all sides by solid walls or windows (exclusive of door or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, office landscaping, or similar structures.

**Members of the General Public.** The term “members of the general public” means shoppers, customers, patrons, patients, students, clients and other similar invitees of a commercial enterprise, public agency or nonprofit entity, and excludes employees thereof, sales representatives, service repair persons and persons delivering goods, merchandise or services to a commercial enterprise, nonprofit entity or public agency.

**Office.** The term “office” means an area enclosed by walls containing a desk, table or similar furnishings for clerical, administrative or supervisory work, a complex of such enclosures and a building containing such enclosures, whether or not the building is utilized primarily for other purposes such as retailing, wholesaling, or storage, or manufacturing, together with all hallways, stairways, elevators, escalators, restrooms, lobbies, waiting rooms, reception areas, entry areas, and conference rooms within or associated with the complex of such enclosures, including: (1) legal, medical, dental, engineering, accounting, counseling and other professional offices; (2) insurance, real estate, ticket, collection agency, and other offices where business services are offered to or goods or services are offered to or may be ordered by or may be paid for by members of the general public; and (3) offices to which members of the general public are admitted in order to promote the objects or purposes of the public agency or nonprofit entities.

**Organized Outdoor Event.** The term “organized outdoor event” means a scheduled concert, performance, sporting event, public demonstration or other similar occurrences, open to members of the general public taking place outside an enclosed area.

**Proprietor.** The term “proprietor” means each owner, operator, manager or other person having control of an establishment or facility within which smoking is regulated by this chapter.

**Restaurant.** The term “restaurant” means any dinner house, coffee shop, cafeteria, luncheonette, soda fountain, fast food service and other establishment where cooked or otherwise prepared food is sold to members of the general public for consumption on the premises. The term does not include a cafeteria

or lunchroom defined as a workplace, whether or not members of the general public incidentally frequent the facility.

**Smoking.** The term “smoking” means lighting, inhaling, exhaling or burning any pipe, cigar, cigarette, weed or plant, or carrying any lighted pipe, lighted cigar, lighted cigarette, lighted weed, lighted plant or other ignited combustible substance in any manner or in any form.

**Tobacco Store.** The term “tobacco store” means a place utilized primarily for the retail sale to members of the general public of tobacco products or accessories and in which the sale of any other products is merely incidental.

**Workplace.** The term “workplace” means any enclosed area which is occupied by two or more employees of a commercial enterprise, nonprofit entity or public agency including to but not limited to the following:

1. A place utilized for the manufacturing, processing, assembly, maintenance or repair of any products, goods, equipment, tools, appliances, furnishings or other object; or the physical storage for purposes of wholesaling, future utilization for operational purposes, or future transfer preceding consumption or other utilization of any products, goods, merchandise, materials, supplies, equipment, tools, appliances or furnishings;
2. A place utilized or operated for a purpose described by Sections [8.48.040](#) through [8.48.190](#) and from which members of the general public are excluded;
3. A place utilized as a union hall, cafeteria, lounge, lunchroom, restroom, conference room, training room, lecture room, or classroom primarily for the use or benefit of employees.

Notwithstanding the provisions of this definition, a private residence including either an attached or detached garage shall not constitute a workplace, except when the residence serves as a licensed or unlicensed day care facility for children or the elderly. (Prior code § 4049)

#### **8.48.040 Smoking prohibitions, public places.**

A. Except as otherwise provided in this chapter, it is unlawful for any member of the general public or any other person including an employee to smoke in the public places named and described in Sections [8.48.040](#) through [8.48.170](#) and other public places similarly situated, including but not limited to the following Enclosed Areas:

1. Merchandise display areas, checkout stations, and counters and other pay stations;
2. Hallways;
3. Restrooms;
4. Escalators, elevators and stairways;
5. Lobbies;
6. Reception areas;
7. Waiting rooms;
8. Service lines;
9. Classrooms, meeting or conference rooms, or lecture halls; and
10. Other places in which members of the general public congregate for service or otherwise frequent.

B. It is also unlawful for any member of the general public or any other person, including an employee, to smoke in an area where public seating is provided while attending an outdoor public event, except in designated areas. Seating in areas designated for smoking will not exceed forty (40) percent of the total public seating provided. (Prior code § 4050)

8.48.050 Stores.

The prohibitions contained in Section [8.48.040](#) shall be applicable to: (1) the enclosed common areas of shopping malls; (2) automobile dealerships, furniture or other showrooms for the display of merchandise offered for sale at retail; (3) grocery, specialty, department and other stores which sell goods or merchandise at retail, and (4) service stations, stores or shops for the repair or maintenance of appliances, shoes, or motor vehicles, barbershops, beauty shops, cleaners and laundromats, video game, pool hall and other amusement centers, and other similar establishments offering services or products to members of the general public. (Prior code § 4051)

#### **8.48.060 Banks.**

The prohibitions contained in Section [8.48.040](#) shall be applicable to banks, including savings and loan associations, credit unions and other similar institutions which offer financial services to members of the general public. (Prior code § 4052)

#### **8.48.070 Hotels/motels.**

The prohibitions contained in Section [8.48.040](#) shall be applicable to hotels and motels in which guests typically rent lodging for continuous periods less than thirty (30) days. Smoking is permissible in rental rooms and in on-premise restaurants, bars and other areas as provided in Sections [8.48.130](#), [8.48.190\(B\)](#) and [8.48.190\(E\)](#). The availability of nonsmoking rooms will be prominently posted in the lobby sign-in area. The rooms so designated will be posted as smoking prohibited and ash trays removed. Customers seeking accommodations should be routinely advised of the availability of nonsmoking rooms. (Prior code § 4053)

#### **8.48.080 Terminals.**

The prohibitions contained in Section [8.48.040](#) shall be applicable to depots and other terminals utilized by members of the general public for the purpose of being transported upon or departing from airplanes, trains, buses and taxis. (Prior code § 4054)

#### **8.48.090 Buses and taxis.**

Smoking, by either passengers or operators, shall be prohibited within buses, taxicabs and all public transit conveyances operated by or licensed by the city. (Prior code § 4055)

#### **8.48.100 Theaters.**

The prohibitions contained in Section [8.48.040](#) shall be applicable to theaters, including motion picture theaters, meeting halls and auditoriums where motion pictures or live theatrical musical or dramatic productions are made to an audience consisting of members of the general public assembled for the purpose of witnessing the performance or presentation; provided that neither this section nor Section [8.48.040](#) shall be construed to prevent smoking by performers in connection with a stage production or by persons making a presentation concerning addiction to tobacco or other drugs. (Prior code § 4056)

#### **8.48.110 Recreational facilities.**

A. The prohibitions, contained in Section [8.48.040](#), shall be applicable to enclosed areas of sports pavilions, gymnasiums, exercise rooms, health spas, boxing arenas, swimming pools, roller and ice skating rinks, bowling alleys and other similar places where members of the general public assemble to either engage in physical exercise, participate in athletic competition or witness sports events.

B. Smoking is prohibited at all times within the seating areas of an enclosed arena and in the surrounding open concourses where food and beverages are dispensed.

C. Smoking may be allowed in enclosed on-site restaurants, subject to the provisions of Section [8.48.130](#), and in enclosed on-site bars.

D. Smoking may be allowed in bowling alleys on those occasions when league play occupies the majority of bowling lanes in the establishment, and a majority of the members of the league(s) vote to allow smoking. Evidence of the voting procedure and outcome of the vote must be retained by the establishment, for inspection by the city upon request, for the duration of the leagues's play. (Prior code § 4057)

#### **8.48.120 Recreation halls.**

A. The prohibitions, contained in Section [8.48.040](#), shall be applicable to those areas of recreation halls and other similar facilities where members of the general public play bingo or cards, dance or engage in recreational, character-building or cultural activities which are designated as nonsmoking.

B. An owner, manager or operator of a recreation hall shall designate not less than fifty (50) percent of the main activities area of such facility not including restrooms, lounges and kitchens as nonsmoking. Commencing nine months after the adoption of the ordinance codified in this chapter, an owner, manager or operator of a recreation hall shall designate not less than seventy-five (75) percent of the main activities area of such facility not including restrooms, lounges and kitchens as non-smoking. Commencing eighteen (18) months after the adoption of the ordinance codified in this chapter, the owner, manager or operator of a recreation hall shall designate the entire premises of such facility including restrooms, lounges and kitchens as nonsmoking. Signs shall be posted in the manner prescribed by Section [8.48.220](#). It shall not constitute a violation of this chapter to smoke in a location where smoking has been authorized by this chapter.

C. The provisions of this section shall not be construed in any manner to restrict or otherwise impair the authority of an owner, manager or operator to increase the nonsmoking area of a recreation hall. (Prior code § 4058)

#### **8.48.130 Restaurants.**

A. Within all restaurants, the prohibitions contained in Section [8.48.040](#), shall be applicable to lobbies, waiting areas, restrooms and those dining seating areas which are designated as nonsmoking.

B. The owner, manager or operator of a restaurant shall designate not less than fifty (50) percent of the available customer seating as nonsmoking. Commencing nine months after the adoption of the ordinance codified in this chapter, the owner, manager or operator of a restaurant shall designate not less than seventy-five (75) percent of the available customer seating as nonsmoking. Commencing eighteen (18) months after the adoption of the ordinance codified in this chapter, the owner, manager or operator of a restaurant shall designate all available customer seating as nonsmoking. The owner, manager or operator of the restaurant shall post signs as prescribed by Section [8.48.200](#) and remove all ashtrays from tables located in the nonsmoking areas. Where a bar shares the same enclosed area with the restaurant, the bar seats must be counted with the restaurant seats in determining the total number of nonsmoking restaurant seats. The owner, manager or operator shall post a notice at the restaurant entrance that a nonsmoking section is available. It shall not constitute a violation of this chapter to smoke in a location where smoking has been authorized by this chapter.

C. The provisions of this section shall not be construed in any manner to restrict or otherwise impair the authority of an owner, manager or operator to increase the nonsmoking seating in a restaurant or bar. (Prior code § 4059)

#### **8.48.140 Places of exhibition.**

The prohibitions contained in Section [8.48.040](#), shall be applicable to libraries, museums, galleries, convention halls and similar facilities where members of the general public assemble for the purpose of viewing the exhibition of art, artifacts, objects of historical or cultural significance, products, merchandise, equipment, appliances or services. (Prior code § 4060)

#### **8.48.150 Hospitals.**

The prohibitions, contained in Section [8.48.040](#), shall be applicable to hospitals, rest and convalescent homes, medical clinics, physical therapy facilities and other places where medical, dental, psychiatric or counseling services are delivered to members of the general public. Operators of facilities treating psychiatric or chemically impaired patients may permit smoking by patients in designated areas; provided, the medical director of such facility has determined in writing that the practice is beneficial for the recovery or treatment of such patients and that the practice will not interfere with the recovery and treatment of nonsmoking patients; and provided, that adequate nonsmoking areas are made available for nonsmoking patients. Neither this section nor Section [8.48.040](#) shall be construed to prevent

smoking in locations or otherwise under conditions in which smoking is expressly authorized by or under statutes or administrative regulations applicable to such licensed facilities. (Prior code § 4061)

#### **8.48.160 Schools.**

The prohibitions, contained in Section [8.48.040](#), shall be applicable to any school or educational institution operated by a commercial enterprise, public agency or nonprofit entity for the purpose of providing academic classroom instruction, trade, craft, computer or other technical training, or instruction in dancing, artistic, musical or other cultural skills. (Prior code § 4062)

#### **8.48.170 Day care facilities.**

The prohibitions, contained in Section [8.48.040](#), shall be applicable to private residences during the time when such residences are operated as licensed or unlicensed day care facilities for children or the elderly. (Prior code § 4063)

#### **8.48.180 Smoking prohibitions, workplace.**

A. Smoking is prohibited in enclosed workplaces under the control of a public or private employer which the general public has access to in the course of conducting business, including but not limited to, open office areas, shared offices, private offices, hallways, restrooms, escalators, elevators, stairways, lobbies, reception areas, waiting rooms, classrooms, meeting or conference rooms, and auditoriums.

B. On-site cafeterias, lunchrooms and lounges shall be deemed workplaces and smoking prohibited therein, whether or not such facilities are open to members of the general public.

C. Each commercial enterprise, nonprofit entity and public agency shall comply with these smoking prohibitions and be responsible for their implementation in the workplace, and "No smoking" signs shall be posted in the manner prescribed by Section 8.48.200. (Prior code § 4064)

#### **8.48.190 Places where smoking permissible.**

A. Smoking may be permitted in all locations where smoking is not prohibited by this chapter, including the following locations:

1. A private residence, including an attached or detached garage, whether or not the residence is utilized for office or other business purposes, except when such residence is operated as a licensed or unlicensed day care facility for children or the elderly;

2. Bars;

3. Tobacco stores, whether operated as a separate business entity or as a physically separated facility within a department store or other business entity;

4. Private clubs during events attended exclusively by members of the organization and their invited guests and from which members of the general public are excluded;

5. Within conference/meeting rooms, public and private assembly rooms, banquet rooms, dining rooms or areas of restaurants, hotels and motels, while these places are occupied for private functions to which only persons specially invited are entitled to attend and from which members of the general public are excluded;

6. Within bowling alleys while the majority of available bowling lanes are occupied by league play and the league(s) have voted to allow smoking;

7. In any enclosed place wherein this chapter specifically permits smoking, notwithstanding the fact that such location is a workplace accessible to the general public.

B. It shall not constitute a violation of Section [8.48.040](#) a person to smoke in a location where smoking has been authorized in the manner prescribed by this section.

C. The foregoing places are not considered workplaces, subject to the provisions of Section [8.48.180](#). Employers will, however, attempt to find a reasonable alternative accommodation where feasible for nonsmoking employees who do not wish to be assigned to work in a smoking permissible area.

D. Notwithstanding any provision in this chapter which permits smoking in a place of employment, any nonsmoking employee may object to his or her employer about smoke in his or her workplace. The employer shall attempt to reach a reasonable accommodation, insofar as possible. The area in which smoking is prohibited shall be posted by "No Smoking" signs in the manner prescribed by the provisions of Section [8.48.200](#). (Prior code § 4065)

#### **8.48.200 Posting requirements.**

A. Each owner, operator, manager or other person having control of an establishment or facility within which smoking is regulated by this chapter shall conspicuously post in every place where smoking is prohibited "No Smoking" signs with letters not less than one inch in height (or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

B. An owner, operator, or manager of a building wherein, pursuant to these regulations, there is no smoking permitted in any space in the building may limit the "No Smoking" postings to first floor entrances and exits and to the elevator lobby areas of all other floors.

C. Motion picture theaters shall show upon the movie or live action screens for at least five seconds prior to the showing of each feature motion picture the message that smoking is prohibited within the audience seating and other areas as specified.

D. Hotels and motels will prominently post in the lobby a sign notifying patrons of the availability of nonsmoking accommodations. The rooms so designated will be posted as nonsmoking rooms and ashtrays removed. (Prior code § 4066)

#### **8.48.210 Retaliation prohibited.**

A. It is unlawful for a commercial enterprise, nonprofit entity or public agency to retaliate against any member of the general public or an employee or applicant for employment of the enterprise, entity or public agency because such member of the general public, employee or applicant seeks enforcement of the provisions of this chapter or otherwise protests smoking by others.

B. Violation of any of the provisions of Section [8.48.200](#) shall be remedied through criminal or civil action filed in a court of competent jurisdiction for injunctive, criminal prosecutions or other appropriate relief. (Prior code § 4067)

#### **8.48.220 Violation--Smoking or posting.**

A. Any person who violates the prohibitions contained in Sections [8.48.050](#) through [8.48.170](#) and any proprietor who violates Section [8.48.200](#) by failing to post the signs or take the other actions required by this section may be prosecuted as of an infraction, punishable in the manner hereinafter prescribed and/or may have his/her business license revoked.

B. Fines for the crimes made infractions by this section shall be levied in the amounts prescribed. Any person, who violates any provisions of this chapter by smoking in a designated nonsmoking area, shall be guilty of an infraction, punishable by a fine of fifty dollars (\$50.00) for the first violation, and one hundred dollars (\$100.00) for each subsequent violation. Any employer/proprietor, who violates any provisions of this chapter by failure to post required signs, by failure to request violating smokers to extinguish the lit object may be guilty of an infraction punishable by a fine of one hundred dollars (\$100.00) for the first violation, and two hundred fifty dollars (\$250.00) for each subsequent violation and/or may have his/her business license revoked. Subsequent violations may be prosecuted as misdemeanors with fines up to one thousand dollars (\$1,000.00) and/or jail time up to six months. (Prior code § 4068)

#### **8.48.230 Enforcement.**

A. Voluntary enforcement of and mandatory compliance of this chapter shall lie with the employer/proprietor of the establishment. An individual violating this chapter shall be requested by the employer/proprietor not to smoke and shall be made aware of the posted "No Smoking" signs. If the individual continues to violate the chapter, the employer/proprietor shall inform the individual they are



guilty of an infraction of a city ordinance punishable by a fifty dollar (\$50.00) fine for the first violation and one hundred dollars (\$100.00) for each subsequent violation.

B. It shall be the responsibility of the chief of the police department to enforce, on behalf of the city, the provisions of this chapter. The chief shall be authorized to prosecute, in the name of the city, criminal actions for the recovery of fines for violations of this chapter made infractions by Section [8.48.220](#) for violations of Sections [8.48.050](#) through [8.48.200](#).

C. In the performance of the enforcement responsibilities assigned by this chapter, the chief of the police department shall:

1. Establish a telephone number through which all complaints by citizens relating to violations of this chapter may be directed or referred;

2. Reduce such complaints to writing, and analyze the frequency and volume thereof in relation to alleged violations of this chapter by or at particular establishments or facilities;

3. Conduct an on-site inspection of any establishment or facility with respect to which the nature and volume of complaints suggests long-standing and pronounced violations of any of the provisions of this chapter;

4. Provide to the owner, operator or manager of any such establishment or facility a copy of the provisions of this chapter and such advisory assistance to rectify future violations as may be necessary to achieve compliance with the provisions of this chapter;

5. Follow up such investigation and advice with a written directive explaining in detail the steps required in order to achieve future compliance with the provisions of this chapter;

6. If the violations do not cease following expiration of a reasonable period of time, request commencement of a criminal or civil proceeding by the city attorney pursuant to the provisions of Section [8.48.250](#), or civil remedies listed below as may be appropriate to do one, some or all of the following civil remedies:

a. Public Nuisance. Any continuing violation of the provisions of this chapter may be declared a public nuisance hereunder, and the city attorney may proceed to abate the same by filing a civil action in a court of competent jurisdiction.

b. Licensed Revocation. Any continuing violation of the provisions of this chapter by proprietor may be punishable by the city revoking his/her business license.

c. Injunctive Relief. Any continuing violation of the provisions of this chapter by proprietors may be restrained by a temporary restraining order, preliminary and/or permanent injunction. (Prior code § 4069)

#### **8.48.240 Other applicable laws.**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Prior code § 4070)

#### **8.48.250 Severability.**

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision(s) or application(s), and to this end the provisions of this chapter are declared to be severable. (Prior code § 4071)

**Chapter 17.38**  
**CONDITIONAL USE PERMITS**

Sections:

- 17.38.010 Purposes and powers.
- 17.38.020 Application procedures.
- 17.38.030 Lapse of conditional use permit.
- 17.38.040 Revocation.
- 17.38.050 New application.
- 17.38.060 Conditional use permit to run with the land.
- 17.38.065 Abandonment of conditional use permit.
- 17.38.070 Temporary uses or structures.
- 17.38.080 Public hearing—Notice.
- 17.38.090 Investigation and report.
- 17.38.100 Public hearing—Procedure.
- 17.38.110 Action by planning commission.
- 17.38.120 Appeal to city council.
- 17.38.130 Effective date of conditional use permit.
- 17.38.010 Purposes and powers.

In certain zones conditional uses are permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of the zoning ordinance and with respect to their effects on surrounding properties. In order to achieve these purposes and thus give the zone use regulations the flexibility necessary to achieve the objectives of this title, the planning commission is empowered to grant or deny applications for conditional use permits and to impose reasonable conditions upon the granting of such permits.

**17.38.020 Application procedures.**

- A. Application for a conditional use permit shall be made to the planning commission on a form prescribed by the commission which shall include the following data:
  - 1. Name and address of the applicant;
  - 2. Statement that the applicant is the owner of the property or is the authorized agent of the owner;
  - 3. Address and legal description of the property;
  - 4. The application shall be accompanied by such sketches or drawings as may be necessary by the planning division to clearly show the applicant's proposal;
  - 5. The purposes of the conditional use permit and the general description of the use proposed;
  - 6. Additional information as required by the historic preservation advisory committee.
  - 7. Additional technical studies or reports, as required by the Site Plan Review Committee.
  - 8. A traffic study or analysis prepared by a certified traffic engineer, as required by the Site Plan Review Committee or Traffic Engineer, that identifies traffic service levels of surrounding arterials, collectors, access roads, and regionally significant roadways impacted by the project and any required improvements to be included as a condition or mitigation measure of the project in order to maintain the required services levels identified in the General Plan Circulation Element.

- 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.

**17.38.030 Lapse of conditional use permit.**

A conditional use permit shall lapse and shall become void twenty-four (24) months after the date on which it became effective, unless the conditions of the permit allowed a shorter or greater time limit, or unless prior to the expiration of twenty-four (24) months a building permit is issued by the city and construction is commenced and diligently pursued toward completion on the site that was the subject of the permit. A permit may be renewed for an additional period of one year; provided, that prior to the expiration of twenty-four (24) months from the date the permit originally became effective, an application for renewal is filed with the planning commission. The commission may grant or deny an application for renewal of a conditional use permit. In the case of a planned residential development, the recording of a final map and improvements thereto shall be deemed the same as a building permit in relation to this section.

**17.38.040 Revocation.**

Upon violation of any applicable provision of this title, or, if granted subject to a condition or conditions, upon failure to comply with the condition or conditions, a conditional use permit shall be suspended automatically. The planning commission shall hold a public hearing within sixty (60) days, in accordance with the procedure prescribed in Section 17.38.080, and if not satisfied that the regulation, general provision or condition is being complied with, may revoke the permit or take such action as may be necessary to insure compliance with the regulation, general provision or condition. Appeals of the decision of the planning commission may be made to the city council as provided in Section 17.38.120.

**17.38.050 New application.**

Following the denial of a conditional use permit application or the revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the permit unless such denial was a denial without prejudice by the planning commission or city council.

**17.38.060 Conditional use permit to run with the land.**

A conditional use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure that was the subject of the permit application subject to the provisions of Section 17.38.065.

**17.38.065 Abandonment of conditional use permit.**

If the use for which a conditional use permit was approved is discontinued for a period of one hundred eighty (180) days, the use shall be considered abandoned and any future use of the site as a conditional use will require the approval of a new conditional use permit.

**17.38.070 Temporary uses or structures.**

- A. Conditional use permits for temporary uses or structures may be processed as administrative matters by the city planner and/or planning division staff. However, the city planner may, at his/her discretion, refer such application to the planning commission for consideration.
- B. The city planner and/or planning division staff is authorized to review applications and to issue such temporary permits, subject to the following conditions:
1. Conditional use permits granted pursuant to this section shall be for a fixed period not to exceed thirty (30) days for each temporary use not occupying a structure, including promotional enterprises, or six months for all other uses or structures.
  2. Ingress and egress shall be limited to that designated by the planning division. Appropriate directional signing, barricades, fences or landscaping shall be provided where required. A security officer may be required for promotional events.

3. Off-street parking facilities shall be provided on the site of each temporary use as prescribed in Section 17.34.020.
  4. Upon termination of the temporary permit, or abandonment of the site, the applicant shall remove all materials and equipment and restore the premises to their original condition.
  5. Opening and closing times for promotional enterprises shall coincide with the hours of operation of the sponsoring commercial establishment. Reasonable time limits for other uses may be set by the city planner and planning division staff.
  6. Applicants for a temporary conditional use permit shall have all applicable licenses and permits prior to issuance of a conditional use permit.
  7. Signing for temporary uses shall be subject to the approval of the city planner.
  8. Notwithstanding underlying zoning, temporary conditional use permits may be granted for fruit and vegetable stands on properties primarily within undeveloped agricultural areas. In reviewing applications for such stands, issues of traffic safety and land use compatibility shall be evaluated and mitigation measures and conditions may be imposed to ensure that the stands are built and are operated consistent with appropriate construction standards, vehicular access and off-street parking. All fruits and vegetables sold at such stands shall be grown by the owner/operator or purchased by said party directly from a grower/farmer.
  9. Fruit/Vegetable stands shall be subject to site plan review.
- C. The City Planner shall deny a temporary use permit if findings cannot be made, or conditions exist that would be injurious to existing site, improvements, land uses, surrounding development or would be detrimental to the surrounding area.
- D. The applicant or any interested person may appeal a decision of temporary use permit to the planning commission, setting forth the reason for such appeal to the commission. Such appeal shall be filed with the city planner in writing with applicable fees, within ten (10) days after notification of such decision. The appeal shall be placed on the agenda of the commission's next regular meeting. If the appeal is filed within five (5) days of the next regular meeting of the commission, the appeal shall be placed on the agenda of the commission's second regular meeting following the filing of the appeal. The commission shall review the temporary use permit and shall uphold or revise the decision of the temporary use permit, based on the findings set forth in Section 17.38.110. The decision of the commission shall be final unless appealed to the council pursuant to Section 17.02.145.
- E. A privately owned parcel may be granted up to six (6) temporary use permits per calendar year.

**17.38.080 Public hearing--Notice.**

- A. The planning commission shall hold at least one public hearing on each application for a conditional use permit.
- B. Notice of the public hearing shall be given not less than ten days nor 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, and by publication in a newspaper of general circulation within the city.

**17.38.090 Investigation and report.**

The planning staff shall make an investigation of the application and shall prepare a report thereon that shall be submitted to the planning commission. The report can recommend modifications to the application as a condition of approval.

**17.38.100 Public hearing--Procedure.**

At the public hearing the planning commission shall review the application and the statement and drawing submitted therewith and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the

findings prescribed in Section 17.38.110. The planning commission may continue a public hearing from time to time as it deems necessary.

**17.38.110 Action by planning commission.**

- A. The planning commission may grant an application for a conditional use permit as requested or in modified form, if, on the basis of the application and the evidence submitted, the commission makes the following findings:
  - 1. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purposes of the zone in which the site is located;
  - 2. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- B. A conditional use permit may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the commission may prescribe. The commission may grant conditional approval for a permit subject to the effective date of a change of zone or other ordinance amendment.
- C. The commission may deny an application for a conditional use permit.

**17.38.120 Appeal to city council.**

The decision of the City planning commission on a conditional use permit shall be subject to the appeal provisions of section 17.02.145.

**17.38.130 Effective date of conditional use permit.**

A conditional use permit shall become effective immediately when granted or affirmed by the council, or ten days following the granting of the conditional use permit by the planning commission if no appeal has been filed.

**Chapter 17.19  
MIXED USE ZONES**

Sections:

- 17.19.010 Purpose and intent.
- 17.19.015 Applicability.
- 17.19.020 Permitted uses.
- 17.19.030 Conditional and temporary uses.
- 17.19.040 Required conditions.
- 17.19.050 Off-street parking and loading facilities.
- 17.19.060 Development standards in the C-MU zones outside the downtown area.
- 17.19.070 Development standards in the D-MU zone and in the C-MU zones inside the downtown area.

**17.19.10 Purpose and intent.**

- A. The several types of mixed zones included in this chapter are designed to achieve the following:
  - 1. Encourage a wide mix of commercial, service, office, and residential land uses in horizontal or vertical mixed use development projects, or on adjacent lots, at key activity nodes and along corridors.
  - 2. Maintain Visalia's downtown Conyer Street to Tipton and Murray Street to Mineral King Avenue including the Court-Locust corridor to the Lincoln Oval area) as the traditional, medical, professional, retail, government and cultural center;
  - 3. Provide zone districts that encourage and maintain vibrant, walkable environments.
- B. The purposes of the individual mixed use zones are as follows:

1. Mixed Use Commercial Zone—(C-MU). The purpose and intent of the mixed use commercial zone district is to allow for either horizontal or vertical mixed use development, and permit commercial, service, office, and residential uses at both at key activity nodes and along corridors. Any combination of these uses, including a single use, is permitted.
2. Mixed Use Downtown Zone—(D-MU). The purpose and intent of the mixed use downtown zone district is to promote the continued vitality of the core of the community by providing for the continuing commercial development of the downtown and maintaining and enhancing its historic character. The zone is designed to accommodate a wide mix of land uses ranging from commercial and office to residential and public spaces, both active and passive. The zone is intended to be compatible with and support adjacent residential uses, along with meeting the needs of the city and region as the urban center of the city; to provide for neighborhood, local, and regional commercial and office needs; to accommodate the changing needs of transportation and integrate new modes of transportation and related facilities; and to maintain and enhance the historic character of the city through the application of architectural design features that complement the existing historic core of the city. (Ord. 2017-01 (part), 2017)

#### **17.19.015 Applicability.**

The requirements in this chapter shall apply to all property within the C-MU and D-MU zone districts. (Ord. 2017-01 (part), 2017)

#### **17.19.020 Permitted uses.**

Permitted uses in C-MU and D-MU zones shall be determined by Table 17.25.030 in Section 17.25.030. (Ord. 2017-01 (part), 2017)

#### **17.19.030 Conditional and temporary uses.**

Conditional and temporary uses in the C-MU and D-MU zones shall be determined by Table 17.25.030 in Section 17.25.030. (Ord. 2017-01 (part), 2017)

#### **17.19.040 Required conditions.**

- A. A site plan review permit must be obtained for any development in any C-MU and D-MU zones, subject to the requirements and procedures in Chapter 17.28.
- B. All businesses, services and processes shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas, gasoline service stations, outdoor dining areas, nurseries, garden shops, Christmas tree sales lots, bus depots and transit stations, electric distribution substation, and recycling facilities;
- C. All products produced on the site of any of the permitted uses shall be sold primarily at retail on the site where produced. (Ord. 2017-01 (part), 2017)

#### **17.19.050 Off-street parking and loading facilities.**

Off-street parking and off-street loading facilities shall be provided as prescribed in Chapter 17.34. (Ord. 2017-01 (part), 2017)

#### **17.19.060 Development standards in the C-MU zones outside the downtown area.**

The following development standards shall apply to property located in the C-MU zone and located outside the Downtown Area, which is defined as the area that is south of Murray Avenue, west of Ben Maddox Way, north of Mineral King Avenue, and east of Conyer Street:

- A. Minimum site area: five (5) acres.
- B. Maximum building height: fifty (50) feet.
- C. Minimum required yards (building setbacks):
  1. Front: fifteen (15) feet
  2. Rear: zero (0) feet;

3. Rear yards abutting an R-1 or R-M zone district: fifteen (15) feet;
4. Side: zero (0) feet;
5. Side yards abutting an R-1 or R-M zone district: fifteen (15) feet;
6. Street side yard on corner lot: ten (10) feet.

D. Minimum required landscaped yard (setback) areas:

1. Front: fifteen (15) feet;
2. Rear: five (5) feet;
3. Rear yards abutting an R-1 or R-M zone district: five (5) feet;
4. Side: five (5) feet (except where a building is located on side property line);
5. Side yards abutting an R-1 or R-M zone district: five (5) feet;
6. Street side on corner lot: ten (10) feet.

E. The provisions of Chapter 17.58 shall also be met, if applicable. (Ord. 2017-01 (part), 2017)

**17.19.070 Development standards in the D-MU zone and in the C-MU zones inside the downtown area.**

The following development standards shall apply to property located in the D-MU and C-MU zone and located inside the Downtown Area, which is defined as the area that is south of Murray Avenue, west of Ben Maddox Way, north of Mineral King Avenue, and east of Conyer Street:

A. Minimum site area: No minimum.

B. Maximum building height: one hundred (100) feet.

C. Minimum required yards (building setbacks):

1. Front: zero (0) feet;
2. Rear: zero (0) feet;
3. Rear yards abutting an R-1 or R-M zone district: zero (0) feet;
4. Side: zero (0) feet;
5. Side yards abutting an R-1 or R-M zone district: zero (0) feet;
6. Street side yard on corner lot: zero (0) feet.

D. Minimum required landscaped yard (setback) areas:

1. Front: five (5) feet (except where a building is located on property line);
2. Rear: zero (0) feet;
3. Rear yards abutting an R-1 or R-M zone district: zero (0) feet;
4. Side: five (5) feet (except where a building is located on side property line);
5. Side yards abutting an R-1 or R-M zone district: five (5) feet except where a building is located on side property);
6. Street side on corner lot: five (5) feet.

E. The provisions of Chapter 17.58 shall also be met, if applicable.

(Ord. 2017-13 (part), 2017: Ord. 2017-01 (part), 2017)

RESOLUTION NO. 2021-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA APPROVING CONDITIONAL USE PERMIT NO. 2021-06, A REQUEST TO ESTABLISH A SMOKE SHOP IN AN EXISTING 1,320 SQUARE FOOT BUILDING LOCATED AT 1410 WEST HOUSTON AVENUE IN THE C-MU (COMMERCIAL MIXED USE) ZONE (APN: 090-133-017).

**WHEREAS**, Conditional Use Permit No. 2021-06, is a request to establish a smoke shop in an existing 1,320 square foot building located at 1410 West Houston Avenue in the C-MU (Commercial Mixed Use) Zone (APN: 090-133-017); and

**WHEREAS**, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on April 12, 2021; and

**WHEREAS**, the Planning Commission of the City of Visalia finds the Conditional Use Permit No. 2021-06, as conditioned, to be in accordance with Chapter 17.38.110 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 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 15301.

**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 the proposed project will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed conditional use permit is consistent with the policies and intent of the General Plan and Zoning Ordinance. Specifically, the project is consistent with the required findings of Zoning Ordinance Section 17.38.110:
  - a. The proposed location of the conditional use permit is in accordance with the objectives of the Zoning Ordinance and the purposes of the zone in which the site is located. The proposed use is compatible subject to compliance with the conditions of Project Approval of this conditional use permit.
  - b. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
3. That the project is considered Categorically Exempt under Section 15301, Class 1 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA) (Categorical Exemption No. 2021-14).

Projects determined to meet this classification consist of the operation, repair,



maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to conversion of a single-family residence to office use.

**BE IT FURTHER RESOLVED** that the Planning Commission hereby approves the Conditional Use Permit on the real property here described in accordance with the terms of this resolution under the provisions of Section 17.38.110 of the Ordinance Code of the City of Visalia, subject to the following conditions:

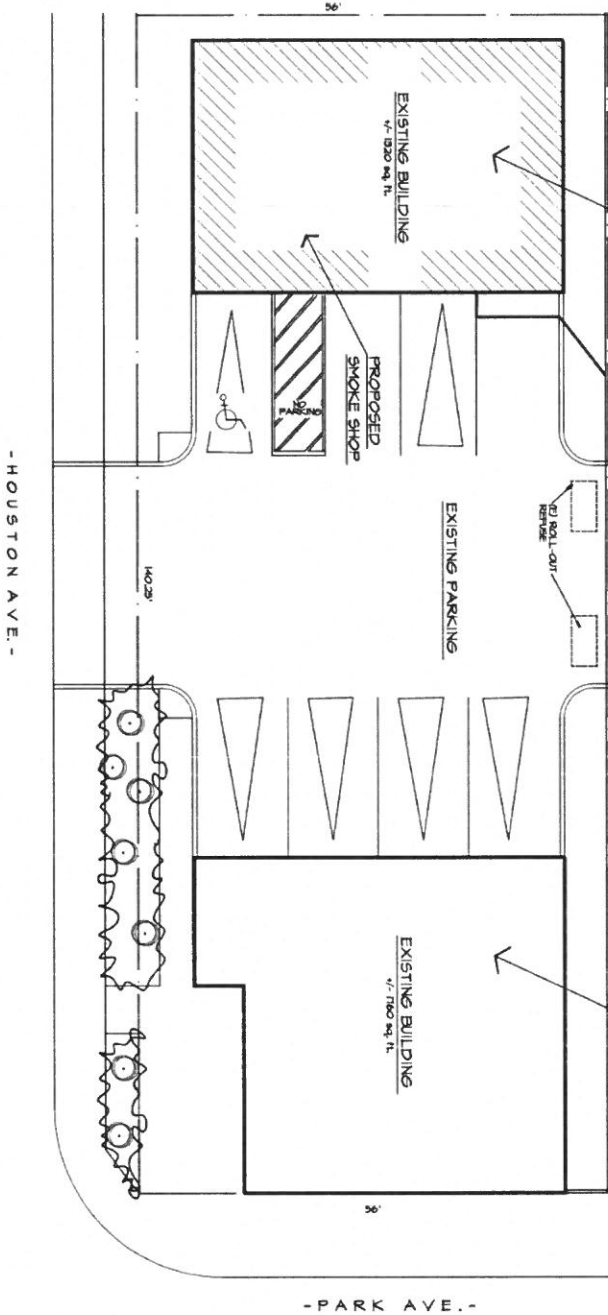
1. That the Conditional Use Permit shall be developed consistent with the comments and conditions of Site Plan Review No. 2021-010, incorporated herein by reference.
2. That the use be operated in substantial compliance with the Site Plan in Exhibit "A", the Floor Plan in Exhibit "B", and the operational statement in Exhibit "C".
3. That a landscape and irrigation plan be submitted for Building Permit review and approval for the replanting and maintenance of existing landscape planters within the parking lot and public right-of-way areas along Houston Avenue and Park Street. All landscaping and irrigation systems shall be installed prior to operation of the use. The landscape and irrigation plan shall be compliant with all requirements of the Model Water Efficient Landscape Ordinance (MWELo).
4. All new building signage shall require a separate building permit and shall be designed consistent with the Sign Ordinance of the City of Visalia Chapter 17.48.
5. That all other federal and state laws and city codes and ordinances be complied with.

# Exhibit "A"

S I T E P L A N  
 1410 N. HOUSTON  
 VISALIA, CALIFORNIA  
 A/N 090-153-01-000

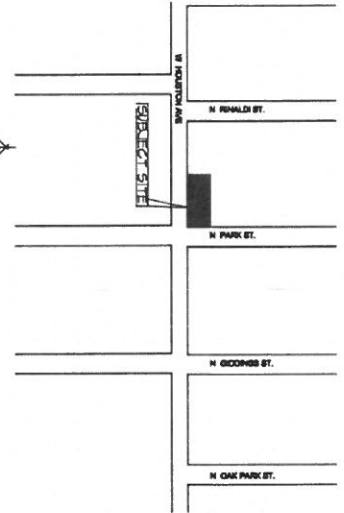


Scale: 1/8"=1'-0"



OPERATIONAL STATEMENT  
 PRD CIGARETTES  
 7 days a week 5am-8pm  
 1 owner 3 employees

OPERATIONAL STATEMENT  
 BIG BANG GRILL  
 mon-fri 11am-7pm  
 sat 11am-5pm  
 managed and run by 2 owners



No Scale

**BUSINESS/PROPERTY OWNER:**

BAUMANT DHALIA  
 5514 N. FERRIS  
 VISALIA, CA 93291  
 551-623-6204

**MERCHANDISE:**

- CEO PRODUCT
- PLAY CARD
- NICOTINE
- SMOKE SHOP
- DISPOSABLE CIGARS
- DISPOSABLE DEVICES
- GLASSES
- BATTERIES
- HATS
- TOBACCO
- LOREKAMEREN
- VAPERS
- ENERGY DRINKS
- BUTANE LIGHTERS
- BANQO
- HOOKAH
- CANDY
- TOYS
- T-SHIRTS
- INCENSE

**S I T E I N F O :**

EXISTING USE: VACANT PREVIOUS CIGARETTE STORE, MINI-MART

OCCUPANCY LOAD: 1320/60=22

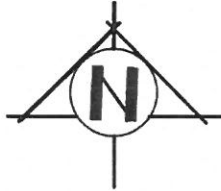
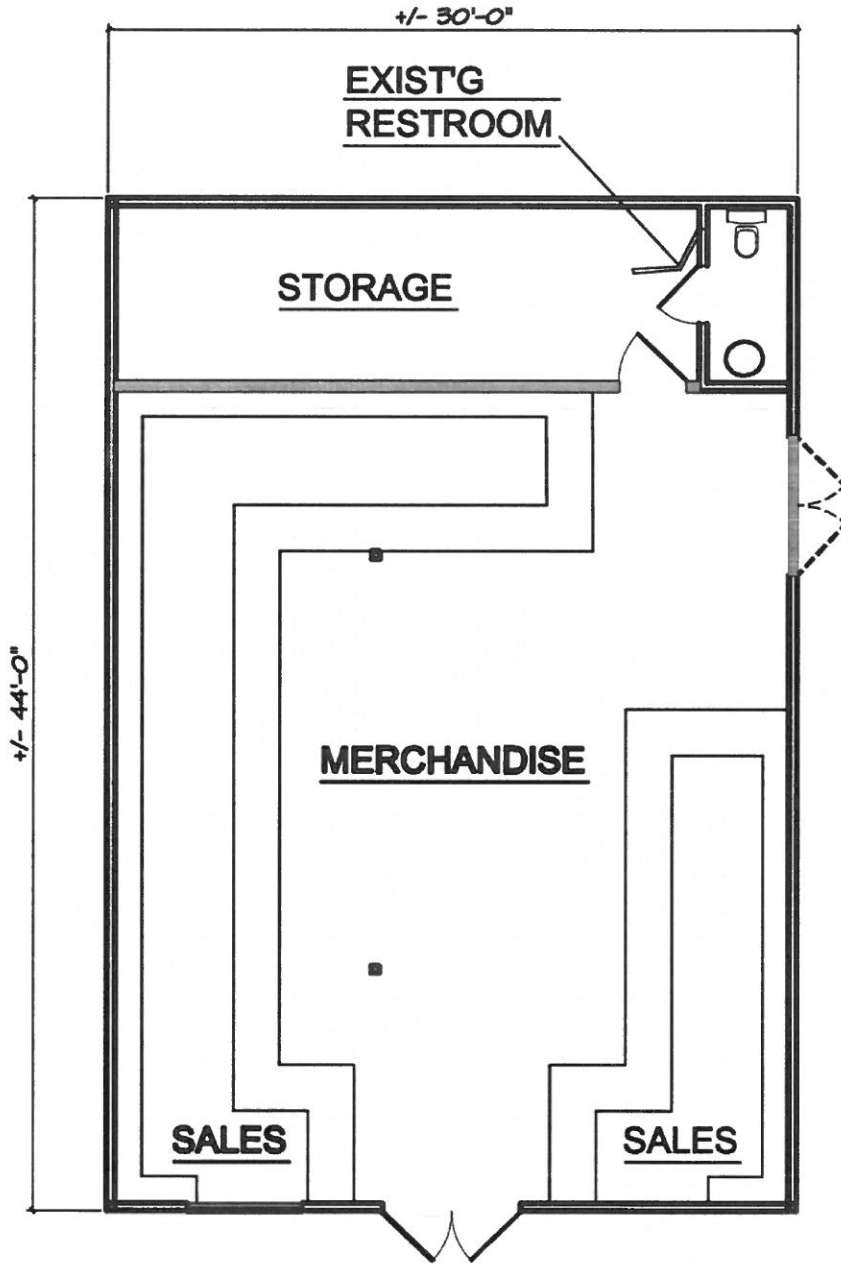
ZONING: D-1H  
 A/N 090-153-01-000  
 SITE AREA: 7,961 SQ. FT.  
 TELEPHONE: 593 TELEPHONE CO.  
 WATER: CALIFORNIA WATER SERVICE CO.  
 REFUSE: CITY OF VISALIA-ROLL-OUT BINS  
 SEWER: CITY OF VISALIA  
 STORM: CITY OF VISALIA  
 GAS: THE GAS CO.  
 POWER: SOUTHERN CALIF. EDISON CO.

A SMOKE SHOP.  
**PRD CIGARETTES**  
 1410 N. HOUSTON VISALIA CA

STEPHEN O. SPARSHOTT  
 5-53

SHEET  
 No. 1

**Exhibit "B"**



**FLOOR PLAN**

**Scale: 1/8"=1'-0"**

**SMOKE SHOP: 1320 SQ. FT.**

**Exhibit "C"**

OPERATIONAL STATEMENT

PRD CIGARETTES

7 days a week 9am-8pm

1 owner 3 employees

OPERATIONAL STATEMENT

BIG BANG GRILL

mon-fri 11am-7pm

sat 11am-3pm

managed and run by 2 owners

USE PERMIT 3/19/2021

OF 1 SHEET

A SMOKE SHOP:

# PRD CIGARETTES

1410 W. HOUSTON VISALIA, CA.

BUSINESS/PROPERTY OWNER:

BALWANT DHALIWA  
5519 W. PEREZ  
VISALIA, CA 93291  
559-623-6204

S I T E I N F O :

EXISTING USE: VACANT PREVIOUS CIGARETTE STORE, MINI-MART

MERCHANDISE:

- |                    |                 |
|--------------------|-----------------|
| CBD PRODUCT        | TOBACCO         |
| PLAY CARD          | COPENHAGEN      |
| NIKO STOP          | VAPES           |
| BACKWARDS CIGARS   | ENERGY DRINKS   |
| DISPOSABLE DEVICES | BUTANE LIGHTERS |
| GLASSES            | BANGO           |
| BATTERIES          | HOOKAH          |
| HATS               | CANDY           |
|                    | TORCHES         |
|                    | T-SHIRTS        |
|                    | INCENSE         |

OCCUPANCY LOAD: 1320/60=22

- ZONING: D-MU  
 APN 090-133-017-000  
 SITE AREA: ..... 7,861 SQ. FT.  
 TELEPHONE: SBC TELEPHONE CO.  
 WATER: CALIFORNIA WATER SERVICE CO.  
 REFUSE: CITY OF VISALIA-ROLL-OUT BINS  
 SEWER: CITY OF VISALIA  
 STORM: CITY OF VISALIA  
 GAS: THE GAS CO.  
 POWER: SOUTHERN CALIF. EDISON CO.

# SITE PLAN REVIEW COMMENTS

Cristobal Carrillo, Planning Division (559) 713-4443

Date: February 3, 2021

SITE PLAN NO: 2021-010  
PROJECT TITLE: PRD Smoke Shop  
DESCRIPTION: Making a Smoke Shop From C-Store  
APPLICANT: Prect Dhaliwa  
PROP. OWNER: Singh Balwant  
LOCATION TITLE: 1400 W. Houston Avenue  
APN TITLE: 090-133-017  
GENERAL PLAN: Commercial Mixed Use  
ZONING: C-MU – Commercial Mixed Use

## **Planning Division Recommendation:**

- Revise and Proceed  
 Resubmit

**Rule 9510** – This project is not subject to the Rule 9510 requirements of the San Joaquin Valley Air Pollution Control District – see District web-site for information. (2,000 sq. ft. of commercial space)

## **Project Requirements**

- Conditional Use Permit
- Building Permit
- Additional Information as Needed

## **PROJECT SPECIFIC INFORMATION:** February 3, 2021

1. The proposed use requires a Conditional Use Permit (CUP). The CUP submittal shall include the following:
  - A. An operational statement, including a detailed statement of items to be sold onsite;
  - B. A detailed floor plan;
  - C. A landscaping plan;
  - D. A detailed site plan.
2. The sale of cannabis/cannabis derived products shall be prohibited.
3. The existing landscape areas shall be replanted and maintained.
4. Obtain a Building Permit for physical changes conducted to any structures onsite.
5. The applicant shall comply with the City of Visalia Sign Ordinance. All signage shall require a separate Building Permit.
6. Comply with all other code and ordinances.

## **17.19.060 Development standards in the C-MU zones outside the downtown area**

The following development standards shall apply to property located in the C-MU zone and located outside the Downtown Area, which is defined as the area that is south of Murray Avenue, west of Ben Maddox Way, north of Mineral King Avenue, and east of Conyer Street:

- A. Minimum site area: five (5) acres.
- B. Maximum building height: fifty (50) feet.
- C. Minimum required yards (building setbacks):
  1. Front: fifteen (15) feet;
  2. Rear: zero (0) feet;
  3. Rear yards abutting an R-1 or R-M zone district: fifteen (15) feet;
  4. Side: zero (0) feet;
  5. Side yards abutting an R-1 or R-M zone district: fifteen (15) feet;
  6. Street side yard on corner lot: ten (10) feet.

- D. Minimum required landscaped yard (setback) areas:
1. Front: fifteen (15) feet;
  2. Rear: five (5) feet;
  3. Rear yards abutting an R-1 or R-M zone district: five (5) feet;
  4. Side: five (5) feet (except where a building is located on side property line);
  5. Side yards abutting an R-1 or R-M zone district: five (5) feet;
  6. Street side on corner lot: ten (10) feet.
  7. The provisions of Chapter 17.58 shall also be met, if applicable.
- 

**Parking:**

1. Provide parking spaces based Zoning Ordinance Section 17.34.020
2. 30% of the required parking stalls may be compact and shall be evenly distributed in the lot.
3. Provide handicapped space(s).
4. An 80 sq. ft. minimum landscape well is required every 10 contiguous parking.
5. A planter is required every other row. (5-9 feet in width containing trees on twenty (20) foot centers.
6. No repair work or vehicle servicing allowed in a parking area.
7. It is highly recommended that bicycle rack(s) be provided on site plan.
8. No parking shall be permitted in a required front/rear/side yard.
9. Design/locate parking lot lighting to deflect any glare away from abutting residential areas.
10. Parking lot to be screened from view by a 3-foot tall solid wall or shrubs when located adjacent to a public street or when across from residential property.
11. Provide transit facilities on site plan.
12. Provide shared parking/access agreements where needed or required.
13. Provide off-street loading facility.
14. The project should provide preferential parking spaces for carpools and vanpools to decrease the number of single occupant vehicle work trips. The preferential treatment could include covered parking spaces or close-in parking spaces, or designated free parking, or a guaranteed space for the vehicle.

**Landscaping:**

1. The City has adopted the State Water Efficient Landscape Ordinance. The ordinance applies to projects installing 2,500 square feet or more of landscaping. It requires that landscaping and irrigation plans be certified by a qualified entity (i.e., Landscape Architect) as meeting the State water conservation requirements. The City's implementation of this new State law will be accomplished by self-certification of the final landscape and irrigation plans by a California licensed landscape architect or other qualified entity with sections signed by appropriately licensed or certified persons as required by the ordinance. **NOTE: Prior to a final for the project, a signed Certificate of Compliance for the MWELO standards is required indicating that the landscaping has been installed to MWELO standards.**
2. Provide street trees at an average of 20-feet on center along street frontages. All trees to be 15-gallon minimum size (Zoning Ordinance Section 17.30.015-2).
3. In the P(R-M) multi-family residential zone, all multiple family developments shall have landscaping including plants, and ground cover to be consistent with surrounding landscaping in the vicinity. Landscape plans to be approved by city staff prior to installation and occupancy of use and such landscaping to be permanently maintained. (Zoning Ordinance Section 17.16.180)
4. All landscape areas to be protected with 6-inch concrete curbs (Zoning Ordinance Section 17.30.130.F).

5. All parking lots to be designed to provide a tree canopy to provide shade in the hot seasons and sunlight in the winter months.
6. Provide a detailed landscape and irrigation plan as a part of the building permit package (Zoning Ordinance Section 17.34.040).
7. An 80 sq. ft. minimum landscape well is required every 10 contiguous parking stalls (Zoning Ordinance Section 17.30.130.C).
8. Provide a detailed landscape and irrigation plan for review prior to issuance of building permits. Please review Zoning Ordinance section 17.30.130-C for current landscaping and irrigation requirements.
9. Provide a conceptual landscape plan for resubmittal or planning commission review.
10. Locate existing oak trees on site and provide protection for all oak trees greater than 2" diameter (see Oak Tree Preservation Ordinance).
11. Maintenance of landscaped areas. - A landscaped area provided in compliance with the regulations prescribed in this title or as a condition of a use permit or variance shall be planted with materials suitable for screening or ornamenting the site, whichever is appropriate, and plant materials shall be maintained and replaced as needed, to screen or ornament the site. (Prior code § 7484)

**NOTE: Staff recommendations contained in this document are not to be considered support for a particular action or project unless otherwise stated in the comments. The comments found on this document pertain to the site plan submitted for review on the above referenced date. Any changes made to the plan submitted must be submitted for additional review.**

Signature \_\_\_\_\_



**BUILDING/DEVELOPMENT PLAN  
REQUIREMENTS  
ENGINEERING DIVISION**

<input checked="" type="checkbox"/>	Adrian Rubalcaba	713-4271
<input type="checkbox"/>		713-

<b>ITEM NO: 4    DATE: FEBRUARY 3, 2021</b>	
SITE PLAN NO.:	21-010
PROJECT TITLE:	PRD SMOKE SHOP
DESCRIPTION:	MAKING A SMOKE SHOP FROM C-STORE
APPLICANT:	PRECT DHALIWA
PROP OWNER:	SINGH BALWANT
LOCATION:	1400 W HOUSTON AVE
APN:	090-133-017

**SITE PLAN REVIEW COMMENTS**

- REQUIREMENTS (indicated by checked boxes)
- Install curb return with ramp, with \_\_\_\_\_ radius;
- Install curb; \_\_\_\_\_ gutter
- Drive approach size: \_\_\_\_\_  Use radius return;
- Sidewalk: \_\_\_\_\_ width;  parkway width at \_\_\_\_\_
- Repair and/or replace any sidewalk across the public street frontage(s) of the subject site that has become uneven, cracked or damaged and may constitute a tripping hazard.
- Replace any curb and gutter across the public street frontage(s) of the subject site that has become uneven and has created areas where water can stand.
- Right-of-way dedication required. A title report is required for verification of ownership.
- Deed required prior to issuing building permit;
- City Encroachment Permit Required.  
Insurance certificate with general & auto liability (\$1 million each) and workers compensation (\$1 million), valid business license, and appropriate contractor's license must be on file with the City, and valid Underground Service Alert # provided prior to issuing the permit. Contact Encroachment Tech. at 713-4414.
- CalTrans Encroachment Permit required.  CalTrans comments required prior to issuing building permit. Contacts: David Deel (Planning) 488-4088;
- Landscape & Lighting District/Home Owners Association required prior to approval of Final Map. Landscape & Lighting District will maintain common area landscaping, street lights, street trees and local streets as applicable. Submit completed Landscape and Lighting District application and filing fee a min. of 75 days before approval of Final Map.
- Landscape & irrigation improvement plans to be submitted for each phase. Landscape plans will need to comply with the City's street tree ordinance. The locations of street trees near intersections will need to comply with Plate SD-1 of the City improvement standards. A street tree and landscape master plan for all phases of the subdivision will need to be submitted with the initial phase to assist City staff in the formation of the landscape and lighting assessment district.
- Grading & Drainage plan required. If the project is phased, then a master plan is required for the entire project area that shall include pipe network sizing and grades and street grades.  Prepared by registered civil engineer or project architect.  All elevations shall be based on the City's benchmark network. Storm run-off from the project shall be handled as follows: a)  directed to the City's existing storm drainage system; b)  directed to a permanent on-site basin; or c)  directed to a temporary on-site basin is required until a connection with adequate capacity is available to the City's storm drainage system. On-site basin: \_\_\_\_\_ : \_\_\_\_\_ maximum side slopes, perimeter fencing required, provide access ramp to bottom for maintenance.
- Grading permit is required for clearing and earthwork performed prior to issuance of the building permit.
- Show finish elevations. (Minimum slopes: A.C. pavement = 1%, Concrete pavement = 0.25%. Curb & Gutter = 0.20%, V-gutter = 0.25%)
- Show adjacent property grade elevations. A retaining wall will be required for grade differences greater than 0.5 feet at the property line.
- All public streets within the project limits and across the project frontage shall be improved to their full width, subject to available right of way, in accordance with City policies, standards and specifications.
- Traffic indexes per city standards:



- Install street striping as required by the City Engineer.
- Install landscape curbing (typical at parking lot planters).
- Minimum paving section for parking: 2" asphalt concrete paving over 4" Class 2 Agg. Base, or 4" concrete pavement over 2" sand.
- Design Paving section to traffic index of 5.0 min. for solid waste truck travel path.
- Provide "R" value tests:            each at
- Written comments required from ditch company            Contacts: James Silva 747-1177 for Modoc, Persian, Watson, Oakes, Flemming, Evans Ditch and Peoples Ditch; Jerry Hill 686-3425 for Tulare Irrigation Canal, Packwood and Cameron Creeks; Bruce George 747-5601 for Mill Creek and St. John's River.
- Access required on ditch bank, 15' minimum     Provide            wide riparian dedication from top of bank.
- Show Valley Oak trees with drip lines and adjacent grade elevations.     Protect Valley Oak trees during construction in accordance with City requirements.
- A permit is required to remove Valley Oak trees. Contact Public Works Admin at 713-4428 for a Valley Oak tree evaluation or permit to remove.     A pre-construction conference is required.
- Relocate existing utility poles and/or facilities.
- Underground all existing overhead utilities within the project limits. Existing overhead electrical lines over 50kV shall be exempt from undergrounding.
- Subject to existing Reimbursement Agreement to reimburse prior developer:
- Fugitive dust will be controlled in accordance with the applicable rules of San Joaquin Valley Air District's Regulation VIII. Copies of any required permits will be provided to the City.
- If the project requires discretionary approval from the City, it may be subject to the San Joaquin Valley Air District's Rule 9510 Indirect Source Review per the rule's applicability criteria. A copy of the approved AIA application will be provided to the City.
- If the project meets the one acre of disturbance criteria of the State's Storm Water Program, then coverage under General Permit Order 2009-0009-DWQ is required and a Storm Water Pollution Prevention Plan (SWPPP) is needed. A copy of the approved permit and the SWPPP will be provided to the City.
- Comply with prior comments.     Resubmit with additional information.     Redesign required.

**Additional Comments:**

1. *Proposed smoke shop within previous convenience store space will not incur additional impact fees.*
2. *A building permit is required for tenant improvements, standard plan check and inspections apply.*

**SUMMARY OF APPLICABLE DEVELOPMENT IMPACT FEES**

Site Plan No: **21-010**  
Date: **2/3/2021**

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**Summary of applicable Development Impact Fees to be collected at the time of building permit:**  
**(Preliminary estimate only! Final fees will be based on the development fee schedule in effect at the time of building permit issuance.)**

(Fee Schedule Date:**9/1/2020**)  
(Project type for fee rates:**RETAIL**)

Existing uses may qualify for credits on Development Impact Fees. **RETAIL**

<u>FEE ITEM</u>	<u>FEE RATE</u>
<input type="checkbox"/> Groundwater Overdraft Mitigation Fee	
<input type="checkbox"/> Transportation Impact Fee	
<input type="checkbox"/> Trunk Line Capacity Fee	
<input type="checkbox"/> Sewer Front Foot Fee	
<input type="checkbox"/> Storm Drain Acq/Dev Fee	
<input type="checkbox"/> Park Acq/Dev Fee	
<input type="checkbox"/> Northeast Specific Plan Fees	
<input type="checkbox"/> Waterways Acquisition Fee	
<input type="checkbox"/> Public Safety Impact Fee: Police	
<input type="checkbox"/> Public Safety Impact Fee: Fire	
<input type="checkbox"/> Public Facility Impact Fee	
<input type="checkbox"/> Parking In-Lieu	

**Reimbursement:**

- 1.) No reimbursement shall be made except as provided in a written reimbursement agreement between the City and the developer entered into prior to commencement of construction of the subject facilities.
- 2.) Reimbursement is available for the development of arterial/collector streets as shown in the City's Circulation Element and funded in the City's transportation impact fee program. The developer will be reimbursed for construction costs and right of way dedications as outlined in Municipal Code Section 16.44. Reimbursement unit costs will be subject to those unit costs utilized as the basis for the transportation impact fee.
- 3.) Reimbursement is available for the construction of storm drain trunk lines and sanitary sewer trunk lines shown in the City's Storm Water Master Plan and Sanitary Sewer System Master Plan. The developer will be reimbursed for construction costs associated with the installation of these trunk lines.



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**Adrian Rubalcaba**

City of Visalia  
Building: Site Plan  
Review Comments

FRD SMOKE SHOP  
1400 W HOUSTON AVE

NOTE: These are general comments and DO NOT constitute a complete plan check for your specific project  
Please refer to the applicable California Code & local ordinance for additional requirements.

- A building permit will be required. **FOR ANY IMPROVEMENTS TO THE TENANT SPACE** For information call (559) 713-4444
- Submit 1 digital set of professionally prepared plans and 1 set of calculations. (Small Tenant Improvements)
- Submit 1 digital set of plans prepared by an architect or engineer. Must comply with 2016 California Building Cod Sec. 2308 for conventional light-frame construction or submit 1 digital set of engineered calculations.
- Indicate abandoned wells, septic systems and excavations on construction plans.
- You are responsible to ensure compliance with the following checked items:**
- Meet State and Federal requirements for accessibility for persons with disabilities.
- A path of travel, parking and common area must comply with requirements for access for persons with disabilities. **20% OF PERMIT VALUE SHALL BE USED FOR 'PATH OF TRAVEL' ADA UPGRADES.**
- All accessible units required to be adaptable for persons with disabilities.
- Maintain sound transmission control between units minimum of 50 STC.
- Maintain fire-resistive requirements at property lines.
- A demolition permit & deposit is required. For information call (559) 713-4444
- Obtain required permits from San Joaquin Valley Air Pollution Board. For information call (661) 392-5500
- Plans must be approved by the Tulare County Health Department. For information call (559) 624-8011
- Project is located in flood zone AE.  Hazardous materials report. **VERIFY SUB IMPROVEMENTS FOR FLOOD REQUIREMENTS**
- Arrange for an on-site inspection. (Fee for inspection \$157.00) For information call (559) 713-4444
- School Development fees. Commercial \$0.66 per square foot & Self-Storage \$.23 per sf. Residential \$4.16 per square foot.
- Park Development fee \$ \_\_\_\_\_, per unit collected with building permits.
- Additional address may be required for each structure located on the site. For information call (559) 713-4320
- Acceptable as submitted
- No comments at this time

Additional comments: ALL EXIT DOORS SHALL PROVIDE ACCESS TO THE PUBLIC WAY.

VAL GARCIA 2/3/21  
Signature



**Site Plan Comments**  
Visalia Fire Department  
Corbin Reed, Fire Marshal  
420 N. Burke  
Visalia CA 93292  
559-713-4272 office  
prevention.division@visalia.city

Date February 2, 2021  
Item # 4  
Site Plan # 21010  
APN: 090133017

- The Site Plan Review comments are issued as **general overview** of your project. With further details, additional requirements will be enforced at the Plan Review stage. Please refer to the 2019 California Fire Code (CFC), 2019 California Building Codes (CBC) and City of Visalia Municipal Codes.
- All **fire detection, alarm, and extinguishing systems** in existing buildings shall be maintained in an operative condition at all times and shall be replaced or repaired where defective. If building has been vacant for a significant amount of time the fire detection, alarm, and or extinguishing systems may need to be evaluated by a licensed professional. 2019 CFC 901.6
- **Address numbers** must be placed on the exterior of the building in such a position as to be clearly and plainly visible from the street. Numbers will be at least four inches (4") high and shall be of a color to contrast with their background. If multiple addresses are served by a common driveway, the range of numbers shall be posted at the roadway/driveway. 2019 CFC 505.1
- All hardware on **exit doors, illuminated exit signs and emergency lighting** shall comply with the 2019 California Fire Code. This includes all locks, latches, bolt locks, panic hardware, fire exit hardware and gates.
- **Commercial dumpsters** with 1.5 cubic yards or more shall not be stored or placed within 5 feet of combustible walls, openings, or a combustible roof eave line except when protected by a fire sprinkler system. 2019 CFC 304.3.3
- A **Knox Box key lock system** is required. Where access to or within a structure or area is restricted because of secured openings (doors and/or gates), a key box is to be installed in an approved location. The key box shall be ordered using an approved Knox Authorization Order Form. The forms are located at the fire department administration office located at 420 N Burke, Visalia, CA 93292. Please allow adequate time for shipping and installation. 2019 CFC 506.1
- **Special comments:**

Corbin Reed  
Fire Marshal



City of Visalia  
 Police Department  
 303 S. Johnson St.  
 Visalia, CA 93292  
 (559) 713-4370

Date: 7-28-21  
 Item: #4  
 Site Plan: SPR21-010  
 Name: Agent McEwen

**SITE PLAN REVIEW COMMENTS**

- No Comment at this time
- Request opportunity to comment or make recommendations as to safety issues as plans are developed.
- Public Safety Impact Fee:  
 Ordinance No. 2001-11 Chapter 16.48 of Title 16 of the Visalia Municipal Code  
 Effective date – August 17, 2001

Impact fees shall be imposed by the City pursuant to this Ordinance as a condition of or in conjunction with the approval of a development project. "New Development or Development Project" means any new building, structure or improvement of any parcels of land, upon which no like building, structure or improvement previously existed. \*Refer to Engineering Site Plan comments for fee estimation.

Not enough information provided. Please provide additional information pertaining to:  
 \_\_\_\_\_

Territorial Reinforcement: Define property lines (private/public space).  
 \_\_\_\_\_

Access Controlled / Restricted etc.:  
 \_\_\_\_\_

Lighting Concerns:

Proper exterior lighting

Traffic Concerns:  
 \_\_\_\_\_

Surveillance Issues:

Interior & exterior lighting

Line of Sight Issues:  
 \_\_\_\_\_

Other Concerns:

will need a detailed list of products they will be selling.

## Cristobal Carrillo

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**From:** Leslie Blair  
**Sent:** Wednesday, April 7, 2021 1:33 PM  
**To:** Cristobal Carrillo  
**Subject:** SPR 21-010

Cristobal,

Traffic Safety had no comments for SPR 21-010.

Regards,  
Leslie Blair, PE  
Senior Civil Engineer  
City of Visalia  
(559)713-4633  
leslie.blair@visalia.city

**SOLID WASTE DIVISION  
336 N. BEN MADDOX  
VISALIA CA. 93291  
713 - 4532  
COMMERCIAL BIN SERVICE**

21010

February 2, 2021

- No comments.
- See comments below
- Revisions required prior to submitting final plans. See comments below.
- Resubmittal required. See comments below.
- Customer responsible for all cardboard and other bulky recyclables to be broken down before disposing of in recycle containers
- ALL refuse enclosures must be R-3 OR R-4
- Customer must provide combination or keys for access to locked gates/bins
- Type of refuse service not indicated.
- Location of bin enclosure not acceptable. See comments below.
- Bin enclosure not to city standards double.
- Inadequate number of bins to provide sufficient service. See comments below.
- Drive approach too narrow for refuse trucks access. See comments below.
- Area not adequate for allowing refuse truck turning radius of : Commercial 50 ft. outside 36 ft. inside; Residential 35 ft. outside, 20 ft. inside.
- Paved areas should be engineered to withstand a 55,000 lb. refuse truck.
- Bin enclosure gates are required
- Hammerhead turnaround must be built per city standards.
- Cul - de - sac must be built per city standards.
- Bin enclosures are for city refuse containers only. Grease drums or any other items are not allowed to be stored inside bin enclosures.
- Area in front of refuse enclosure must be marked off indicating no parking
- Enclosure will have to be designed and located for a STAB service (DIRECT ACCESS) with no less than 38' clear space in front of the bin, included the front concrete pad.
- Customer will be required to roll container out to curb for service.
- Must be a concrete slab in front of enclosure as per city standards, the width of the enclosure by ten(10) feet, minimum of six(6) inches in depth.
- Roll off compactor's must have a clearance of 3 feet from any wall on both sides and there must be a minimum of 53 feet clearance in front of the compactor to allow the truck enough room to provide service.
- City ordinance 8.28.120-130 (effective 07/19/18) requires contractor to contract with City for removal of construction debris unless transported in equipment owned by contractor or unless contracting with a franchise permittee for removal of debris utilizing roll-off boxes.
- Comment** Customer to roll bins out to Houston Ave. on service days.

Jason Serpa, Solid Waste Manager, 559-713-4533  
Edward Zuniga, Solid Waste Supervisor, 559-713-4338

Nathan Garza, Solid Waste, 559-713-4532

**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

Conditional Use Permit No. 2021-06

**PROJECT TITLE**

1410 W. Houston Avenue, Visalia, CA 93291

**PROJECT LOCATION**

Visalia

**PROJECT LOCATION - CITY**

Tulare

**COUNTY**

A request to establish a smoke shop in an existing 1,320 square foot building located at 1410 W. Houston Avenue in the C-MU (Commercial Mixed Use) Zone (APN: 090-133-017).

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

City of Visalia

**NAME OF PUBLIC AGENCY APPROVING PROJECT**

Preet Dhaliwal, 1500 W. Houston Avenue, Visalia CA 93291, (559) 623-6204, E-mail: N/A

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

Steve Sparshott, 1206 W. Evans, Visalia CA 93277, (559) 679-7565, Steve Sparshott,  
[fourshott2@yahoo.com](mailto:fourshott2@yahoo.com)

**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 15301**
- Statutory Exemptions- State code number:

A request to establish a smoke shop in an existing 1,320 square foot building located at 1410 W. Houston Avenue in the C-MU (Commercial Mixed Use) Zone. The site is developed and is served by all public utilities.

**REASON FOR PROJECT EXEMPTION**

Cristobal Carrillo, Associate Planner

**CONTACT PERSON**

(559) 713-4443

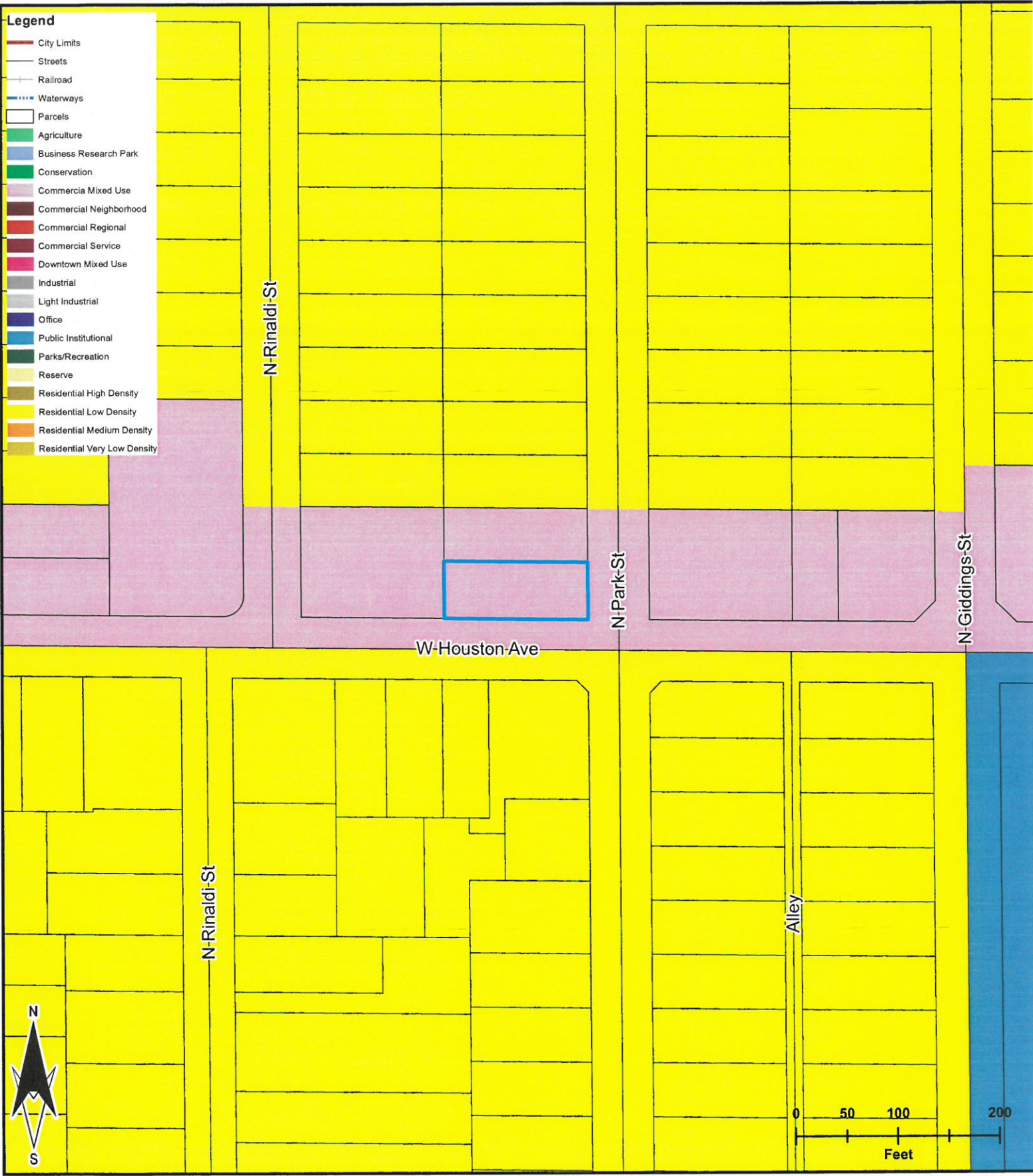
**AREA CODE/PHONE**

April 12, 2019

**DATE**

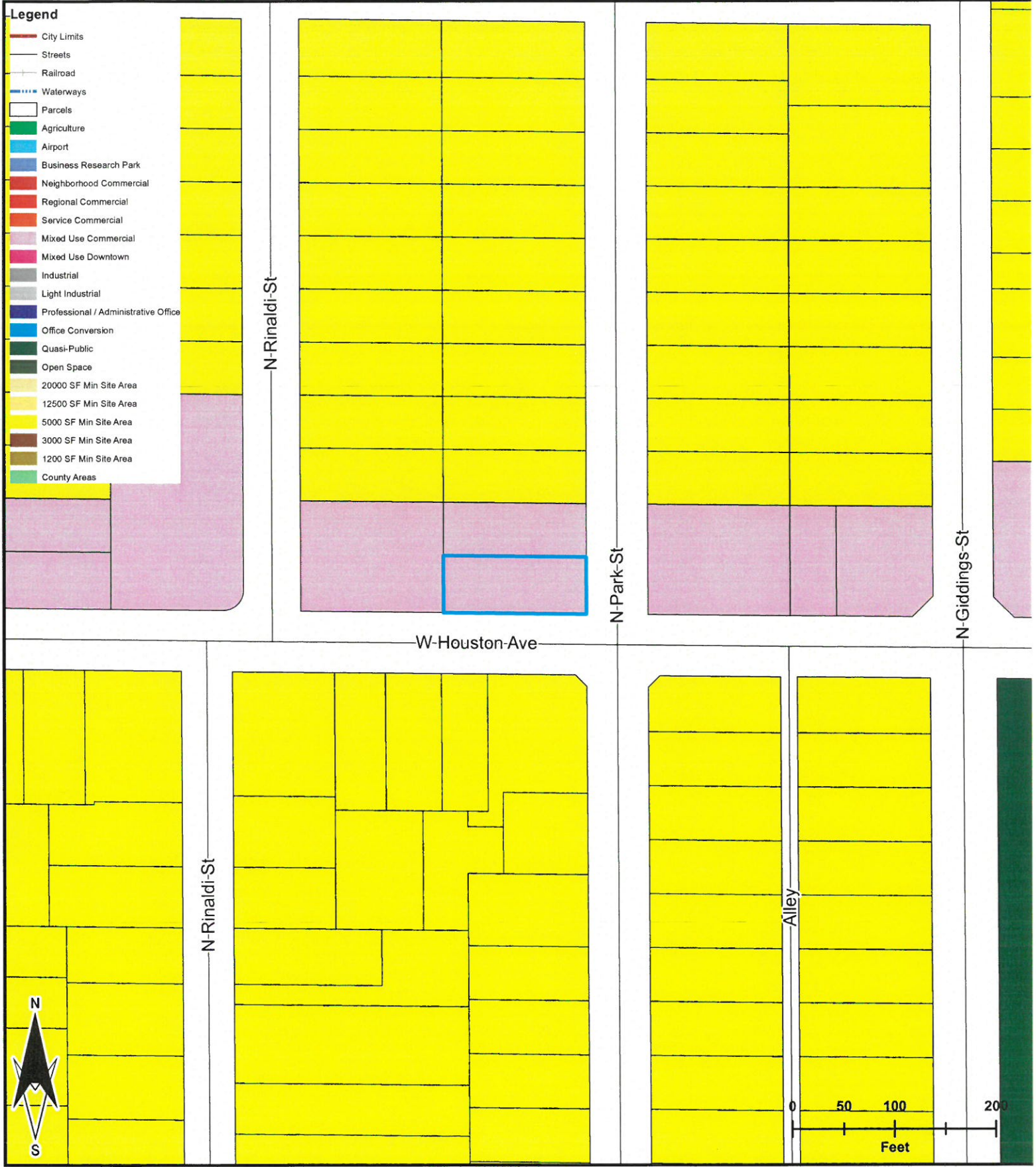
**Brandon Smith, AICP  
ENVIRONMENTAL COORDINATOR**





# Conditional Use Permit No. 2021-06

General Plan  
Land Use Map



# Conditional Use Permit No. 2021-06

Zoning Map



N Park St






W Houston Ave

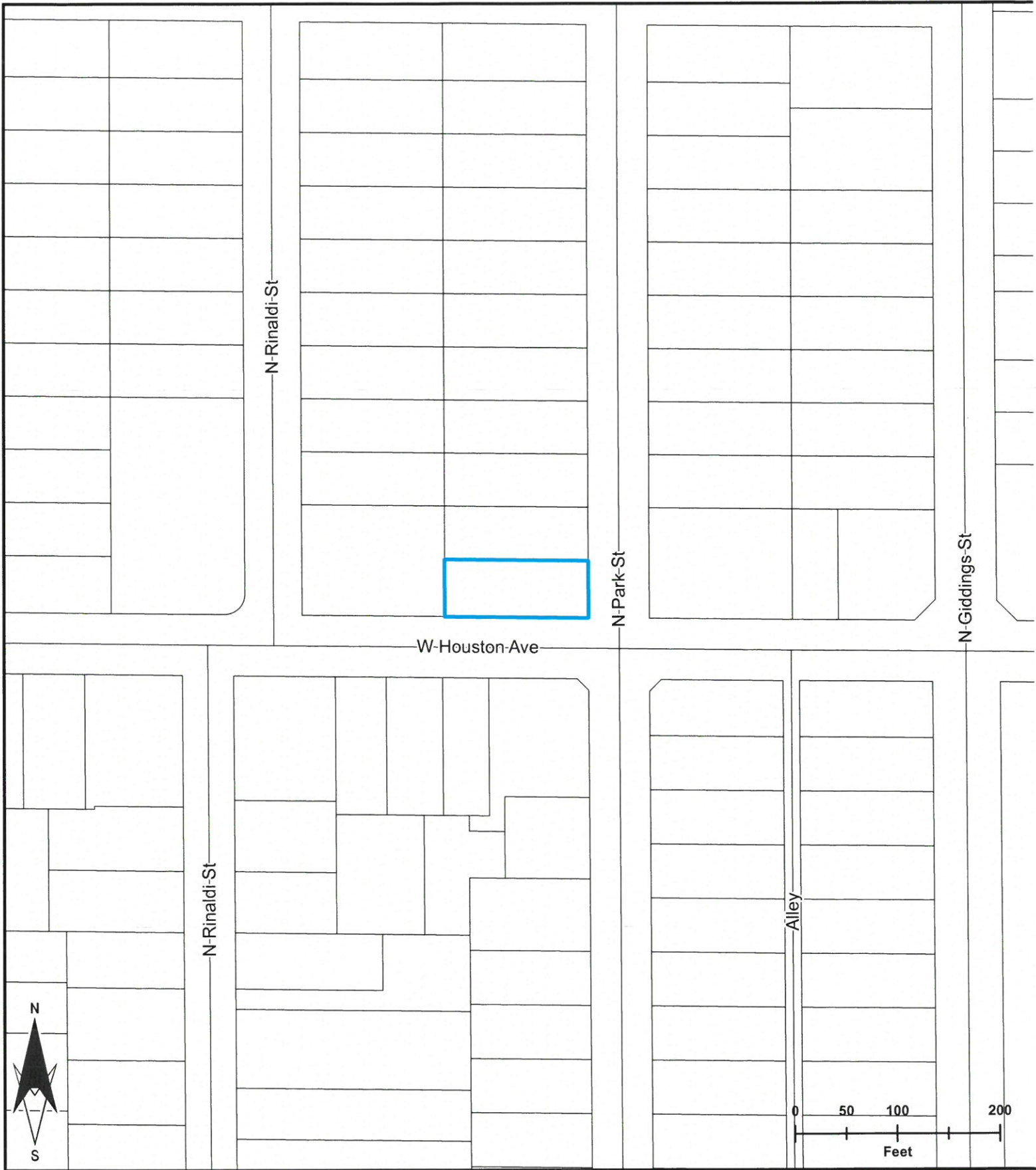


# Conditional Use Permit No. 2021-06

Aerial Map






### Legend

-  City Limits
-  Streets
-  Railroad
-  Waterways
-  Parcels



# Conditional Use Permit No. 2021-06

Vicinity Map

- Legend**
-  City Limits
  -  Streets
  -  Railroad
  -  Waterways
  -  Parcels