

PLANNING COMMISSION AGENDA

CHAIRPERSON:

Mary Beatie



VICE CHAIRPERSON:

Chris Tavarez

COMMISSIONERS: Bill Davis, Charlie Norman, Adam Peck, Chris Tavarez, Mary Beatie

MONDAY, NOVEMBER 25, 2024

VISALIA COUNCIL CHAMBERS

LOCATED AT 707 W. ACEQUIA AVENUE, VISALIA, CA

MEETING TIME: 7:00 PM

1. CALL TO ORDER –
2. THE PLEDGE OF ALLEGIANCE –
3. ROLL CALL –
4. 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.
5. CHANGES OR COMMENTS TO THE AGENDA –
6. CONSENT CALENDAR - All items under the consent calendar are to be considered routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of the Commission and made a part of the regular agenda.
 - a. Approval of Revised Resolution No. 2024-03, pertaining to the Planning Commission's motion to recommend approval of Zoning Text Amendment No. 2024-03 on November 12, 2024
 - b. Time Extension Request for San Marino Tentative Subdivision Map No. 5594
7. PUBLIC HEARING – (continued from October 28, 2024) Colleen Moreno, Assistant Planner
Revocation of Conditional Use Permit No. 2023-28: A request by the City of Visalia, pursuant to Municipal Code section 17.38.040, to revoke Conditional Use Permit No. 2023-28, which allows foot and body massage therapy use within an existing tenant space located at 2015 West Tulare Ave, in the C-MU (Commercial Mixed Use) zone (APN: 095-120-040).
8. CITY PLANNER UPDATE
9. ADJOURNMENT

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, DECEMBER 5, 2024, BEFORE 5:00 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 North Santa Fe Street, 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 or from the City Clerk.

THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, DECEMBER 9, 2024



City of Visalia

To: Planning Commission

From: Brandon Smith, Principal Planner
Phone: (559) 713-4636
E-mail: brandon.smith@visalia.city

Date: November 25, 2024

Re: Approval of Revised Resolution for the November 12, 2024, Planning Commission Agenda Item No. 11:

Zoning Text Amendment No. 2024-03: A request by the City of Visalia to add to and amend regulations within the Visalia Municipal Code Title 17 (Zoning Ordinance) pertaining to Accessory Dwelling Units and to Single-Family Residential Objective Design standards and Planned Residential Development standards applicable to new single-family residential developments. The regulations will apply Citywide to properties within the city limits of the City of Visalia.

Background:

At the Planning Commission meeting held on November 12, 2024, the Planning Commission approved Agenda Item No. 11, a Zoning Text Amendment for the adoption of two separate ordinances pertaining to residential development: accessory dwelling units and objective design standards for single-family residences. As part of the motion to approve the item, as recommended by staff, the Planning Commission directed staff add draft ordinance language addressing the process for an applicant to request an exception to the objective design standards.

The Planning Commission recommended, in its motion, that the additional language to be incorporated into a revised resolution be added to the Consent Calendar for consideration at its next regular meeting on November 25, 2024.

Exception Process

Following the Planning Commission meeting held on November 12, 2024, staff collaborated with the consultant team who assisted with the preparation of the ordinance to determine how to incorporate a process into the ordinance for an applicant to deviate from the standards. The ZTA's noticed language together with staff's time constraints for adopting the ZTA required that any changes be made within the Zoning Ordinance section being amended (i.e. Chapter 17.12, Article 2). In addition, staff desired the process of requesting a change to the design standards to be a discretionary process that would be decided upon by the Planning Commission with an appeal option to the City Council.

These changes resulted in the inclusion of an "exception" process to the Objective Design Standards ordinance in Chapter 17.12. The exception process will grant an applicant the ability to request an exception as explained in Section 17.12.230, a new section proposed to be added to the ordinance following the November 12, 2024 meeting.

Section 17.12.230 grants an applicant the ability to file a request for exception following the same procedures used to apply for an entitlement, such as a variance, for consideration by the Planning Commission. The exception process requires that the Commission make a finding related to the proposed residence's or residences' compatibility with the surrounding neighborhood. The following is an excerpt from Section 17.12.230 that describes this finding:

The commission must make a finding that the standards requested through this exception process become an integral part of the site development (e.g., design, material, contour, height, distance, color, texture) and do not adversely affect the established and distinctive character of any existing neighborhoods that are adjacent to the site being developed to achieve land use compatibility in terms of height, massing and other characteristics.

The exception process is intended to follow the same procedures as those prescribed in Chapter 17.42 for obtaining a variance. However, the findings required to approve the exception do not entail any or all of the five findings required for approving a variance. Rather, it entails making the single finding stated above.

Revised Resolution

Per the request of the Planning Commission, Resolution No. 2024-48 has been revised to add and describe the exception powers of the Planning Commission. The new and modified text is shown below in the yellow highlight. Changes to the resolution are also shown in text with yellow highlights.

17.12.140 Purpose and Applicability

B. Applicability. The standards of this Chapter apply to all new single-family residential developments on lots regardless of parcel size, unless exceptions from individual standards are granted through an exception per Section 17.12.230, or except as described below.

17.12.230 Exception Powers of the Planning Commission

The planning commission may grant one or more exceptions to any of the regulations prescribed in Chapter 17.12 Article 2 (Single-family Residential Objective Design Standards) by using the following exception process. Applicants seeking an exception shall follow the same procedures as those prescribed in Chapter 17.42 for obtaining a variance. City staff shall prepare a separate form for applicants seeking an exception to file. In reviewing a request for an exception, the commission is not required to make any or all of the five findings required for a variance action found in Section 17.42.090. Rather, the commission must make a finding that the standards requested through this exception process become an integral part of the site development (e.g., design, material, contour, height, distance, color, texture) and do not adversely affect the established and distinctive character of any existing neighborhoods that are adjacent to the site being developed to achieve land use compatibility in terms of height, massing and other characteristics. The decision by the planning commission over the requested exception may be appealed to city council in the same manner as a variance under the appeal provisions of Section 17.02.145. If the exception is approved, then the exception shall be subject to revocation

or lapse in the same manner as a variance under Chapter 17.42. If a request for an exception is denied or revoked, then no application for the same or substantially the same variance on the same or substantially the same site shall be filed within one year of the date of denial or revoked unless the planning commission or city council specifically allow such further applications in the decision for denial or revocation.

The revised resolution is attached to this memo.

Recommendation

Staff recommends that the Planning Commission approve Revised Resolution No. 2024-67 for Zoning Text Amendment No. 2024-03, based upon the findings and conditions in revised Planning Commission Resolution No. 2024-67.

Attachments

- Attachment “A” – Revised Planning Commission Resolution No. 2024-67
- Attachment “B” – Zoning Text Amendment No. 2024-03 Planning Commission Staff Report, November 12, 2024 (no attachments included)

RESOLUTION NO. 2024-67

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA, RECOMMENDING APPROVAL OF ZONING TEXT AMENDMENT NO. 2024-03, A REQUEST BY THE CITY OF VISALIA TO ADD TO AND AMEND REGULATIONS WITHIN THE VISALIA MUNICIPAL CODE TITLE 17 (ZONING ORDINANCE) PERTAINING TO ACCESSORY DWELLING UNITS AND TO SINGLE-FAMILY RESIDENTIAL OBJECTIVE DESIGN STANDARDS AND PLANNED RESIDENTIAL DEVELOPMENT STANDARDS APPLICABLE TO NEW SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS. THE REGULATIONS WILL APPLY CITYWIDE TO PROPERTIES WITHIN THE CITY LIMITS OF THE CITY OF VISALIA

WHEREAS, Zoning Text Amendment No. 2024-03 is a request by the City of Visalia to add to and amend regulations within the Visalia Municipal Code Title 17 (Zoning Ordinance) pertaining to Accessory Dwelling Units and to Single-Family Residential Objective Design standards and Planned Residential Development standards applicable to new single-family residential developments. The regulations will apply Citywide to properties within the city limits of the City of Visalia, as set forth in Attachment "A" of this resolution; and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, held a public hearing before said Commission on November 12, 2024; and

WHEREAS, the Planning Commission of the City of Visalia considered the Zone Text Amendment in accordance with Section 17.44.070 of the Zoning Ordinance of the City of Visalia and on the evidence contained in the staff report and testimony presented at the public hearing.

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 under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and pursuant to the Code of Regulations Section 15061(b)(3).

BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia recommends approval to the City Council of the proposed Zone Text Amendment based on the following specific findings and evidence presented:

1. That the Zoning Text Amendment is consistent with the intent of the General Plan and Zoning Ordinance and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, as described in the following Land Use and Housing Element Policies:

Land Use Element Policy LU-O-21 - Preserve and enhance the character of residential neighborhoods while facilitating infill development.

Land Use Element Policy LU-O-23 - Provide a range of housing types and prices within new neighborhoods to meet the needs of all segments of the community.

Land Use Element Policy LU-P-49 - Preserve established and distinctive neighborhoods throughout the City by maintaining appropriate zoning and development standards to achieve land use compatibility in terms of height, massing and other characteristics; providing design guidelines for high-quality new development; supporting housing rehabilitation programs; and other means.

Land Use Element Policy LU-P-50 - Provide development standards to ensure that a mix of detached and attached single-family and multi-family housing types can be compatible in a single development.

Housing Element Policy 1.4 - The City shall encourage a mix of residential development types in the city, including single family homes, on a variety of lot sizes, as well as townhomes, row houses, live-work units, planned unit developments, accessory dwelling units, and multi-family housing.

Housing Element Policy 3.11 - The City shall continue to support, facilitate the construction, and provide for the development of accessory dwelling units on parcels with single-family and multi-family units while protecting the character of neighborhoods and zoned parcels as a means of providing affordable housing.

HE Program 2.7 Missing Middle: The City will review and amend residential development standards to allow for and promote a mix of dwelling types and sizes, specifically missing middle-density housing types (e.g., duplexes, triplexes, courtyard buildings, townhomes) to encourage the development of housing types affordable to the local workforce.

Housing Element Program 3.15 Promoting Accessory Dwelling Units. - The City shall promote the development of ADUs, prioritizing the higher resource areas.

2. That applying the proposed Accessory Dwelling Unit standards to future housing and residential uses will encourage increased housing options, including but not limited to affordable housing, throughout the City, as endorsed through the City of Visalia Housing Element Update (6th Cycle). These standards are designed to promote and ensure compatibility with adjacent land uses.
3. That applying the proposed Single-Family Residential Object Design standards to future housing and residential uses will reflect sound planning principles and will assist in enhancing the character of residential neighborhoods.
4. That the City has determined that the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 which specifically exempts the adoption of an updated ADU ordinance, and pursuant to the CEQA Common Sense Exemption Section 15061(b)(3) since there would be no possibility of a significant effect on the environment.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia recommends approval to the City Council of Zone Text Amendment No. 2024-03 described herein in Attachment "A", in accordance with the terms of this resolution and under the provisions of Section 17.44.070 of the Ordinance Code of the City of Visalia.

Resolution No. 2024-67

ATTACHMENT "A"

Zoning Text Amendment (ZTA) No. 2024-03, to add to and amend regulations within the Visalia Municipal Code Title 17 (Zoning Ordinance) pertaining to Accessory Dwelling Units and to Single-Family Residential Objective Design standards and Planned Residential Development standards applicable to new single-family residential developments.

Changes to City of Visalia Municipal Code Title 17 – Zoning Ordinance, as specified by underline & italics for additions and ~~strikeout~~ for deletions.

Title 17 ZONING

Chapters:

17.14 ~~[Reserved]~~ Accessory Dwelling Units

Chapter 17.08 Agriculture Zone

17.08.030 Accessory uses.

The following accessory uses are allowed in conjunction with permitted uses:

D. Accessory dwelling units as specified in ~~Sections 17.12.140 through 17.12.200~~
Chapter 17.14.

Chapter 17.10 Open Space Zone

17.10.030 Accessory uses.

C. Accessory dwelling units as specified in Chapter 17.14.

Chapter 17.12 Single-family Residential Zone

17.12.060 ~~One~~ Number of dwelling units per site.

~~Article 2. Accessory Dwelling Units~~

~~17.12.140 Purpose and intent.~~

~~17.12.150 Definitions.~~

~~17.12.160 General provisions.~~

~~17.12.170 Process.~~

~~17.12.180 Development requirements.~~

~~17.12.190 Appeals.~~

~~17.12.200 Existing nonconforming accessory dwelling units.~~

Article 2. Single-Family Residential Objective Design Standards

17.12.140 Purpose and Applicability

17.12.150 Site Planning

17.12.160 Structure Design Standards

17.12.170 Landscaping

17.12.180 Fences, Walls, and Hedges

17.12.190 Exterior Lighting

17.12.200 Off-Street Parking Facilities

17.12.210 Useable Common Open Space Areas for Planned Unit Developments

17.12.220 Sidewalks for Planned Unit Developments

17.12.230 Exception Powers of the Planning Commission

17.12.030 Accessory uses.

In the R-1 single-family residential zone, the following accessory uses shall be permitted, subject to specified provisions:

D. Accessory dwelling units as specified in Sections 17.12.140 through 17.12.200 Chapter 17.14.

17.12.040 Conditional uses.

In the R-1 single-family residential zone, the following conditional uses may be permitted in accordance with the provisions of Chapter 17.38:

~~M. Duplexes on corner lots;~~

[Note: All subsequent items in list shall be renumbered commencing with M.]

17.12.060 ~~One~~ Number of dwelling units per site.

In the R-1 single-family residential zone, not more than one dwelling unit shall be located on each site, ~~with the exception to Section 17.12.020(J) notwithstanding Chapter 17.14 pertaining to accessory dwelling units, and notwithstanding California Government Code Section 65852.21(a) which allows two residential units on a site.~~

17.12.135 Lot area less than 5,000 square feet.

A. Notwithstanding Section 17.12.050, lots in the R-1-5 zone may have a lot area of between 3,600 and 4,999 square feet if all of the following standards are met:

1. ~~The Planning Commission finds that the development's overall density is consistent with the General Plan Low Density Residential General Plan density range of two (2) to ten (10) dwelling units per gross acre.~~

2. The maximum number of lots less than 5,000 square feet that may be approved by a tentative subdivision map shall be fifty (50) percent or less of the total lots.

3. Streets shall be constructed to public street standards.

4. Each subdivision with at least 15 lots that are less than 5,000 square feet in size shall make available to buyers at least three (3) different small lot floor plans with at least four (4) available elevation designs for each floor plan to construct on those lots.

5. The development is consistent with all design standards established in Chapter 17.12 Article 2 (Single-Family Residential Objective Design Standards).

~~—5. The primary frontage of the dwelling unit shall face a public street, primary entryway, circulation walkway, or open space with sidewalks that provide delineated paths of travel.~~

~~—6. The primary frontage of the dwelling unit shall include the primary entrance and at least one window.~~

~~—7. Required covered parking spaces shall be in garages. Carports are prohibited.~~

~~—8. The width of the garage shall not be greater than fifty (50) percent of the width of the dwelling unit.~~

~~—9. The garage shall not extend beyond the front building facade (living area.)~~

~~—10. All dwelling units shall include a covered front porch at least four (4) feet deep and six (6) feet wide or an uncovered front courtyard at least five (5) feet wide and five (5) feet deep that is surrounded on four sides by the dwelling unit or a wall or fence between three (3) and four (4) feet high with a pedestrian gate or entryway.~~

~~—11. The building official shall not approve a building permit for a new dwelling unit on a lot with a lot area less than 5,000 square feet until the city planner, or designee, has determined that the standards identified in this section are met.~~

~~—12. The subdivision shall provide a common, usable open space area of a minimum 3,000 square feet or two hundred fifty (250) square feet per lot under 5,000 square feet, whichever is greater. The area shall be landscaped and maintained with funding from either a homeowner's association or a landscape and lighting act district.~~

B. Notwithstanding this Chapter, lots with less than five thousand (5,000) square feet shall have the following minimum dimensions and building setback areas, unless they were approved with a planned development permit:

1. The minimum lot depth shall be seventy (70) feet.

2. The minimum lot width shall be forty-six (46) feet for interior lots and fifty-one (51) feet for corner lots.

3. The minimum front building setback area shall be twelve (12) feet for livable space and twenty (20) feet for garages.

4. The minimum rear yard building setback area shall be fifteen (15) feet.

5. The minimum interior side yard building setback area shall be five (5) feet.
6. The minimum corner side yard building setback area shall be ten (10) feet.
7. The maximum building height shall be thirty-five (35) feet.
8. Lots shall provide for a minimum usable open space area of ~~a minimum~~ three hundred (300) square feet. The open space shall be have a minimum width of fifteen (15) feet-wide.

C. Lots less having a lot area of 3,600 square feet, or lots between 3,600 and 4,999 square feet that do not meet all the standards in ~~this section~~ Subsections A and B of Section 17.12.135 may be approved through the planned development permit process per Chapter 17.26. (Ord. 2017-01 (part), 2017)

Chapter 17.12 Article 2: Single-Family Residential Objective Design Standards

17.12.140 Purpose and Applicability

A. Purpose. The purpose of this Chapter is to establish objective design standards that provide developers with a clear understanding of the City's expectations for all residential project design and streamline the construction of housing units by reducing subjectivity in the entitlement process. All applicable development projects are required to comply with all design standards found in this Chapter in addition to all applicable Building Permit requirements, Zoning Ordinance requirements, City Engineering Division Design and Improvement Standards, and all other applicable City, County, and State provisions.

B. Applicability. The standards of this Chapter apply to all new single-family residential developments on lots regardless of parcel size, **unless exceptions from individual standards are granted through an exception per Section 17.12.230, or except as described below.**

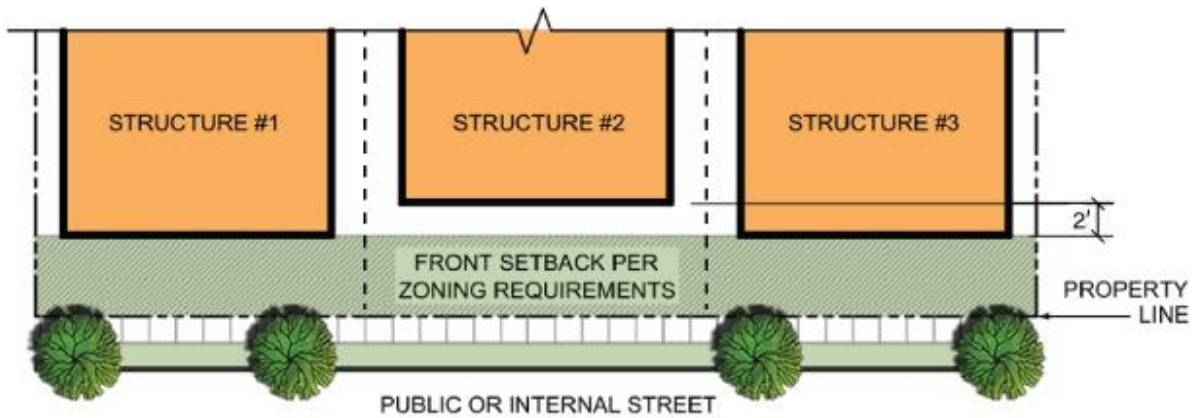
1. For the purposes of this Chapter, accessory dwelling units (ADUs) are considered accessory structures to a single-family residence and are subject to all applicable design standards for accessory structures established in this Chapter except where they interfere with State law or the City's ADU Ordinance.

2. Buildings and structures listed on the City's Local Register of Historic Structures are excluded from the requirements of this Chapter but are subject to committee review (see Chapter 17.56).

17.12.150 Site Planning

A. Site Placement

1. Site Area. Developments with two or more structures shall be staggered with a minimum of two-foot variation measured from the front setback with the intent of providing a varied street elevation so that front setbacks and structures on adjacent parcels differ by a minimum of two feet and a maximum of six feet.

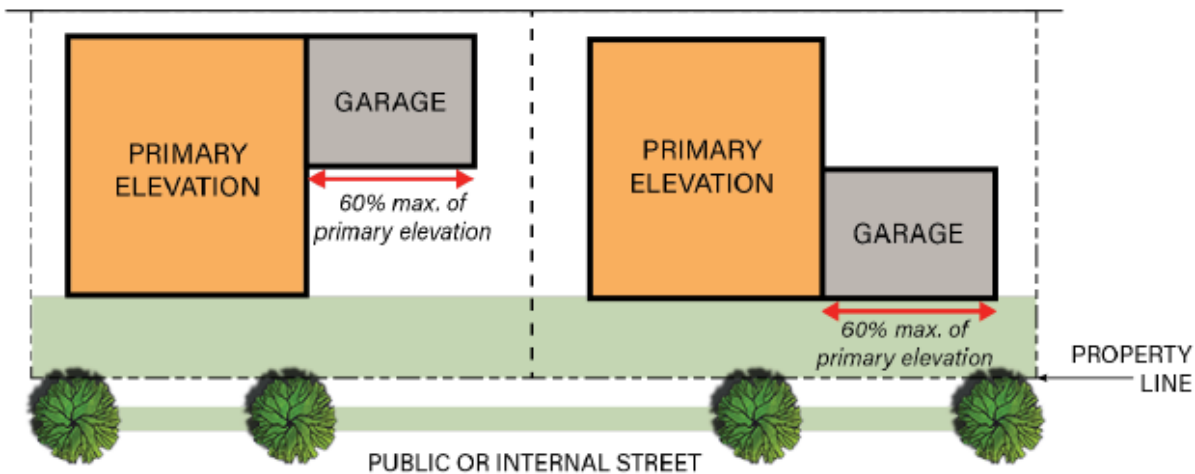


2. Orientation

a. The primary elevation of the residence shall face the primary public or private right-of-way on which the parcel is located. For the purposes of this Section the primary elevation is that in which the primary entrance is located.

b. On corner lots, the primary elevation is considered the elevation that is facing the street in which the residential address is associated with and front door is located. The applicant/developer/property owner may file for an address change if they would like to change what street the primary elevation is located.

c. Garages. Garages (attached or detached) shall be setback farther from or equal to the primary elevation and shall not exceed 60 percent of the width of the primary elevation.



B. Site Development.

1. Setbacks. Structure setbacks shall be subject to the provisions of the applicable zone of which the subject parcel is located in. For single-family provisions please see Chapter 17.12. For lots less than 5,000 square feet the setback requirements specified in Section 17.12.135 shall apply.

2. Height. Structure height shall be subject to the provisions of the applicable zone of which the subject parcel is located in. For single-family provisions please see Chapter 17.12. For lots less than 5,000 square feet the height requirements specified in Section 17.12.135 shall apply.

3. Front Entryways.

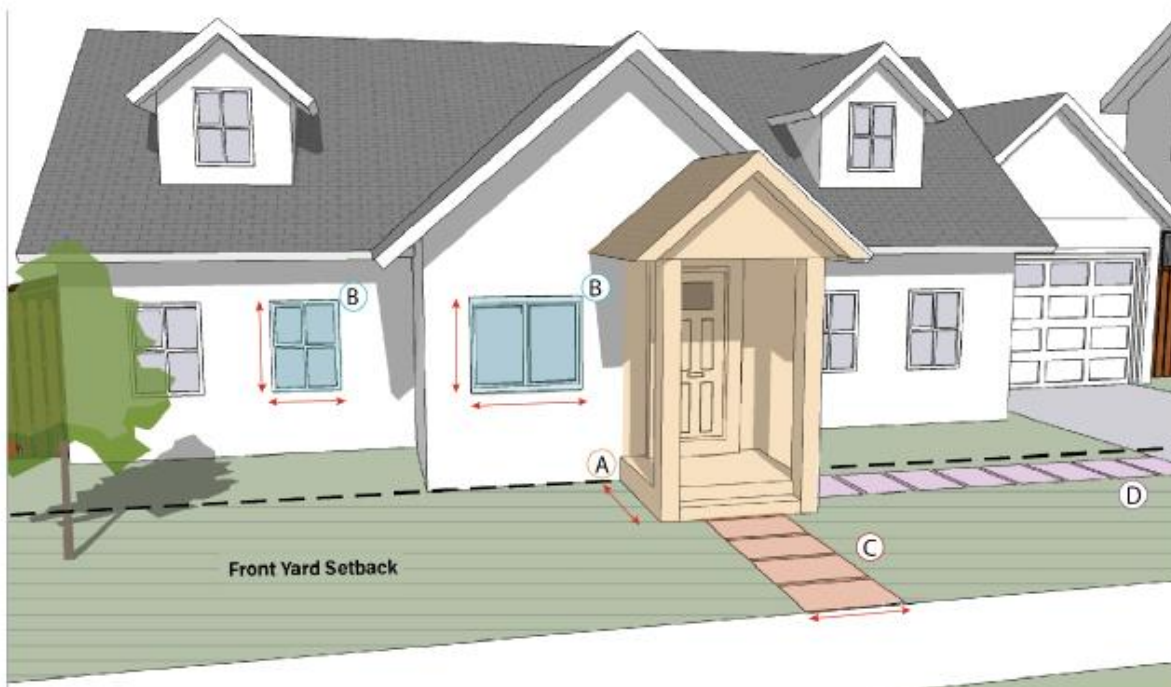
a. The main entry to the residence shall be located on the primary elevation.

b. The primary elevation shall include a minimum of one window that is at least three feet by four feet.

c. Front entries shall include a covered porch that complies with standards established in Section 17.32.090 of this Title. A porch can be recessed and/or projecting, however a canopy or awning alone cannot be utilized to fulfill this standard.

d. A minimum three-foot wide pedestrian walkway, other than the driveway, shall provide direct access to the front entryway of the residence from the primary sidewalk, or primary right-of-way if no sidewalk is present. Pedestrian walkways can be constructed with any materials (i.e., aggregate or natural stone or rock, brick, gravel, wood, poured concrete), except for dirt or topsoil.

e. In addition to the pedestrian walkway described in Subparagraph 3.d, a minimum three-foot pedestrian walkway may be provided to connect the front entry to the driveway. The walkway shall match the material as the pedestrian walkway from the front entry to the sidewalk.



- (A) Covered porch on the front entry that may project up to 6 feet into the front yard setback.
- (B) Primary elevation shall include at least one window measuring 3 foot (height/width) by 4 foot (height/width).
- (C) Three foot wide pedestrian walkway from the front entry to the primary sidewalk/public right-of-way.
- (D) Optional three-foot pedestrian walkway from the front entry to driveway.

17.12.160 Structure Design Standards.

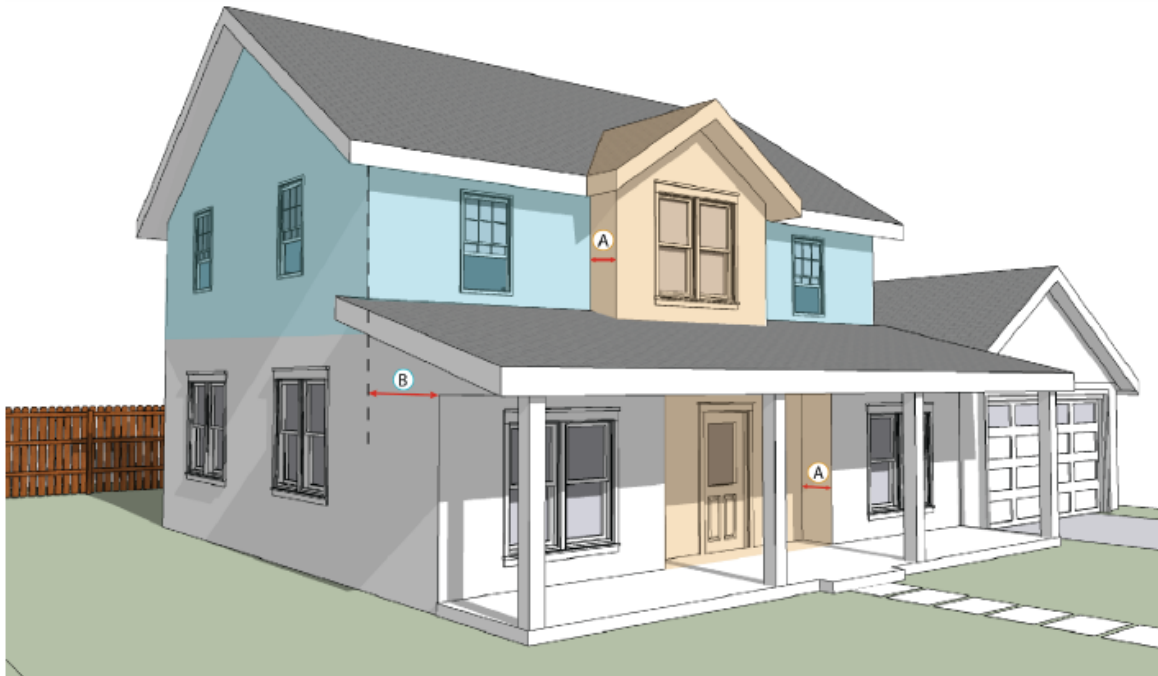
A. Massing. To provide for visually interesting structures, primary elevations wider than 25 feet shall incorporate at least one of the following massing elements for every 15 feet:

1. Projections. A projection shall project at least two feet, but no more than six feet, from the main elevation plane and be at least eight feet wide. A projected area shall be capped with an eave or gable that matches the same materials and style as the main structure. A projection may extend into the required setback if it complies with Section 17.32.090 (Yard requirements – Exceptions) of this Title.

2. Recessions. A recession shall be at least two feet deep, but no more than six feet deep, from the main elevation plane and be at least five feet wide.

3. Second Floor Stepbacks. For two-story structures, the second floor may be stepped back by at least six feet, but no more than 12 feet, from the ground floor wall plane. The stepback shall extend along at least 50 percent of the length of the wall plane. The stepback may be continuous or composed of multiple segments that together total the required length.

4. Bay Window. A protruding window that is at least two feet from wall plane.



- (A) Projection or recession measuring between two to six feet from the wall plane.
- (B) Second floor stepback measuring between six and 12 feet from first floor.

B. Articulation. Structures shall be vertically (height) and horizontally (depth) articulated along the primary elevations.

1. Vertical Articulations. Vertical articulations shall include a change in total height of a minimum of two feet, or a change in roof pitch or form, or the inclusion of a gable or dormer, and such articulation shall occur at intervals of a maximum of 15 feet.

2. Horizontal Articulation. Horizontal articulations shall include a change of wall plane by a minimum depth of two feet at intervals of a maximum of 20 feet.



- (A) Vertical Articulation through the inclusion of a dormer.
- (B) Horizontal Articulation - Change of wall plane by a minimum of 2 feet.

C. Fenestration.

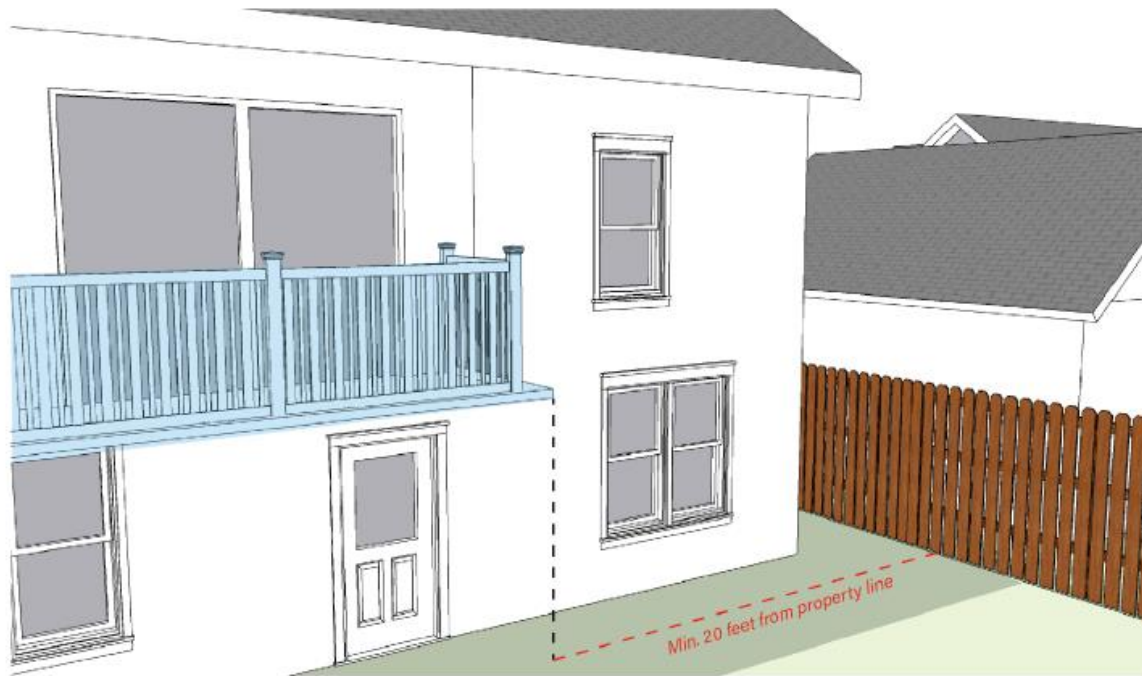
1. All windows and doors shall include one of the following exterior design details:

a. A recess of at least two inches from the wall plane.

b. Wood, metal, stucco covered foam, or engineered wood trim around the entire window or door with a minimum width of three inches and minimum depth of three-quarters of an inch.

2. If used, shutters shall be sized to cover 100 to 105 percent of the window and match the exact window shape.

D. Balconies. No portion of a second floor balcony shall be within 20 feet of the adjacent property line (except on the primary elevation), unless the side(s) of the balcony facing the adjacent property(ies) is screened from view.



E. Design Details.

1. Materials

a. No more than four materials or finishes (not including roofing, door, or window materials) shall be used on each elevation, and no more than five materials or

finishes (not including roofing, door, or window materials) in total shall be used across all elevations.

b. The following materials are prohibited from use as exterior finishes (excluding windows and doors):

i. Vinyl siding

ii. Plastic

iii. Raw, non-treated/coated metal

2. Colors. A minimum of two, but no more than five, colors (or tints, shades, or tones of the same color) shall be used on the entire exterior of the building.

3. Accessory Structures. All accessory structures (i.e., accessory dwelling units, garages, workshops, storage sheds) visible from the primary street shall be constructed of the same materials, colors, roof type as the primary structure. This standard only applies to accessory structures constructed together with the primary dwelling unit.

17.12.170 Landscaping.

A. All areas not occupied by structures or pavement in the front yard area shall be landscaped. Landscaped areas shall consist of plantings, turf, mulch, or bark.

B. All landscape areas shall meet the requirements of the State Model Water Efficient Landscape Ordinance, or if applicable, the Water Efficient Landscape Ordinance of the City of Visalia. [Source: 17.30.015.C.1.a]

C. Trees. New developments shall plant a minimum of one tree along the street frontage. Trees shall be 15 gallons at the time of planting.

D. Pavement or hardscape shall not make up more than 50 percent of the front yard, unless necessary to meet other standards required by this Chapter.

17.12.180 Fences, Walls, and Hedges.

A. Height. Fences, walls, and hedges shall not exceed seven feet in height if on the side or rear yard setbacks, or three feet in height if in the front yard setback. A front yard fence or wall may be allowed to a height of up to four feet only if the portion exceeding three feet, at minimum, is constructed with a material that has a visibility percentage of at least 50 percent (i.e., lattice fencing). These standards also apply within five feet of the street side property line for corner lots.

B. Materials. The following materials are prohibited from use as fencing:

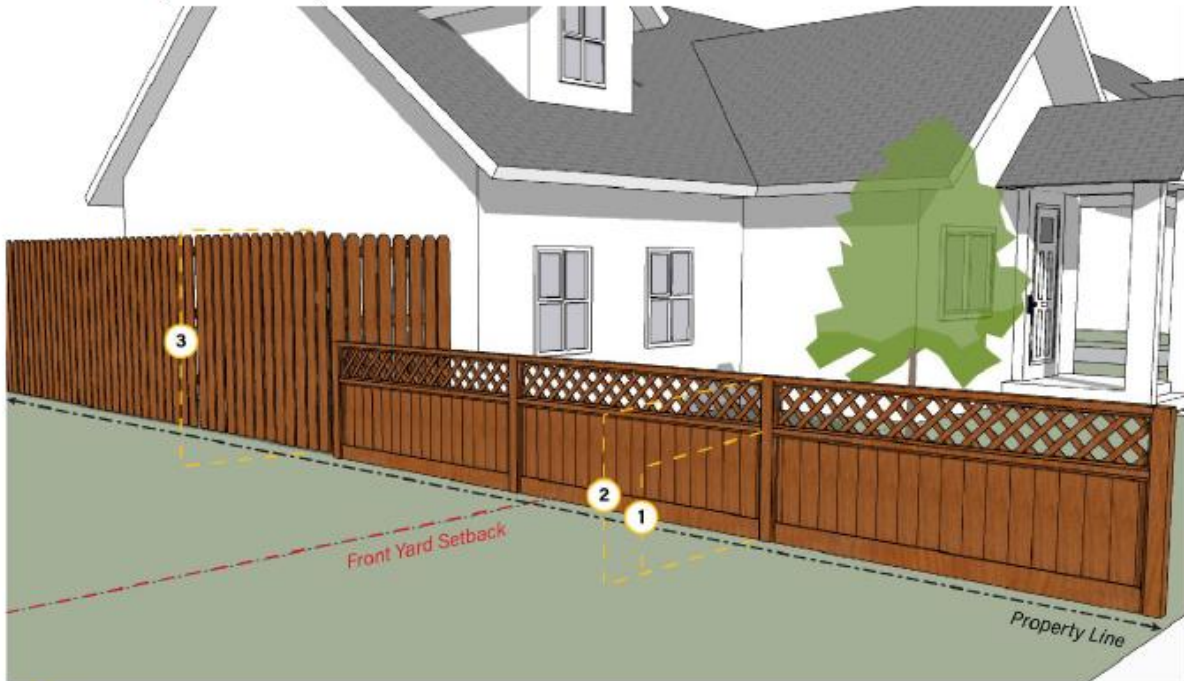
1. Barbed wire

2. Electric charged fencing

3. Corrugated Paneling

4. Chain link (except for three to four-foot height fences within the front yard and street side yard setback)

4. Chain link (except for three to four-foot height fences within the front yard and street side yard setback)



- 1 Maximum height of three feet in front yard setback.
- 2 Maximum height of four feet in front yard setback if top one foot of fence is at 50 percent visibility.
- 3 Maximum height of seven feet in on side and rear yard setback.

17.12.190 Exterior Lighting.

A. All entryways, porch areas, pedestrian pathways, and gates shall include lighting for safety and security. All exterior lighting fixtures shall comply with all of the following standards:

1. Be fully shielded and directed downward (not above the horizontal plane) and shall not spill onto adjacent properties;
2. Be no more than of eight feet above the ground plane;
3. Ground-mounted light fixtures to illuminate driveways, landscaped areas, or pedestrian pathways shall be no more than three feet in height; and
4. Use light emitting diodes (LEDs) with a maximum temperature of 3000 kelvins.

B. Permanently installed light fixtures that blink, revolve or flash are prohibited.

17.12.200 Off-Street Parking Facilities.

A. The number and type of off-street parking facilities for a single-family residential development shall comply with the requirements of the underlying zoning district as established in Chapter 17.34. In addition to the provisions in Chapter 17.34, all off-street parking facilities shall comply with the following standards:

B. Covered parking areas shall be in garages. Carports are allowed only if they do not serve as the required covered parking (e.g., porte cocheres, carports in front of garages). [Source: 17.12.135.A.7]

C. Uncovered parking areas (i.e., driveways) shall be paved with concrete or a permeable or impermeable surface. [Source: 17.34.030.P]

D. Off-Street Guest Parking Facilities for Planned Unit Developments. Planned unit developments with four or more dwelling units shall provide off-street guest parking spaces when on-street parking is not allowed on the streets within the development. Planned unit developments shall provide a minimum of one guest parking space per four dwelling units within the total project. If a fraction occurs based on the specified number of guest spaces, the project applicant shall round up to the next round number of guest spaces.

17.12.210 Useable Common Open Space Areas for Planned Unit Developments.

A. Useable Common Open Space. Planned unit developments shall provide usable outdoor passive/active open space with outdoor amenities as required in Table 1 (Outdoor Amenities). Useable common open space means an unobstructed area or areas, accessible to all occupants of the structure it serves, having no dimension less than 10 feet in any direction. Useable common open space excludes areas designated for parking, including surface parking, carports, or garages. A minimum of 60 percent of the common useable open space shall be provided as landscaped green area (not hardscaped).

B. Recreational Amenities. Recreation amenities as required in Table 1 (Outdoor Amenities) can be either passive or active as described below, or a combination of the two.

1. Passive Recreational Amenities. Passive recreation refers to recreational activities that require minimal to no facilities or development to perform such activities. Passive recreation amenities include, but are not limited to, community gardens, outdoor gathering/seating area, picnic/barbeque area, pet area/dog park, courtyard/plaza. All passive recreational amenity area shall be a minimum of 200 square feet unless otherwise stated.

2. Active Recreational Amenities. Active recreation refers to recreational activities that require specific facilities or equipment to perform such activities. Active recreational amenities include, but are not limited to, playground/tot lot, sports court/field, fitness area, swimming pool, clubhouse w/kitchen, community room. All passive recreational amenity area shall be a minimum of 500 square feet unless otherwise stated.

C. Seating. Seating shall be provided for all common open space areas.

D. Playgrounds/tot lots shall be located in an area with direct visibility from a minimum of three dwelling units to allow for casual surveillance.

<u>Table 1</u> <u>Open Space and Recreational Requirements</u>		
<u>Number of Units in Project</u>	<u>Minimum Number of Amenities¹</u>	<u>Minimum Total Area²</u>
<u>Less than 5</u>	<u>1</u>	<u>500 sq. ft.</u>
<u>5-10¹</u>	<u>1</u>	<u>500 sq. ft. plus 100 sq. ft per unit over 5 units</u>
<u>11-30</u>	<u>2</u>	<u>1,000 sq. ft. plus 150 sq. ft per unit over 10 units</u>
<u>31-60</u>	<u>2</u>	<u>4,000 sq. ft. plus 165 sq. ft per unit over 30 units</u>
<u>61-100</u>	<u>2</u>	<u>9,000 sq. ft. plus 200 sq. ft per unit over 60 units</u>
<u>101-150</u>	<u>3 plus 1 additional amenity for every 50 units over 200</u>	<u>17,000 sq. ft. plus 250 sq. ft per unit over 100 units</u>
<p><u>1 – Minimum number of amenities can be passive or active amenities as described in Subsection 17.12.210.B</u></p> <p><u>2 - Minimum Total Area means the combined area of all amenities. Each amenity must still meet all applicable standards established in this Section.</u></p>		

17.12.220 Sidewalks for Planned Unit Developments.

Sidewalks within a Planned Unit Development shall incorporate the following standards:

A. Shall be a minimum width of five feet; and

B. Shall implement the concrete specifications for sidewalks and ramps as determined by the City of Visalia City Engineering Division Design and Improvement Standards.

17.12.230 Exception Powers of the Planning Commission

The planning commission may grant one or more exceptions to any of the regulations prescribed in Chapter 17.12 Article 2 (Single-family Residential Objective Design Standards) by using the following exception process. Applicants seeking an exception shall follow the same procedures as those prescribed in Chapter 17.42 for obtaining a variance. City staff shall prepare a separate form for applicants seeking an exception to file. In reviewing a request for an exception, the commission is not required to make any or all of the five findings required for a variance action found in Section 17.42.090. Rather, the commission must make a finding that the standards requested through this exception process become an integral part of the site development (e.g., design, material, contour, height, distance, color, texture) and do not adversely affect the established and distinctive character of any existing neighborhoods that are adjacent to the site being developed to achieve land use compatibility in terms of height, massing

and other characteristics. The decision by the planning commission over the requested exception may be appealed to city council in the same manner as a variance under the appeal provisions of Section 17.02.145. If the exception is approved, then the exception shall be subject to revocation or lapse in the same manner as a variance under Chapter 17.42. If a request for an exception is denied or revoked, then no application for the same or substantially the same variance on the same or substantially the same site shall be filed within one year of the date of denial or revoked unless the planning commission or city council specifically allow such further applications in the decision for denial or revocation.

Chapter 17.14: Accessory Dwelling Units

17.14.010 Purpose and Intent.

17.14.020 Acknowledgement.

17.14.030 Applicability.

17.14.040 Where Allowed.

17.14.050 Permit Requirements and Processing Procedures.

17.14.060 Types of Accessory Dwelling Units.

17.14.070 Types and Number of Units Allowed.

17.14.080 Standards Applicable to All Accessory Dwelling Units.

17.14.090 Additional Standards Applicable to Attached and Detached Accessory Dwelling Units.

17.14.100 Standards Applicable to Converted Accessory Dwelling Units.

17.14.110 Standards Applicable to Junior Accessory Dwelling Units.

17.14.010 Purpose and Intent.

The purpose and intent of this Chapter is as follows:

A. Purpose. The purpose of this Chapter is to provide regulations for the development of accessory dwelling units through a ministerial process consistent with California Government Code Section 66310 through 66342.

B. Intent. The regulations in this Chapter are intended to:

1. Implement the provisions of the General Plan Housing Element;

2. Assure compliance with California Government Code Section 66310 through 66342 and other relevant housing legislation;

3. Encourage the development of accessory dwelling units;

4. Streamline and minimize governmental constraints on residential development; and

5. Minimize potential adverse impacts on the public health, safety, and general welfare that may be associated with accessory dwelling units.

17.14.020 Acknowledgement.

The City recognizes the State of California is facing a housing crisis. The City acknowledges accessory dwelling units expand lower cost housing opportunities and are an essential component of the City's and State's housing supply.

17.14.030 Applicability.

The regulations established in this Chapter shall apply to all accessory dwelling units where allowed in compliance with Section 17.14.040 (Where Allowed) of this Chapter and State law. Any construction, establishment, alteration, enlargement, or modification of an accessory dwelling unit shall comply with the requirements of this Chapter and the California Building Code. An accessory dwelling unit that conforms to the standards of this Chapter shall not be:

A. Deemed to be inconsistent with the General Plan designation and zone for the parcel on which the accessory dwelling unit is located or proposed;

B. Deemed to exceed the allowable density for the parcel on which the accessory dwelling unit is located or proposed;

C. Considered in the application of any City ordinance, policy, or program to limit residential growth; and

D. Required to correct a nonconforming zoning condition as defined in Chapter 17.04 (Definitions). This does not prevent the City from enforcing compliance with applicable building standards in compliance with Health and Safety Code Section 17980.12.

17.14.040 Where Allowed.

In compliance with California Government Code Section 66314, accessory dwelling units shall be allowed by-right (ministerially permitted) in any zone which allows residential uses. Specifically, the City's Agriculture zone (A), Open Space zone (OS), Single-family residential zones (R-1-5, R-1-12.5, and R-1-20), and Multi-family residential zones (R-M-2 and R-M-3) shall allow accessory dwelling units by-right.

This Section also applies to mixed-use zoning districts which allow residential and zones which allow residential as a conditionally permitted use. Specifically, the City's Commercial zones (C-N, C-R, C-S, C-MU, and D-MU, Office zones (O-PA and O-C), and Industrial zones (BRP, I-L, and I) shall allow accessory dwelling units by-right.

17.14.050 Permit Requirements and Processing Procedures.

A. An application for an accessory dwelling unit that complies with all applicable requirements of this Chapter and California Government Code Section 66310 through 66342 shall be approved ministerially through the Building Permit process. A Building Permit application for an accessory dwelling unit on a parcel with an existing or proposed single-family or multi-family dwelling shall be approved or denied within 60 days of the Building Permit application being deemed complete. The Building Permit applicant may request a delay in the City processing of the Building Permit, which shall result in the suspension of the 60-day time period.

B. If a permit application for an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multi-family dwelling on the lot, including conditional use permits, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application for the primary single-family or multi-family dwelling, but the application to build the accessory dwelling unit or junior accessory dwelling unit shall be considered ministerially without discretionary review or hearing.

17.14.060 Types of Accessory Dwelling Units.

An accessory dwelling unit approved under this Chapter may be one of, or a combination of, the following types:

A. Attached. An accessory dwelling unit that is created in whole or in part from newly constructed space that is attached to the proposed or existing primary dwelling, such as through a shared wall, floor, or ceiling.

B. Detached. An accessory dwelling unit that is created in whole or in part from newly constructed space that is detached or separated from the proposed or existing primary dwelling, including an existing stand-alone garage converted into an accessory dwelling unit. The detached accessory dwelling unit shall be located on the same parcel as the proposed or existing primary dwelling.

C. Converted. An accessory dwelling unit that is entirely located within the existing primary dwelling or accessory structure, including but not limited to attached garages, storage areas, or similar uses; or an accessory structure including but not limited to studio, pool house, or other similar structure. See Section 17.14.100 (Standards Applicable to Converted Accessory Dwelling Units) of this Chapter.

D. Junior Accessory Dwelling Unit. A junior accessory dwelling unit is a unit that meets all the following (see Section 17.14.110 (Standards Applicable to Junior Accessory Dwelling Units) for additional regulations):

1. Shall only be allowed on parcels zoned Single-family Residential (R-1-5, R-1-12.5, or R-1-20) and that include an existing or proposed single-family dwelling.

2. Is entirely located within a proposed or existing primary single-family dwelling or its attached garage.

3. Has independent exterior access from the primary dwelling.

4. Has sanitation facilities that are either shared with or separate from those of the primary dwelling.

5. Includes an efficiency kitchen, which includes a cooking facility with appliances, food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

17.14.070 Types and Number of Units Allowed.

A. Single-Family Residential Zones. One of each of the following types of accessory dwelling units are allowed on lots zoned Single-Family Residential:

1. One new construction accessory dwelling unit, attached or detached, as described in Government Code Section 66323(a)(2).

2. One conversion accessory dwelling unit, attached or detached, within the existing or proposed square footage of the primary single-family dwelling or accessory structure, as described in Government Code Section 66323(a)(1).

3. One junior accessory dwelling unit built fully within the existing square footage of the primary single-family dwelling unit as described in Government Code Section 66323(a)(1).

B. Multi-Family Residential Zones. Accessory dwelling units are allowed in Multi-Family Residential zones and shall comply with all of the following:

1. Converted Spaces within a Multi-Family Residential Dwelling Structure. Multiple accessory dwelling units shall be allowed within an existing or proposed multi-family residential dwelling structure and shall comply with all of the following:

a. Accessory dwelling units are allowed within any multi-family residential dwelling structure in portions of such structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that any such space converted to an accessory dwelling unit complies with minimum State building standards for residential dwellings.

b. The number of accessory dwelling units allowed in converted spaces of multi-family residential dwelling structures is limited to a maximum of 25 percent of the number of multi-family dwellings within the existing or proposed structure (Example: If a multi-family structure has 10 units, a maximum of two accessory dwelling units in converted spaces is allowed.). In no case shall fewer than one accessory dwelling unit be allowed.

2. Detached Accessory Dwelling Units. No more than two detached accessory dwelling units on a parcel with an existing or proposed multi-family residential dwelling structure.

C. Mixed-Use Zones and Conditional Use. Accessory dwelling units are allowed by right in mixed use zones and zones where residential uses are allowed as a conditional use. The number and type of accessory dwelling units allowed in these zones shall be in accordance with Section 17.14.070(A) and 17.14.070(B) dependent on the type of existing or proposed residential use on the proposed lot.

D. Urban Lot Splits. Parcels that undergo a lot split in accordance with Government Code Section 65852.21 and 66411.7 are allowed a maximum of two dwelling units per lot. Accessory dwelling units and junior accessory dwelling units shall count towards this two-unit limit.

E. In no case shall more than four units be allowed on a single lot in any combination of primary dwelling units, accessory dwelling units, and junior accessory dwelling units.

17.14.080 Standards Applicable to All Accessory Dwelling Units.

The following standards apply to all accessory dwelling units, including junior accessory dwelling units.

A. Parcel Size and Width. No minimum parcel size or parcel width standards shall apply to the construction of an accessory dwelling unit.

B. Parcel Coverage. No parcel coverage standards shall apply to the construction of an accessory dwelling unit.

C. Open Space. An accessory dwelling unit shall comply with the minimum open space requirements of the applicable zoning district, except in the case where the minimum open space requirement would preclude an accessory dwelling unit, one attached or detached accessory dwelling unit with a maximum size of 800 square feet, regardless of the number of bedrooms, shall be allowed and shall comply with the requirements of this Chapter.

D. Owner Occupancy. The property owner is not required to occupy the accessory dwelling unit or primary dwelling located on the parcel.

E. Separate Access Required. An accessory dwelling unit shall have exterior access that is separate from the exterior access for the primary dwelling.

F. Fire Sprinklers. Fire sprinklers are required in an accessory dwelling unit if they are required in the primary dwelling per the California Building Code.

G. Permanent Foundation.

1. All accessory dwelling units shall be permanently attached to a permanent foundation as defined by the California Building Code.

2. The use of a recreational vehicle, commercial coach, trailer, motor home, camper, camping trailer, tiny house on wheels, boat, or other apparatus not designed for permanent human habitation is prohibited from use as an accessory dwelling unit.

H. Nonconforming Conditions. The correction of nonconforming zoning conditions is not required in order to establish an accessory dwelling unit on a parcel with a primary dwelling.

I. Illegal Units. This Chapter shall not validate any existing illegal accessory dwelling units or junior accessory dwelling units. The standards and requirements for the conversion of an illegal accessory unit to a legal conforming unit shall be the same as for a new accessory dwelling unit.

J. Separate Conveyance. Except as provided in Government Code Section 66340 through 66342, an accessory dwelling unit shall not be sold or otherwise conveyed separately from the parcel and the primary dwelling(s).

K. Rental Term. No accessory dwelling unit shall be rented for a term of less than 30 days.

L. Impact Fees. No impact fees (including school fees) shall be charged to an accessory dwelling unit that is less than 750 square feet in size. Any impact fee charged to an accessory dwelling unit 750 square feet or larger in size, including accessory dwelling units converting existing space, shall be charged proportionately in relation to the square footage of the primary dwelling.

1. Single Family Residential. For purposes of calculating the fees for an accessory dwelling unit on a lot with a single-family dwelling, the proportionality shall be based on the square footage of the primary dwelling unit (e.g. the floor area of the accessory dwelling unit, divided by the floor area of the primary dwelling unit, times the typical fee amount charged for a new dwelling).

Example impact fee calculation for an accessory dwelling unit on a single-family residential parcel:

<u>Public Facility Impact Fee for Single Family DU</u>	<u>\$692.00</u>
<u>Example Square Footage of Primary Dwelling</u>	<u>1,500</u>
<u>Example Square Footage of ADU</u>	<u>800</u>
<u>Public Facility Impact Fee for ADU</u>	<u>\$369.07</u>
<u>This calculation is for example purposes only, actual impact fees are subject to change based on the City of Visalia Development Fee Schedule and will be calculated at time of permit application.</u>	

17.14.090 Additional Standards Applicable to Attached and Detached Accessory Dwelling Units.

The following standards shall apply only to attached and detached accessory dwelling units.

A. Unit Size Requirements. Attached and detached accessory dwelling units shall comply with the following unit size requirement:

1. Attached Units. May not exceed 850 square feet if it has fewer than two bedrooms or 1,200 square feet if it has two or more bedrooms. An attached accessory dwelling unit shall not exceed 50 percent of the floor area of the primary dwelling.

2. Detached Units. May not exceed 850 square feet if it has fewer than two bedrooms or 1,200 square feet if it has two or more bedrooms.

3. Unit Type Combinations. A detached, new construction accessory dwelling unit may be combined on the same parcel with one junior accessory dwelling unit. When combined with a junior accessory dwelling unit, the maximum size of the detached accessory dwelling unit is limited to 800 square feet, regardless of the number of bedrooms.

4. Measurement of Unit Size. Square footage is measured from the exterior walls at the building envelope, excluding any garage area or unenclosed covered porch areas. For the purposes of measurement all attached and/or interior storage areas, mezzanines, lofts, attics (except those less than seven feet in height accessed by a crawlspace and/or other code compliant access), and similar uses shall be counted in the total square footage.

B. Height. Accessory dwelling units are limited to a maximum height of 16 feet, except as established below:

1. Detached Units Located Adjacent Transit Services. If a detached accessory dwelling is located within a half-mile of a major transit stop or high-quality transit corridor, as defined in Chapter 17.04 (General Provisions and Definitions), the unit is limited to a maximum height of 18 feet, and may be up to two feet taller, for a maximum of 20 feet, if necessary to match the roof pitch of the primary dwelling unit.

2. Detached Units on Multi-Family Residential Dwelling Parcels. If a detached accessory dwelling is located on a parcel with a multistory multi-family dwelling

structure, the detached accessory dwelling unit is limited to a maximum height of 18 feet.

3. Attached Units. An accessory dwelling attached to the primary dwelling is limited to 25 feet or the height allowed in the underlying zoning district, whichever is lower. In no case shall an accessory dwelling unit exceed two stories.

C. Parking. One off-street parking space is required for an accessory dwelling unit in addition to that required for the primary dwelling, except as established below.

1. No off-street parking shall be required for an accessory dwelling unit if any of the following circumstances exist:

a. The accessory dwelling unit is located within one-half mile of public transit.

b. The accessory dwelling unit is on a property located within the Historic Preservation District, or for properties with structures listed on the Local Register of Historic Structures.

c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

e. Where there is a car share vehicle located within one block of the accessory dwelling unit.

2. The required off-street parking space may be covered or uncovered and shall be allowed in tandem and in setback areas, except as specified in Paragraph C.3 of this Subsection, unless the review authority makes specific findings that such parking is not feasible due to specific site topographical or fire and life safety conditions.

3. Covered parking shall not be allowed in setback areas.

4. If a garage, carport, or covered parking is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking is not required.

D. Setbacks. An accessory dwelling unit shall comply with the following setback requirements:

1. Attached Unit. An attached accessory dwelling unit shall be subject to the same front setback requirement applicable to the primary dwelling, unless it precludes development of an accessory dwelling unit that is at least 800 square feet. An attached accessory dwelling unit shall have a minimum setback of four feet from the side and rear lot lines.

2. Conversion of Existing Living Space or Existing Accessory Building. See Section 17.14.100.C.

3. New Detached Unit. A new construction detached accessory dwelling unit shall comply with the front setback of the underlying zoning district, unless it precludes development of an accessory dwelling unit that is at least 800 square feet. A detached accessory dwelling unit shall have a minimum setback of four feet from the side and rear lot lines.

E. Design. The following requirements apply only to accessory dwelling units located within the Historic Preservation District as provided in the City's Zoning Map or is located on a parcel where the primary structure is listed on the City's Local Register of Historic Structures.

1. Converted Structures. The conversion of an existing structure to an accessory dwelling unit shall not alter any exterior features of the existing structure except as necessary to comply with current Building Code, State law, and this Chapter to make the unit livable (e.g., addition of doors or windows, garage door removal, addition of air conditioning unit). Any exterior alternations shall comply with Subparagraphs 2 through 6 of this Subsection E.

2. Siding. Siding treatments of the accessory dwelling unit (e.g. clap board, board and batten, shingle) shall be an in-kind replication of the primary residence.

3. Vents. Vent features on the exterior of the accessory dwelling unit shall be an in-kind replication of the vent features of the primary residence.

4. Roof Features. Roof features (fascia, exposed rafter rails, corbels) and roof materials (asphalt shingles, wood shingles, tile) shall be an in-kind replication of the primary residence.

5. Windows and Doors. The window and door treatments (e.g., trim width, shutters, muntins, grilles, sills, mullions, lintels, etc.) of the accessory dwelling unit shall be an in-kind replication of the window and door features of the primary residence.

6. Exterior Lighting. Exterior light fixtures shall be an in-kind replication of the exterior lighting of the primary residence.

17.14.100 Standards Applicable to Converted Accessory Dwelling Units.

The following standards shall apply only to converted accessory dwelling units:

A. Limited Expansion. Conversions may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure if the expansion is for the sole purpose of accommodating ingress and egress to the converted structure. Limited expansion areas shall conform with accessory dwelling unit setback requirements.

B. Exterior Access Required. The converted space or structure shall have exterior access.

C. Setbacks. An accessory dwelling unit or portion of an accessory dwelling unit located within the existing space of an existing dwelling or within an existing detached accessory structure shall not require a setback from the rear, street side, or interior side property lines.

D. Parking. No additional off-street parking is required for the converted accessory dwelling unit. If replacement parking is provided, the replacement space(s) shall be located in any configuration on the same parcel as the accessory dwelling unit and may include but is not limited to covered spaces, uncovered spaces, or tandem spaces. Replacement parking may only occur on driveways leading to a required parking space or in rear yard on a paved surface.

E. Unit Size Requirements. The conversion of an existing accessory structure or a portion of the existing primary dwelling to an accessory dwelling unit is not subject to unit size requirements established in this Chapter. For example, if an existing 2,000 square-foot accessory structure was converted to an accessory dwelling unit, it would not be subject to the established unit size requirements.

17.14.110 Standards Applicable to Junior Accessory Dwelling Units.

The following standards shall apply only to junior accessory dwelling units.

A. Where Allowed. Junior accessory dwelling units shall only be allowed on parcels zoned for Single-Family Residential use and that include an existing or proposed single-family dwelling.

B. Location on Parcel. A junior accessory dwelling unit shall be allowed in the following locations:

1. Within the walls of an existing or proposed primary single-unit dwelling.

2. A conversion of an attached garage in the existing or proposed primary single-unit dwelling.

C. Number of Units Per Parcel. A maximum of one junior accessory dwelling unit shall be allowed on any parcel.

D. Unit Size Requirements. The total area of floor space for a junior accessory dwelling unit shall not exceed 500 square feet and shall not expand the size of an existing single-family dwelling by more than 150 square feet, provided such expansion is provided solely for the purpose of accommodating ingress and egress.

E. Efficiency Kitchen. A junior accessory dwelling unit shall include an efficiency kitchen as described in Section 17.14.060(D)(5).

F. Parking. No off-street parking is required for the junior accessory dwelling unit.

G. Entrance. The junior accessory dwelling unit shall include an exterior entrance separate from the main entrance to the existing or proposed single-family dwelling. If a bathroom facility is not shared with the single-unit dwelling, the junior accessory dwelling unit may, but is not required to, include an interior entry into the main living area, which may include a second interior doorway for sound attenuation.

H. Deed Restriction. Junior accessory dwelling units shall comply with the following deed restriction requirements:

1. Deed Restriction Required. Prior to issuance of a Building Permit for a junior accessory dwelling unit, a deed restriction shall be recorded against the title of the property in the Tulare County Recorder's office and a copy filed with the City. The deed restriction shall run with the land and bind all future owners. The form of the deed restriction will be provided by the City and shall provide that:

a. The junior accessory dwelling unit shall not be sold separately from the primary dwelling, except as may otherwise be permitted by State law.

b. The junior accessory dwelling unit is restricted to the approved size and other attributes allowed by this Section.

c. The deed restriction runs with the land and shall be enforced against future property owners.

d. The property owner shall reside on the site of the primary dwelling in which the junior accessory dwelling unit will be permitted for a minimum of three years. The owner may reside in either the remaining portion of the primary dwelling or the newly created junior accessory dwelling unit. Owner occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

2. Deed Restriction Removal. The deed restriction may be removed if the property owner eliminates the junior accessory dwelling unit. To remove the deed restriction, a property owner shall make a written request to the City, providing evidence that the junior accessory dwelling unit is eliminated. The City shall determine the junior accessory dwelling unit has been eliminated. If the junior accessory dwelling unit is not entirely physically removed but is only eliminated by virtue of having a necessary component of a junior accessory dwelling unit removed, the remaining structure and improvements shall otherwise comply with all applicable development and building standards.

3. Enforcement. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the accessory dwelling unit in violation of the recorded restrictions or abatement of the illegal unit.

Chapter 17.16 Multi-family Residential Zones

17.16.030 Accessory uses.

In the R-M multi-family residential zone, accessory uses include:

D. Accessory dwelling units as specified in ~~Sections 17.12.140 through 17.12.200~~
Chapter 17.14.

Chapter 17.42 Variances and Exceptions

17.42.030 Variance powers of city planning commission.

The city planning commission may grant variances to the regulations prescribed by this title with respect to fences and walls, site area, width, frontage coverage, front yard, rear yard, side yards, height of structures, distance between structures, off-street parking facilities, accessory dwelling unit standards pursuant to ~~Sections 17.12.140 through 17.12.200~~Chapter 17.14, and downtown building design criteria pursuant to Sections 17.58.082 through 17.58.088; in accordance with the procedures prescribed in this chapter.



REPORT TO CITY OF VISALIA PLANNING COMMISSION

HEARING DATE: November 12, 2024

PROJECT PLANNER: Brandon Smith, Principal Planner
 Phone: (559) 713-4636
 E-Mail: brandon.smith@visalia.com

SUBJECT: Zoning Text Amendment No. 2024-03: A request by the City of Visalia to add to and amend regulations within the Visalia Municipal Code Title 17 (Zoning Ordinance) pertaining to Accessory Dwelling Units and to Single-Family Residential Objective Design standards and Planned Residential Development standards applicable to new single-family residential developments. The regulations will apply Citywide to properties within the city limits of the City of Visalia.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt Resolution No. 2024-03, recommending approval by the City Council of Zoning Text Amendment No. 2024-67. This recommendation is based on the findings contained therein and summarized as follows:

- The Zoning Text Amendment is consistent with the goals, objectives, and policies of the City's General Plan.
- The Zoning Text Amendment ensures consistency with state law related to accessory dwelling units and junior accessory dwelling units.

RECOMMENDED MOTION

I move to recommend that the City Council approve Zoning Text Amendment No. 2024-03, based on the findings and conditions in Resolution No. 2024-67.

PROJECT DESCRIPTION

Zoning Text Amendment (ZTA) No. 2024-03 is a city-initiated request to prepare updates to the Visalia Municipal Code Title 17 (Zoning Ordinance) pertaining to development standards for residential uses, specifically applicable to accessory dwelling units and toward new single-family residential developments throughout the City.

The updates are needed for the City's Zoning Ordinance in response to new and significantly increased state legislation in recent years which have made the City's ordinances outdated in addressing emerging topics of both the addition of dwelling units on a parcel with new or existing residential uses and to the applicability of defined objective standards (as opposed to subjective standards) toward new residential uses.

The Accessory Dwelling Unit (ADU) Ordinance Update will amend the City's existing ordinance to ensure compliance with state law commencing in Government Code Section 66310. As proposed, this ordinance will meet the requirements for state law. The Update also provides the City with the opportunity to reconsider its own local standards in response to both state legislation that streamlines requirements for ADUs and the increased interest by property owners to construct additional housing units on their property. Legislation has greatly expanded upon various aspects of ADUs and their development standards, including the types and number of units allowed on a property. State law has also created provisions for a relatively new type of unit called Junior Accessory Dwelling Units (JADU) which is currently not addressed in

the City's ordinance. With the adoption of an updated ADU ordinance, together with other recent efforts such as the creation of permit-ready ADU plan sets, the City will be in an improved position to both encourage construction of new ADUs and ensure that such uses are compatible with other surrounding residential uses.

The Single-Family Residential Objective Design standards and Planned Residential Development standards largely responds to current growth trends where developers have been utilizing smaller lot sizes and new design techniques. As the City has had to respond to more forms of non-traditional single-family residential neighborhoods over the years, developers have desired a set of reliable codified objective design standards in keeping with the City's Single-Family Residential and Planned Residential Development objectives upon which developers can utilize to plan new neighborhoods and with City staff can comfortably support based on compliance with the Municipal Code. The standards address a range of topics that include appearance, landscaping, fences, off-street parking, and common open space areas within planned residential developments.

The Zoning Text Amendment is further being carried out in fulfillment of certain implementation programs in the City's Housing Element of the General Plan. Specifically, Program 3.15 (Promoting Accessory Dwelling Units) includes an action that requires the city to update its Ordinance to integrate changes in state housing law. Also, Program 2.7 (Missing Middle) includes an action to review and amend residential development standards for a mix of dwelling unit types (including various types of multi-family units, which will occur in 2025). Failure to make these changes may result in the state taking action to decertify the Housing Element.

PROJECT ANALYSIS

Accessory Dwelling Units

Background

An ADU, which refers to an accessory dwelling unit and can be also called a second dwelling unit or granny flat, is a secondary residential unit that shares a lot with an existing residence. A JADU or junior accessory dwelling unit is an ADU created within the walls of a proposed or existing single-family home and may be no larger than 500 square feet. JADUs have been introduced into state law only in recent years and are not currently addressed in Visalia's code.

In response to the state housing crisis, the California legislature in 2019 passed six bills (SB 13, AB 68, AB 587, AB 670, AB 671, AB 881) that collectively addressed state regulation toward ADUs. Additional bills, including AB 2221 and SB 897, both passed in 2022, further amended Government Code sections 65852.2 and 65852.22 and provided clarification on number of units allowed. These code sections have since been renumbered to begin at Government Code section 66310.

This new state legislation preempts all local ordinances that do not comply with the new standards. Cities are expected to update their local ordinances to comply with the state legislation. If cities fail to do so, the new state laws automatically apply, and applicants are permitted to develop ADUs and JADUs under the state legislation. Since the change in state law, Visalia has regulated ADUs and JADUs in accordance with state law despite its own ordinance not being consistent with the new requirements.

Visalia has not updated its ADU ordinance since legislation was passed in 2019. Its last amendment processed in 2017 pertained to parking standards that were also based on state legislation. Local jurisdictions now have very limited authority to adopt local regulations and restrictions for typical land development standards such as unit size, number, height, setback and parking. However, the city does retain limited discretion to apply land use regulations as it

deems appropriate, such as imposing a height limit at no less than 16 feet and imposing certain objective design standards to prevent impacts to historic resources.

Proposed Amendments

This Zoning Text Amendment proposes to remove in its entirety the current City ordinance pertaining to ADUs that commences in Article 2 of Chapter 17.12 pertaining to the Single-family Residential Zone. A newly written code is proposed to be located as a new stand-alone chapter, Chapter 17.14, which is currently unused. The rationale behind moving the code away from the Single-family Residential Zone chapter is in recognition that ADUs in accordance with state law are now permitted in any residential or mixed-use zone, as well in zones where residential uses are conditionally allowed (ref. Section 17.14.040). The ZTA further updates references to the ADU ordinance that are found in other chapters of the ordinance.

The proposed amendments, which are consistent with Government Code section 66310, are provided in the attached Resolution and in Exhibit "A". Highlights of the proposed changes are as follows.

- Number of Units (17.14.070). In compliance with state law, lots that are zoned Single-Family Residential are permitted to have one ADU and one JADU within the space of an existing dwelling or accessory structure meeting specified requirements, plus one ADU that is detached new construction. This accounts for potentially four units on one lot, as required by state law, provided that the owner resides on the property. Only inclusion of the JADU requires the owner to reside on-site.

For newly created attached or detached units:

- Size (17.14.090(A)). An ADU may not exceed 850 square feet if it has fewer than two bedrooms or 1,200 square feet if it has two or more bedrooms. An attached accessory dwelling unit shall not exceed 50 percent of the floor area of the primary dwelling.
- Height limitations (17.14.090(B)). For ADUs located within a rear yard setback which the City has limited to a 12-foot height limit, a 16 foot maximum height limit with allowance to 18 or 20 feet if located within a half-mile of a major transit stop or high-quality transit corridor.
- Front yard setback (17.14.090(D)). The City's code mandates that an ADU be subject to the same front yard setback requirement applicable to the primary dwelling unit, unless it precludes development of an accessory dwelling unit that is at least 800 square feet.
- Side and rear yard setback (17.14.090(D)). An ADU shall have a minimum setback of four feet from these property lines, consistent with the state's allowance of an ADU no larger than 800 square feet to be placed no closer than four feet from property line.
- Design standards for historic-designated properties (17.14.090(E)). Objective design standards have been added for properties located within the Historic Preservation District and/or the Local Register of Historic Structures. This is to ensure that such properties have defined parameters to maintain a character that is historic in nature, since state law prohibits jurisdictions from imposing subjective standards upon ADUs, even if imposed by a review committee.
- Standards for Junior Accessory Dwelling Units (17.14.110).

For additional information, Exhibit "D" provides a summary of the level of discretion that a city can apply to local land development standards on ADUs and JADUs and Exhibit "E" provides a

table summarizing the city's existing ADU requirements, state law requirements, and staff's recommended revisions to comply with state law.

The state legislature has made several modifications to ADU law to encourage more affordable housing development over the past several years, and more changes can be expected in the coming years. While such state-initiated modifications might further require regular updates to local ordinances, the City cannot simply defer to state law for all regulation toward ADUs and JADUs. Jurisdictions are expected to update their ordinances. This is good for local ordinances as it provides greater clarity to residents on the allowances and limitations. In addition, as addressed in Exhibit "D", a local ordinance can still exercise some level of discretion towards ADU regulation.

Consistency with State Law and General Plan Policies and Local Law

The proposed amendments are consistent with California Government Code sections 65852.2 and 65852.22 (now renumbered as Government Code section 66310) and the changes to state law that are now currently in effect.

The proposed amendments are consistent with the residential density ranges of the General Plan Land Use Element in that, pursuant to state law, an ADU or JADU shall not be considered to exceed the allowable density for the lot upon which it is located.

Additionally, the proposed amendments implement the following General Plan goals, policies, and programs:

LU-O-23 - Provide a range of housing types and prices within new neighborhoods to meet the needs of all segments of the community.

LU-P-50 - Provide development standards to ensure that a mix of detached and attached single-family and multi-family housing types can be compatible in a single development.

HE Policy 1.4 - The City shall encourage a mix of residential development types in the city, including single family homes, on a variety of lot sizes, as well as townhomes, row houses, live-work units, planned unit developments, accessory dwelling units, and multi-family housing.

HE Policy 3.11 - The City shall continue to support, facilitate the construction, and provide for the development of accessory dwelling units on parcels with single-family and multi-family units while protecting the character of neighborhoods and zoned parcels as a means of providing affordable housing.

HE Program 3.15 Promoting Accessory Dwelling Units. - The City shall promote the development of ADUs, prioritizing the higher resource areas. The City shall:

- By June 2024, compile and publish information regarding permit requirements, changes in State law, the Permit Ready ADU program, available incentives (such as fee waivers; see Program 3.12) and the benefits of accessory dwelling units; information shall be published on the City website, and advertised through City social media outlets and email lists at least twice a year.

To date, the changes in State law is the last major component of this program needing to be accomplished. Currently the Planning Division has websites dedicated to ADUs and to the Permit Ready ADUs. In the past year, the City has engaged the public through social media and email as it has sought to update its ADU ordinance, and has engaged with the public on ADUs at in-person events such as the twice-a-year Home Expo show.

Community Engagement

The City released a draft of the ADU ordinance together with the Single Family Residential Objective Design Standards ordinance for a public review period from August 30 to September

30, 2024 (32 days total). Announcement for the public review period was conducted via an email blast to stakeholders and interested people (signed up through www.housevisalia.com) and through multiple City of Visalia social media announcements.

One public comment was received during the public review period on behalf of the Historic Preservation Advisory Committee regarding the design requirements listed in Section 17.14.090. The comment sought to clarify terminology and add additional examples of window and door treatments.

Objective Performance Standards

Background

Staff led three City Council work sessions between 2020 and 2022 to discuss concerns regarding single-family residential subdivision design, particularly directed toward planned unit developments and the 5-pack / cluster design housing. The concerns led toward direction for the City to develop an ordinance that gives explicit codified standards on public open space, off-street parking, and structure design. Separately, the City applied for and received a State Housing and Community Development (HCD) grant to fund three development activities, including an update of the Planned Unit Residential Ordinance and the Accessory Dwelling Unit Ordinance. The grant allowed the City to request proposals for preparation of ordinance updates, which was awarded to Mintier Harnish in August 2022.

In February 2024, the City Council authorized expanding the scope of the contract with Mintier Harnish to prepare objective design standards for single-family residential development in the City. The desire to expand the scope of work was based upon the necessity to establish clear codified standards for traditional single-family residential development in response to state legislation allowing ministerial approvals of residential development (such as SB 9 adopted in 2021 and SB 35 adopted in 2017), and based upon a desire to have improved design standards toward traditional subdivisions, including those with lot sizes below 5,000 square feet.

Having a clear and dedicated set of objective design standards has become an urgent need for the City due to the increase of State mandates and regulations on permitting housing. Legislation such as SB 35 provides a ministerial process for facilitating housing development that removes any ability for a jurisdiction to impose conditions or a higher standard of construction, excepting when a jurisdiction has an adopted set of codified objective design standards applicable to all new development in a single-family zone district. In response to current State legislation and more that is expected to come in forthcoming years, many jurisdictions in California are moving towards adopting a set of objective design standards to retain control on the design of housing developments.

Proposed Amendments

The resulting ordinance, now collectively referred to as the Single-Family Residential Objective Design (ODS) standards, is intended to apply toward all new single-family residential construction within the city boundaries on any lot regardless of parcel size, except ADUs and properties within the Historic District or Local Register of Historic Structures.

This Zoning Text Amendment proposes a newly written code commencing in Article 2 of Chapter 17.12 (Single-family Residential Zone Ordinance), which would be the former location of the ADU Ordinance.

The proposed ODS standards will work in tandem with other existing objective standards that address residential development standards (i.e. setbacks, height) in the review of eligible development applications. Such development standards for traditional single-family residential lots, found in Chapter 17.12 Article 1, and for lots below 5,000 square feet in size, found in Section 17.12.135(B), will remain in place. However, most objective design standards found in Section

17.12.135 that were intended to apply exclusively to lot sizes below 5,000 square feet are being replaced with the proposed ODS standards now applicable to all development in Single-family Residential zone districts (see Exhibit “C” for standards being removed from Section 17.12.135).

Additionally, the proposed ODS standards will work in tandem with the Planned Development Ordinance, found in Chapter 17.26, and will not necessitate any changes to this chapter. This is because the Planned Developed Ordinance provides more broad parameters on design considerations and provides the procedures for processing of planned developments, which in addition to residential developments can apply to commercial, industrial, or mixed-use developments. The proposed ODS standards that specifically apply to planned unit developments are off-street guest parking facilities, usable common open space areas, and sidewalks.

The objective design standards assist with expediting a development’s ministerial review process. This is done by providing more narrowly defined expectations up-front to ensure that new single-family residential development is compatible with Visalia’s existing community character while complying with both state and local regulations. Builders will have access to these regulations through the City’s Municipal Code and can apply the regulations to development prior to any preliminary or formal review process conducted by the City. The implementation of the project will also satisfy the terms of the State HCD Grant that was awarded to the city to fund the Citywide Objective Design Standards project that will help accelerate housing development.

The proposed performance standards are provided in the attached Resolution and in Exhibit “B”. Sections of the proposed ordinance are outlined below, *with general descriptions provided in italics*. These standards may be used as guidelines for the development of single-family dwellings in multi-family residential and non-residential zones.

17.12.140 Purpose and Applicability

17.12.150 Site Planning

A. Site Placement

Developments with two or more structures shall be staggered with a minimum of two-foot variation measured from the front setback

B. Site Development

Front entryways on all units shall include one or more front windows, a covered porch, and a pedestrian walkway leading directly to the sidewalk.

17.12.160 Structure Design Standards

A. Massing

Primary elevations wider than 25 feet shall incorporate at least one of the following massing elements for every 15 feet: Projection, Recession, Second Floor Step Back, Bay Window.

B. Articulation

Structures shall be vertically (height) and horizontally (depth) articulated along the primary elevations.

C. Fenestration

All windows and doors shall include a recess and/or a trim. Shutters if used shall be sized to the window shape.

D. Balconies

No portion of a second floor balcony shall be within 20 feet of the adjacent property line except when screening is incorporated.

E. Design Details

Regulations are provided for the use and number of Materials and Colors. Accessory Structures, when constructed simultaneously, shall match the details.

17.12.170 Landscaping

Regulations are provided which require landscaping, utilization of state or local Water Efficient Landscape Ordinance requirements, street trees, and limitation of pavement / hardscape.

17.12.180 Fences, Walls, and Hedges

A. Height

Restatement of existing City of Visalia fence standards.

B. Materials

Use of barbed wire, electric charged fencing, corrugated paneling, and chain link (except in street fronting setbacks) is prohibited.

17.12.190 Exterior Lighting

Entryways, porch areas, pedestrian pathways, and gates shall include lighting for safety and security, subject to standards.

17.12.200 Off-Street Parking Facilities

Regulations are specified for the use of garages as covered parking and limitations on uncovered parking areas. Regulations include off-street guest parking facilities for Planned Unit Developments.

17.12.210 Useable Common Open Space Areas for Planned Unit Developments

Requirements are specified for usable common open space, including passive and/or active recreational amenities, as required in Table 1 specified in the code.

17.12.220 Sidewalks for Planned Unit Developments

Sidewalks shall be a minimum of five feet width and shall implement City standards.

Applicability

Should the City Council adopt an Ordinance which applies the proposed objective design standards, the new ordinance will apply to any new development project that are submitted for entitlement application following the effective date of the ordinance. The new standards will not apply to previously approved projects (i.e. projects having received tentative map approval) or projects have been submitted and are in process of being deemed for completeness or are being prepared for public hearing.

Community Engagement

Part of the engagement conducted early in the update process was City staff and the consultant conducting stakeholder interviews. In April 2023, one-on-one interviews were conducted with local stakeholders (e.g. developers, builders, architects, and planners) to gain feedback on the City's residential development regulations and review processes. A summary and key takeaways statement was prepared and is included as Exhibit "F".

The City released a draft of the ODS ordinance together with the ADU ordinance for a public review period from August 30 to September 30, 2024 (32 days total). Announcement for the public review period was conducted via an email blast to stakeholders and interested people (signed up through www.housevisalia.com) and through multiple City of Visalia social media announcements.

One public comment was received during the public review period on behalf of San Joaquin Valley Homes. In response to these comments, staff made the following changes to the Public Review Draft, which are now incorporated in the draft being proposed for adoption:

- 17.12.150.A.2.b – The term “front door” has replaced “primary entrance”.
- 17.12.150.A.2.c – The garage section’s description of its placement with regard to the primary elevation has been changed, and the maximum width of the primary elevation has been increased from 50% to 60%.
- 17.12.150.B.3.e – Clarification that an optional pedestrian pathway from the front entry to the driveway is also allowed in addition to the pathway from the front entry to the sidewalk.
- 17.12.200.B – Clarification of carport standards. In lieu of prohibiting carports, standard now reads that carports are allowed only if they do not serve as the required covered parking (e.g., porte cocheres, carports in front of garages).
- 17.12.200.C – Clarification of uncovered parking areas, stating that such areas shall be paved with concrete or a permeable or impermeable surface.
- 17.12.210.B – Clarification made to recreational amenities, stating that they may be either passive or active.

Consistency with State Law and General Plan Policies and Local Law

The proposed amendments are consistent with California legislation that has been passed that facilitate for a streamlined review preprocess subject to objective regulatory standards and affordable housing requirements, whether ministerial or discretionary. Specific legislation includes the Housing Accountability Act (1982, amended 2018; Government Code Section 65589.5), SB 35 a.k.a. Housing Accountability & Affordability Act (2017), and the Housing Crisis Act of 2019 a.k.a. SB 330 (2019) and SB 8 (2020).

Additionally, the proposed amendments implement the following General Plan goals, policies, and programs:

LU-O-21 - Preserve and enhance the character of residential neighborhoods while facilitating infill development.

LU-P-49 - Preserve established and distinctive neighborhoods throughout the City by maintaining appropriate zoning and development standards to achieve land use compatibility in terms of height, massing and other characteristics; providing design guidelines for high-quality new development; supporting housing rehabilitation programs; and other means.

LU-P-50 - Provide development standards to ensure that a mix of detached and attached single-family and multi-family housing types can be compatible in a single development.

HE Program 2.7 Missing Middle: The City will review and amend residential development standards to allow for and promote a mix of dwelling types and sizes, specifically missing middle-density housing types (e.g., duplexes, triplexes, courtyard buildings, townhomes) to encourage the development of housing types affordable to the local workforce.

Specifically, the City shall evaluate zoning standards related to minimum lot size and width, maximum lot coverage, required setbacks, open space and landscaping requirements, and

parking ratios, particularly in high resource, low-density, infill parcels. The City shall meet with local developers, property owners, and non-profits agencies to identify constraints and potential incentives to infill and missing middle development in 2024 and shall adopt revised standards for such projects in 2025.

Environmental Review

The Zoning Ordinance amendment for the proposed ADU ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 which specifically exempts the adoption of an updated ADU ordinance.

The Zoning Ordinance amendment for the proposed ODS ordinance is exempt from CEQA per the CEQA Common Sense Exemption Section 15061(b)(3) that applies to projects which clearly do not have the potential for causing a significant effect on the environment. The project, in itself, does not allow construction of any building or structure, but sets forth design regulations that shall be followed. The regulations do not change allowable uses or building intensities. It can be seen with certainty that there is no possibility that the project may have a significant effect on the environment, and thus is not subject to CEQA review.

RECOMMENDED FINDINGS

1. That the Zoning Text Amendment is consistent with the intent of the General Plan and Zoning Ordinance and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, as described in the following Land Use and Housing Element Policies:

Land Use Element Policy LU-O-21 - Preserve and enhance the character of residential neighborhoods while facilitating infill development.

Land Use Element Policy LU-O-23 - Provide a range of housing types and prices within new neighborhoods to meet the needs of all segments of the community.

Land Use Element Policy LU-P-49 - Preserve established and distinctive neighborhoods throughout the City by maintaining appropriate zoning and development standards to achieve land use compatibility in terms of height, massing and other characteristics; providing design guidelines for high-quality new development; supporting housing rehabilitation programs; and other means.

Land Use Element Policy LU-P-50 - Provide development standards to ensure that a mix of detached and attached single-family and multi-family housing types can be compatible in a single development.

Housing Element Policy 1.4 - The City shall encourage a mix of residential development types in the city, including single family homes, on a variety of lot sizes, as well as townhomes, row houses, live-work units, planned unit developments, accessory dwelling units, and multi-family housing.

Housing Element Policy 3.11 - The City shall continue to support, facilitate the construction, and provide for the development of accessory dwelling units on parcels with single-family and multi-family units while protecting the character of neighborhoods and zoned parcels as a means of providing affordable housing.

HE Program 2.7 Missing Middle: The City will review and amend residential development standards to allow for and promote a mix of dwelling types and sizes, specifically missing middle-density housing types (e.g., duplexes, triplexes, courtyard buildings, townhomes) to encourage the development of housing types affordable to the local workforce.

Housing Element Program 3.15 Promoting Accessory Dwelling Units. - The City shall promote the development of ADUs, prioritizing the higher resource areas.

2. That applying the proposed Accessory Dwelling Unit standards to future housing and residential uses will encourage increased housing options, including but not limited to affordable housing, throughout the City, as endorsed through the City of Visalia Housing Element Update (6th Cycle). These standards are designed to promote and ensure compatibility with adjacent land uses.
3. That applying the proposed Single-Family Residential Object Design standards to future housing and residential uses will reflect sound planning principles and will assist in enhancing the character of residential neighborhoods.
4. That the City has determined that the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 which specifically exempts the adoption of an updated ADU ordinance, and pursuant to the CEQA Common Sense Exemption Section 15061(b)(3) since there would be no possibility of a significant effect on the environment.

APPEAL INFORMATION

The Planning Commission's recommendation on the Zoning Text Amendment is advisory only and is automatically referred to the City Council for final action.

Attachments:

- Related Plans and Policies
- Resolution No. 2024-67
- Exhibit "A" – Revised Public Review Draft, Accessory Dwelling Unit Ordinance
- Exhibit "B" – Revised Public Review Draft, Single-Family Residential Objective Design Standards Ordinance
- Exhibit "C" – Revisions to Section 17.12.135, (Standards for) Lot area less than 5,000 square feet
- Exhibit "D" – Table of State Accessory Dwelling Unit Law – Areas of local discretion
- Exhibit "E" – Summary of changes to existing ADU regulations
- Exhibit "F" – Stakeholder Interview Summary
- Categorical Exemption No. 2024-57



City of Visalia

Memo

To: Planning Commission
From: Brandon Smith, Principal Planner
Date: November 25, 2024
Re: Time Extension for San Marino Tentative Subdivision Map No. 5594

RECOMMENDATION:

Staff recommends that the Planning Commission approve a one-year time extension of San Marino Tentative Subdivision Map No. 5594, extending the expiration date to October 24, 2025, pursuant to Section §66452.6(e) of the Subdivision Map Act.

BACKGROUND:

On October 24, 2022, the Visalia Planning Commission approved San Marino Tentative Subdivision Map No. 5594 through adoption of Resolution No. 2022-52. The tentative subdivision map was a request to subdivide a 4.30-acre parcel into 22 lots for residential use and one out lot for a future block wall and landscaping purposes in the R-1-5 (Single-Family Residential, minimum 5,000 square foot lot size) zone. The project site is located on the northeast corner of North Shirk Street and the future West Delaware Avenue alignment. (APN: 077-650-052).

The original expiration date for the tentative subdivision map was October 24, 2024, two years from the Planning Commission approval date.

Currently, the subdivision map has been undergoing final map review since August 2024, and the applicant anticipates recording of the final map within the next year.

REQUEST:

In response to a notification sent by the City to the applicant on the expiration day of the tentative subdivision map, the proponents of the Tentative Subdivision Map submitted a written request received by the City of Visalia within 24 hours of the expiration date, for a time extension of unspecified length. Tentative map approvals together with time extensions may be granted pursuant to Section §66452.6(e) of the Subdivision Map Act for a total period not exceeding six years. This would be the first-time extension applied to this Tentative Subdivision Map.

Staff recommends that a one-year time extension be granted at this time in keeping with the City's practice of recommending time extensions. The extension request, if approved by the Planning Commission according to the staff recommendation, will extend the expiration date of the Tentative Subdivision Map from October 24, 2024, to October 24, 2025.

The Planning Commission has the authority to approve or deny this request. If the request is approved, the applicant would have until the new expiration date, October

24, 2025, to record a final subdivision map. If the request is denied, the applicant would have to re-file a new tentative subdivision map.

ATTACHMENTS

- Email Request for the Time Extension
- Resolution No. 2022-52
- Tentative Subdivision Map
- Location Map

Brandon Smith

From: Michelle Thompson <michelle@whitebrennerllp.com>
Sent: Friday, October 25, 2024 10:03 AM
To: Brandon Smith; Jason Huckleberry
Cc: Jaylyn Ruiz; Luqman Ragabi; clintonc@4-creeks.com; Emily Helton; Jesus Carreno; Paul Bernal
Subject: RE: San Marino 4 Tentative Map Subdivision

You don't often get email from michelle@whitebrennerllp.com. [Learn why this is important](#)

Brandon,

Please consider this communication to be our official request to extend the tentative map approval for the San Marino 4 project. Please let me know who to contact regarding making a credit card payment for the extension fee and we can get that paid today.

Thank you for your assistance. Have a good weekend.

Michelle Thompson
9167105837

From: Brandon Smith <Brandon.Smith@visalia.city>
Sent: Friday, October 25, 2024 8:57 AM
To: Michelle Thompson <michelle@whitebrennerllp.com>; Jason Huckleberry <Jason.Huckleberry@visalia.city>
Cc: Jaylyn Ruiz <jaylynr@4-creeks.com>; Luqman Ragabi <Luqman.Ragabi@visalia.city>; clintonc@4-creeks.com; Emily Helton <Emily@whitebrennerllp.com>; Jesus Carreno <Jesus.Carreno@visalia.city>; Paul Bernal <Paul.Bernal@visalia.city>
Subject: RE: San Marino 4 Tentative Map Subdivision

[EXTERNAL MESSAGE]

Hello Michelle,

There is no official application to file... you will just need to submit a request in writing or by email (be specific that you are seeking a time extension for San Mario 4 TSM) and you will need to pay the \$277 time extension fee. The payment can be made by credit card over the phone or by coordinating a check drop off (our front counter is closed but we can meet a representative outside the doors).

If possible, please make your request today. Technically we needed to hear back from you yesterday, but we will honor that you responded to Jason's email in a reasonable timeframe.

Brandon Smith, AICP | Principal Planner

City of Visalia Community Development Department
Phone: (559) 713-4636
Email: brandon.smith@visalia.city
www.visalia.city/depts/community_development/planning

From: Michelle Thompson <michelle@whitebrennerllp.com>

Sent: Friday, October 25, 2024 8:39 AM

To: Jason Huckleberry <Jason.Huckleberry@visalia.city>

Cc: Jaylyn Ruiz <jaylynr@4-creeks.com>; Luqman Ragabi <Luqman.Ragabi@visalia.city>; clintonc@4-creeks.com; Emily Helton <Emily@whitebrennerllp.com>; Jesus Carreno <Jesus.Carreno@visalia.city>; Brandon Smith <Brandon.Smith@visalia.city>

Subject: RE: San Marino 4 Tentative Map Subdivision

Brandon,

If you will please let me know what paperwork needs to be completed and the additional fee for the extension so we can ensure there are no issues as we continue to process this.

Thank you in advance for your help.

Michelle Thompson
9167105837

From: Jason Huckleberry <Jason.Huckleberry@visalia.city>

Sent: Thursday, October 24, 2024 1:42 PM

To: Michelle Thompson <michelle@whitebrennerllp.com>

Cc: Jaylyn Ruiz <jaylynr@4-creeks.com>; Luqman Ragabi <Luqman.Ragabi@visalia.city>; clintonc@4-creeks.com; Emily Helton <Emily@whitebrennerllp.com>; Jesus Carreno <Jesus.Carreno@visalia.city>; Brandon Smith <Brandon.Smith@visalia.city>

Subject: San Marino 4 Tentative Map Subdivision

[EXTERNAL MESSAGE]

Good afternoon Michelle,

I just talked to Planning staff, this tentative map actually expires today... this is not an issue if the map continues to diligently be processed toward recordation and construction of improvements. However, there are extensions available should you wish to extend it and not have to worry about "timely processing". I like the assurances the extension would provide, but it is ultimately up to you if you'd like to pursue.

If you would like to extend the tentative map, please make the request to Brandon Smith in the Planning Division. He did let me know there is a fee for extension. Brandon can be reached at Brandon.Smith@visalia.city. Please direct all questions to Brandon.

Thanks,

Jason Huckleberry



DIRECTOR
ENGINEERING & BUILDING DEPARTMENT
OFFICE PHONE 559.713.4495
JASON.HUCKLEBERRY@VISALIA.CITY

RESOLUTION NO 2022-52

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA APPROVING SAN MARINO TENTATIVE SUBDIVISION MAP NO. 5594, A REQUEST BY 4CREEKS, INC. TO SUBDIVIDE A 4.30-ACRE PARCEL INTO 22 LOTS FOR RESIDENTIAL USE AND ONE OUT LOT FOR FUTURE BLOCK WALL AND LANDSCAPING PURPOSES IN THE R-1-5 (SINGLE-FAMILY RESIDENTIAL, MINIMUM 5,000 SQUARE FOOT LOT SIZE) ZONE. THE SITE IS LOCATED ON THE NORTHEAST CORNER OF NORTH SHIRK STREET AND THE FUTURE WEST DELAWARE AVENUE ALIGNMENT.
(ADDRESS: NOT YET ASSIGNED) (APN: 000-015-283)

WHEREAS, San Marino Tentative Subdivision Map No. 5594 is a request by 4Creeks, Inc. to subdivide a 4.30-acre parcel into 22 lots for residential use and one out lot for future block wall and landscaping purposes in the R-1-5 (Single-Family Residential, minimum 5,000 square foot lot size) zone. The site is located on the northeast corner of North Shirk Street and the future West Delaware Avenue alignment. (Address: not yet assigned) (APN: 000-015-283); and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, held a public hearing before said Commission on October 24, 2022; and

WHEREAS, the Planning Commission of the City of Visalia finds the San Marino Tentative Subdivision Map No. 5594 in accordance with Chapter 16.16 of the Subdivision Ordinance of the City of Visalia, based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, an Initial Study was prepared which disclosed that no significant environmental impacts would result from this project; 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 15332.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia approves the proposed tentative subdivision map based on the following specific findings and based on the evidence presented:

1. That the proposed location and layout of the San Marino Tentative Subdivision Map No. 5594, its improvement and design, and the conditions under which it will be maintained is consistent with the policies and intent of the General Plan and Zoning Ordinance and Subdivision Ordinance. The 4.30-acre project site, which is the site of the proposed 22-lot single-family residential subdivision, is consistent with Land Use

Policy LU-P-19 of the General Plan. Policy LU-P-19 states “ensure that growth occurs in a compact and concentric fashion by implementing the General Plan’s phased growth strategy.”

2. That the proposed San Marino Tentative Subdivision Map No. 5594, its improvement and design, and the conditions under which it will be maintained will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the vicinity, nor is it likely to cause serious public health problems. The proposed tentative subdivision map will be compatible with adjacent land uses. The project site is bordered by existing residential development and two major streets.
3. That the site is physically suitable for the proposed tentative subdivision map. The San Marino Tentative Subdivision Map No. 5594 is consistent with the intent of the General Plan and Zoning Ordinance and Subdivision Ordinance, and is not detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. The project site is adjacent to land zoned for residential development, and the subdivision establishes a local street pattern that will serve the subject site and the future development of vacant parcels located to the south of the subject site.
4. That the site is physically suitable for the proposed tentative subdivision map and the project’s density, which is consistent with the underlying Low Density Residential General Plan Land Use Designation. The proposed location and layout of the San Marino Tentative Subdivision Map No. 5594, its improvement and design, and the conditions under which it will be maintained is consistent with the policies and intent of the General Plan and Zoning Ordinance and Subdivision Ordinance. The 4.30-acre project site, which is the site of the proposed 22-lot single-family residential subdivision, is consistent with Land Use Policy LU-P-19 of the General Plan. Policy LU-P-19 states “ensure that growth occurs in a compact and concentric fashion by implementing the General Plan’s phased growth strategy.”
5. That the proposed San Marino Tentative Subdivision Map No. 5594, the design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The 22-lot subdivision is designed to comply with the City’s Engineering Improvement Standards. The development of the site with a 22-lot single-family residential subdivision would extend local streets, infrastructure improvements, utilities, right-of-way improvements and a residential lot pattern consistent with existing residential development found in the surrounding area. The project will include the construction of local streets within the subdivision, connection to Sidney Street to the north and frontage street improvements along Shirk Street.
6. That the project is considered Categorical Exempt under Section 15332 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA) development occurring within the city on a project site of not more than five acres and substantially surrounded by urban uses. (Categorical Exemption No. 2022-52).

BE IT FURTHER RESOLVED that the Planning Commission hereby approves the tentative subdivision map on the real property herein above described in accordance with the terms of this resolution under the provisions of Section 16.16.030 of the Ordinance Code of the City of Visalia, subject to the following conditions:

1. That the subdivision map be developed in substantial compliance with the comments and conditions of the Site Plan Review Committee as set forth under Site Plan Review No. 2022-061, incorporated herein by reference.
2. That the San Marino Tentative Subdivision Map No. 5594 be prepared in substantial compliance with the subdivision map in Exhibit "A".
3. That the setbacks for the single-family residential lots shall comply with the R-1-5 (Single-Family Residential 5,000 sq. ft. min. site area) zone district standards for the front, side, street side yard, and rear yard setbacks.
4. That block walls located within the Landscape and Lighting District lots shall transition to three-foot height within the 15-foot front yard setback areas of the San Marino Tentative Subdivision Map No. 5594.
5. That if, prior to development of the subdivision, the determination of water availability letter lapses, then the applicant/developer shall obtain and provide the City with a valid Will Serve letter from the California Water Service Company.
6. That all applicable federal, state, regional, and city policies and ordinances be met.

Commissioner Tavaréz offered the motion to this resolution. Commissioner Gomez seconded the motion and it carried by the following vote:

AYES: Commissioners Tavaréz, Gomez, Beatie, Peck, Hansen
NOES:
ABSTAINED:
ABSENT:

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss
CITY OF VISALIA)

ATTEST: Paul Bernal, Community Development Director

I, Paul Bernal, Secretary of the Visalia Planning Commission, certify the foregoing is the full and true Resolution No. 2022-52, passed and adopted by the Planning Commission of the City of Visalia at a regular meeting held on October 24, 2022.



Paul Bernal, Community Development Director



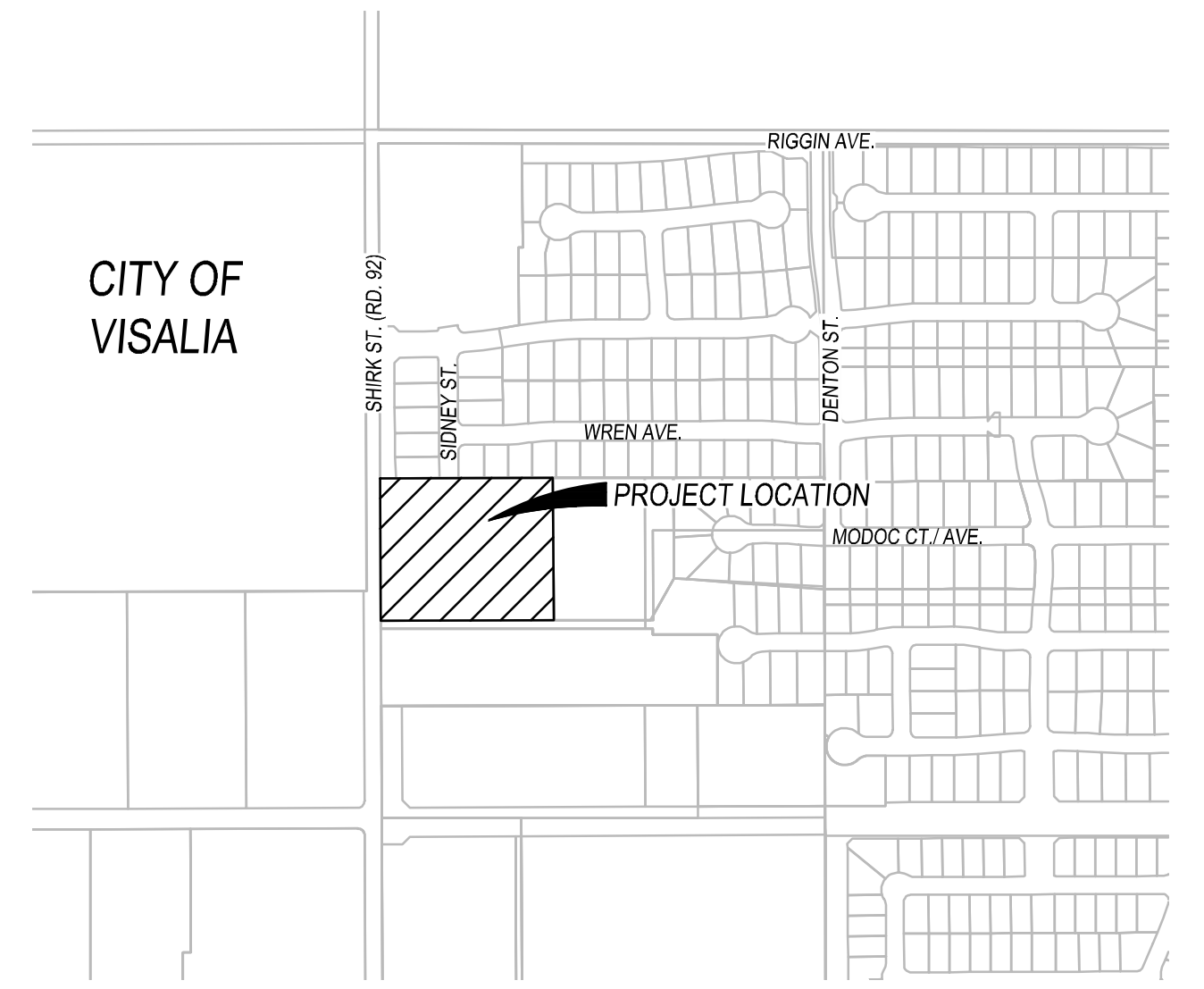
Marvin Hansen, Chairperson

SAN MARINO - PHASE 4 TENTATIVE SUBDIVISION MAP

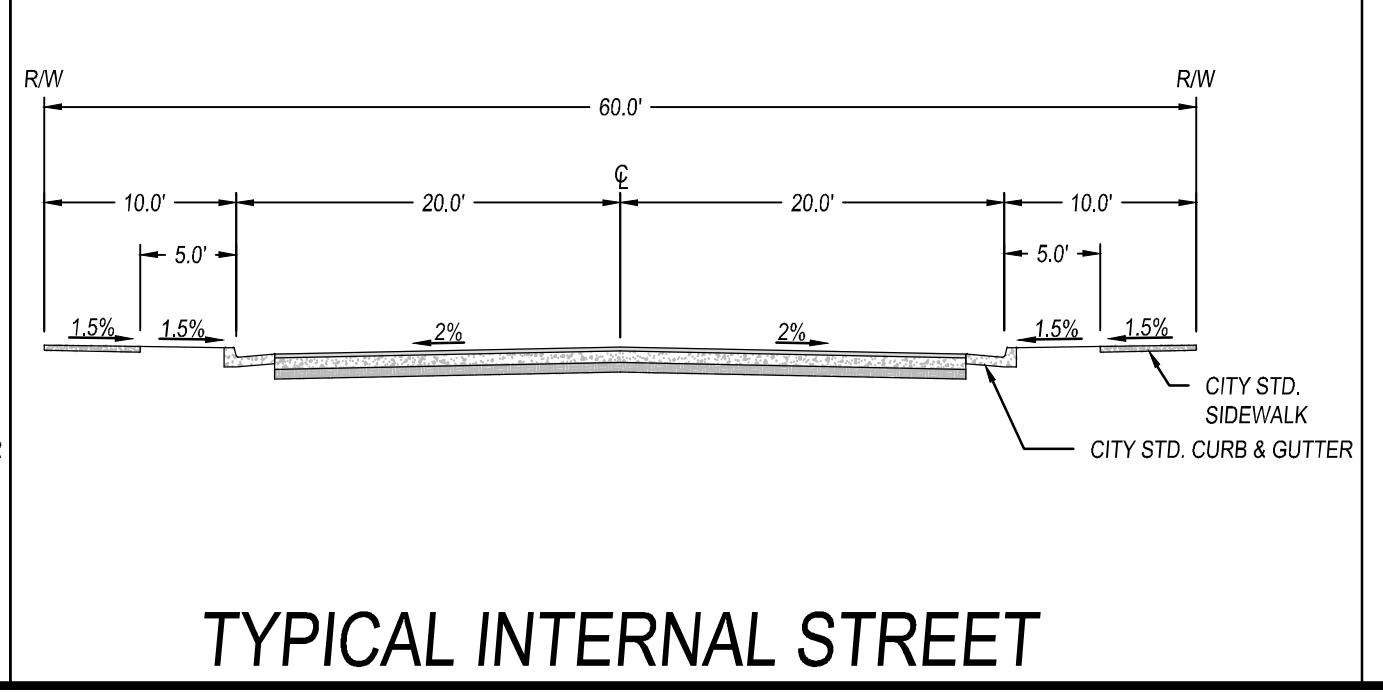
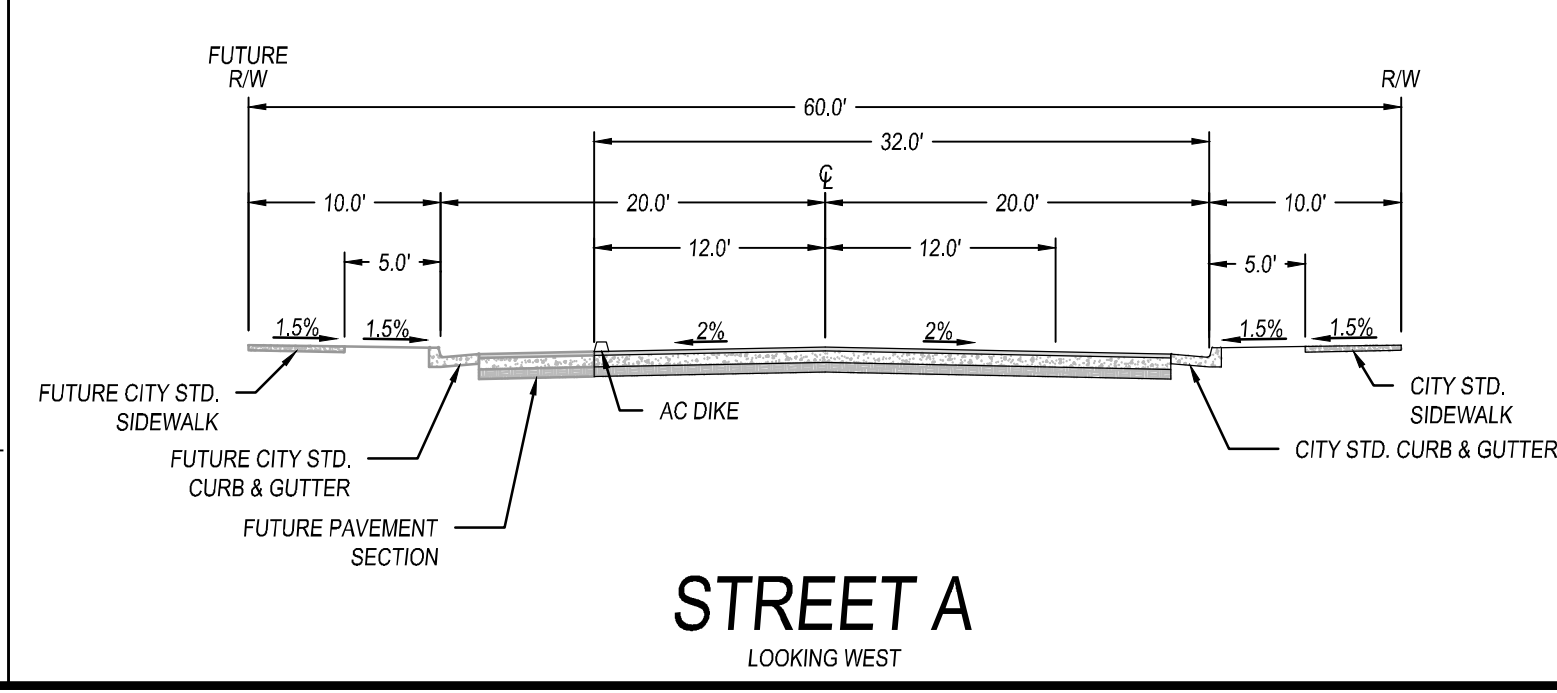
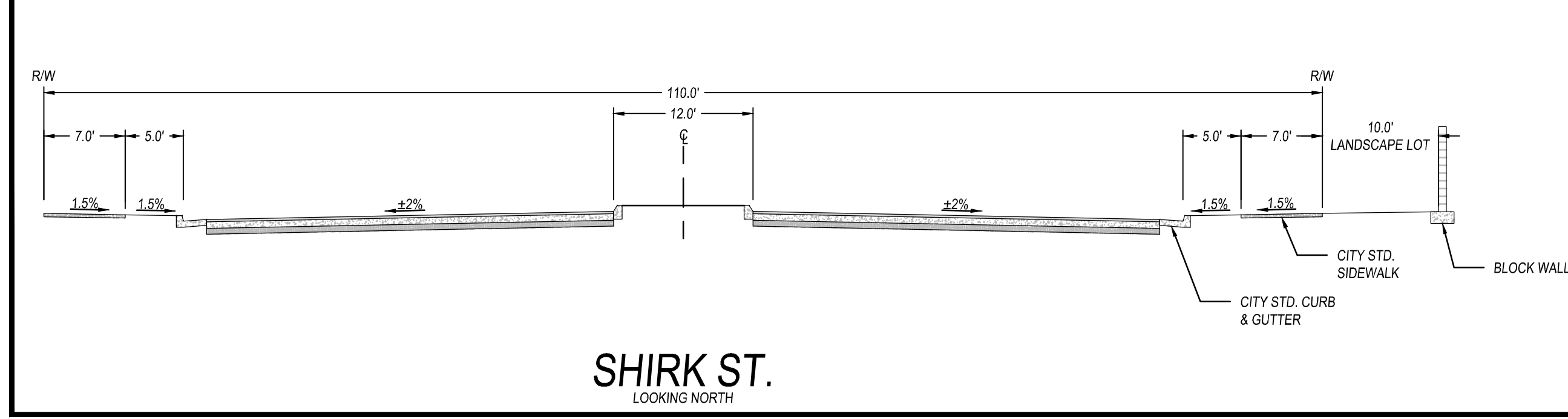
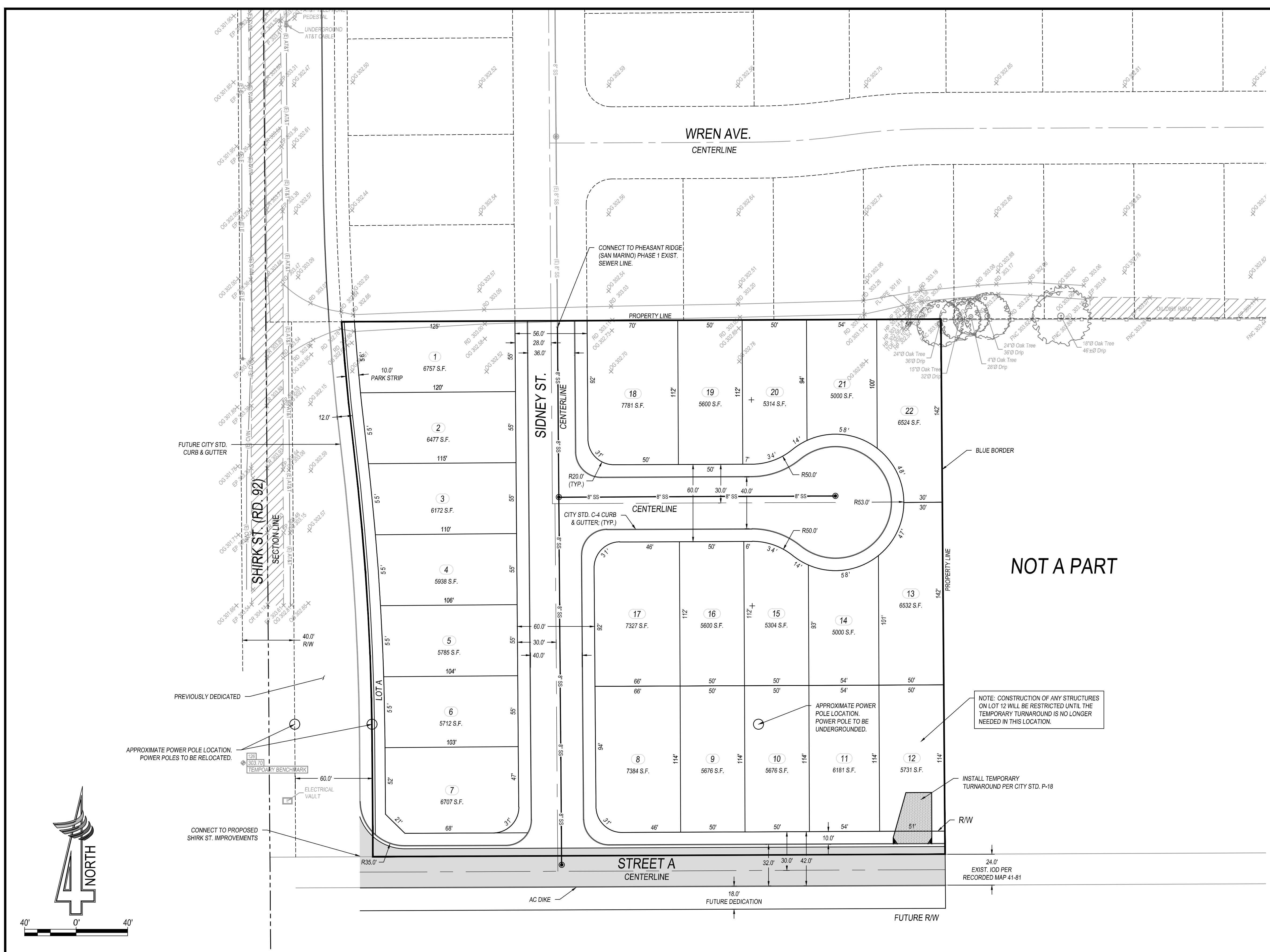
BEING A DIVISION OF A PORTION OF SEC. 22, T. 18 S., R. 24 E., M.D.B. & M.,
IN THE CITY OF VISALIA, COUNTY OF TULARE, STATE OF CALIFORNIA.

SITE DATA:	
APN:	077-650-001
GROSS ACREAGE:	±4.30 AC.
NET ACREAGE:	±3.11 AC.
PROPOSED LOTS:	22
EXISTING ZONING:	R-1-5
PROPOSED ZONING:	R-1-5
FLOOD ZONE:	X
GENERAL PLAN:	LOW DENSITY RESIDENTIAL
EXISTING USE:	VACANT
PROPOSED USE:	LOW DENSITY RESIDENTIAL
PROPOSED MAINTENANCE:	CITY OF VISALIA
UTILITIES:	
SEWER SERVICE:	CITY OF VISALIA
WATER SERVICE:	CALIFORNIA WATER SERVICE COMPANY
STORM DRAIN SERVICE:	CITY OF VISALIA
ELECTRICITY:	SOUTHERN CALIFORNIA EDISON COMPANY
NATURAL GAS:	SOUTHERN CALIFORNIA GAS COMPANY
TELEPHONE:	AT&T (TBD)
REFUSE:	CITY OF VISALIA

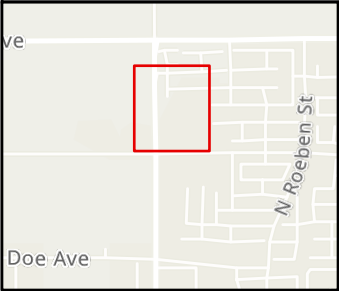
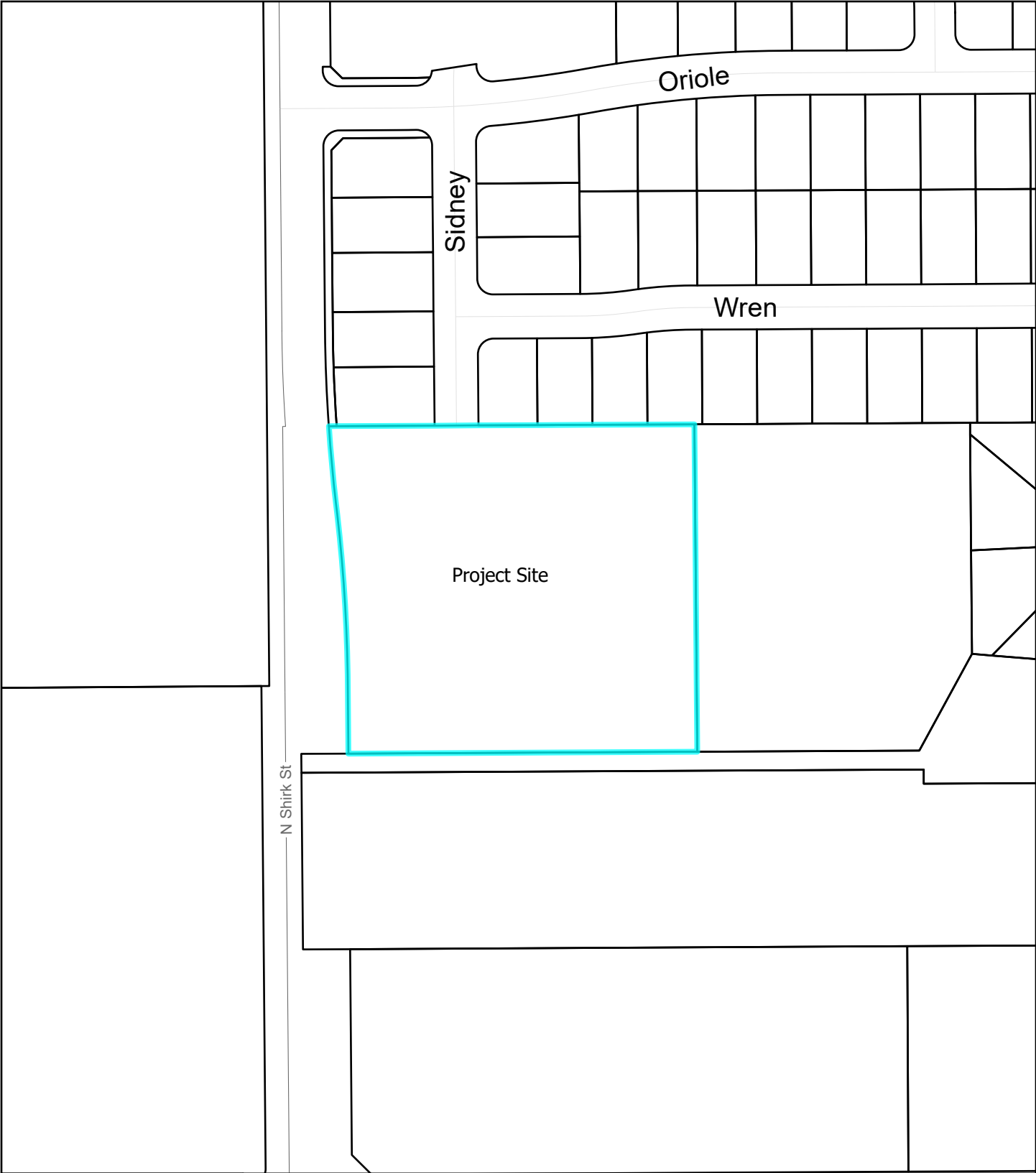
LOT DATA:	
MINIMUM LOT AREA:	5,000 S.F.
MAXIMUM LOT AREA:	7,781 S.F.
AVERAGE LOT AREA:	6,099 S.F.
TOTAL LOT AREA (AC.):	±3.11 AC.
LOTS PER GROSS AREA:	5 LOTS PER ACRE



VICINITY MAP
SCALE: 1" = 500'



PREPARED BY:
4CREEKS
324 S. SANTA FE, STE. A
P.O. BOX 7593
VISALIA, CA 93292
TEL: 559.802.3052
FAX: 559.802.3215

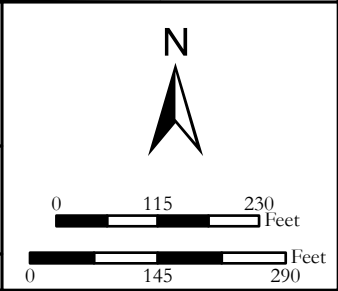


Vicinity Map

City of Visalia, Fresno County Dept. PWP, California State Parks, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA, Esri, NASA, NGA, USGS, FEMA

2022

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere



City of Visalia



To: Planning Commission

From: Colleen A. Moreno, Assistant Planner
559-713-4031, colleen.moreno@visalia.city

Date: November 25, 2024

Re: Request to Withdraw Revocation of Conditional Use Permit 2023-28: A request by the City of Visalia, pursuant to Municipal Code section 17.38.040, to revoke Conditional Use Permit No. 2023-28, which allowed the operation of a massage therapy business at 2015 West Tulare Avenue, located in the C-MU (Mixed Use Commercial) zone (APN: 095-120-040).

Continued Public Hearing from October 28, 2024

The Planning Commission conducted a public hearing on October 28, 2024, to revoke Conditional Use Permit No. 2023-28 (massage therapy business). During the October 28th meeting, the property owners and the business owners spoke during public comment in opposition of revoking the conditional use permit and requested that Commissioners deny staff's recommendation. Rather, they requested that the Commission allow the business and property owners to come to an agreement and set additional conditions and guidelines for the use to continue at the site. The Planning Commission discussed the project and granted a continuance to a date certain and continued the public hearing for this item to the November 25th meeting.

Stipulated Agreement

A Stipulated Agreement has been drafted by the City Attorney and signed by the property owner for 2015 West Tulare Avenue. By signing the agreement, the business owners acknowledges that they are fully aware of the conditions/requirements detailed in the stipulated agreement, the conditions of approval from the original Conditional Use Permit request (CUP 2023-28), the Visalia Municipal Code Section 5.68 Massage Establishments, and the Urgency Ordinance No. 2024-05 which will be enforceable by the City. The property owner also acknowledges that violation of the CUP terms, the stipulated agreement, the Massage Establishment 5.68 Ordinance and the Urgency Ordinance No. 2024-05 shall be considered grounds for the City of Visalia to issue a revocation of the CUP.

Recommendation

Based on the property owners signing the Stipulated Agreement, staff recommends withdrawing the revocation request for Conditional Use Permit No. 2023-28. Any changes to the operational statement, including but not limited to the number of employees, increase of intensity of the use, etc., will require the property owners to submit a request to modify the Conditional Use Permit. The withdrawal of the revocation request does not change the original operational statement of the use that was approved in CUP No. 2023-28.

Please note, building permits for the site have been issued and finalized by the City's Building Inspectors, therefore all issues related to building modifications have been corrected.

Attachments:

Copy of the Stipulated Agreement to be signed by property owners

CUP No. 2023-28 Revocation Staff Report with exhibits dated October 28, 2024

AGREEMENT REGARDING CONDITIONAL USE PERMIT REQUIREMENTS

This Agreement Regarding Conditional Use Permit Requirements (“Agreement”) shall be deemed entered and effective on the date of its full execution by the parties hereto. The parties to this Agreement are City of Visalia (“City”) and _____ the owner of the property located at 2015 West Tulare Avenue Visalia California, (“Property Owner”).

RECITALS

A. Property Owner has for several years leased space to Pattaya Spa, a massage establishment, also referred to as the business that was found by the City to be in violation of numerous municipal code requirements, including but not limited to a determination that persons were living in the establishment, which created unsafe conditions, in addition other violations of massage ordinance requirements and building code violations were found.

B. The last massage establishment located at the subject property had its business license terminated due to these violations and no appeal by the business owner was filed. The business is no longer able to legally operate within the City of Visalia.

C. City sought to have the Conditional Use Permit, 2023-28, (“CUP”) issued for this location revoked during the Planning Commission meeting held on October 28, 2024.

D. Property Owner has testified that they believe no persons were living in the massage establishment and are seeking to have the CUP remain in place subject to additional requirements to confirm compliance with applicable municipal code ordinances.

E. Parties agree that this Agreement will be considered part of the terms of the CUP and enforceable by the City, subject to confirmation by the Planning Commission.

F. Parties acknowledge there are currently no businesses operating on the site and that any new business would need to be separately licensed by the City of Visalia Business Tax Division and comply with applicable background review requirements under Visalia Municipal Code Chapter 5.68.

G. Parties hereby acknowledge that they have read this Agreement; have had the opportunity to have had it fully explained to them by legal counsel of their choosing; and that they are fully aware of the contents of this Agreement and of its legal effect.

NOW THEREFORE, in consideration of the facts and recitals listed above, which are hereby incorporated into this Agreement by reference, Parties mutually agree as follows to resolve the administrative matters described above:

1. Compliance with Ordinance Requirements and Additional Conditions. Property Owner agrees that any massage establishment at this location will be required to comply with Visalia Municipal Code Chapter 5.68, the requirements of City of Visalia Ordinance No. 2024-05, an emergency ordinance adopted by the City of Visalia, in addition Property Owner acknowledges the following requirements that will be considered part of the CUP requirements at this business:
 - The business may not be used for residential purposes;
 - No living quarters are allowed in the business, this shall forbid beds, dressers, nightstands, pullout couches or other furniture that converts into a bed from being located in the business;
 - Personal effects shall be limited to items brought into the establishment for temporary usage, employees shall not be allowed to utilize the business for storing multiple changes of clothes, with the exception of permissible work uniforms.
 - All contracted employees working as a massage technician, practitioner, or therapist must have a valid CAMTC license that confirms the contracted employee works in the City of Visalia;
 - All contracted employees working as a massage technician, practitioner, or therapist must have a valid business tax for the City of Visalia.
 - Front window coverings and signage that covers the windows of block visibility into the establishment are not allowed as stated in applicable municipal code requirements.

2. Compliance with CUP 2023-28. Property Owner acknowledges that the operational statement contained in CUP 2023-28 states that there will be only one employee working at this location. Property Owner acknowledges this requirement is considered part of the CUP requirements as the proposed operational statement submitted with the CUP only referenced one employee working on site. No additional employees will be allowed to work onsite.

In order to modify this requirement allowing only one employee onsite, the Property Owner must submit a request to modify the CUP and allow additional employees. Property Owner acknowledges this one employee limitation includes massage therapists hired as independent contractors to work onsite.

3. Violations Subject to CUP Revocation. Property Owner acknowledges that violation of the CUP terms or this Agreement shall be considered grounds for the City of Visalia to issue a revocation of the CUP. If City staff determine a violation of the CUP or this Agreement occurred, then City staff shall follow the procedure for revocation stated in Visalia Municipal Code section 17.38.040.

4. Binding on Successors. This Agreement shall be binding upon the heirs, executors, administrators, successors, and assigns of the Property Owner.

5. Entire Agreement. This Agreement contains the entire agreement among Parties with respect to the citation and appeal thereof described herein, and fully supersedes any and all prior agreements or understandings, written or oral, with respect to these claims/disputes described herein. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or bind any of the parties hereto with respect to the described claim/dispute. An amendment or modification of this Agreement shall be effective only if in writing, signed by all parties hereto.

6. Authority to Execute. Each Party signing this Agreement represents and warrants that they have full authority to do so.

Parties have executed this Agreement as of the date opposite their respective signatures.

Property Owner

City of Visalia

Print Name _____ Date _____

Print Name _____ Date _____



REPORT TO CITY OF VISALIA PLANNING COMMISSION

HEARING DATE: October 28, 2024

PROJECT PLANNER: Colleen A Moreno, Assistant Planner
Phone No.: (559) 713-4031
E-mail: colleen.moreno@visalia.city

SUBJECT: **Revocation of Conditional Use Permit No. 2023-28:** A request by the City of Visalia, pursuant to Municipal Code section 17.38.040, to revoke Conditional Use Permit No. 2023-28, which allowed the operation of a massage therapy business at 2015 West Tulare Avenue, located in the C-MU (Mixed Use Commercial) zone (APN: 095-120-040).

STAFF RECOMMENDATION

Staff recommends revoking Conditional Use Permit No. 2023-28. Staff's recommendation is based on the conclusion that the owner/operator has failed to comply with the terms and conditions of the Conditional Use Permit and the Visalia Municipal Code.

RECOMMENDED MOTION

I move to approve revocation of Conditional Use Permit No. 2023-28 based on the findings and conditions in Resolution No. 2024-63.

BACKGROUND

The request to revoke Conditional Use Permit (CUP) No. 2023-28 is in response to violations of the terms and conditions of the conditional use permit and Municipal Code provisions for the massage therapy establishment located at 2015 West Tulare Avenue. On September 9, 2024, A Notice of Conditional Use Permit Suspension letter was sent by certified mail to both the property owner and business operator informing them that the conditional use permit was being suspended and a public hearing was being set to determine if the conditional use permit should be revoked. A copy of that letter is provided as Attachment "A" to this staff report.

On August 22, 2024, Code Enforcement Officers with the Neighborhood Preservation Division conducted an inspection of the massage therapy establishment located at 2015 West Tulare Avenue. The inspection of this commercial tenant space identified various violations and pursuant to Visalia Municipal Code section 5.04.130, Code Enforcement Officer(s) issued and posted a Cease and Desist order which was posted on the business door. The business was ordered to cease operations until it came into compliance with applicable legal requirements. A copy of the Cease and Desist is provided as Attachment "B".

Pursuant to Section 17.38.040 of the Zoning Ordinance, violation of any applicable provisions 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 ensure 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 of the Zoning Ordinance. Please note, pursuant to Section 17.38.050, following the revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same conditional use permit on the same or substantially the same site shall be filed within one (1) year from the date of the revocation of the permit unless such denial was a denial without prejudice by the planning commission or city council.

BACKGROUND INFORMATION

General Plan Land Use Designation:	C-MU (Mixed Use Commercial)
Zoning:	C-MU
Surrounding Zoning and Land Use:	North: QP (Quasi-Public) / COS Parking Lot South: C-MU (Commercial Mixed Use) / Fitness Center East: R-M-2 (Multi-Family Residential) / Multi-Family Homes West: C-MU / quick-Serve Restaurant

RELATED PROJECT

On November 13, 2023, Conditional Use Permit No. 2023-28 was approved allowing a massage therapy business to operate in an existing 540 square foot tenant space in the C-MU (Mixed Use Commercial) zone. A copy of the staff report and resolution is attached to this report as Attachment "C".

REVOCATION REQUEST

Staff recommends the revocation of Conditional Use Permit No. 2023-28 based on the operator/owner's failure to comply with the terms and conditions of the conditional use permit and the Visalia Municipal Code. Upon issuing the Cease and Desist order, staff conducted a review of the Conditional Use Permit (CUP) and site address and noted several violations which are noted in Attachment "A" as follows:

1. One of the rooms within the tenant space was converted into a bedroom for residential use which is a violation of the requirements for massage establishments under City of Visalia Ordinance 2024-03, which forbids living quarters in massage establishments.
2. Front windows covered with curtains and signs that cover the glass door, which is a violation of the requirements for massage establishments under City of Visalia Ordinance 2024-05, which forbids obstructing the view into the interior reception or waiting area of a massage establishment.
3. Unsafe living in a commercial building with no smoke detector or carbon monoxide alarm. This is in violation of the California Building Code, and the requirements for massage establishments under City of Visalia Ordinance 2024-05.

In addition, a review of the two massage technicians working onsite at the time of the inspection noted that their California Massage Therapy Council (CAMTC) certification information does not list the City of Visalia as a place where they are working, which is a failure to inform CAMTC the cities these massage technicians work.

It should be noted that the notices of these violations were sent to both the current business owner and the property owner in each instance.

The City Council adopted the urgency ordinance to further ensure the City of Visalia properly regulates massage establishments in compliance with adopted state statutes, while also imposing reasonable conditions on the operation of massage establishments, in the interim, until more specific regulatory changes to the Visalia Municipal Code are further considered. These efforts, along with the existing Municipal Code requirements, are intended to avoid the potential threat this type of establishment may have if massage businesses operate in a manner that result in negative impacts to the public's peace, health, safety, and welfare.

As noted above, the massage establishment at this location is operating in a manner of non-compliance with both state and local codes and regulations and conditions adopted for the CUP resulting in the massage establishment being a threat to the public health, safety, or welfare of the surrounding residential and commercial areas. Based on the holder of the CUP failing to comply with adopted regulations, staff is requesting the Planning Commission revoke CUP No. 2023-28 due to the owner/operator failing to comply with the conditions adopted for this CUP and for violating Municipal Code requirements for massage establishments.

The CUP requires that massage establishments comply with applicable laws and regulations, while failure to comply with these rules can result in fines/penalties to the massage establishment operator and potentially the property owner. The property owner, as the holder of the CUP, is also responsible to make sure that the requirements of the CUP are met in order to continue holding the CUP. City staff is recommending the CUP be revoked based on the code violations and the types of code violations that have occurred, specifically, persons living in the commercial unit, which is a serious violation and unsafe and unsanitary for both workers and customers of the site. The disregard for the safety and welfare of the public demonstrates issues with the massage establishment owner having difficulty enforcing the CUP requirements and City staff therefore recommend the CUP be revoked.

Massage Establishment Business Owners

The massage establishment located at 2015 West Tulare Avenue has not changed business owners since the conditional use permit was approved in November 2023. The owner of the property has also remained consistent.

Please note all code enforcement actions are sent to the property owner when dealing with issues related to the site.

Property History

The subject property is a commercial development consisting of three separate units, a barber shop and a sign making business. Staff researched to see if there are any other conditionally permitted uses located at 2015 West Tulare Avenue and found no other conditionally permitted uses operating at this location.

In addition, staff researched if other code violations have been issued against this property and found one from 2019, regarding a remodel within the suites done without a permit, this violation has since been remedied and closed.

Current City of Visalia Regulations

The City of Visalia Municipal Code Title 5 Business Regulations Section 5.68 "Massage Establishments" confirms permitting standards intended to comply with California law and establish health and safety guidelines for massage establishments. In addition, the recent adoption of Ordinance No. 2024-05 expands on the provisions of Title 5 and Title 17 (Zoning). A copy of Section 5.68 and Ordinance No. 2024-05 are attached to this report as Attachment "D".

RECOMMENDED FINDINGS

1. That the massage establishment is in violation of the existing Conditional Use Permit No. 2023-28, title 5 Business Regulations Section 5.68 "Massage Establishments" of the Visalia Municipal Code, and state and local regulations.
2. That continuing to allow a massage establishment under the current Conditional Use Permit may have a negative impact on surrounding businesses and neighborhood due to the failures of the massage establishment at this location to meet applicable requirements.
3. That the Notice of Conditional Use Permit Suspension was issued by the City of Visalia on September 9, 2024, pursuant to Section 17.38.040 of the Zoning Ordinance.

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 North Santa Fe Street, Visalia California. 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 or from the City Clerk.

Attachments:

- Resolution No. 2024-63
- Attachment "A" – Notice of Conditional Use Permit Suspension letter
- Attachment "B" – Cease and Desist
- Attachment "C" – Conditional Use Permit No. 2023-28 Staff Report
- Attachment "D" – Section 5.68, Ordinance No. 2024-05, and Conditional Use Permit Section
- Aerial Map
- Location Map

Related Plans & Policies

Conditional Use Permits (Section 17.38)

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 which 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 which 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 which 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 which shall be submitted to the planning commission.

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. (Prior code § 7536)

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.

RESOLUTION NO. 2024-63

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA APPROVING A REQUEST BY THIS CITY OF VISALIA, PURSUANT TO MUNICIPAL CODE SECTION 17.38.040, TO REVOKE CONDITIONAL USE PERMIT NO. 2023-28, WHICH ALLOWED THE OPERATION OF A MASSAGE THERAPY BUSINESS LOCATED AT 2015 WEST TULARE AVENUE, LOCATED IN THE C-MU (MIXED USE COMMERCIAL) ZONE (APN:095-120-040).

WHEREAS, Conditional Use Permit No. 2023-28 was a request to allow massage therapy establishment in the Mixed Use Commercial (C-MU) zone located at 2015 West Tulare Avenue; and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, did hold a public hearing before said Commission on November 13, 2023, and found the Conditional Use Permit No. 2023-28, 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, on August 22, 2024, the Neighborhood Preservation Division conducted an inspection of the massage therapy establishment located at 2015 West Tulare Avenue and upon inspection of the business violations of the Visalia Municipal Code Chapter 5.68 and Ordinance No. 2024-05 were found, a Cease and Desist order was issued and posted on the business door and the business was ordered to cease operations until further notice; and

WHEREAS, notices of these violations were sent to the business operator and property owner;

WHEREAS, based on the violations on the site, on September 9, 2024, a Notice of Conditional Use Permit Suspension letter, pursuant to Section 17.38.040 of the Zoning Ordinance, was sent by certified mail to both the property owner and business operator informing them that the conditional use permit is being suspended and a public hearing was being set to determine if the conditional use permit should be revoked; and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, did hold a public hearing before said Commission on October 28, 2024; and

WHEREAS, the Planning Commission of the City of Visalia has considered the request for revocation of the Conditional Use Permit in accordance with Sections 17.38.040, 17.38.080, 17.38.090, 17.38.100 and 17.38.110 of the Zoning Ordinance of the City of Visalia; and

WHEREAS, the Planning Commission of the City of Visalia finds the owner/operator of said massage therapy establishment to be in violation of the terms and conditions of approval of the Conditional Use Permit based on the evidence contained in the staff report and testimony presented at the public hearing.

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

1. That the massage establishment is in violation of the existing Conditional Use Permit No. 2023-28, title 5 Business Regulations Section 5.68 “Massage Establishments” of the Visalia Municipal Code, and state and local regulations.
2. That continuing to allow a massage establishment under the current Conditional Use Permit may have a negative impact on the surrounding businesses and neighborhood due to the failures of the massage establishment at this location to meet applicable requirements.
3. That the Notice of Conditional Use Permit Suspension was issued by the City of Visalia on September 9, 2024, pursuant to Section 17.38.040 of the Zoning Ordinance.

BE IT FURTHER RESOLVED that the Planning Commission hereby approves the revocation of Conditional Use Permit No. 2023-28 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.



Notice of Conditional Use Permit Suspension

September 9, 2024

Jose Luis Sanchez & Rubi Veronica Sanchez
1507 N. Garden St.
Visalia, CA 93291

Case Number: CE241443
Conditional Use Permit No.: 2023-28
RE: Pattaya SPA, 2015 W. Tulare Ave. Visalia, CA 93277

Dear Jose and Rubi Veronica Sanchez

The subject property was issued Conditional Use Permit No. 2023-28, which permitted a massage establishment at the above referenced address. This letter is to inform you that the Conditional Use Permit is being suspended by the City of Visalia due to the numerous code violations by the massage establishment. A public hearing by the Visalia Planning Commission will be set within the next sixty days to determine if this Conditional Use Permit should be permanently revoked or if the suspension should be lifted and the business allowed to resume under the prior conditions or with additional conditions.

On August 22, 2024, Code Enforcement Officer(s) with the Neighborhood Preservation Division conducted an inspection of the property located at 2015 West Tulare Avenue (APN: 095-120-004). The inspection of this commercial tenant space identified the following violations:

1. Front windows covered with curtains and signs that cover the glass door, which is a violation of the requirements for massage establishments under City of Visalia Ordinance 2024-05, which forbids obstructing the view into the interior reception or waiting area of a massage establishment.
2. One of the rooms within the tenant space was converted into a bedroom for residential use which is a violation of the requirements for massage establishments under City of Visalia Ordinance 2024-03, which forbids living quarters in massage establishments.
3. It is unsafe living in a commercial building with no smoke detector or carbon monoxide alarm. This is in violation of the California Building Code, and the requirements for massage establishments under City of Visalia Ordinance 2024-05.

As a result of these violations, and pursuant to Visalia Municipal Code section 5.04.130, Code Enforcement Officer(s) issued and posted a Cease and Desist Order, informing the business owner that the City was ordering the business to cease operations until it came into compliance with applicable legal requirements. A copy of the Cease and Desist order is enclosed with this letter.

City staff reviewed the Conditional Use Permit (i.e., Conditional Use Permit No. 2023-28) that was approved allowing massage establishments to operate at this location. The business is in violation of Condition of Approval No. 4 of Conditional Use Permit No. 2023-28 and Resolution No. 2023-53 which states, *"That all other federal, state and city laws, codes and ordinances be complied with."*

Due to the violations of the Visalia Municipal Code at this massage establishment you are hereby issued this Notice of Conditional Use Permit Suspension. The Conditional Use Permit is hereby suspended, and massage establishments are not permitted to operate on this site unless the Conditional Use Permit is reestablished by the Visalia Planning Commission or the Visalia City Council. This suspension is effective as of the date of this letter and is issued pursuant to Section 17.38.040 of the Visalia Municipal Code which states:

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 ensure 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. (Ord. 2017-01 (part), 2017: prior code § 7528)

A copy of Section 17.38.120 is also enclosed with this letter. A public hearing by the planning commission shall be held within the next sixty days. Notice of the public hearing shall be mailed to you, the current business owner, all property owners within three hundred feet of the subject property and published at least ten days in advance of the hearing.

Please be aware that any further violation of the provisions shall be punishable as a misdemeanor. Pursuant to Visalia Municipal Code Section 1.12.010 no person shall violate any provision of this code or fail to comply with the mandatory requirements of the ordinances of the City. Any person convicted of a misdemeanor shall be punished by a fine not to exceed \$1,000.00 or by imprisonment in County Jail not to exceed 6 months or by both such fine and imprisonment.

Sincerely,

Paul Bernal

Paul Bernal, Director
Planning and Community Preservation
(559) 713-4359
paul.bernal@visalia.city

CUP Suspension Letter
September 9, 2024

Enclosures:

1. Copy of Cease and Desist
2. Sections 17.02.145 and 17.38.110 of the Visalia Municipal Code

Cc: James Koontz, City Attorney – via e-mail
Paul Bernal, Planning and Community Preservation Director – via e-mail
Tracy Robertshaw, Neighborhood Preservation Manager – via e-mail
Martha Zavala, Code Enforcement Officer – via e-mail
Colleen Moreno, Assistant Planner – via e-mail

17.02.145 Appeal to city council

Where the planning commission is authorized to make any decision pursuant to the provisions of Title 17 of the Visalia Municipal Code and that decision is to be subject to appeal to the city council, the following procedure shall apply.

- A. The subdivider or any interested person adversely affected may, upon payment of an appeal fee as may be established by resolution of the Council, appeal any decision, determination or requirement of the planning commission by filing a notice thereof in writing with the city clerk, setting forth in detail the action and the grounds upon which the appeal is based within ten (10) days after the action that is the subject of the appeal. Such notice shall state specifically where it is claimed there was an error or abuse of discretion by the planning commission.
- B. Upon the filing of an appeal, the city council shall set the matter for hearing. Such hearings shall be held within thirty (30) days after the date of filing the appeal or receipt of council member requests. The city clerk shall give notice of the hearing according to the procedure required for the initial action by the Planning Commission, except that the timing of such notice shall be not less than 10 days before the hearing.
- C. In holding the hearing on the matter, the Council may receive any and all information pertinent to the matter, regardless of whether such information was first presented to the planning commission. In the case of decisions by the planning commission that followed a public hearing, the city council shall hold a new public hearing on the matter. Upon the close of the hearing, the Council shall vote to either confirm the decision of the planning commission, overturn the decision, or confirm the decision with modifications, and the Council may continue the item to the next meeting if necessary to direct staff to prepare a conforming resolution with findings, which shall be considered by the Council at the next scheduled Council meeting. In the case of a tie vote, the planning commission decision shall stand, and shall be considered final as of the date of the Council vote. (Ord. 2017-01 (part), 2017: Ord. 2006-18 § 3, 2007)

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. (Ord. 2017-01 (part), 2017: prior code § 7536)

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](#). (Ord. 2017-01 (part), 2017: Ord. 2006-18 § 6, 2007: prior code § 7537)



Attachment "B"

**CEASE AND DESIST
ORDER**

Pursuant to Visalia Municipal Code Section 5.04.130 (E), Cease and Desist Orders ***shall*** be issued to any entity which is in non-compliance with any city ordinance or regulatory agency.

Additionally, Visalia Municipal Code Section 8.40.030 (I) 2 states that any condition on a property that affects an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Under the Visalia Municipal Code Section 5.68.040 Massage Establishments

5.68.060 Additional requirements

Before operating a massage establishment in the city, massage establishment owners must comply with all applicable codes adopted by the city, including, without limitation, the building, electrical, and plumbing codes.

5.68.070 Display of permit.

Any owner of a massage establishment or off-premise massage service must display the CAMTC certificates for all massage technicians prominently in a conspicuous place, capable of being viewed by customers or city representatives, at every location where massage is performed or conducted. For off-premise massage services, massage workers must also carry a copy of their CAMTC certificate and display it to customers upon request. Any persons operating under the limited exception described in Section 5.68.040(D) must display the statement from the city documenting their exemption from the CAMTC certification prominently in a conspicuous place capable of being viewed by customers or city representatives, or carry it with them for off-premise massage services.

5.68.090 Prohibited conduct.

A. It is unlawful for any massage technician or any other employee working in a massage establishment or for an out-call massage service, or customers, patrons, or guests of the establishment or service, to engage in any specified sexual activities upon the premises of the massage establishment or the off-premise massage location.

B. It is unlawful for any massage technician or other employee of a massage establishment to expose specified anatomical areas in the presence of any patron, customer, or guest.

C. In the course of administering the massage, it is unlawful for any massage technician or other massage establishment employee to make intentional physical contact with the specified anatomical areas of any customer, patron or guest.

CA Building Code Chapter 100 Permit Required (excerpts)

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. Parking lots shall not be paved, improved, striped, or restriped unless a separate permit for each parking lot has first been obtained from the building official.

Ordinance No. 2024-03

Inspections. The operator and/or responsible employee must consent to an inspection by the City's Building and Safety Division, Code Enforcement Division, Fire Department and Police Department and the County Health Department for purposes of determining that the provisions of this ordinance or other applicable laws or regulations are met. The City's Building and Safety Division, Code Enforcement Division, Fire Department and Police Department and the County Health Department may, from time to time, make unannounced inspections of each massage establishment.

Pattaya Spa

The business, _____, located at 2015 W Tulare Ave Unit A is in noncompliance with this and other City Ordinances or regulatory agencies and as such is directed to immediately Cease and Desist conducting any further business until such time that the business is brought into compliance with all local, state and federal laws.

You are hereby ordered to immediately cease and desist any and all operations for this business until all required Municipal Code requirements are met.

For information regarding this order contact the City of Visalia Neighborhood Preservation Division at (559)713-4534.

Date: 8/22/24

By Order of: [Signature]
Code Enforcement Officer, CCEO

Affidavit of Posting and/ or Hand Delivery

I solemnly swear under penalty of perjury that on 8/22/24, I personally posted a copy of this Violation Notice to the front of the address indicated above and/or hand delivered this Violation Notice to _____.

[Signature]
Code Enforcement Officer

(559) 713-4534
Phone Number

CERTIFIED
[Signature]

City of Visalia



To: Planning Commission

From: Colleen Moreno, Assistant Planner (559-713-4031)

Date: November 13, 2023

Re: Late Correspondence for Planning Commission Agenda Item No. 7:

Conditional Use Permit No. 2023-28: A request to establish Pattaya Spa, a foot and body massage therapy use within an existing 540 square foot tenant space in the C-MU (Commercial Mixed Use) zone. The site is located at 2015 West Tulare Avenue, on the southeast corner of West Tulare Avenue and South Crowe Street (APN: 095-120-040).

The Planning Division received the attached e-mail correspondence after the report was completed, on Thursday, November 9, 2023, regarding the above referenced project. The e-mail states the following concerns regarding the proposed use and its close vicinity to a school (College of the Sequoias) and an apartment complex where children reside, the possibility of illicit/illegal activities within the proposed use and the distance of similar uses within a four (4) block radius of the proposed project site.

ATTACHMENTS

- E-mail from Deene Souza, local apartment complex owner, received November 9, 2023
- Staff created GIS maps detailing distance of project site and similar uses.

From: [Deene Souza](#)
To: [Planning](#)
Subject: Public hearing comment for 2015 W Tulare Ave
Date: Wednesday, November 8, 2023 9:42:16 PM

Some people who received this message don't often get email from deenesouza@gmail.com. [Learn why this is important](#)

Dear Planning Commission members:

I'm writing in opposition to granting a conditional use permit for a massage parlor at this location. I own apartments on Crowe, **that have children as residents**, that are in the 300 foot mailing radius of this proposed establishment.

There are already at least 2 massage parlors in the immediate area. Is Visalia trying to establish the College of the Sequoias and Mooney Blvd sphere of influence as a red light district? Have you connected with the Visalia Police Department and obtained information on crimes involving massage parlors within the city limits? In California, massage parlors are commonly charged with soliciting prostitution and engaging in acts of prostitution. This business, which could arguably be considered a legalized prostitution establishment and coverup for sex trafficking and illegal immigration, would be one of MANY within a very small radius. Please count the number of massage parlors within 4 blocks of this proposed one. Let's not make it more difficult to police these by granting ANOTHER permit for a massage parlor in this area.

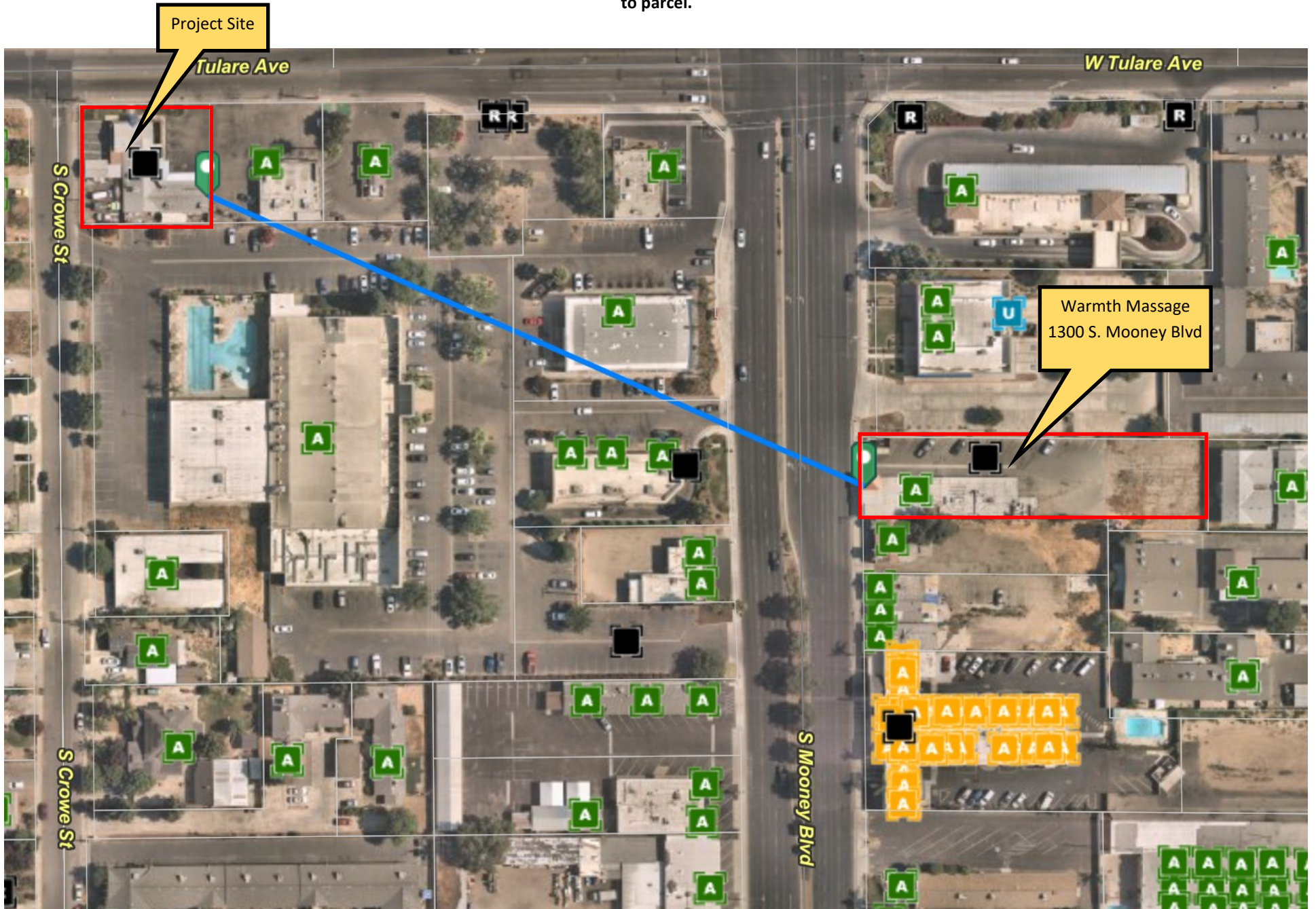
This is across the street from a school. Granted, it's a junior college, but in reality, we have high school students attending school there, most of which are under the age of 18 years old. In addition, many of our "just graduated" high school students are attending school there. SURELY the owners can find a higher and better use for that property than a massage parlor and all the "great, wholesome activities" one provides. It's across the street from a school for God sake.

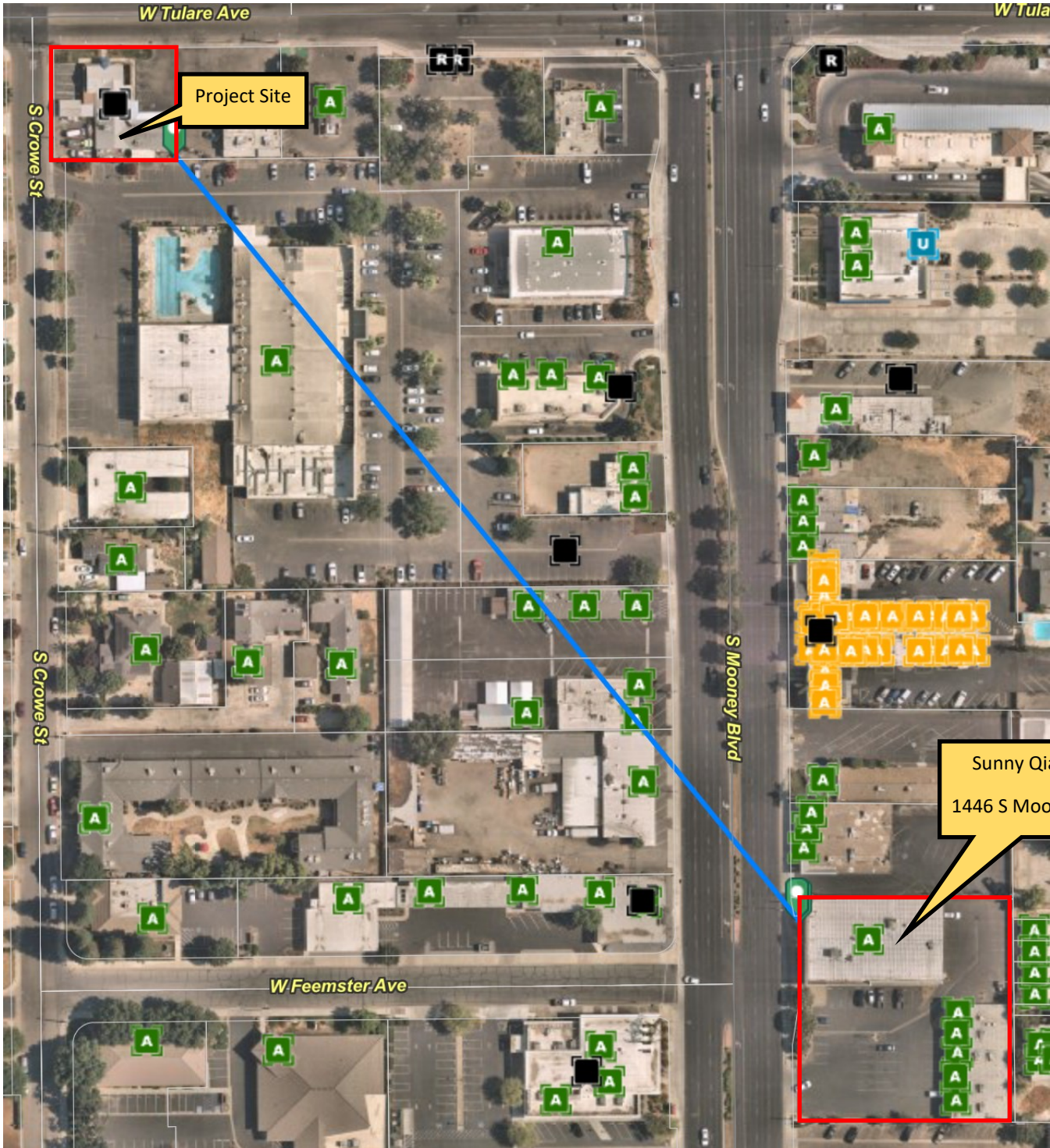
Didn't the residents of Visalia just approve a Fresno State campus across from that facility? Let's look at the long range planning of what is coming and aim for more suitable businesses in that area. The county is doing a great job of trashing Mooney Blvd with their nearby supportive housing hotels. We don't need to assist their effort any further with this type of establishment.

Please deny the massage parlor permit that **would be the entrance to a neighborhood of homes** on S. Crowe St in Visalia.

Deene Souza
Visalia resident
(559) 730-6100

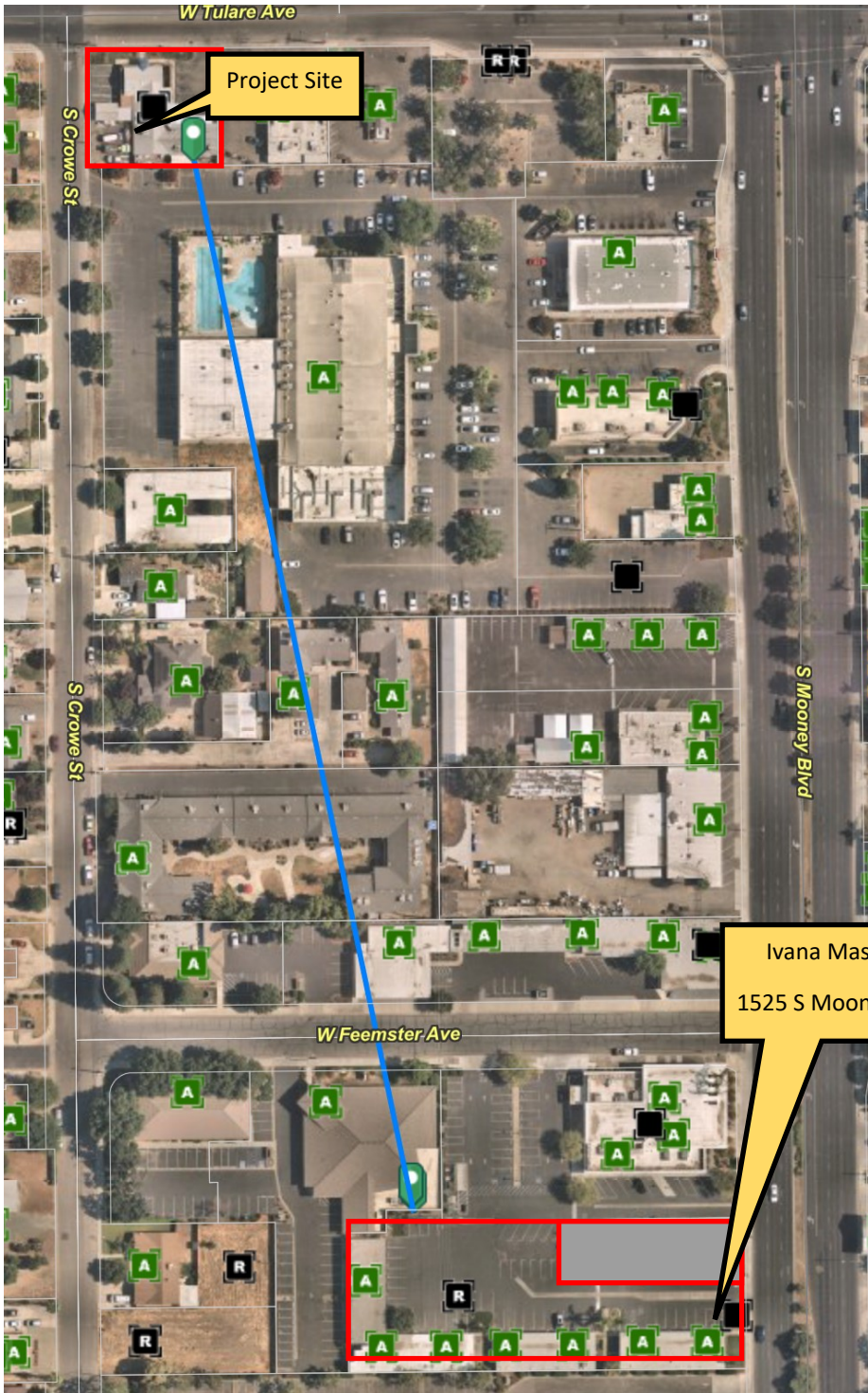
0.12 miles from proposed location, parcel
to parcel.





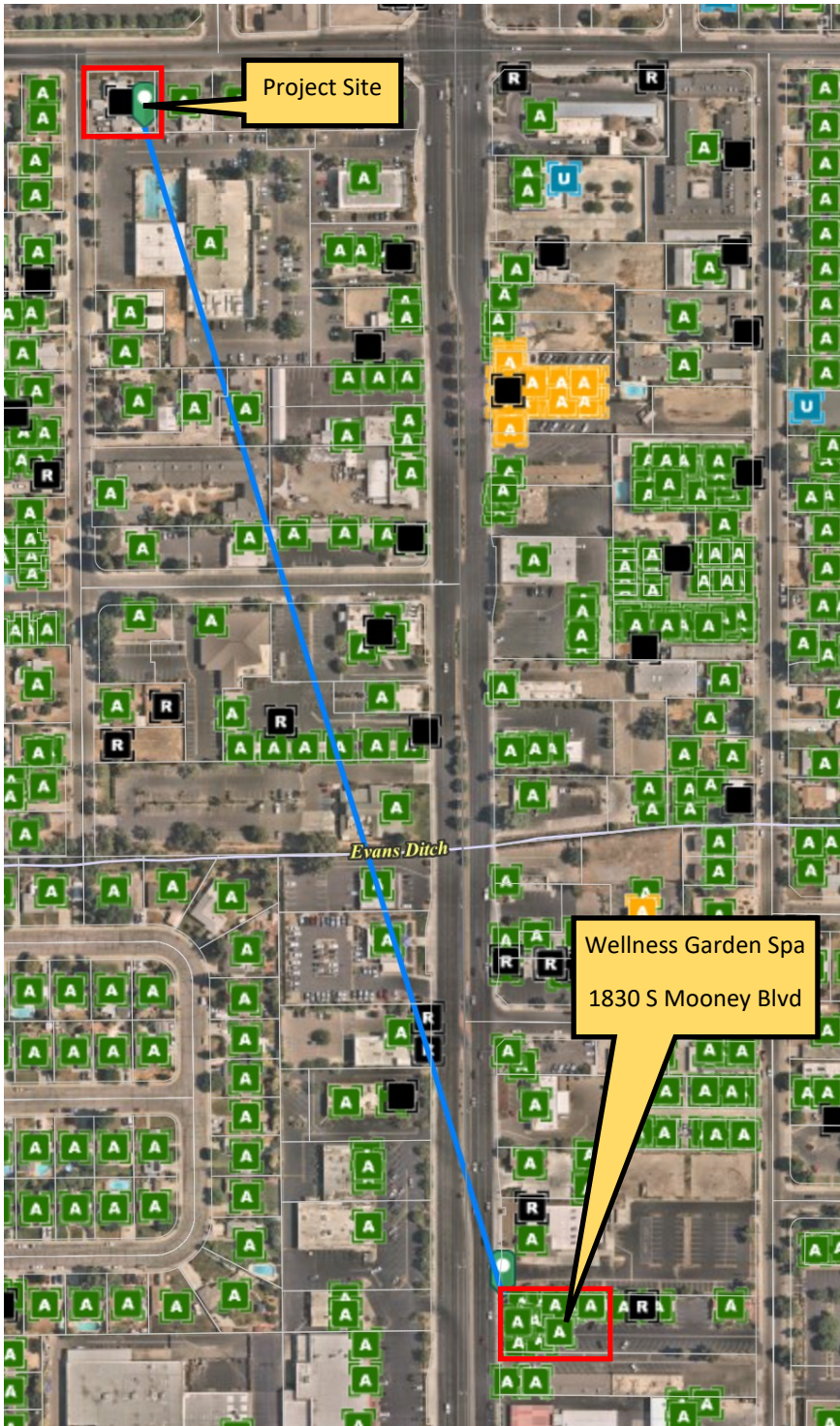
0.18 miles from proposed location, parcel to parcel.

Sunny Qiao Spa
1446 S Mooney Blvd



0.18 miles from proposed location, parcel to parcel.

Ivana Massage
1525 S Mooney Blvd



0.4 miles from proposed location, parcel to parcel.



REPORT TO CITY OF VISALIA PLANNING COMMISSION

HEARING DATE: November 13, 2023

PROJECT PLANNER: Colleen A Moreno, Assistant Planner
Phone No.: (559) 713-4039
E-mail: colleen.moreno@visalia.city

SUBJECT: **Conditional Use Permit No. 2023-28:** A request to establish Pattaya Spa, a foot and body massage therapy use within an existing 540 square foot tenant space in the C-MU (Commercial Mixed Use) zone. The site is located at 2015 West Tulare Avenue, on the southeast corner of West Tulare Avenue and South Crowe Street (APN: 095-120-040).

STAFF RECOMMENDATION

Staff recommends approval of Conditional Use Permit No. 2023-28 based on the findings and conditions in Resolution No. 2023-53. Staff's recommendation is based on the project's consistency with the Visalia General Plan and the Zoning Ordinance.

RECOMMENDED MOTION

I move to approve Conditional Use Permit No. 2023-28 based on the findings and conditions in Resolution No. 2023-53.

PROJECT DESCRIPTION

Conditional Use Permit No. 2023-28 is a request by Pattaya Spa to establish a massage use within a tenant space in an approximately 3,960 square foot building (Exhibit "A") located at 2015 West Tulare Avenue. The building has two additional tenant spaces, both currently occupied (Barber Shop and Visalia Signs). The proposed massage use is located on the west side of the building with primary frontage along West Tulare Avenue and will have a primary point of entry independent from all other spaces.

The floor plan (Exhibit "B") details that the tenant space layout will have an open floor plan, with two rooms, one in the southwest corner and northeast corner of the building used for massage tables, two single stall restrooms in the southeast corner and a break room in the northwest corner. There will be no other types of massage furniture in the open space area. There are no exterior modifications proposed to this space.



The applicant has provided an operational statement (Exhibit "C") indicating that Pattaya Spa will employ one massage therapist at a time. The hours of operation will be every day of the week, 9:00 a.m. to 10:00 p.m. The services provided include foot and body massages. Customers will be accepted by both walk-ins and appointments.

BACKGROUND INFORMATION

General Plan Land Use Designation:	Commercial
Zoning:	C-MU (Commercial Mixed Use)
Surrounding Zoning and Land Use:	North: QP (Quasi Public) South: C-MU (Commercial Mixed Use) East: C-MU (Commercial Mixed Use) West: R-M-2 (Multi-family Residential)
Environmental Document	Categorical Exemption No. 2023-47
Site Plan:	2023-141

PROJECT EVALUATION

Staff recommends approval of the Conditional Use Permit No. 2023-28, as conditioned, based on the project's consistency with the General Plan Land Use and the Zoning Ordinance.

Land Use Compatibility

The Visalia Zoning Matrix identifies massage therapists as conditionally permitted within the C-MU Zone, requiring submittal and approval of a Conditional Use Permit (CUP). Through the CUP process, potential impacts can be addressed thereby ensuring compatibility between the proposed use and existing surrounding uses.

A quick serve restaurant, a barbershop, a sign printing, College of the Sequoia parking lot and a mixture of single and multi-family residential uses are currently located within the vicinity of the project site. There is one tenant within the site that operates like the proposed project, that being a barbershop, which operates on an appointment only schedule. Immediately neighboring the site to the east is a standalone quick serve restaurant, and in the tenant space immediately to the south is a sign shop.



Staff concludes that the project, as conditioned, is consistent with the land use given the areas' land use and zoning designations. The proposed use will not have a negative impact on the project site and surrounding area.

Parking

Pursuant to Section 17.34.020 of the Zoning Ordinance, similar uses such as barber shops and beauty salons require two (2) spaces per practitioner, with a minimum of four (4) spaces. Per the Operational Statement, normal operation of the site will only include one (1) therapist.

There are seven (7) parking spaces, four (4) of which are to the east of the property and the remainder on the west side along South Crowe Street (Exhibit "A"). The three (3) stalls on the west side of the building are assigned to Pattaya Spa, however the additional four (4) are available for shared use between the other tenants, Fade Out Barbershop and Visalia Signs. The barbershop operates by appointments only and within the hours of 8:00 a.m. – 6:00 p.m., Tuesday – Sunday with only two

chairs. Visalia Signs operates by appointment only and all orders are by phone or online, walk-in customers are not accepted. The hours of operation for Visalia Signs are 9:00 a.m. – 5:00 p.m., Monday – Friday.

Additionally, Section 17.34.050 Shared Parking of the ordinance allows for more parking within the joint users of the building due to the divergent needs. With the other users of the site operating by appointment only, the number of parking stalls in total provide sufficient parking for the site is provided.

Furthermore, pursuant to Assembly Bill 2097, which went into effect January 1, 2023, prohibits public agencies from imposing minimum parking requirements on sites that are located within a half-mile radius of a major transit stop. *(Please note a major transit stop is defined as major transit stop” to include an existing or planned (1) rail or bus rapid transit station, (2) ferry terminal served by bus or rail transit, or (3) intersection of two or more major bus routes with service every 15 minutes or less during peak commute periods.)*

The City of Visalia Transit operates bus service along Route 1 with bus stops located on Main Street and Mooney Boulevard. Route 1 meets the definition of a “major transit stop” and the project site is within a half mile of Route 1 bus stops. Therefore, the site meets parking provisions per AB 2097.

Environmental Review

The requested action is considered Categorical Exempt under Section 15301 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA). (Categorical Exemption No. 2023-47). 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 the use beyond that existing at the time of the lead agency’s determination. The types of “existing facilities” itemized in the Class 1 are not intended to be all-inclusive of the types of projects.

RECOMMENDED FINDINGS

Conditional Use Permit No. 2023-28:

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.
 - 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, nor materially injurious to properties or improvements in the vicinity.
3. That the proposed conditional use permit would be compatible with adjacent land uses. The proposed use is compatible with the conditions of Project Approval of the conditional use permit.
4. That the project is considered Categorical Exempt under Section 15301 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA). (Categorical Exemption No. 2023-47).

RECOMMENDED CONDITIONS OF APPROVAL

Conditional Use Permit 2023-28

1. That the Conditional Use Permit shall be developed consistent with the comments and conditions of Site Plan Review No. 2023-141, incorporated herein by reference.
2. That the use shall be operated in substantial compliance with the site plan, floor plan, and operational statement, in Exhibits "A", "B", and "C". Any changes or intensification of the use are subject to review by the City Planner and may subsequently be required to be reviewed by the Planning Commission.
3. All new building signage shall require a separate building permit and shall be designated consistent with the Sign Ordinance of the City of Visalia Chapter 17.48.
4. That all other federal, state and city laws, 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 North Santa Fe Street, Visalia California. 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 or from the City Clerk.

Attachments:

- Related Plans and Policies
- Resolution No. 2023-53
- Exhibit "A" – Site Plan
- Exhibit "B" – Floor Plan
- Exhibit "C" – Operational Statement
- Site Plan Review Comments
- General Land Use Plan Map
- Zoning Map
- Aerial Map
- Location Map

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. 2023-28

PROJECT TITLE

2015 West Tulare Avenue (APN: 095-120-040)

PROJECT LOCATION

Visalia

Tulare

PROJECT LOCATION - CITY

COUNTY

A request to establish Pattaya Spa which is a foot and body massage therapy use within an existing 540 sq. ft. tenant space in the C-MU (Commercial Mixed Use) zone. The site is located at 2015 West Tulare Avenue, on the corner of West Tulare Avenue and South Crowe St.

DESCRIPTION - Nature, Purpose, & Beneficiaries of Project

City of Visalia

NAME OF PUBLIC AGENCY APPROVING PROJECT

Qing Hua Li, 2015 West Tulare Avenue, Suite A, Visalia, CA 93277, 095-120-040

NAME AND ADDRESS OF APPLICANT CARRYING OUT PROJECT

Same as above

NAME AND ADDRESS OF AGENT CARRYING OUT PROJECT

EXEMPT STATUS: (Check one)

- Ministerial - Section 15268
- Emergency Project - Section 15269
- Categorical Exemption - State type and Section number: **Section 15301**
- Statutory Exemptions- State code number:

A request to re-use an existing building with proposed alterations or changes to the site or building.

REASON FOR PROJECT EXEMPTION

Colleen A Moreno, Assistant Planner

(559) 713-4031

CONTACT PERSON

AREA CODE/PHONE

October 18, 2023

DATE

ENVIRONMENTAL COORDINATOR
Brandon Smith, AICP

Related Plans & Policies
Conditional Use Permits
(Section 17.38)

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 which 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 which 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 which 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 which shall be submitted to the planning commission.

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. (Prior code § 7536)

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

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)

Chapter 17.34
OFF-STREET PARKING AND LOADING FACILITIES

17.34.10 Purpose

- a. In order to prevent traffic congestion and shortage of curb spaces, off-street parking facilities shall be provided incidental to any new building or structure and major alterations and enlargements of existing uses. Off-street parking spaces or areas required by this chapter shall be in proportion to the need for such facilities created by the particular type of land use. Off-street parking facilities shall also be laid out in such a manner that the facilities will protect the public safety and insulate surrounding land uses from their impact.
- b. For the purposes of tabulating the number of off-street parking spaces, the term "floor area" means the gross floor area of a building and its accessory buildings on the same site measured from the outside wall. All applications shall be accompanied by a detailed tabulation of the gross floor area as herein defined and a calculation of the required number of off-street spaces as specified in Section 17.34.020.

17.34.020 Schedule of off-street parking space requirements.

A. Residential.

- i. Single-family dwelling: two parking spaces (one covered) per unit;
- ii. Multi-family dwelling: 1.5 parking spaces per dwelling unit for all multi-family developments with the following exceptions:
 - a. One parking space per dwelling unit for senior citizen housing developments. Senior citizen means a person of fifty-five (55) years of age or older. Senior citizen housing development shall be defined as a multi-family project wherein the units are made available solely to senior citizens,
 - b. Planning Commission shall have the authority to require an additional .25 parking spaces per dwelling unit for guest parking spaces under the following circumstances:
 - I. Should on-street parking not be available to provide minimum of .25 spaces per unit;
 - II. Within developments that include more than fifty (50) percent of the units as three or four bedroom units.
 - c. In cases where multi-family developments do not require planning commission review, the site plan review committee shall have similar authority as described above.
- iii. Boarding houses, private clubs providing sleeping accommodations: one covered parking space for each bedroom or one parking space for each one hundred fifty (150) square feet of sleeping area, whichever is greater.
- iv. Motels, hotels. One parking space for each guest room.
- v. Single-room occupancy (SRO) housing: One space for each employee onsite on the highest shift.

Further, there shall be one parking space for each two employees per shift regularly employed by the motel, or any independent business located within the motel structure. If the motel provides an area for the consumption of food or beverages or provides meeting or assembly halls the following requirements must be met.

Number of Motel Rooms	Parking Requirements
3-10	One parking space for each 100 square feet of area used for the consumption of food or beverages and one parking space for each 35 square feet of meeting or assembly hall space.
11-40	One parking space for every 200 square feet of area used for the consumption of food or beverages and one parking space for each 70 square feet of meeting hall or assembly hall space.
41-75	One parking space for each 300 square feet of area designated for the consumption of food or beverages and one parking space for each 150 square feet of meeting or assembly hall space.
76 or more	One parking space for each 400 square feet of area set aside for the consumption of food or beverages and one parking space for each 300 square feet of meeting or assembly hall area.

- vi. Planned unit developments, condominiums: one covered parking space plus one uncovered guest parking space for each dwelling unit.

B. Medical Offices, Clinics, Hospitals and Other Facilities.

1. Dental and medical clinics and offices: one parking space for each two hundred (200) square feet of building area, or four parking spaces for each doctor, whichever is greater.
2. Major medical facilities, hospitals: one parking space for each two hundred fifty (250) square feet of building area.
3. Sanitariums and charitable and religious institutions providing sleeping accommodations: one parking space for each three beds.
4. Group care facilities: one parking space for each three beds.

C. Educational Facilities.

- vii. Kindergarten and nursery schools: one parking space for each employee plus one parking space for each ten children.
- viii. Elementary and junior high schools: two parking spaces for each classroom.
- ix. High schools: one parking space for each employee plus seven parking spaces for each classroom.
- x. Colleges; business and professional schools and colleges; trade schools: one parking space for each employee plus ten parking spaces for each classroom.

D. Places of Public Assembly.

1. For auditoriums, community centers, theaters, churches, libraries, museums, stadiums, clubs and funeral chapels: one parking space for every four permanent seats in the principal assembly area or room, or one parking space for every thirty (30) square feet of building area, whichever is greater.

E. Recreational Facilities

1. Bowling alleys: four parking spaces for each alley.
2. Billiard and/or pool parlors: two parking spaces for each table.
3. Skating rinks: one parking space for each employee, plus one parking space for each one hundred (100) square feet of building area.

4. Dance halls: one parking space for each thirty-five (35) square feet of dance floor area, plus one parking space for each five fixed seats or for each thirty-five (35) square feet of seating area where there are no fixed seats.
5. Gymnasiums: one parking space for each five hundred (500) square feet of building area.

F. Commercial Facilities

1. Banks: one parking space for each two hundred fifty (250) square feet of building area plus five tandem lane spaces for each outdoor teller or teller station.
2. Savings and loan and other financial institutions: One parking space for each two hundred fifty (250) square feet of building area.
3. General retail stores, except as otherwise specified: one parking space for each three hundred (300) square feet of building area.
4. Offices, including all public and professional offices, except as otherwise specified: one parking space for each two hundred fifty (250) square feet of building area, with a minimum of four parking spaces.
5. Commercial service establishments, repair shops, wholesale establishments and retail stores that handle only bulky merchandise such as furniture, household appliances, motor vehicles, farm implements and machinery: one parking space for each five hundred (500) square feet of building area.
6. Automobile dealerships: one parking space for each two employees during the time of maximum employment, plus one parking space for each two thousand (2,000) square feet of lot and building area used for the display or storage of automobiles.
7. Self-service laundries and dry cleaners: one parking space for each three washing machines.
8. Automobile repair shops: one parking space for four hundred (400) square feet of building area.
9. Barber shops, beauty salons: two parking spaces for each barber or beautician, with a minimum of four spaces.
10. Restaurants, cafes, soda fountains and similar establishments: one parking space for each one hundred fifty (150) square feet of building area.
11. Manufacturing plants and other industrial uses: one parking space for each employee during the shift of maximum employment, plus one parking space for each vehicle used in conjunction with the use.
12. Retail food market: one parking space for each five hundred (500) square feet of building area.
13. Nurseries, retail: one parking space for each one thousand five hundred (1,500) square feet of site area, plus one loading space for each acre of site area.
14. Shopping centers (major): one parking space for each two hundred twenty-five (225) square feet of building area.
15. Open uses, commercial and industrial uses conducted primarily outside of buildings: one parking space for each employee on the maximum shift plus additional parking spaces prescribed by the planning department.
16. Transportation terminal facilities: one parking space for each two employees plus additional parking spaces prescribed by the city planner.
17. Storage and warehouses: one parking space for each one thousand (1,000) square feet of building area.

For a use not specified in this section, the same number of off-street parking spaces shall be provided as are required for the most similar specified use.

17.34.030 Standards for off-street parking facilities

All off-street parking facilities shall conform with the following standards:

- A. All parking areas shall have adequate ingress and egress to a street or alley.

- B. Entrances and exits to parking lots and other parking facilities shall be provided at locations approved by the site plan review committee.
- C. The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing of two-inch minimum thickness on a four-inch untreated rock base. The subgrade shall be compacted to a minimum relative compaction of ninety (90) percent. The minimum slope of asphalt paved surface in the direction of drainage shall be twelve (12) inches per one hundred (100) feet and the minimum slope of concrete gutters shall be three inches per one hundred (100) feet.
- D. The four-inch untreated rock base may be modified on basis of an "R" value test of the existing soil. The test to be made with a traffic index of 5.0.
- E. On major developments service roads shall be designed to carry the traffic loads anticipated.
- F. No parking areas shall be located within a required front setback or within a street side setback of a corner lot.
- G. Each parking space shall conform to standards as specified by the city traffic engineer. Open spaces shall be plainly marked by striping.
- H. Parking spaces for the physically handicapped person shall be provided per the latest adopted version of the California Building Code.
- I. Parking spaces for "compact automobile" will be permitted providing that each parking space is not less than fifteen (15) feet in length and seven and one-half feet in width, exclusive of aisles and access drives.

Number of compact parking spaces shall not exceed thirty (30) percent of the total required parking spaces of an establishment. There shall be no more than four contiguous compact stalls within a parking lot. Any compact parking shall be approved by the site plan review committee.

- J. If the parking area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no annoying glare.
- K. In all C-N, C-R, C-S, C-MU, D-MU, O-PA, O-C, and BRP zone districts where a site adjoins or is directly across the street from an R-1 or R-M zone, a concrete block or masonry wall not less than six feet in height shall be located on the property line except in a required front yard, in which case the wall shall be three feet, and suitably maintained.
- L. No repair work or servicing of vehicles shall be conducted on a parking area.
- M. New parking facilities shall promote the use of time and/or motion sensitive parking lot and security lights, where feasible, as determined by the Site Plan Review Committee.
- N. New parking facilities shall promote and be evaluated as part of an overall program to implement low impact development features on-site that reduce impermeable surfaces and increase infiltration. The implementation and design of low impact development features for the site will be determined by the Site Plan Review Committee.

17.34.030

- O. Vacant or unimproved lots shall not be used as vehicle parking facilities and/or outdoor storage of commercial equipment, construction equipment, and similar uses unless screened appropriately, as determined by Site Plan Review Committee.
- P. For Residential zones, all parking shall be permitted on impervious surfaces such as pavement or concrete when in the front yard setback area.
- Q. For Residential zones, all driveways shall be paved.

17.34.040 Landscape requirement

The submission of any plan for off-street parking facilities shall be accompanied by a detailed landscape plan for approval by the site plan review committee. All off-street parking facilities shall conform with the following standards, but not limited to:

- A. A plot plan indicating the location of all landscaping shall be submitted for approval;
- B. Not less than six percent of a parking lot comprising up to twenty (20) parking spaces shall be landscaped and continuously maintained;
- C. Not less than ten percent of a parking lot comprising more than twenty (20) parking spaces shall be landscaped and continuously maintained;
- D. Not more than ten consecutive parking stalls shall be allowed without an approved landscaped tree well of eighty (80) square feet or more;
- E. A minimum five-foot landscape strip shall be provided outside the public right-of-way along the street frontage perimeter of all proposed parking facilities.
- F. A planting list shall be shown on the required plot plan to obtain a grading permit, or building permit, for the buildings for which the parking lot is provided, which planting list shall give the botanical and common names of the plants to be used, the sizes to be planted, the quantity of each, and the spacing to insure balance and design. The plants shall be listed alphabetically and assigned key numbers to be used in locating the plants on the plan;
- G. The site plan review committee shall approve all landscaping plans within a parking area and shall have the right to require additional landscaping if the committee deems it necessary to improve the aesthetic character of the project.

17.34.050 Shared parking

The site plan review committee may grant an exception to the total number of spaces required when the joint users of a parking facility have divergent needs with respect to daytime versus nighttime use, or weekdays versus Saturdays or Sundays. Conditions for allowing shared parking are:

- A. The buildings and uses shall be within three hundred (300) feet of the nearest point by walking distance within a parking facility to said building or use;
- B. The applicant shall show there is no conflict in the principal operating hours of the buildings or uses;
- C. A shared parking agreement between the principal parties and the city shall be entered into that restrict the shared parking area to a parking use only.

17.34.60 Location of off-street parking facilities

- A. In all zones districts except the D-MU zone, off-street parking facilities prescribed in Section 17.34.020 shall be located on the same site as the use for which the spaces are required or on an adjoining site (if an exception is approved) or a site separated only by an alley from the use for which the spaces are required.
- B. In the D-MU zone district, off-street parking facilities prescribed in Section 17.34.020 shall be located within three hundred feet of the use for which the spaces are required, measured by the shortest route of pedestrian access. Such spaces shall be deemed to provide parking for one use only unless approved subject to Section 17.34.050.

17.34.070 Off-street loading facilities required

- A. In all commercial and industrial zones and in the O-PA, O-C, and BRP zones, if required by the commission, there shall be located on the site of each building or structure, off-street loading facilities for vehicles. Where, in the opinion of the site plan review committee, a practical difficulty is involved

relating to site size, existing development or access, the planning commission may grant an exception to any portion of the requirements necessary to achieve the intent of this section. For all commercial and industrial buildings, one off-street loading berth shall be provided if the gross floor area exceeds five thousand (5,000) square feet, and one additional berth shall be provided for each additional ten thousand (10,000) square feet.

No off-street loading berths shall be required for buildings of less than five thousand (5,000) square feet of gross floor area.

B. The location of off-street loading facilities shall be approved by the site plan review committee.

17.34.080 Standards for off-street loading facilities

Off-street loading facilities provided in compliance with Section 17.34.070 shall conform to the following standards:

- A. The loading area, aisles and access drives shall be fully hard surfaced with asphaltic concrete of minimum thickness of two inches, over four inches of untreated rock base;
- B. If the loading area is illuminated, lighting shall be deflected away from abutting residential sites to prevent annoying glare;
- C. No repair work or servicing of vehicles shall be conducted in a loading area.

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 or used for off-street parking and off-street loading at the time of the adoption of this chapter 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. Where an existing use is expanded, the parking requirements of this chapter shall apply only to the addition.

17.34.100 Reduction of off-street parking and loading facilities

No off-street parking facility or off-street loading facility providing for a use of land or structure in compliance with Section 17.34.020 or 17.34.070 shall be reduced in capacity or in area without sufficient additional capacity or additional area being provided to comply with the regulations of this chapter.

17.34.110 Off-street parking and loading facilities to serve one use

No off-street parking space or off-street loading berth provided for a use of land or structure in compliance with the requirements of this chapter shall be deemed to provide an off-street parking space or an off-street loading berth for a use or a structure on another site, except as otherwise provided in Sections 17.34.020 and 17.34.070

RESOLUTION NO. 2023-53

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA APPROVING CONDITIONAL USE PERMIT NO. 2023-28, A REQUEST TO ESTABLISH PATTAYA SPA, A FOOT AND BODY MASSAGE THERAPY USE WITHIN AN EXISTING 540 SQUARE FOOT TENANT SPACE IN THE C-MU (COMMERCIAL MIXED USE) ZONE. THE SITE IS LOCATED AT 2015 WEST TULARE AVENUE, ON THE CORNER OF WEST TULARE AVENUE AND SOUTH CROWE STREET (APN: 095-120-040).

WHEREAS, Conditional Use Permit No. 2023-28 is a request to establish Pattaya Spa, a foot and body massage therapy use within an existing 540 square foot tenant space in the C-MU (Commercial Mixed Use) zone. The site is located at 2015 West Tulare Avenue (APN: 095-120-040); and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, did hold a public hearing before said Commission on November 13, 2023; and

WHEREAS, the Planning Commission of the City of Visalia finds the Conditional Use Permit to be in accordance with Section 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 Categorical Exempt consistent with the California Environmental Quality Act (CEQA) and City of Visalia Environmental Guidelines.

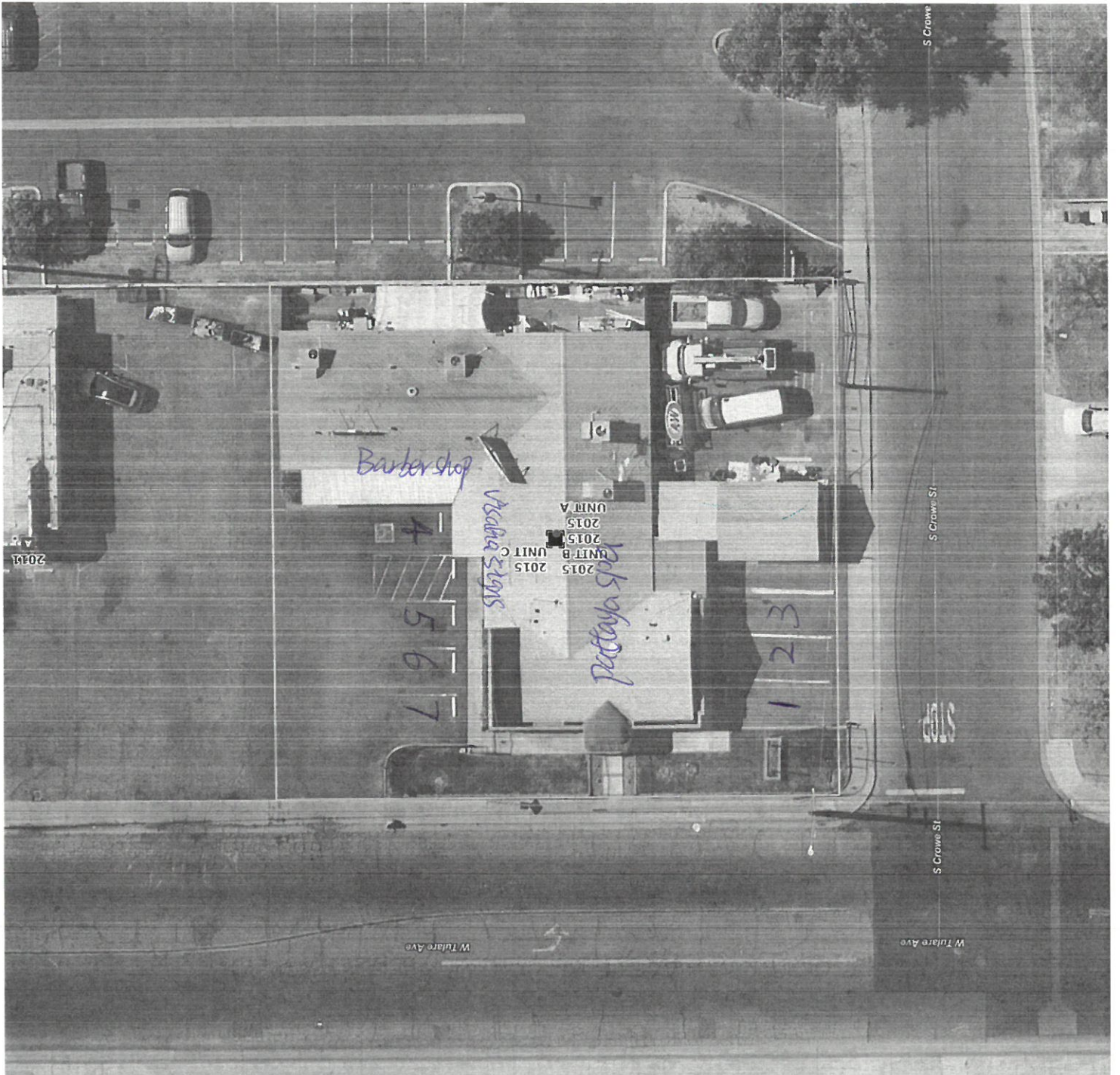
NOW, THEREFORE, BE IT RESOLVED that the project is exempt from further environmental review pursuant to CEQA Section 15301.

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.
 - 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, nor materially injurious to properties or improvements in the vicinity.
3. That the project is considered Categorical Exempt under Section 15301 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), (Categorical Exemption No. 2023-47).

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 project be developed in substantial compliance with the comments from the approved Site Plan Review No. 2023-141.
2. That the use shall be operated in substantial compliance with the site plan, floor plan, and operation statement, in Exhibits "A", "B", and "C". Any changes or intensification of the use are subject to review by the City Planner and may subsequently be required to be reviewed by the Planning Commission.
3. All new building signage shall require a separate building permit and shall be designated consistent with the Sign Ordinance of the City of Visalia Chapter 17.48.
4. That all other federal, state and city laws, codes and ordinances be complied with.



Barber shop

Nail salon

Pet day spa

UNIT A
2015
UNIT B
2015
UNIT C
2015

4

5
6
7

1
2
3

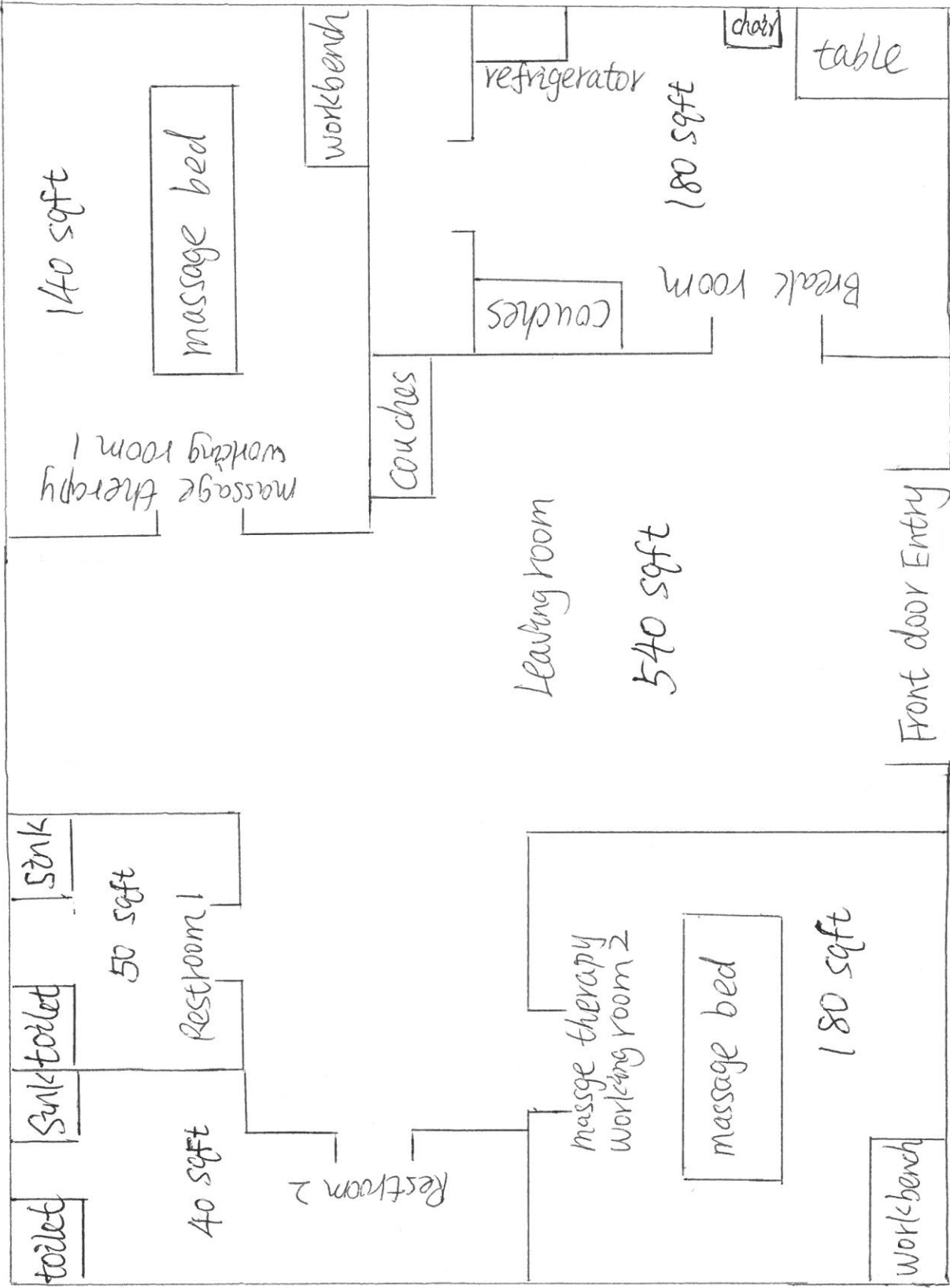
2013

W Tulare Ave

S Crown St

S Crown St

S Crown St



2015 W Tulare Ave Suite A

Pattaya Spa

operation statement

Pattaya Spa Foot & Body massage therapy. with one Employee work, Hours of operation: 9am - 10:00pm open 7 days a week, Business Location: 2015W.

Tulare Ave Suite A Visalia CA 93277. Two massage working rooms with one break room. We accept

Walk-in Customer and appointment welcome too.

the Suite A has 3 separate parking spaces on side of building but can also share the front parking spaces with Fade out Barbershop

Hours of operation: 8am - 6pm Tuesday - Sunday closed Monday 2 chairs. Barbershop operates by Appointment only.

Visalia Signs INC Hours of operation: 9am - 5pm

Monday - Friday By appointment only take orders

by phone or online order NO walk-ins
business Number (559) 713-1126.



September 18, 2023

Site Plan Review No. 2023-141:

Pursuant to Zoning Ordinance Chapter 17.28 the Site Plan Review process has found that your application complies with the general plan, municipal code, policies, and improvement standards of the city. A copy of each Departments/Divisions comments that were discussed with you at the Site Plan Review meeting are attached to this document.

Based upon Zoning Ordinance Section 17.28.070, this is your Site Plan Review determination. However, your project requires discretionary action as stated on the attached Site Plan Review comments. You may now proceed with filing discretionary applications to the Planning Division.

This is your Site Plan Review Permit; your Site Plan Review became effective **September 6, 2023**. A site plan review permit shall lapse and become null and void one year following the date of approval unless, prior to the expiration of one year, a building permit is issued by the building official, and construction is commenced and diligently pursued toward completion.

If you have any questions regarding this action, please call the Community Development Department at (559) 713-4359.

Respectfully,

A handwritten signature in blue ink, appearing to read "Paul Bernal", is written over a white background.

Paul Bernal
Community Development Director
315 E. Acequia Ave.
Visalia, CA 93291

Attachment(s):

- Site Plan Review Comments



MEETING DATE September 6, 2023
 SITE PLAN NO. 2023-141
 PARCEL MAP NO.
 SUBDIVISION
 LOT LINE ADJUSTMENT NO.

Enclosed for your review are the comments and decisions of the Site Plan Review committee. Please review all comments since they may impact your project.

- RESUBMIT** Major changes to your plans are required. Prior to accepting construction drawings for building permit, your project must return to the Site Plan Review Committee for review of the revised plans.
- During site plan design/policy concerns were identified, schedule a meeting with
 - Planning Engineering prior to resubmittal plans for Site Plan Review.
 - Solid Waste Parks and Recreation Fire Dept.

- REVISE AND PROCEED** (see below)
 - A revised plan addressing the Committee comments and revisions must be submitted for Off-Agenda Review and approval prior to submitting for building permits or discretionary actions.
 - Submit plans for a building permit between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.
 - Your plans must be reviewed by:
 - CITY COUNCIL REDEVELOPMENT
 - PLANNING COMMISSION PARK/RECREATION
 - CUP
 - HISTORIC PRESERVATION OTHER
 - ADDITIONAL COMMNTS:**

If you have any questions or comments, please call the Site Plan Review Hotline at (559) 713-4440 Site Plan Review Committee

SITE PLAN REVIEW COMMENTS

Cristobal Carrillo, Planning Division, 559-713-4443

Date: September 6, 2023

SITE PLAN NO: 2023-141
PROJECT: Qing Hua Li
DESCRIPTION: Foot and body massage therapy
ADDRESS: 2015 W. TULARE AVENUE, UNIT A
APN: 095-120-040
ZONING: C-MU (MIXED USE COMMERCIAL)
GENERAL PLAN: COMMERCIAL MIXED USE

Planning Division Recommendation:

- Revise and Proceed
 Resubmit

Project Requirements

- Conditional Use Permit

PROJECT SPECIFIC INFORMATION: September 6, 2023

1. VMC Use Table 17.25.030, Line M52 lists Massage Therapist as requiring a conditional use permit.
2. A complete CUP application will include detailed exhibits of the following:
 - a. Operational Statement, including information on the other businesses on the project site.
 - b. Site Plan
 - c. Floor Plan
3. Massage uses are prescribed parking in the VMC [Section 17.34.020(F)(9)] as two parking spaces for each technician (one for the employee and for the customer), with a minimum of four spaces.
4. Comply with all requirements of Visalia Municipal Code Chapter 5.68 (Massage Establishments). This shall include certification from the California Massage Therapy Council.
5. All signage shall be through a separate Building Permit submittal.
6. Meet all other codes and ordinances.

Notes:

1. The applicant shall contact the San Joaquin Valley Air Pollution Control District to verify whether additional permits are required to conduct the proposed use.

Applicable sections of the Visalia Municipal Code, Title 17 (Zoning):

17.19 Mixed Use Zones

17.30 Development Standards

17.34 Off-street parking and loading facilities

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**

- Adrian Rubalcaba 713-4271
- Ather Razaq 713-4268
- Edelma Gonzalez 713-4364
- Jaklin Rowley 713-4369
- Luqman Ragabi 713-4362
- Lupe Garcia 713-4197

ITEM NO: 4 DATE: SEPTEMBER 6TH, 2023

SITE PLAN NO.: 23-141
 PROJECT TITLE: QING HUA LI
 DESCRIPTION: FOOT AND BODY MASSAGE THERAPY
 APPLICANT: QING HUA LI
 PROP OWNER: SANCHEZ JOSE LUIS & VERONICA RUBI
 LOCATION: 2015 W TULARE AVE UNIT A
 APN: 095-120-040

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. **FOR ANY WORK NEEDED WITHIN PUBLIC RIGHT-OF-WAY**
 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 = .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 Site development does not incur additional impact fees.***

SUMMARY OF APPLICABLE DEVELOPMENT IMPACT FEES

Site Plan No: 23-141
Date: 09/06/2023

**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.)**

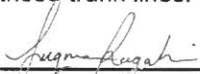
(Fee Schedule Date:08/19/2023)
(Project type for fee rates:)

Existing uses may qualify for credits on Development Impact Fees.

FEE ITEM	FEE RATE
<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.



Ludman Ragabi

Building: Site Plan
Review Comments

SPR 23141
QING HUA LI
2015 W TULARE AVE UNIT A

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 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.
- 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 _____ * Hazardous materials report.
- Arrange for an on-site inspection. (Fee for inspection \$157.00) *For information call (559) 713-4444*
- School Development fees.
- 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: NO IMPROVEMENTS, NO PERMIT
NO REQUIREMENTS.

VAL GARCIA 9/6/23
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	September 7, 2023
Item #	4
Site Plan #	23141
APN:	095120040

- 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 2022 California Fire Code (CFC), 2022 California Building Codes (CBC) and City of Visalia Municipal Codes.
- **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. 2022 CFC 505.1
- All hardware on **exit doors, illuminated exit signs and emergency lighting** shall comply with the 2022 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. 2022 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. Go to knoxbox.com to order and please allow adequate time for shipping and installation. 2022 CFC 506.1
- **Special comments:** Space not permitted for living/sleeping.



Corbin Reed
Fire Marshal



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

Date: 09-04-2023
Item: 4
Site Plan: SPR23141
Name: Agt. McBride

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 of 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:
Ample external/internal lighting to deter criminal activity

- Traffic Concerns:

- Surveillance Issues:
External/internal surveillance cameras to capture criminal activity

- Line of Sight Issues:

- Other Concerns:
Not allowing employees to live at the location.

SITE PLAN REVIEW COMMENTS

CITY OF VISALIA TRAFFIC SAFETY DIVISION

September 6, 2023

ITEM NO: 4 Added to Agenda MEETING TIME: 09:45
SITE PLAN NO: [SPR23141](#) ASSIGNED TO: Cristobal Carrillo Cristobal.Carrillo@visalia.city
PROJECT TITLE: Qing Hua Li
DESCRIPTION: Foot and body massage therapy.
APPLICANT: Qing Hua Li - Applicant
APN: 095120040
ADDRESS: 2015 W TULARE AVE UNIT A

THE TRAFFIC DIVISION WILL PROHIBIT ON-STREET PARKING AS DEEMED NECESSARY

- No Comments
- See Previous Site Plan Comments
- Install Street Light(s) per City Standards at time of development.
- Install Street Name Blades at Locations at time of development.
- Install Stop Signs at **local road intersection with collector/arterial** Locations.
- Construct parking per City Standards PK-1 through PK-4 at time of development.
- Construct drive approach per City Standards at time of development.
- Traffic Impact Analysis required (CUP)
 - Provide more traffic information such as . Depending on development size, characteristics, etc., a TIA may be required.
- Additional traffic information required (Non Discretionary)
 - Trip Generation - Provide documentation as to concurrence with General Plan.
 - Site Specific - Evaluate access points and provide documentation of conformance with COV standards. If noncomplying, provide explanation.
 - Traffic Impact Fee (TIF) Program - Identify improvements needed in concurrence with TIF.

Additional Comments:

Leslie Blair

Leslie Blair



CALIFORNIA WATER SERVICE

Visalia District 216 North Valley Oaks Drive
Visalia, CA 93292 Tel: (559) 624-1600

Site Plan Review Comments From:

California Water Service
Scott McNamara, Superintendent
216 N Valley Oaks Dr.
Visalia, CA 93292
559-624-1622 Office
559-735-3189 Fax
smcnamara@calwater.com

Date: 09/06/2023
Item # 4
Site Plan # 23-141
Project: Foot and Body Massage
Description:
Applicant: Qing Hua Li
Location: 2015 W Tulare
APN: 095-120-040

The following comments are applicable when checked:

- Re-submit
 - No Comments at this time
-

Fire Hydrants

Comments- Per Visalia Fire Department requirements. If street frontage hydrants are required off existing water main, Cal Water will utilize our own contractor for that work and that work will be paid for by the developer/customer. The location of those hydrants is to be approved by Visalia Fire.

Services

Comments- Existing service(s) at this location. If the existing service(s) is not sufficient in size to meet the customers' demand, the property owner will need to request and pay for an upsize in service. If the existing infrastructure lands within a new drive approach, the property owner will need to pay for the abandonment and relocation of that infrastructure.

Mains

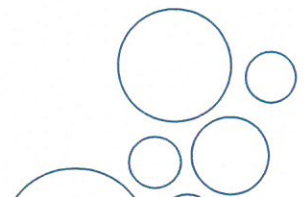
Comments-

Backflow Requirements

Comments- Will be required if any parcel is for multi-family, commercial, or has multiple services on one parcel. Please contact Cross Connection Control Specialist, Juan Cisneros at 559-624-1670 or visaliabackfow@calwater.com for a backflow install packet.

Additional Comments:

- Please contact New Business Superintendent Sedelia Sanchez at 559-624-1621 or ssanchez@calwater.com to start your project with Cal Water.



Susan Currier

From: Lau, Scott@DOT <Scott.Lau@dot.ca.gov>
Sent: Tuesday, September 19, 2023 9:26 AM
To: Susan Currier
Cc: lorena.mendibles@dot.ca.gov; Deel, David@DOT
Subject: Caltrans response to Visalia SPR 090623

Hi Susan,

I have reviewed Visalia's SPR Agenda for September 6, 2023.

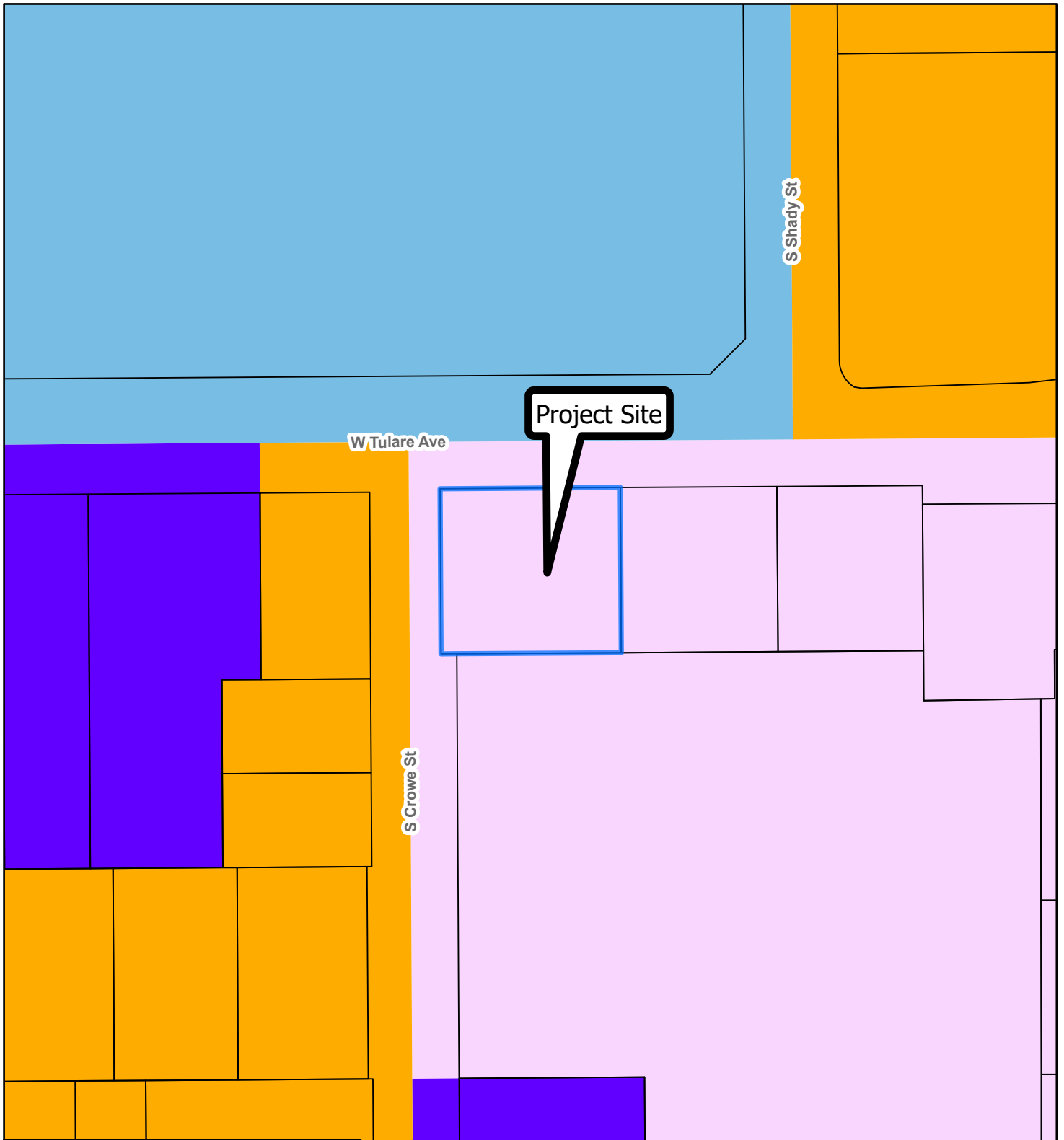
1. RESUBMIT – SPR 21200 – Griffin's Food Mart 3: **Routed for Review.**
2. SPE 23139 – Lycon Covers: No comments.
3. SPR 23140 – Conditional Use Permit Church: No comments.
4. SPR 23141 – Qing Hua Li: No comments.
5. SPR 23142 – CSET Shade Structure: No comments.

Respectfully,



Scott Lau

Associate Transportation Planner
California Department of Transportation
1352 West Olive Avenue
Fresno, CA 93778
Cell: (559) 981-7341

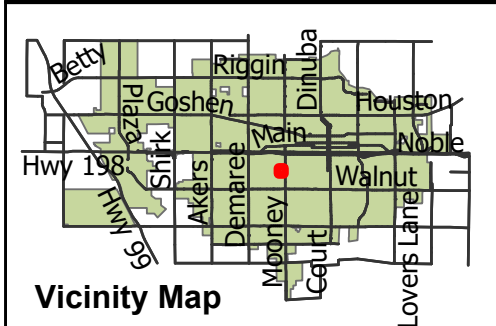


Project Site

W Tulare Ave

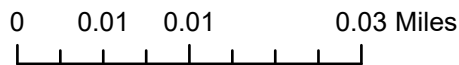
S Shady St

S Crowe St

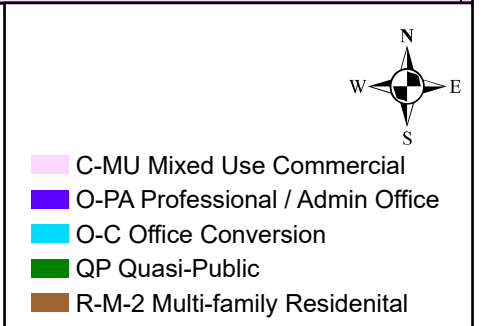
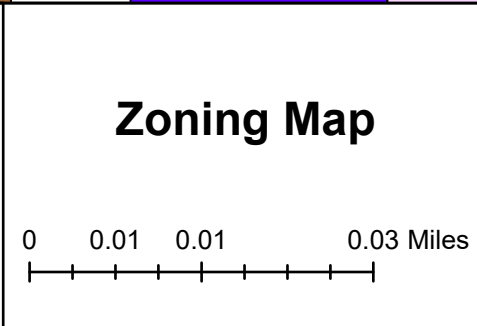
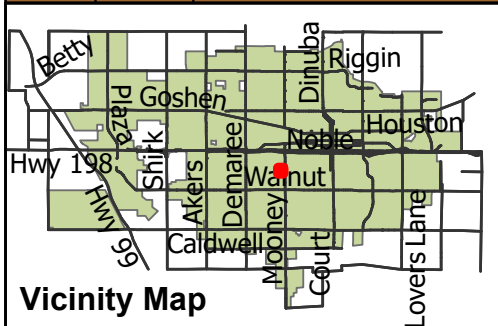
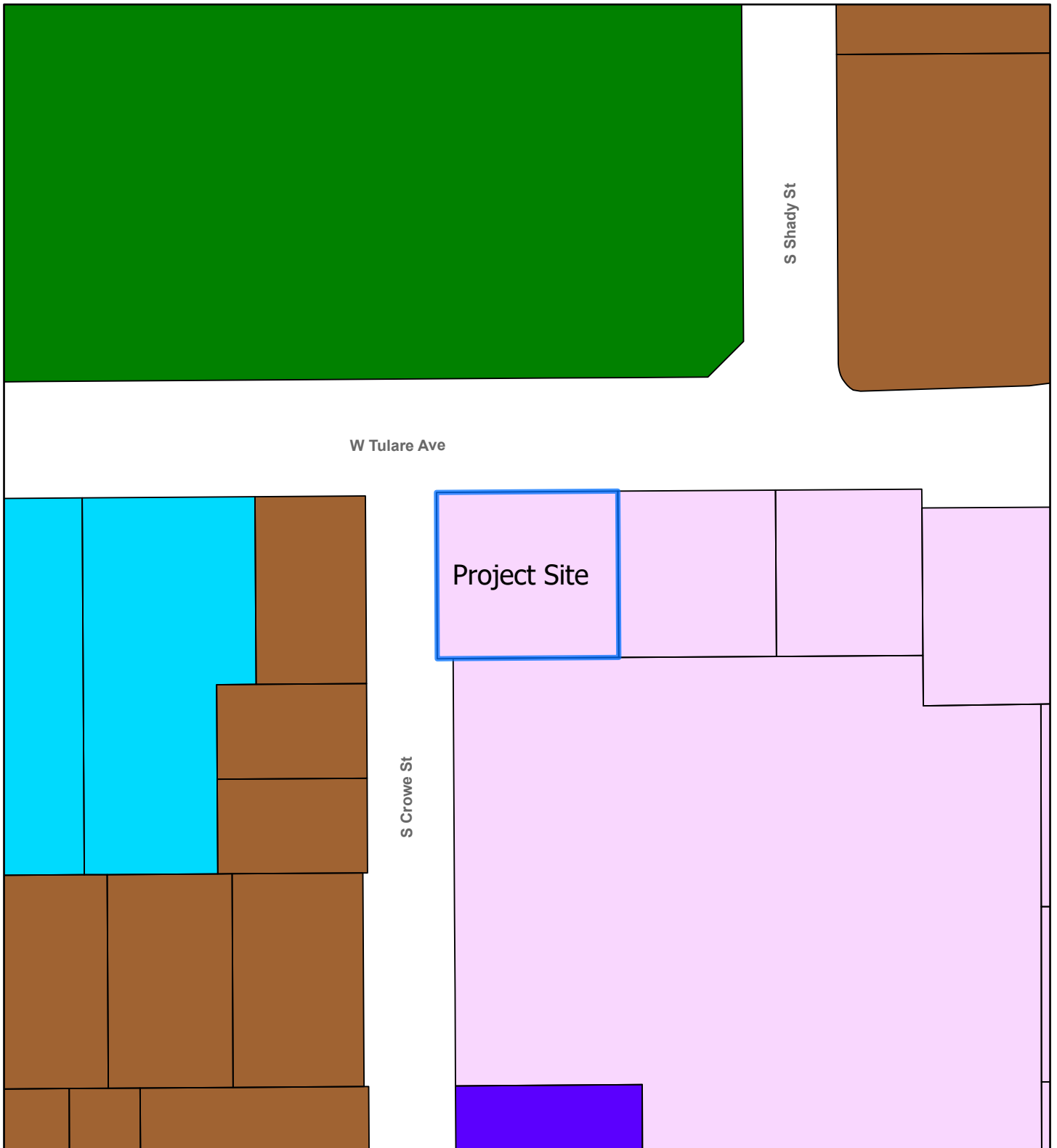


Vicinity Map

General Plan Land Use Map



- Commercial Mixed Use
- Office
- Public Institutional
- Residential Medium Density



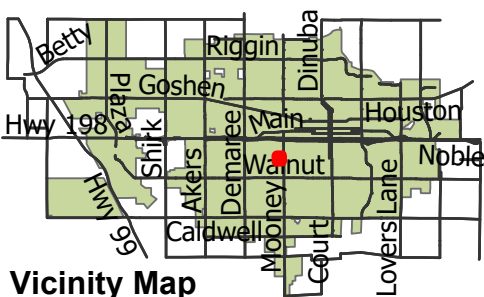


Project Site

W Tulare Ave

S Shady St

S Crowe St

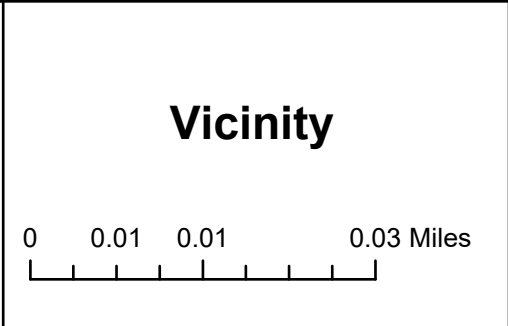
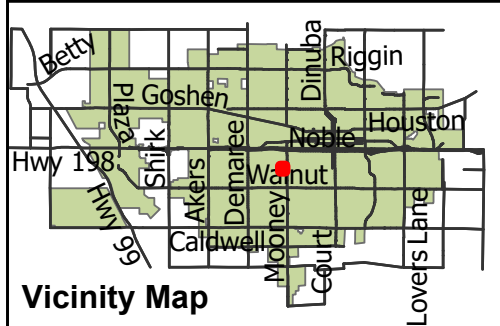
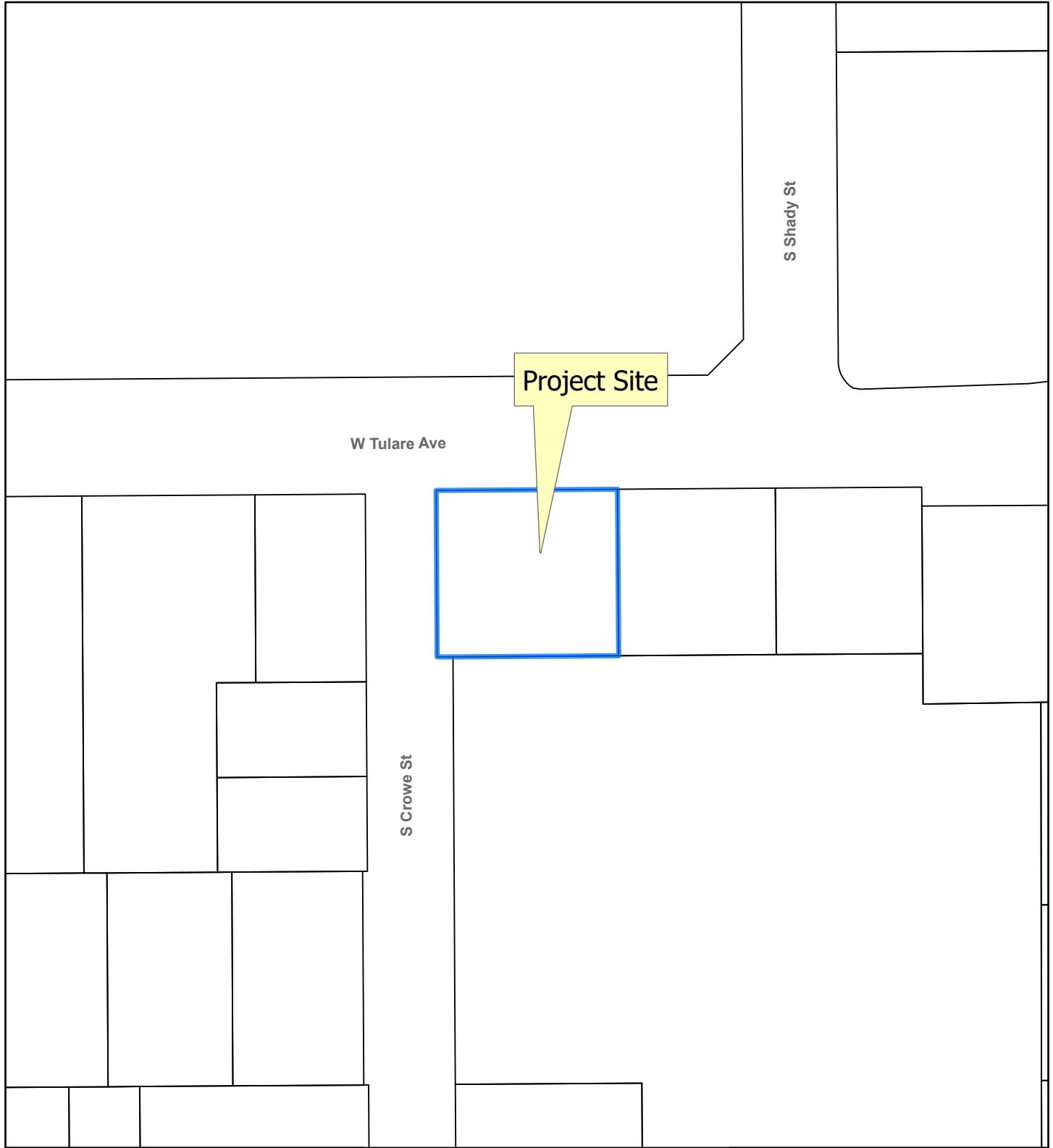


Vicinity Map

Aerial Map

0 0.01 0.01 0.03 Miles





Chapter 5.68

MESSAGE ESTABLISHMENTS

Sections:

- 5.68.010 Declaration of purpose and intent.
- 5.68.020 Definitions.
- 5.68.030 Administration.
- 5.68.040 Certifications required.
- 5.68.050 Massage establishment owner background check required.
- 5.68.060 Additional requirements.
- 5.68.070 Display of permit.
- 5.68.080 Massage establishment—Massage technician certificates required.
- 5.68.090 Prohibited conduct.
- 5.68.100 Facilities and operations.
- 5.68.110 Exceptions.
- 5.68.120 Public nuisance abatement.
- 5.68.130 Revocation.
- 5.68.140 Enforcement and penalties.
- 5.68.150 Appeal.

5.68.010 Declaration of purpose and intent.

A. This chapter establishes permitting standards intended to comply with California law and establish health and safety guidelines for massage establishments.

B. This chapter is not intended to be exclusive and compliance will not excuse noncompliance with any state or local laws or regulations that are uniformly applied to other professional or personal services businesses including, without limitation, all zoning applications; business license regulations; building, fire, electrical, and plumbing codes; and health and safety code laws and regulations applicable to professional or personal services businesses.

C. This chapter establishes a local regulatory system that allows only state certified massage therapists and massage practitioners to operate within the city. This chapter is not intended to regulate massages that are not part of a business occupation. This chapter is also intended to allow a transitional period for certain existing massage practitioners to continue practicing while they obtain state certification before December 31, 2013, and to coordinate the timing of the city's business license renewals with the state massage certification process.

(Ord. 2012-05 § 2 (part), 2012)

5.68.020 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter. Words and phrases not defined by this chapter have the meaning set forth elsewhere in the Visalia Municipal Code, the California Business and Professions Code, or the California Government Code.

"California Massage Therapy Council (CAMTC)" means the California Massage Therapy Council created pursuant to California Business and Professions Code § 4500.5(a).

"Certified massage practitioner" means a person who is currently certified as a massage practitioner by the CAMTC, and who administers massage for compensation.

"Certified massage therapist" means a person who is currently certified as a massage therapist by the CAMTC, and who administers massage for compensation.

"City" means the city of Visalia.

"Police chief" means the police chief of the city of Visalia or the authorized representatives thereof.

"Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations. (Exclusions to this chapter are also described in Section 5.68.110. This chapter is not intended to regulate massages that not part of a business occupation.)

"Massage establishment" means and includes any business enterprise or establishment, parlor, or any room, place or institution within a business establishment where massage is given or administered by a massage technician as a paid service.

"Massage technician" means any person, who gives, performs or administers to another person a massage for any form of consideration.

"Out-call massage service" means any business that provides, refers or otherwise facilitates massage for any consideration at a nonfixed location.

"Person" means and includes person(s), firms, corporations, partnerships, associations or other forms of business organization or group.

"Recognized school" means a school of massage, recognized by the state of California which: (i) teaches the theory, ethics, practice, profession and work of massage; and (ii) requires a residence course of study to be given and completed before the student is furnished with a diploma or certificate of learning or completion; and (iii) has been approved by the state of California Consumer Affairs Bureau pursuant to Education Code § 94915, or, if said school is not located in California, has complied with the standards commensurate with those specified in said § 94915, or a school of equal or greater training that is approved by the corresponding agency in another state, or accredited by an agency recognized by the United States Department of Education.

"Specified anatomical areas" means and includes any of the following human anatomical areas: genitals, pubic regions, anuses or female breasts below a point immediately above the top of the areola.

"Specified sexual activities" means and includes all of the following:

- A. Fondling or other erotic touching of specified anatomical areas;
- B. Sex acts including, without limitation, intercourse, oral copulation, or sodomy;

C. Masturbation; or

D. Excretory functions as part of or in connection with any specified sexual activity listed in this definition.

"Unrecognized school" means any school of massage that does not meet the definition of "recognized school" but teaches or purports to teach the theory, ethics, practice, profession or work of massage.

(Ord. 2012-05 § 2 (part), 2012)

5.68.030 Administration.

The chief of police is authorized to administer this chapter and to promulgate administrative policies and procedures required to implement the regulations set forth in this chapter.

(Ord. 2012-05 § 2 (part), 2012)

5.68.040 Certifications required.

A. Massage establishment. It is unlawful for any person to own, operate or maintain a massage establishment unless all massage technicians employed by the massage establishment hold a current, valid certification from the CAMTC as a massage practitioner or massage therapist or qualify under the limited exceptions described in this chapter.

B. Massage technician. It is unlawful for any person to engage in, or carry on, the business or activities of a massage technician without a certification from the CAMTC as a massage practitioner or massage therapist or qualify under the limited exceptions described in this chapter.

C. Out-call massage service. It is unlawful for any person to own, operate, or maintain, an off-premise massage service in the city unless all massage technicians employed by the off-premises massage service hold a current, valid certification from the CAMTC as a certified massage practitioner or certified massage therapist or qualify under the limited exceptions described in this chapter.

D. The city recognizes that some massage therapists and massage practitioners currently practicing in Visalia may not meet the current requirements set forth by the CAMTC due to changes in educational or other requirements particularly changes in requirements concerning hours of schooling although the person has been in practice for a significant period. The city will therefore allow such persons that were working within Visalia prior to the passage of this chapter under this "grandfather exception" without certification from the CAMTC if the requirements stated below are met.

The person seeking this exemption must show to the satisfaction of the city police department that he or she worked as a massage therapist or massage practitioner in the city prior to July 1, 2012, which is after the effective date of this chapter. The person must also provide evidence to the city that he or she has certification or proof of training in the field from a school or another entity comparable to the CAMTC and has been working as a massage therapist or massage practitioner for a period of at least five (5) years. Finally, the person must provide evidence that they attempted to obtain certification from the CAMTC but were denied and provide the reasons for the denial to show despite their existing training and experience they were not able to qualify for certification from CAMTC.

Persons that are granted an exemption from the CAMTC certification requirement by the city will still be required to meet all other terms of this chapter including but not limited to the background check required of massage establishment owners that are not certified by the CAMTC. All persons under this exemption will be required to display, in the same manner this chapter requires the display of CAMTC certification, a separate statement from the city to show that the person has met the requirements of this exemption. This exemption must be renewed annually and the city may establish a non-refundable fee to recover costs associated with such annual renewals.

(Ord. 2012-05 § 2 (part), 2012)

5.68.050 Message establishment owner background check required.

A. Any person, association, partnership, or corporation desiring to operate a massage establishment, that will own five percent (5%) or more of the massage establishment, and that is not a certified massage practitioner or certified massage therapist, (meaning certified by the CAMTC) must make an application to the chief of police for an investigation of the applicant's background and history. A fee to recover costs of the background check must accompany the submission of each application. An annual nonrefundable renewal fee may also be charged to defray associated costs of investigation, inspection and enforcement.

B. Each applicant for a background check must submit the following information:

1. The full true name and any other names used by the applicant.
2. The present address and telephone number of the applicant.
3. Driver's license number and Social Security number.
4. The proposed address of the massage establishment.
5. Each residence and business address of the applicant for the three (3) years immediately preceding the date of the application, and the inclusive dates for such address.
6. Written proof that the applicant is at least eighteen (18) years of age.
7. Applicant's height, weight, and color of eyes and hair.
8. Two (2) photographs of the applicant at least two (2) inches by two (2) inches taken within four (4) months preceding the date of the application.
9. Applicant's business, occupation and employment history for the five (5) years immediately preceding the date of application.
10. The business license or permit history of the applicant, including whether such applicant has ever had any license or permit issued by any agency or board, city, county or state revoked or suspended, or has had any professional or vocational license or permit revoked or suspended and the reason(s) for the revocation.
11. All criminal convictions for any of the offenses set forth in this chapter, and a statement of the dates and places of such convictions.
12. If the applicant is a corporation, the name of the corporation must be set forth exactly as shown in the articles of incorporation or charter, together with the state and date of incorporation and names and residence addresses of each of its current officers and directors, and each stockholder holding more than five percent (5%) of the stock of the corporation. If the applicant is a partnership, the application must set forth the names and residence addresses of each of the partners, including the limited partners. If the applicant is a limited partnership, it must furnish a copy of its certificate of limited partnership filed with the county clerk. If one (1) or more partners is a corporation, the provisions of this section pertaining to corporate applicants will apply. The applicant corporation or partnership must designate one (1) of its officers or general partners to act as its responsible managing officer. Such person must complete and sign all application forms required of any individual applicant under this chapter, but only one (1) application fee will be charged.
13. The name and address of the owner and lessor of the real property upon or in which the massage establishment is to be operated, and a copy of the lease or rental agreement. If the applicant is not the legal owner of the property, a notarized acknowledgment from the owner of the property that

a massage establishment will be located on his or her property is required for each massage establishment permit location.

14. The full true names and other names used, the present addresses and telephone numbers, driver's license numbers, and Social Security numbers, and state certificates from the CAMTC or transitional licenses for all massage technicians who will be working as employees or independent contractors at each massage establishment permit location. The applicant must provide the chief of police with any changes in the massage technicians that work at the massage establishment during the permit period within ten (10) working days of each change.

15. The chief of police may require the applicant to furnish fingerprints when needed for the purpose of verifying identification.

16. Such other identification and information as may be required by the chief of police in order to verify the information to be included in the application.

C. The city is allowed a reasonable time, not to exceed sixty (60) days, in which to investigate the information on the application. During the investigation of the background information, a city representative including, without limitation, a member of the police department, fire department, building and safety division, planning division, or any authorized representative thereof, may inspect, with or without notice during regular business hours, the proposed place of business to determine whether it conforms to the requirements of this chapter. Upon completion of the inspection, the city representative must inform the chief of police in writing of the findings of the inspection. Background clearance will be issued, within sixty (60) days of receipt of the application, to any applicant who has furnished all of the information required by this section in the application for such license, provided all of the following apply:

1. The applicant has not made a material false statement in the application and that all massage technicians who will be working as employees or independent contractors at each massage establishment permit location possesses certification from the CAMTC as a massage practitioner or massage therapist;

2. The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, or holders of five percent (5%) or more of the corporation's stock, has not, within five (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Penal Code §§ 243.4; 261; 266a through 266j; 267; 314 to 316; 318; or 647(a, b, d); any offense requiring registration under Penal Code § 290 or Health and Safety Code § 11590; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, or giving away of a controlled substance specified in Health and Safety Code §§ 11054 to 11058, as amended; or any offense in another state which, if committed in California, would have been punishable as one (1) or more of the heretofore mentioned offenses; or any offense involving the use of force or violence upon the person of another; or any offense involving theft, embezzlement or moral turpitude;

3. The applicant, if an individual, is at least eighteen (18) years of age;

4. The applicant has not had a massage technician, massage establishment, escort service, nude entertainment, nude photo studio or similar type of license or permit suspended within one (1) year or revoked within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or that mitigating circumstances exist since the revocation or suspension.

(Ord. 2012-05 § 2 (part), 2012)

5.68.060 Additional requirements.

Before operating a massage establishment in the city, massage establishment owners must comply with all applicable codes adopted by the city, including, without limitation, the building, electrical, and

plumbing codes.

Hours of operation. Massage establishments shall only offer massage services between the hours of 7:00 a.m. and 10:00 p.m. and no patrons for massage services shall be allowed on the premises after 10:00 p.m. or before 7:00 a.m. Pacific Standard Time.

(Ord. 2012-05 § 2 (part), 2012)

5.68.070 Display of permit.

Any owner of a massage establishment or off-premise massage service must display the CAMTC certificates for all massage technicians prominently in a conspicuous place, capable of being viewed by customers or city representatives, at every location where massage is performed or conducted.

For off-premise massage services, massage workers must also carry a copy of their CAMTC certificate and display it to customers upon request.

Any persons operating under the limited exception described in Section 5.68.040(D) must display the statement from the city documenting their exemption from the CAMTC certification prominently in a conspicuous place capable of being viewed by customers or city representatives, or carry it with them for off-premise massage services.

(Ord. 2012-05 § 2 (part), 2012)

5.68.080 Massage technician certificates required.

It is unlawful for owners of massage establishments or off-site massage services to allow any person to perform massage that is not a certified massage therapist, a certified massage practitioner, or has obtained one (1) of exceptions described in this chapter.

(Ord. 2012-05 § 2 (part), 2012)

5.68.090 Prohibited conduct.

A. It is unlawful for any massage technician or any other employee working in a massage establishment or for an out-call massage service, or customers, patrons, or guests of the establishment or service, to engage in any specified sexual activities upon the premises of the massage establishment or the off-premise massage location.

B. It is unlawful for any massage technician or other employee of a massage establishment to expose specified anatomical areas in the presence of any patron, customer, or guest.

C. In the course of administering the massage, it is unlawful for any massage technician or other massage establishment employee to make intentional physical contact with the specified anatomical areas of any customer, patron or guest.

(Ord. 2012-05 § 2 (part), 2012)

5.68.100 Facilities and operations.

A. It is unlawful for any massage establishment to operate unless the massage establishment premises and operation comply with the following minimum requirements:

1. Signs. A readable sign must be posted at the main entrance identifying the establishment as a massage establishment, provided, however, that all such signs must otherwise comply with the sign requirements of this code.

2. Disinfection of instruments. Instruments used for massage must be disinfected before each use. Where instruments for massage are employed, adequate quantities of supplies for disinfection must

be available during all hours of operation.

3. Water. Hot and cold running water must be provided at all times.
4. Linen storage. Closed cabinets must be utilized for the storage of clean towels and linen. After use, towels and linen must be removed and stored in a separate container until laundered.
5. Sanitary conditions. All walls, ceilings, floors, steam and vapor rooms, and all other physical facilities for the massage establishment must be kept in good repair and be maintained in a clean and sanitary condition.
6. Clean linen. Clean and sanitary towels and linens must be provided for patrons receiving massage services. No common use of towels or linens is permitted.
7. Compliance with laws. The premises to be used must at all times comply with all applicable state and local laws and regulations.
 - B. A register of all individuals employed as massage technicians, and copies of their current CAMTC certifications and massage technician business licenses, must be maintained and available for inspection at all times during regular business hours.
 - C. Each person present in any area of the massage establishment outside the waiting area or other areas open to any member of the public must be a certified massage practitioner or certified massage therapist or the massage establishment owner.
 - D. The permits and certifications required by this chapter must be displayed in an open and conspicuous public place on the premises.

(Ord. 2012-05 § 2 (part), 2012)

5.68.110 Exceptions.

This chapter does not apply to the following classes of individuals, and no CAMTC certification is required of such persons, while engaged in the performance of the duties of their respective professions:

1. Acupuncturists who are duly certified to practice their profession in the state of California.
2. Barbers, beauticians, and cosmetologists with respect to scalp massage, who are duly permitted pursuant to Business and Professions Code §§ 7301, et seq., in accordance with the limitations of their permits.
3. Persons employed or working at a licensed athletic facility.
4. Medical facilities in which massage is performed as prescribed treatment only on patients of the medical facility.
5. Nurses who are registered or certified as such under the laws of the state of California.
6. Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly permitted to practice their respective professions in the state of California, or provide professional services in lawful compliance with Corporations Code § 13401(a).
7. Recognized schools of massage.
8. Businesses where a massage is performed while the person sits in a chair, such as head and neck massage, foot massage, or as part of a manicure or pedicure, and performed in public view or in an open common room.
9. Massage establishments or out-call massage services that are operating pursuant to a duly issued city business license that is issued prior to the effective date of this chapter shall have until

December 31, 2013 to meet the state certification requirement described in Section 5.68.040 and any posting of such requirements detailed in other provisions.

10. This chapter is not intended to regulate massages that are not part of a business occupation.

(Ord. 2012-05 § 2 (part), 2012)

5.68.120 Public nuisance abatement.

Any massage establishment operated, conducted or maintained contrary to the provisions of this chapter is unlawful and a public nuisance. The city attorney is authorized, in addition to or in lieu of any other legal or criminal proceedings, to commence an action or proceeding for abatement, removal or enjoinder of such massage establishment in the manner provided by law. The city attorney may seek a court order to grant such relief to abate or remove such massage establishments and restrain and enjoin any person from operating, conducting or maintaining such an establishment contrary to the provisions of this chapter.

(Ord. 2012-05 § 2 (part), 2012)

5.68.130 Revocation.

A. Grounds for revocation. The police chief or city attorney may revoke approvals issued under this chapter for one (1) or more of the following grounds:

1. Fraud or deceit. That the applicant practiced fraud or deceit in obtaining an approval under this chapter;
2. Violation of chapter. That the massage establishment owner, operator, massage technician, or its employee violated a provision or provisions of this chapter;
3. Criminal conviction. That the massage establishment owner, operator, massage technician, or its employee has been convicted in a court of competent jurisdiction of any offense described in this chapter;
4. Improperly maintained facilities. That the facilities and operations of the massage establishment are not kept in compliance with this chapter and that the owner or operator has failed to promptly remedy any deficiency of which they have been notified. For purposes of this subsection, "notice" means notice given personally, or by leaving notice at the massage establishment premises, or by first class mail, postage prepaid, to the address designated by the massage technician or establishment in accordance with this chapter;
5. Employment of uncertified technicians. That the massage establishment has employed, allowed or permitted an uncertified person to perform massage in the massage establishment;
6. Error. That the approval was issued in error;
7. Civil penalties. Assessment of three (3) or more civil penalties as provided by this chapter during any six (6) month period; or
8. Prohibited conduct. A massage establishment owner, operator, massage technician, or its employee or agent has been found to have engaged in prohibited conduct in violation of this chapter.
9. Notice of revocation. Upon a determination on the grounds to revoke an approval under this chapter, the police chief or city attorney must cause a notice of revocation to be mailed by first class, postage prepaid mail, to the address designated by the massage technician or establishment pursuant to this chapter.

(Ord. 2012-05 § 2 (part), 2012)

5.68.140 Enforcement and penalties.

A. Any person violating any provision of this chapter is liable in a civil action brought by the city attorney for an amount up to \$500 per violation. Such person is also liable for reasonable attorneys' fees and costs incurred by the city attorney in any civil proceeding filed to enforce this chapter. Each day that a violation continues may be considered a new and subsequent offense.

B. Alternatively the city may choose to enforce violations through the administrative code enforcement process described in Chapter 1.13 of the Visalia Municipal Code, with violations being punishable with a \$100 fine for the first violation, a \$200 fine for the second violation, and a \$500 fine for the third and subsequent violations. Each day that a violation continues may be considered a new and subsequent offense.

C. Enforcing this chapter through civil action may be filed as an alternative to criminal enforcement. Civil enforcement does not require the violation to be knowing or willful. A civil or administrative action cannot be filed if the person is being criminally prosecuted.

D. The city attorney may settle any civil enforcement before or after to the filing of a civil action by imposing a civil penalty in an amount not exceeding the potential civil liability, including attorneys' fees, set forth in this section. If such civil penalty is paid in full, the city attorney can agree not to file civil or criminal actions or, if action has already been filed, may dismiss such action. Imposition of all civil penalties is public record.

(Ord. 2012-05 § 2 (part), 2012)

5.68.150 Appeal.

After denial of an application for a massage establishment regulatory permit (the term permit includes the "grandfather exception" to CAMTC certification described in Section 5.68.040), or after denial of renewal of a permit, or suspension or revocation of a permit, the applicant or person to whom the permit was granted may appeal the decision to the city manager, or designee, by filing a written notice with the city clerk within ten (10) business days from the receipt of the notice of denial. The city manager or representative shall hold a hearing on the appeal within thirty (30) business days from the receipt of the notice by the city clerk. The decision of the city manager, or designee, following the hearing shall be final and conclusive. There is no appeal to the City Council. If the denial, suspension or revocation is affirmed on review the applicant or permittee may seek judicial review of such administrative action pursuant to California Code of Civil Procedure § 1094.5. The time for filing such action is governed by California Code of Civil Procedure § 1.

(Ord. 2012-05 § 2 (part), 2012)

ORDINANCE NO. 2024-05

AN INTERIM ORDINANCE TO FURTHER REGULATE
MESSAGE ESTABLISHMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

SECTION 1. Consistent with its control over municipal affairs as a charter city and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to secure and promote the public health, comfort, safety, and welfare of its citizenry. The City of Council of the City of Visalia hereby makes the followings findings:

- A. The City of Visalia Municipal Code Title 5 defines "Massage establishment" as follows: *"means and includes any business enterprise or establishment, parlor, or any room, place or institution within a business establishment where massage is given or administered by a massage technician as a paid service"* and in addition, the City of Visalia Municipal Code Title 17 defines, *"Massage Therapy Establishment"* as follows: *"means an establishment offering massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body by a Certified Massage Therapist."*
- B. The City of Visalia Municipal Code Title 17 currently permits Massage therapists to operate businesses under the current City of Visalia Zoning Ordinance in the Neighborhood Commercial (C-N), Commercial Mixed Use (C-MU), Downtown Mixed Use (D-MU), Professional / Administrative Office (O-PA), and Office Conversion (O-C) zones within the City of Visalia with a Conditional Use Permit (CUP) issued under Visalia Municipal Code Chapter 17.38.
- C. The City of Visalia has seen an increase in requests for CUPs to operate Massage Establishments. In recent instances, such usages are proposed within close proximity to residential neighborhoods, junior college, and within shopping centers.
- D. These recent instances of this proposed use near residential neighborhoods resulted in comments received from property owners concerned that this type of use should not be placed in close proximity to schools and residential neighborhoods, the usage was allowed because the current City of Visalia Zoning Ordinance does not require buffering distance requirements regarding this type of commercial activity near schools and residential neighborhoods. The City Council has since considered whether a specific policy should be adopted and has determined that it would be in the interest of the public health, safety, or welfare to consider changes to the municipal code on how this type of business should be further regulated.

- E. In 2008, the Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage technicians and practitioners throughout the State of California which also limited the City's regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations and has been widely criticized by local agencies as providing massage businesses with almost unprecedented protection from local zoning and land use authority, and interfering with local law enforcement efforts to close massage businesses that allow prostitution and other illegal activities.
- F. In response to the criticism against Senate Bill 731, Assembly Bill 1147 was enacted which allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments, and the City of Visalia seeks to amend the Visalia Municipal Code to ensure that the City regulates massage establishments in compliance with the provisions of enacted State statutes.
- G. The increase in requests for the operation of Massage Establishments that has occurred in recent years does not appear to be slowing, which has raised concerns of whether illicit uses are trying to create a business front for illicit activity and a proliferation of such types of uses could result in negative impacts to the public's peace, health, safety, and welfare.
- H. The potential for criminal and unsafe activity at massage establishments is particularly concerning given that some massage establishments in the City are located within proximity to places where families congregate, such as restaurants and shopping areas.
- I. Code enforcement and policing efforts have found that illegal massage operations that are shut down are often replaced by similar illegal massage operations in the same location. There are significant adverse impacts from allowing illegal massage operations to remain at a given site. Impacts include decreased consumer confidence in the legal operation of future massage establishments at a site, decreased consumer confidence in the neighboring businesses, and confusion among customers regarding any connection between the closed illegal operation and a new legal operation, and detrimental effects on all surrounding businesses.
- J. The City Council finds and declares the illicit and illegal activities disguising as legitimate massage establishments in the City pose health and safety threats to operators, employees, patrons, surrounding businesses, and the public, in order to address this threat to public health and safety the City Council hereby finds the adoption of the proposed urgency interim zoning ordinance to be necessary while a more specific amendment to the Municipal Code is reviewed in the normal process by the City.

- K. Further the City Council finds and declares that approving additional conditional use permits to allow additional Massage Establishments within close proximity of an existing Massage Establishment would potentially be in conflict with the stated goals of the City of Visalia General Plan and Zoning Ordinance to preserve and promote the public health, safety, and welfare of the city by creating conditions that would adversely impact the public's interest.
- L. The City Council finds and declares that the ordinance regulations on Massage Business shall be adopted on an interim and immediate basis to protect the public health, safety, and welfare of the community while the more permanent regulations are reviewed in additional detail.

SECTION 2. While this interim ordinance is in effect the following regulatory standards shall apply as additional limitations and requirements under the Visalia Zoning Ordinance on a Massage Establishment and/or Massage Therapy Establishment as those terms are defined in Visalia Municipal Code. Businesses that are already operating under conditional use permits in areas that would be prohibited under these regulations may continue to operate as they would constitute legal non-conforming use.

- A. In addition to Conditional Use Permit being required in the Neighborhood Commercial (C-N), Commercial Mixed Use (C-MU), Downtown Mixed Use (D-MU), Professional / Administrative Office (O-PA), and Office Conversion (O-C) zones, a Conditional Use Permit shall be required for Massage Establishments/Therapist in the Regional Commercial (C-R) zone.
- B. No Massage Establishment may be located within a radius of 750 feet of another Massage Establishment, as measured in a straight line, from the nearest point of the premises where said massage establishment is conducted to the nearest property line of any lot or legal parcel upon which a massage establishment is proposed to be located. Existing businesses operating a Massage Establishment that are already conducting business and in possession of all previously required licenses and/or permits for such business in the City of Visalia on the effective date of this emergency ordinance are considered existing non-conforming related to separation from all required sources as long as the permit is not revoked, or the business does not cease operation. The regulations proposed in this interim ordinance that do not concern the location of the business would apply.
- C. No Massage Establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises.

- D. Doors. All front, reception, hallway, or front exterior doors except back or rear exterior doors used for employee entrance to and exit from the massage establishment) shall be kept unlocked during business hours. A massage establishment may lock its exterior doors during business hours if the establishment is owned by one individual with one or no employees. No massage may be given within any cubicle, room, booth, or any area within a massage establishment which is fitted with a door capable of being locked, unless the only door is an exterior door.
- E. Minimum lighting consisting of at least one artificial light of not less than forty watts shall be provided and shall be operating in each room or enclosure where Massage Services are being performed on Clients, and in all areas where Clients are present.
- F. Living Quarters Prohibited. No person or persons shall be allowed to reside, dwell, occupy or live inside a Massage Establishment at any time. Beds and floor mattresses shall not be permitted on the premises.
- G. Inspections. The operator and/ or on duty Responsible Employee consents to the inspection of the massage establishment by the City's Building and Safety Division, Code Enforcement Division, Fire Department and Police Department and the County Health Department for the purpose of determining that the provisions of this ordinance or other applicable laws or regulations are met. The City' s Building and Safety Division, Code Enforcement Division, Fire Department and Police Department and the County Health Department may, from time to time, make unannounced inspections of each massage establishment for the purpose of determining that the provisions of this chapter, State law or other applicable laws or regulations are met.
- H. No person shall enter, be or remain in any part of a Massage Establishment while in possession of an open container of alcohol, or consuming or using any alcoholic beverages or controlled drugs except pursuant to a prescription for such drugs. The Owner, Operator, or responsible managing Employee shall not permit any such person, or any person who is clearly intoxicated, to enter or remain upon the premises.
- I. No Massage Establishment shall operate a school of massage or use the same facilities as that of a school of massage.

SECTION 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

SECTION 4. This Ordinance shall take effect immediately as an interim zoning ordinance under the provisions of California Government Code section 65858(b). It shall be of no further force and effect forty-five (45) days from its adoption unless it is extended pursuant to Government Code section 65858(b).

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted as required by law.

PASSED AND ADOPTED: April 23, 2024

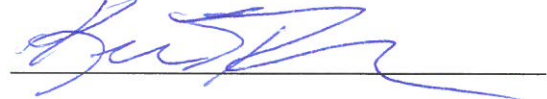
BRIAN POOCHIGIAN, MAYOR

ATTEST:



LESLIE B. CAVIGLIA, CITY CLERK

APPROVED BY CITY ATTORNEY

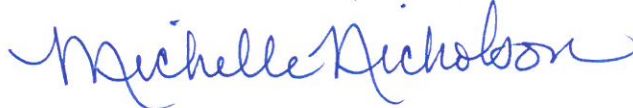


STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Leslie B. Caviglia, City Clerk of the City of Visalia, certify the foregoing is the full and true Ordinance 2024-05 passed and adopted by the Council of the City of Visalia at a special meeting held on April 23, 2024 and certify a summary of this ordinance will be published in the Visalia Times Delta.

Dated: April 23, 2024

LESLIE B. CAVIGLIA, CITY CLERK



By Michelle Nicholson, Chief Deputy City Clerk

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. (Ord. 2017-01 (part), 2017: prior code § 7525)

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. (Ord. 2017-01 (part), 2017: prior code § 7526)

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. (Ord. 2017-01 (part), 2017: Ord. 2001-13 § 4 (part), 2001: prior code § 7527)

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. (Ord. 2017-01 (part), 2017: prior code § 7528)

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.

(Ord. 2017-01 (part), 2017: prior code § 7530)

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. (Ord. 2017-01 (part), 2017: prior code § 7531)

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

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. (Ord. 2017-01 (part), 2017: Ord. 9605 § 30 (part), 1996: prior code § 7532)

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. (Ord. 2017-01 (part), 2017: prior code § 7533)

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. (Ord. 2017-01 (part), 2017: prior code § 7534)

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. (Ord. 2017-01 (part), 2017: prior code § 7535)

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.

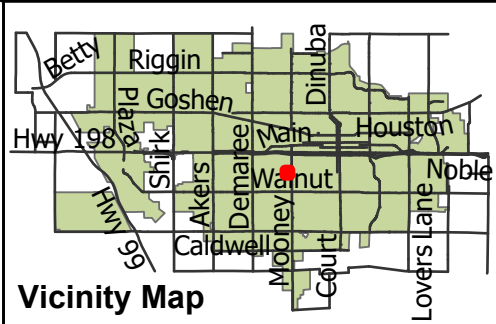
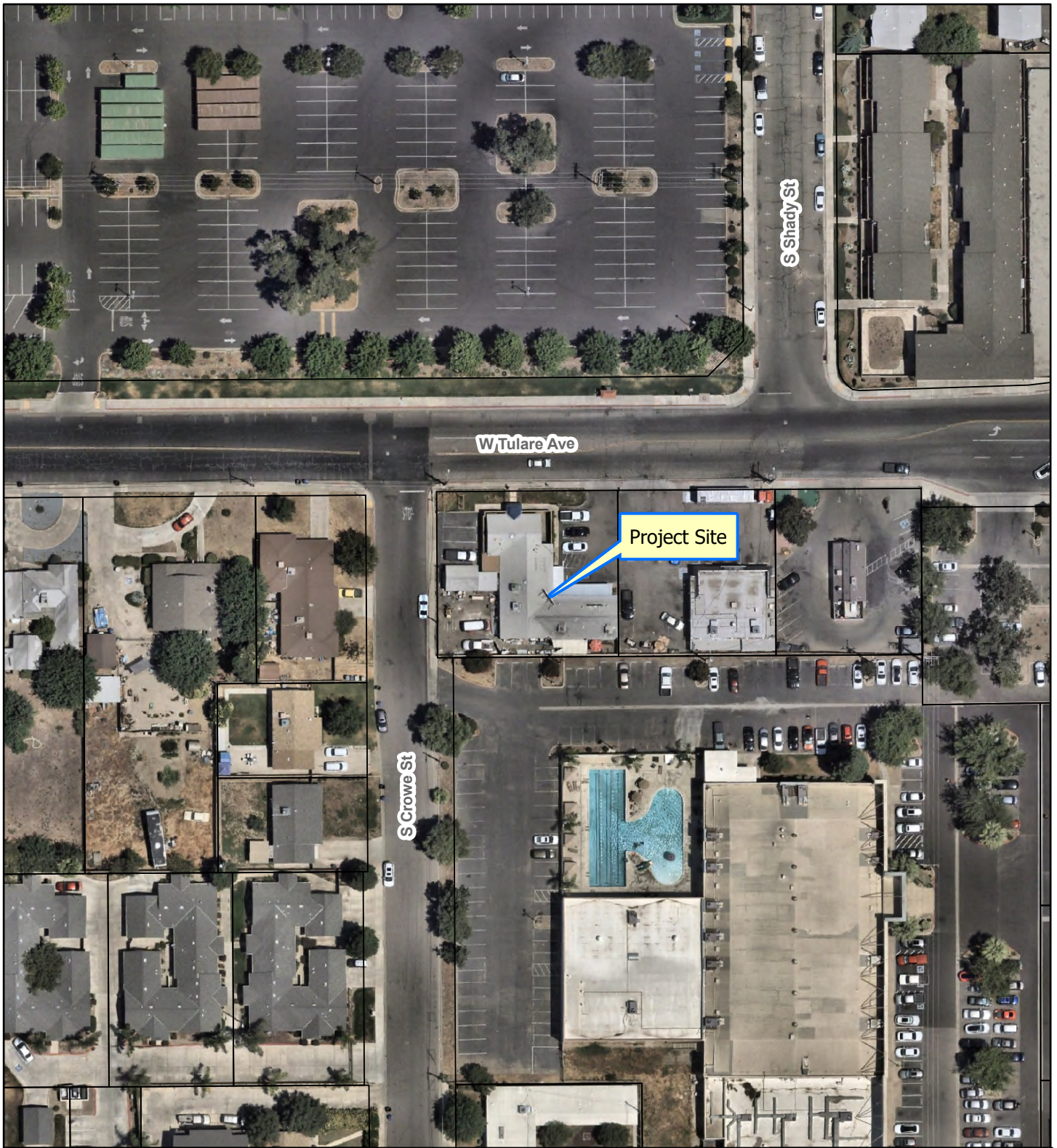
C. The commission may deny an application for a conditional use permit. (Ord. 2017-01 (part), 2017: prior code § 7536)

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. (Ord. 2017-01 (part), 2017: Ord. 2006-18 § 6, 2007: prior code § 7537)

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. (Ord. 2017-01 (part), 2017: prior code § 7539)



Aerial Map

0 0.01 0.01 0.03 Miles



