



**REPORT TO THE PLANNING COMMISSION**

August 15, 2012

AGENDA ITEM NO. VIII-A  
COMMISSION MEETING 8-15-12

APPROVED BY

FROM: MIKE SANCHEZ, Planning Manager  
Development Services Division

DEPARTMENT DIRECTOR *m. Smith*

BY: BONIQUE EMERSON, Planner III  
Development Services Division

SUBJECT: **CONSIDERATION OF VARIANCE APPLICATION NO. V-12-005 AND AN MINOR A REVISED EXHIBIT TO CONDITIONAL USE PERMIT APPLICATION NO. C-10-109 FOR PROPERTY LOCATED AT 2141 NORTH PARKWAY DRIVE (APN: 442-090-06, 16, 17 and 18)**

**RECOMMENDATION**

Staff recommends that the Planning Commission take the following action:

1. DENY the appeal and UPHOLD the Director's Action denying Variance Application No. V-12-005 which requests authorization to install a 7-foot high wrought iron fence within the 10-foot landscape setback required along the street frontage (Parkway Drive).
2. APPROVE the Minor Revised Exhibit (a request to modify a condition of approval) to the already approved Conditional Use Permit Application No. C-10-109. Conditional Use Permit Application No. C-10-109 is the application that approved the rehabilitation of the former Vagabond Motel to establish a secure transitional housing community that will be owned and operated by the Fresno Rescue Mission. The applicant is requesting a two month extension to install the 7-foot high block wall required along the southern property line of the subject site. This wall is currently required to be installed prior to occupancy/operation of the facility.

**EXECUTIVE SUMMARY**

Variance Application No. V-12-005, filed by Stergeos Demetrios on behalf of the Fresno Rescue Mission, pertains to approximately 9 acres of property located on the west side of North Parkway Drive between West Clinton and West McKinley Avenues. This application is a request for authorization to install a 7-foot high wrought iron fence within the required 10-foot front yard along Parkway Drive. Staff has concluded that the findings required to grant a variance from the requirements of the Zoning Ordinance cannot be made. On July 30, 2012 the Development and Resource Management Director issued a letter denying Variance Application No. V-12-005. On August 2, 2012 the applicant filed an appeal of the Director's action. Pursuant to Section 12-406-F of the Fresno Municipal Code (FMC), the Director's decision has been set aside, and a public hearing upon the matter has been set before the Planning Commission.

Staff recommends that the Planning Commission uphold the Director's action and deny Variance Application No. V-12-05. The Development & Resource Management Department finds that Variance Application No. V-12-005 does not comply with Fresno Municipal Code Section 12-405-1-a which states a variance from the terms of this Zoning Ordinance shall be granted only when it is found that "because of special circumstances (other than monetary hardship) applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges (not including the privilege of maintaining a nonconforming use or status) enjoyed by other property in the vicinity and in an identical zoning district". Staff found that

there is enough room on the site to place the fence outside of the 10-foot front yard and thus could not make the finding that the size, shape, topography, location, or surroundings of the property prevented compliance with this requirement.

The applicant has also filed a Minor Revised Exhibit (a request to modify a condition of approval) to the already approved Conditional Use Permit Application No. C-10-109. Conditional Use Permit Application No. C-10-109 is the application that approved the rehabilitation of the former Vagabond Motel to establish a secure transitional housing community that will be owned and operated by the Fresno Rescue Mission. The applicant is requesting a two month extension to install the 7-foot high block wall required along the southern property line of the subject site. This wall is currently required to be installed prior to occupancy/operation of the facility. This wall is not required by the FMC and staff would normally allow a minor modification such as this without public notice. However, the Planning Commission approved Conditional Use Permit Application No. C-10-109 at a public hearing held on October 10, 2010 with the requirement for the wall. Because of this, and because the adjacent property owner has shown concern about making sure this wall is constructed, the Director has exercised his discretion to refer the special permit to the Planning Commission for approval at a public hearing pursuant to Section 12-406-C of the FMC. Staff recommends that Planning Commission approve this modified condition.

**PROJECT INFORMATION**

PROJECT	<p><b>Variance Application No. V-12-005</b> is a request for authorization to install a 7-foot high wrought iron fence within the required 10-foot front yard along Parkway Drive.</p> <p><b>Minor Revised Exhibit</b> to the already approved <b>Conditional Use Permit Application No. C-10-109</b> is a request to modify a condition of approval to allow a two month extension to install a 7-foot high block wall required along the southern property line of the subject site. This wall is currently required to be installed prior to occupancy/operation.</p>		
APPLICANT	Stergeos Demetrios on behalf of the Fresno Rescue Mission		
LOCATION	<p>2141 North Parkway Drive</p> <p>Located on the west side of North Parkway Drive between West Clinton and West McKinley Avenues</p> <p>APN: 442-090-06, 16, 17 and 18</p> <p><b>(Council District 3, Councilmember Baines)</b></p>		
SITE SIZE	± 9.0 acres		
LAND USE	Existing	-	Vacant motel currently being renovated for transitional housing
ZONING	Existing	-	C-6 and C-6/UGM ( <i>Heavy Commercial/Urban Growth Management</i> )

PLAN DESIGNATION AND CONSISTENCY	The already approved transitional housing facility is consistent with the existing C-6 ( <i>Heavy Commercial</i> ) zone district and the General Heavy Commercial planned land use designated for the site by of the 2025 General Plan and the West Area Community Plan.
ENVIRONMENTAL FINDING	Section 15270 of the State of California Public Resources Code states that CEQA does not apply to projects that a public agency rejects or disapproves.  The proposed modification to a conditional of approval for Conditional Use Permit Application No. C-10-109 does not require environmental review because it is not a substantial change to the already approved project. All environmental impacts resulting from this proposed transitional housing facility have already been analyzed in EA No. C-10-109.
PLAN COMMITTEE RECOMMENDATION	Staff did not route this project to the Council District 3 Plan Implementation Committee.
STAFF RECOMMENDATION	Deny the appeal and uphold the Director's Action denying Variance Application No. V-12-005 and approve the Minor Revised Exhibit (a request to modify a condition of approval) to the already approved Conditional Use Permit Application No. C-10-109.

**BORDERING PROPERTY INFORMATION**

	Planned Land Use	Existing Zoning	Existing Land Use
<b>North</b>	State Route 99 General Heavy Commercial	<b>C-6</b> <i>Heavy Commercial</i>	State Route 99 Motel
<b>South</b>	Light Industrial	<b>C-M</b> <i>Commercial and Light Manufacturing</i>	Light Industrial/Auto storage related
<b>East</b>	State Route 99 Light Industrial	<b>C-M</b> <i>Commercial and Light Manufacturing</i>	State Route 99 Storage Yard
<b>West</b>	Light Industrial	<b>C-M</b> <i>Commercial and Light Manufacturing</i>	Light Industrial

**ENVIRONMENTAL FINDING**

Section 15270 of the State of California Public Resources Code states that CEQA does not apply to projects that a public agency rejects or disapproves and thus there is no environmental assessment required for Variance Application No. V-12-005.

The proposed modification to a conditional of approval for Conditional Use Permit Application No. C-10-109 does not require environmental review because it is not a substantial change to the already

approved project. All environmental impacts resulting from this proposed transitional housing facility have already been analyzed in EA No. C-10-109.

## **BACKGROUND / ANALYSIS**

Variance Application No. V-12-005 is a request for authorization to install a fence on the property line across the entire property frontage of the subject site on Parkway Drive/Lafayette Street. Section 12-222.5-E-2 of the Fresno Municipal Code (FMC) states that each lot shall have a front yard of not less than ten (10) feet. Pursuant to Section 12-222.5-E-1-a of the FMC, all required yards shall be clear from the ground to sky (with the exception of landscaping) and thus no structures, including fences, are allowed to be located within the front yard. Thus, the proposed fence along Parkway Drive is prohibited pursuant to the FMC.

Originally, planning staff considered both Lafayette and Parkway to be front lot lines because the FMC defines a front lot line to be "the property line abutting a street". However, Lafayette is not constructed as a street and is not fully dedicated and thus it cannot be constructed as a public street. For these reasons, the Development and Resource Management Department does not consider Lafayette to be a street and thus a 10-foot setback is not required along this frontage and the proposed fence can be constructed along the property line abutting Lafayette Avenue.

Section 12-405-A-1 of the FMC states that the only way to grant a variance from the requirements of the Zoning Ordinance (Chapter 12, Articles 1 through 4.5 of the FMC) is to make five specific findings. The Development & Resource Management Department has found that Variance Application No. V-12-005 does not comply with one of these five findings. Fresno Municipal Code Section 12-405-1-a states that a variance from the terms of this Zoning Ordinance shall be granted only when it is found that "because of special circumstances (other than monetary hardship) applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges (not including the privilege of maintaining a nonconforming use or status) enjoyed by other property in the vicinity and in an identical zoning district". Staff found that there is enough room on the site to place the fence outside of the 10-foot front yard and thus could not make the finding that the size, shape, topography, location, or surroundings of the property prevented compliance with this requirement. This is the reason why the Director denied Variance Application No. V-12-005.

The applicant has also filed a Minor Revised Exhibit (a request to modify a condition of approval) to the already approved Conditional Use Permit Application No. C-10-109. Conditional Use Permit Application No. C-10-109 is the application that approved the rehabilitation of the former Vagabond Motel to establish a secure transitional housing community that will be owned and operated by the Fresno Rescue Mission. The applicant is requesting a two month extension to install the 7-foot high block wall required along the southern property line of the subject site. This wall is currently required to be installed prior to occupancy/operation of the facility. This wall is not required by the FMC and staff would normally allow a minor modification such as this without public notice. However, the Planning Commission approved Conditional Use Permit Application No. C-10-109 at a public hearing held on October 10, 2010 with the requirement for the wall. Because of this, and because the adjacent property owner has shown concern about making sure this wall is constructed, the Director has exercised his discretion to refer the special permit to the Planning Commission for approval at a public hearing pursuant to Section 12-406-C of the FMC. Staff recommends that Planning Commission approve this modified condition.

## **NOTICE OF PLANNING COMMISSION MEETING**

The Development and Resource Management Department mailed notices of this Planning Commission hearing to all surrounding property owners within 350 feet of the subject site on August 3, 2012, pursuant

to Section 12-401-C-2 of the FMC. Only one phone call has been received to date and that person had no objection/concerns regarding the proposed project.

**FINDINGS**

No special permit may be issued unless it is found that the privilege exercised under the permits conforms to the findings of 12-405-A-1 (Variance) and 12-405-A-2 (Conditional Use Permit) of the FMC.

Based upon analysis of the variance application, staff concludes that all of the required findings *cannot be made* for Variance Application No. V-12-005.

<b>Findings per Fresno Municipal Code Section 12-405-A-2</b>	
<i>a. Because of special circumstances (other than monetary hardship) applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges (not including the privilege of maintaining a nonconforming use or status) enjoyed by other property in the vicinity and in an identical zoning district.</i>	
Finding a:	Staff cannot make this finding. Staff found that there is enough room on the site to place the fence outside of the 10-foot front yard and thus could not make the finding that the size, shape, topography, location, or surroundings of the property prevented compliance with this requirement.
<i>b. The grant of variance will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone district in which the property is situated.</i>	
Finding b:	The granting of this variance application would not constitute a special privilege because many other parcels proximate to the site have structures within the 10-foot required setback. The proposed fence would not be out of character with surrounding properties since several of the other properties in the area have buildings and/or fences that are located within the 10-foot required landscape setback.
<i>c. The grant of variance will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located.</i>	
Finding c:	The approval of this variance application will not be detrimental to the public welfare or injurious to property or improvements in the area. Regardless of whether the fence is on property line or behind the required 10-foot front yard, all required landscaping will still be visible from the public right-of-way given that the proposed fence is open (wrought-iron fence). The proposed project will actually be an improvement to the area, providing a new quality fence on the subject site.
<i>d. The grant of variance will not be in conflict with established general and specific plans and policies of the city.</i>	
Finding d:	The proposed project will not be in conflict with the objectives or goals of the 2025 Fresno General Plan or the West Area Community Plan. Although the fence is proposed to be located within 10-feet of the property line, the applicant will still be required to provide a 10 to 20-foot landscape buffer abutting the street as required by the 2025 Fresno General Plan and the Fresno Municipal Code (FMC). The granting of

	this variance would allow slight modifications to the established setback requirements for this parcel. No general plan policies prohibit the approval of this variance.
<i>e. The granting of variance from existing development standards will encourage infill development within designated inner city area as defined by FMC 12-105-I.</i>	
Finding e:	The property is not located within the designated inner city area.

Based upon analysis of the conditional use permit application, staff concludes that all of the required findings *can be made* for the Minor Revised Exhibit to Conditional Use Permit Application No. C-10-109.

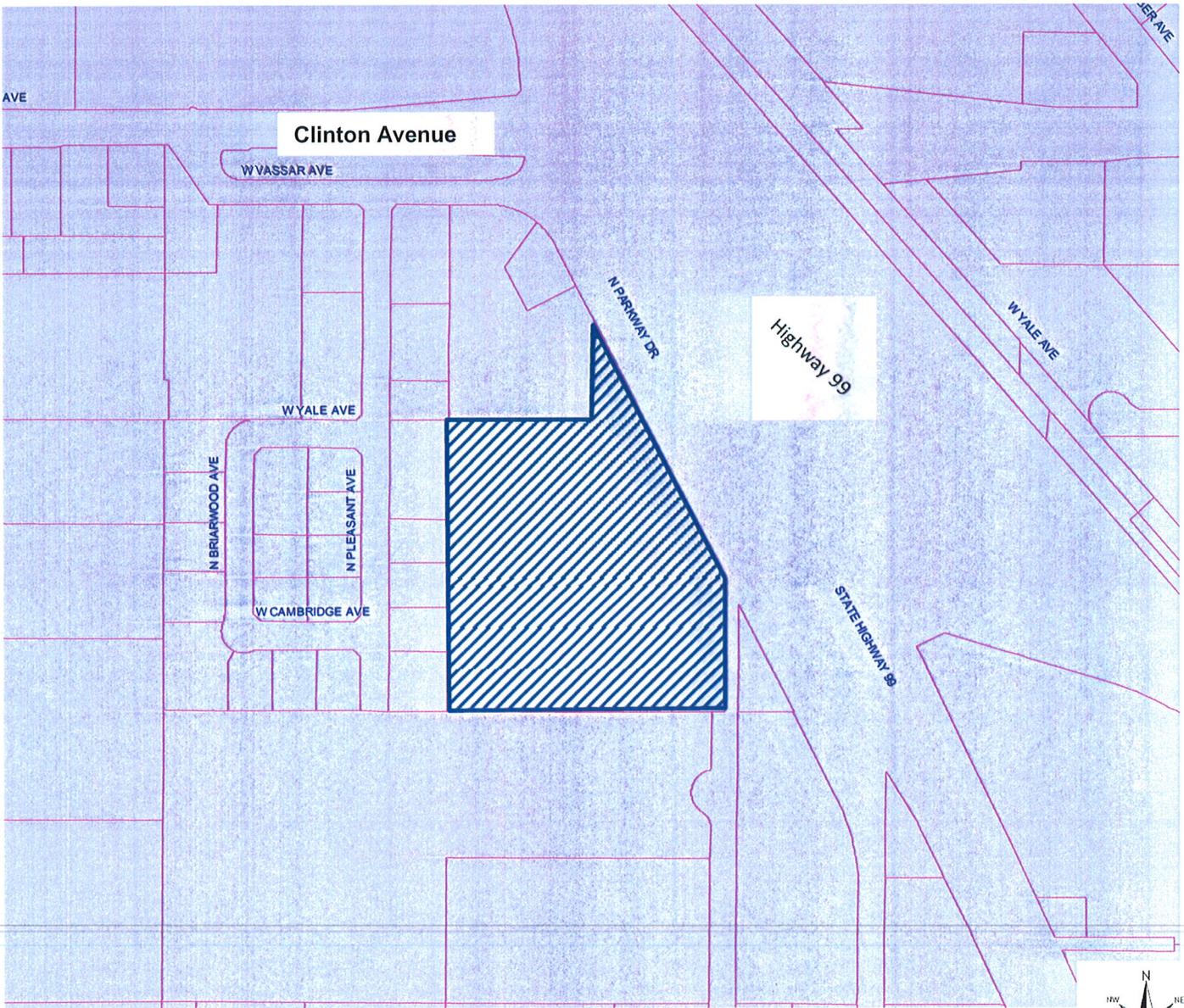
<b>Findings per Fresno Municipal Code Section 12-405-A-2</b>	
<i>a. All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,</i>	
Finding a:	All conditions originally required for Conditional Use Permit Application No. C-10-109 will still be required of the proposed project. Upon approval of Conditional Use Permit Application No. C-10-109 the Planning Commission found that the facility will include ample space for parking, open space, and other amenities and services for the residents of the facility. In addition, it was found that Conditional Use Permit Application No. C-10-109 will comply with all applicable codes, including parking, landscaping, walls, etc., given that the special conditions of project approval will ensure that all conditions are met prior to the site being occupied. The only thing that will change with this Minor Revised Exhibit is the fact that one wall will be installed 2 months after occupancy, rather than at occupancy.
<i>b. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,</i>	
Finding b:	Adjacent streets were assessed during the initial development of the subject site to ensure that the development would have less than significant impacts on traffic and the surrounding community. The proposed modification to a condition of approval will not change this finding.
<i>c. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of the FMC.</i>	

Finding c:	<p>It was previously found in the original approval of Conditional Use Permit Application No. C-10-109 that the proposed use will not have a negative impact on either the subject site, or neighboring properties given that the proposed project will be well maintained and will be compatible with existing adjacent uses. The applicant was required to provide adequate landscaping, parking, and pedestrian access, and was required to comply with all property development standards as detailed in the Fresno Municipal Code and the 2025 Fresno General Plan. In addition, the facility will be fully gated and secured and will provide security and lighting to ensure the safety of the residents and the surrounding community. The applicant has also been required to provide an onsite property manager and hold quarterly community meetings to ensure that any concerns regarding the facility will be addressed in a timely and efficient manner. These conditions are intended to help protect the public health, safety and welfare of patrons and neighbors, alike, and are expected to improve the overall appearance of the area.</p> <p>This minor modification will not be detrimental to the public welfare or injurious to property in the area because there is an existing fence along this southern property line. The adjacent property owner installed a 7-foot high electrified metal fence along this property line and thus the site will be completely secured at commencement of operation.</p>
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- Attachments:
- Vicinity Map
  - 2008 Aerial Photograph of site
  - Noticing Map (350 foot radius)
  - Exhibit A, Site Plan, dated June 15, 2012
  - Staff's Letter Denying Variance Application No. V-12-005
  - Applicant's Appeal, dated August 2, 2012
  - Applicant's Request to Modify a Condition of Approval dated August 2, 2012

Vicinity Map

# VICINITY MAP



## VARIANCE APPLICATION NO. V-12-005 & MODIFICATION TO CONDITIONAL USE PERMIT APPLICATION NO. C-10-109

2141 N. Parkway Drive

### LEGEND



Subject Property

2008 Aerial Photograph of Site



Surrounding Property Notification Map

W CLINTON AVE

Request ID: AddrList 350

44209021T

W VASSAR AVE

N 99 HWY

44201020U  
44201008U

44

N GOLDEN STATE BLVD

N 99 HWY

N 99 HWY

44209045

44209044

44209005

44209006

44209040

44209034

N PARKWAY DR

44209006

W YALE AVE

N PLEASANT AVE

44250301

44250207

44250302

44250204

50306

44250303

44209016

44209017

N 99 HWY

50305

44250304

44250203

W CAMBRIDGE AVE

44250202

44250107

44250108

44250201

44209018

44211202

N 99 HWY

44211136

N WOODSON AVE

44211204

44211137



Exhibit A, Site Plan, dated June 15, 2012

**Exhibit A**  
**Site Plan dated June 15, 2012**

**FRESNO RESCUE MISSION**  
**2141 N. PARKWAY DRIVE**  
**SITE PLAN**

CITY OF FRESNO  
 FRESNO COUNTY, CALIFORNIA

**Pink Highlighted Area =**  
 7-foot high block wall  
 proposed to be constructed  
 2 months after occupancy.  
**Blue Highlighted Area =**  
 7-foot high wrought iron  
 fence proposed on property  
 line.

APN #442-090-04

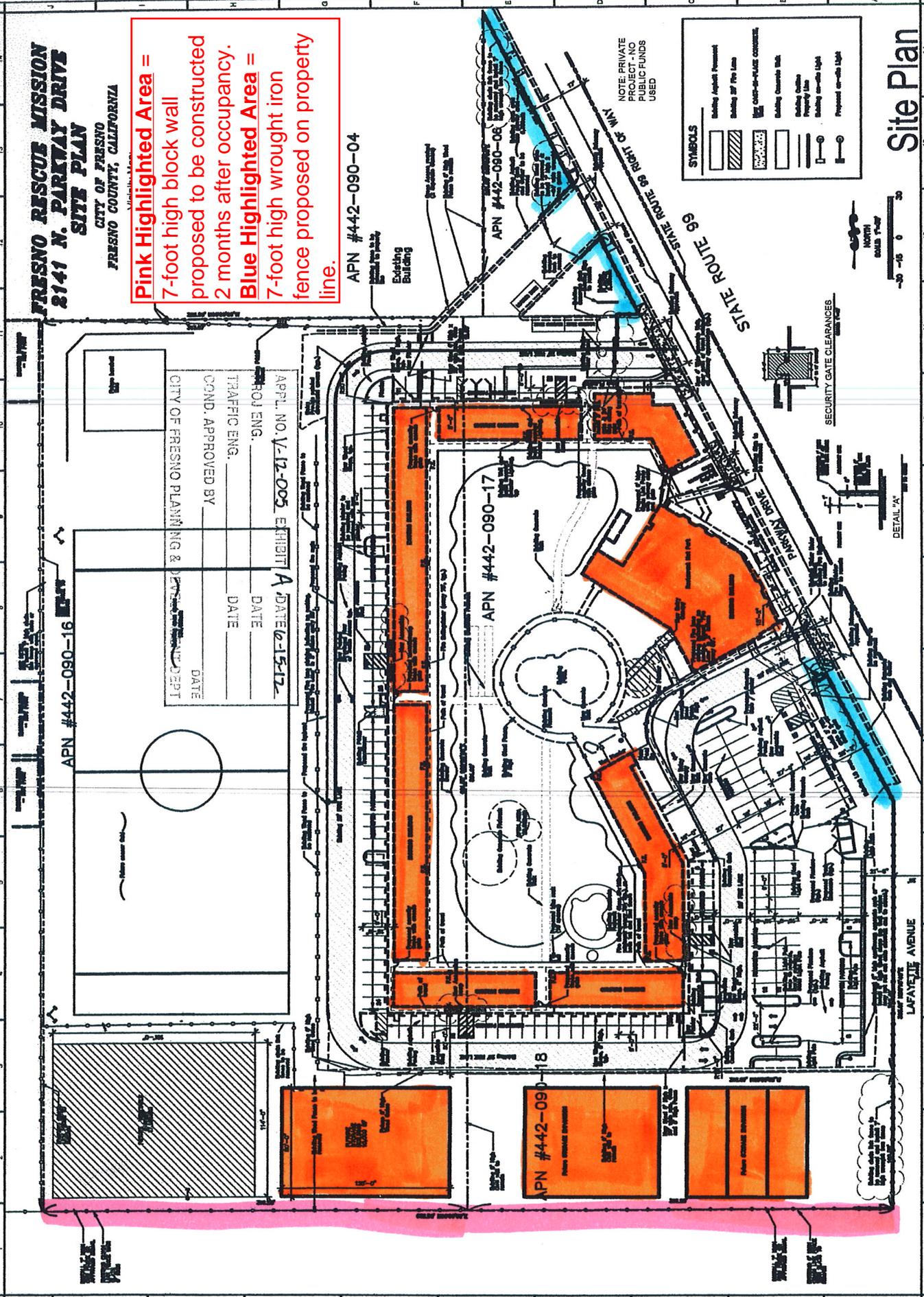
APN #442-090-17

APN #442-090-18

APN #442-090-06

APPL. NO. V-12-005	EXHIBIT A	DATE 6-15-12
PROJ. ENG.	DATE	
TRAFFIC ENG.	DATE	
COND. APPROVED BY	DATE	
CITY OF FRESNO PLANNING & DEVELOPMENT DEPT.		

APN #442-090-16



**Site Plan**

Sheet No. SD/A101

THIS SITE PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE WITHOUT NOTICE. THE CLIENT ACCEPTS ALL RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED AND THE DESIGN. THE DESIGNER ASSUMES NO LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS DESIGN. THE DESIGNER'S LIABILITY IS LIMITED TO THE PROFESSIONAL FEE RECEIVED FOR THIS DESIGN. THE DESIGNER IS NOT RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED BY THE CLIENT AS A RESULT OF ANY CHANGES TO THIS DESIGN. THE DESIGNER IS NOT RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED BY THE CLIENT AS A RESULT OF ANY CHANGES TO THIS DESIGN.



HARBISON INTERNATIONAL, INC.  
 ENGINEERS - ARCHITECTS  
 2200 E. SHAW AVE., SUITE 901  
 FRESNO, CA 93703  
 PHONE: (559) 264-7888 FAX: (559) 264-7888



**FRESNO RESCUE MISSION**  
 FRESNO, CALIFORNIA

**SITE PLAN**

Staff's Letter Denying Variance Application No. V-12-005



2600 Fresno Street, Third Floor  
Fresno, California 93721-3604  
(559) 621-8277 FAX (559) 498-1012

Development and Resource Management Department  
Mark Scott, Interim Director

July 30, 2012

*Please reply to:*  
Bonique Emerson  
(559) 621-8024

Stergeos Demetrios  
[stergdemetrios@yahoo.com](mailto:stergdemetrios@yahoo.com)  
Sent via email only

**SUBJECT: VARIANCE APPLICATION NO. V-12-005 FOR PROPERTY LOCATED AT 2141 NORTH PARKWAY DRIVE (APN: 442-090-17)**

Mr. Demetrios:

The Development and Resource Management Director, on July 30, 2012, denied Variance Application No. V-12-005, which requested authorization to install a 6-foot high wrought iron fence within the 10-foot landscape setback required along the street frontage.

If you wish to appeal the decision, a written request must be received at the Development and Resource Management Department by **August 14, 2012**. The written request should be addressed to Mark Scott, Interim Director, and include the application number referenced above. When the appeal is filed, said decision shall be set aside and a public hearing upon the matter shall be set before the Commission pursuant to Section 12-401-B of the Fresno Municipal Code.

If you have any questions regarding this letter, feel free to give me a call at the number listed above.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Emerson".

Bonique Emerson, Planner III  
Development Services Division

C: Rob Cravy ([rcravy@fresnorm.org](mailto:rcravy@fresnorm.org))

Applicant's Appeal, dated August 2, 2012



Rev. Larry J. Arce  
Chief Executive Officer

August 2, 2012

Mark Scott, Interim Director  
Development Services Division  
2600 Fresno Street, Third Floor  
Fresno, CA 93721

RE: Variance Application No. V-12-005 (2141 N. Parkway Drive – APN # 442-090-17)

Dear Mr. Scott,

The Fresno Rescue Mission respectfully requests the opportunity to appeal the variance denial of application **No. V-012-005** for the property located at 2141 N. Parkway Drive (APN: 442-090-17) the Rescue the Children Project.

We thank you for your consideration.

Sincerely,

  
Pastor Rob Cravy  
Chief Operating Officer

Applicant's Request to Modify a Condition of Approval dated  
August 2, 2012



Rev. Larry J. Arce  
Chief Executive Officer

August 2, 2012

City of Fresno Planning Commission  
2600 Fresno Street, Third Floor  
Fresno, CA 93721

RE: Extension of Condition of CUP (2141 N. Parkway Drive – APN # 442-090-17)

Dear Commission,

The Fresno Rescue Mission is also respectfully requesting **a two month extension** beyond our completed certificate of occupancy in regards to the fencing requirement within our CUP along the southern property line. We are currently in negotiations with our southern neighbor regarding this issue. The time line required to; remove the current fence from our property, engineer the new retaining wall/fence, and build the structure, will prohibit us from using the completed portion of the project without this extension.

We thank you for your consideration.

Sincerely,

  
Pastor Rob Cravy  
Chief Operating Officer