



CITY OF VISALIA
PLANNING DIVISION PERMIT
APPLICATION

DATE STAMP

PERMIT APPLICATION(S):

Check all permits being applied for with this application.

- | | |
|---|--|
| <input type="checkbox"/> CONDITIONAL USE PERMIT | <input type="checkbox"/> LOT LINE ADJUSTMENT |
| <input type="checkbox"/> AMENDMENT TO EXISTING CUP | <input type="checkbox"/> TENTATIVE PARCEL MAP |
| <input checked="" type="checkbox"/> ZONING VARIANCE | <input type="checkbox"/> TENTATIVE SUBDIVISION MAP |
| <input type="checkbox"/> NOISE VARIANCE | <input type="checkbox"/> GENERAL PLAN AMENDMENT |
| <input type="checkbox"/> CHANGE OF ZONE | <input type="checkbox"/> SPECIFIC PLAN AMENDMENT |
| <input type="checkbox"/> ANNEXATION | |

****Staff Use Only****
 Project Number(s) _____

 Planning Commission
 Date: _____

Name of Applicant:

Christina D. B. Frankel AIA, Derivi Construction and Architecture (DCA)

Short title or name of proposed project:

In-Shape Visalia

Summary description of the proposed project: Proposed remodel and expansion of an existing racquet and tennis

club. Expansion to existing building shall include a new entrance with clerestory windows, new areas for individual and group exercise on the west, family restrooms, a new family and lap pool with an expanded parking area on the north.

Remodeling shall be done at both the interior and exterior of the facility.

SITE:

Site Plan Review number(s) 08-031

Date of SPR Committee revise & precede authorization 10.08.08

Address or nearest major street intersection N. Demarree Road and W. Goshen Avenue

APN(s) 085-212-019

Existing Zone R-1-6 Existing General Plan Land Use Designation Low Density Residential

Proposed Zoning Designation R-1-6 (Under C.U.P., orig 1976, #401; most recent 91-17)

Proposed Land Use Designation Low density residential

Site area (acres, or square feet if less than one acre) 4.82 acres

Existing streets directly adjacent to the site Demaree Street to east

Existing use(s) Commercial/fitness facility

Existing Improvements/structures 19,030 sq. ft, main structure, storage shed, tennis pavilion/viewing area, tennis cabanas, 1/2 basketball court, pool, spa, parking lot, landscaping

PROPERTY OWNER(S):

If more than two owners, please provide information and signature(s) on a separate sheet.

Name (print) R&R Development Company LLC Name (print) _____

1016 E. Bianchi Rd., Suite A-1
Mailing Address Stockton, CA 95210 Mailing Address _____

Phone 209-472-2231 Phone _____

Statement: I/We declare under penalty of perjury that I am/we are the legal owner(s) of the property involved in this application. I/We authorize the person named in this application as the Project Main Contact to act as my/our representative with City Staff regarding the processing of this application.

12/3/08
Date

R&R Development Company LLC
By: 
Paul Rothbard, Managing Member

Date

Property Owner Signature

PROJECT MAIN CONTACT/REPRESENTATIVE:

(This is the person who will be the main contact with City Staff, and will receive all correspondence.)

Name (print) Christina Frankel

Firm/Company Derlvi Construction & Architecture, Inc.

Mailing Address 942 N. Yosemite Street - Stockton, CA 95203

Phone 209-462-2873 Fax 209-462-8308 E-Mail cfrankel@dcaala.com

Statement: I will be the main contact and representative of the proposed project with City Staff during the processing of this application. I declare under penalty of perjury that all statements and documents submitted with this application are true and correct to the best of my knowledge.

12.12.08
Date

Christo M. M. Franca
Project Main Contact/Representative Signature

OTHER INVOLVED PARTIES:

Fill in all that apply.
Is the property currently in escrow? If so, to whom? Not currently in escrow
(Write "none" if property is not in escrow.)

Developer/Builder Same as Property Owner

Mailing Address _____

Phone _____ Fax _____

Contractor To be determined

Engineer _____

Architect _____

NAMES OF PRINCIPALS, PARTNERS, AND/OR TRUSTEES:

List the names of any and all principals, partners, and/or trustees where any property owner or developer/builder is a corporation, partnership, or trust. For corporations provide names of officers and directors. For trusts provide names of trustees and beneficiaries.

Owner/developer is not a corporation, partnership or trust. However, as an aid to
review of this application, the following information is provided:

Owner/developer: R&R Development Company LLC

Members: Paul Rothbard, Managing Member; Mort Rothbard



CITY OF VISALIA
PLANNING DEPARTMENT
ENVIRONMENTAL CONDITIONS
REQUIRED FOR ALL PROJECTS

SITE CHARACTERISTICS:

Flood Zone Designation: X-500 Height Of Required Minimum Building Elevation: 35'

Is The Project Site Within A:

Historic District: Yes / No

Specific Plan Or Master Plan Area: Yes / No (If Yes, Name) _____

Special Study Area: Yes / No (If Yes, Name) _____

Agricultural Preserve: Yes / No

Williamson Act Contract: Yes / No If Yes, Preserve # _____ Contract # _____

Has A Notice Of Non-Renewal Been Filed? Yes / No Date Filed: _____

Please Check All Items Applicable To The Project:

_____ Mature Oak Trees On Site Or Within Forty Feet Of The Site

_____ Within Protected Species Or Habitat Area

_____ Evidence of Hazardous Waste Or Previous Hazardous Uses Or Processes Occurring On Site

_____ Waterways Adjacent To The Project Site, And/Or Any Planned Changes In Streams, Waterways, Rivers, Ditches

_____ Known Cultural Resources On Site

_____ Within ¼ Mile Of Any School

_____ Increase In Light Or Glare To Immediate Vicinity After Project Is Completed

_____ Increase In Noise To Immediate Vicinity After Project Is Completed

_____ Within Two Miles Of An Airport



CITY OF VISALIA
PLANNING DEPARTMENT
VARIANCE/EXCEPTION SUPPLEMENTAL
APPLICATION

VERSION 8/29/08 SUPERSEDES ALL PREVIOUS VERSIONS

ACTION DESCRIPTION

Variance Being Requested: Height limit increase from 35' to 44' feet

Existing Code Standard(s): R-1-6 Single Family Residential Zone 17.12.110

Details of Variance/Exception Requested: **(On a separate attached sheet, please provide the applicant's reasoning and analysis pertaining to each of the five required findings that justify the Variance request. Staff's analysis and recommendations on the Variance request will be based in large part on the applicant's analysis for each of the following required findings. EACH FINDING MUST HAVE A SEPARATE JUSTIFICATION. DO NOT COMBINE ALL FIVE FINDINGS INTO ONE NARRATIVE. DESCRIBE EACH OF THE FIVE FINDINGS SEPARATELY.)**

THE PLANNING COMMISSION MUST MAKE THESE FINDINGS FOR A VARIANCE TO BE APPROVED

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

THE PLANNING COMMISSION MUST MAKE THESE FINDINGS FOR A SIGN VARIANCE TO BE APPROVED

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

THE PLANNING COMMISSION MUST MAKE THESE FINDINGS FOR AN EXCEPTION TO BE APPROVED

1. That the granting of the exception will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
2. That the granting of the exception does not create an obstructed visibility that will interfere with traffic safety in the public right-of-way or to adjacent properties;
3. That the exception proposal becomes an integral part of the existing site development (e.g., design, material, contour, height, distance, color, texture).

PROVIDE THE FOLLOWING

- Site Plan (8.5" x 11") Drawn To Scale with Complete Information
- Building Elevations (if height variance/exception is requested)
- Sign Program (if sign variance is requested)

CITY OF VISALIA
PLANNING DEPARTMENT
VARIANCE/EXCEPTION SUPPLEMENTAL APPLICATION

Applicant's Reasoning and Analysis

Applicant is seeking approval of a Variance of Ordinance 17.12.110 of the Visalia Municipal Code ("Ordinance") for the property situated within an R-1 residential zone located at 909 North Demaree Street ("Property"). The Ordinance limits building height in this zone to 35 feet; Applicant is seeking a Variance to allow a height of 43'11" for the main structure on the Property. The existing Property operates as commercial under Conditional Use Permit no. 91-17 ("CUP"). Approval of the requested Variance will allow the Property owner to achieve the highest and best use for the Property in a manner consistent with other comparable commercial properties, with no negative impact to the surrounding residential neighborhood.

Background

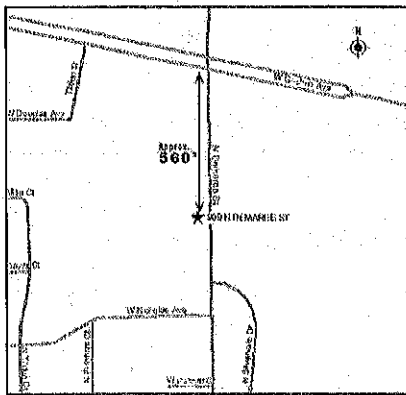


Figure 1: 909 N. Demaree at Goshen

The Property is located on the west side of Demaree Street a short distance south of the intersection of Demaree and Goshen Avenue. [Fig. 1] This nearly 5-acre parcel has been a tennis club at least since 1976 when a conditional use permit was approved for that commercial use. The Property is adjacent to homes to the west and south and other commercial uses to the north. Homes and a golf course are across Demaree to the east. The fitness/tennis club has enjoyed a good reputation over the years and the Property's attractive style and character contributes favorably to the surrounding area.

The property was purchased in 2008 from the previous long-time owner. The current owners have concluded that the 19,030-square foot existing building, last remodeled in 1991, must be renovated, upgraded and expanded to improve the aesthetic and architectural style of the building and to allow the club to expand programs and amenities consistent with industry standards. The building renovation includes a new entrance with clerestory windows, new areas for individual and group exercise, family restrooms, tanning, remodeled locker rooms, and an expanded daycare area. These modifications require a portion of the building's roof line to be raised. The proposed alterations will result in a roof height of 43'11" at the highest point over the entry.

Analysis

I. Strict or literal interpretation and enforcement of the specified regulation would result in practical difficult or unnecessary hardship inconsistent with the objectives of the zoning ordinance.

A literal interpretation of the Ordinance would subject a commercial use operating under a valid conditional use permit within the residential zone to restrictions of that zone. Applying residential regulations to a commercial use under any circumstances forces compliance by an owner to a standard to which that owner would not be subject if the property were situated in a commercial zone and/or the use were a permitted use. In this case, forcing the tennis club to "look" like a residence by restricting its height would result not only in a practical difficulty, but Owner would be entirely unable to make the changes necessary so that the Property's highest and best use can be realized.

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

The Property is, *de facto*, exceptional in that use is governed under the CUP. It is, by virtue of its location within an R-1 zone, distinguished from other properties, *i.e.*, residences, in that zone. Conditions applicable to the Property are those typical of *commercial* properties, and, in this case, these conditions do not apply generally to other properties in the same zone.

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

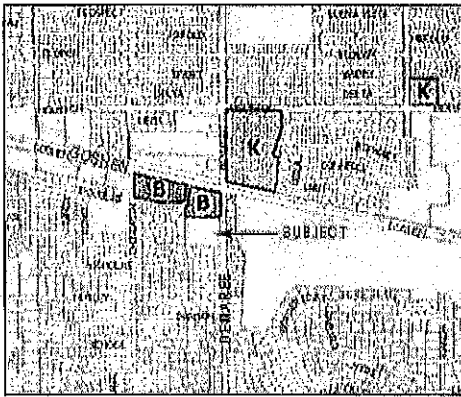


Figure 2: Design Districts Near Subject Property
Source: "Design Districts," 4-24-08, City of Visalia

But for its location within a residential zone, the property and the commercial activity occurring there would be subject to commercial zoning standards. Indeed, *vis a vis* the CUP, the Property is subject to such standards. The conditions associated with, for example, Design District "B" – the adjacent commercial zone to the north – logically can be applied to the Property. [Fig. 2, 3] In the "B" District, building height is restricted to 50 feet. Further, 50 feet is the *minimum* height restriction in all Design Districts except "I" (restrictions range from 30' in Design District "I" to 100' in Design District "D").

The Property has been rendered commercial in nature pursuant to the CUP; hence, it should be treated like other commercial properties. Requiring compliance with residential standards limits the economic benefits the owner can derive; creates an economic hardship for the owner by disallowing full utilization of the Property; and is contrary to the commercial use allowed under the CUP.

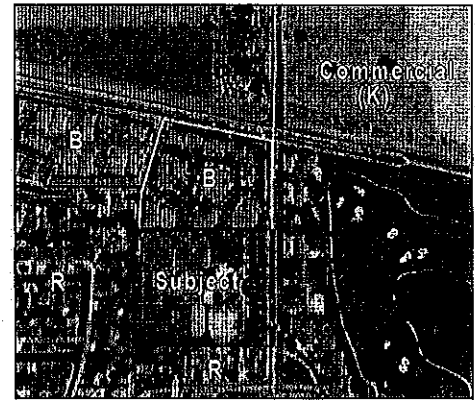


Figure 3: Design Districts, Aerial
R=Residential, B, K=Commercial

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

A property with a commercial use under a conditional use permit within a residential zone cannot be classified with other residential properties in that residential zone. Rather, such a property should be treated in a manner consistent with other properties in commercial zones. Where approval of a 44-foot building height is requested for a building on a property lawfully operating as a commercial use, and where this building height is commensurate with that associated with other commercial structures existing within commercial districts, there can be no finding of special privilege.

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

No connection reasonably can be made between the public health, safety and welfare and the height of the main structure on the Property. Allowing the highest point of the roof to reach 44 feet will have no impact on public health, safety or welfare. No material injury to any properties or improvements in the area is reasonably foreseen.

LIST OF APPLICATION MATERIALS

The following is a list of what materials are required for a complete application. Since each project is unique, each project submittal is reviewed individually. Your project will begin to be processed when the application is complete.

1. **Completed Application Form.** Please note that a legal description of the property is required. The address or assessor's parcel number is not an acceptable legal description. Please also note that a full and detailed written description of the proposal is needed. Include all information pertinent to the proposal (number of residential units, number of employees, hours of operation, square footage of proposed buildings, etc.).
2. **Completed Environmental Check List.** This form is not typically required for variance requests. For other requests, please answer all questions to the best of your knowledge. Please answer all questions even though you feel it may not apply to your project. Staff will prepare an initial study once the application has been accepted as complete. If a more extensive environmental review is required you will be notified within 30 days of submittal of a complete application. Additional fees will be required for a more extensive environmental review.
3. **Completed Agency Authorization Form.** If you are not the property owner of record it is required that the owner authorize you to act as his/her agent. Please also note that land use approvals run with the land rather than the person and therefore being in escrow on a property does not necessarily imply property owner's consent to file an application. "Property owner" means the party whose name appears on the deed. It is not sufficient to have approval of only the party who may have the property in escrow. Failure to secure approval of the "property owner" may invalidate the application.
4. **Complete Hazardous Waste and Substance Sites List Form.** State law requires that applicants review the list of Hazardous Waste and Substance Sites List, which is available at the Planning Counter, and complete a form, which indicates whether or not the subject property is on the list.
5. **Site Plan Review.** If your application involves construction, site plan review is required prior to submittal for Commission consideration and prior to acceptance of applications as complete. Please check with Planning Division to verify that site plan review is required.
6. **Exhibits and Plans.** Plans and exhibits may be required for staff and Commission review. Full size plans (see below for the number) and one set of 8-1/2" x 11" reduction of the plans are required to be submitted with the application. The reduction needs to be clear and readable and suitable for recordation. Your application will be reviewed after submittal to determine if additional data is required. Generally, if the project involves construction, site plans and conceptual elevations will be required. A color and material pallet may be required on major development proposals. Any material you wish the Commission to consider, as a part of your application, needs to be submitted along with the application forms. You are, of course, welcome to present material to the Commission during the hearing; however, it will be treated as new information rather than as a part of the application, and it may cause the hearing to be continued so that the new information can be thoroughly reviewed.

Number of Full Size Plans Required

Conditional Use Permit, Variance/Exception, Change of Zone - 9
Lot Line Adjustments - 4
Tentative Parcel Maps - 25
Tentative Subdivision Maps - 34

7. **Filing Fees.** Filing fees are required to be submitted prior to applications being reviewed for completeness. Fee schedules are available in the Planning Division or will be mailed upon request.
8. **Other Required Material.** Additional material may be required in order for your application to be complete. These items are generally indicated through the Site Plan Review process. However, if additional information is required applicants will be notified of additional required information within 30 days of the initial submittal date.
9. **Filing the Application.** It is highly recommended that you make an appointment with a planner to submit your application. They will review the application with you to go over the materials so you may be aware of any major items still needed. Every attempt will be made to identify outstanding materials during the appointment. You will be notified within 30 days if anything else is needed. If you are unable to make an appointment, a planner will review your submitted application and notify you within two days if anything is needed to complete the application.

If you have any questions regarding how this criterion may apply to a specific project, please do not hesitate to call the Planning Division (713-4359).

ENVIRONMENTAL INFORMATION

1. EXISTING ENVIRONMENTAL SETTINGS:

a. Present use of the site:

Fitness Facility: Racquet and Tennis Club

b. Describe the existing environment. Include information regarding topography, plant life, animals, and any cultural, historical, or scenic aspects. Describe any existing structures on the site and their use. (Attach additional sheets if necessary.)

Existing Fitness Facility (main building) is a one and two-story building, with a parking lot of 70 parking stalls. Other structures include a tennis pavillion with a tennis office beneath, two tennis cabanas (open shade structures) between tennis courts, and two stand alone maintenance sheds. The site has eleven tennis courts, a spa and pool, a half basketball/handball court, and a dirt jogging path, and is relatively flat. There are mature trees along the property line, in the parking lot and along the street frontage.

c. Describe surrounding properties including information regarding land use and natural features:

NORTH: Commercial Use

SOUTH: Single Family Residential

EAST: Single Family Residential (across Demaree); Golf Course

WEST: Single Family Residential

2. ENVIRONMENTAL IMPACTS:

Are the following items applicable to the project? NOTE: All items checked YES and MAYBE should be explained. Please attach explanations as necessary.

YES	MAYBE	NO	
		X	a. Change in the existing features of any streams, lakes or hills, or substantial alteration of ground contours?
		X	b. Change in stream, river or ground water quality or quantity, or alteration of existing drainage patterns?
	X*		c. Change in air quality including change in dust, ash, smoke, fumes, or odors in the vicinity? * During construction only possibility of change in dust levels
		X	d. Change in plant life including reduction of any rare or endangered species, or reduction in land currently in agricultural use?
		X	e. Change in animal life including changes in diversity/number of species and impacts to rare or endangered species?
	X*		f. Increase in existing noise levels or exposure of people to severe noise levels? * During construction only there is possibility of increased noise
		X	g. Increase in light or glare within the vicinity?
		X	h. Increase in significant amounts of solid waste or litter?
		X	i. Change in planned land use for the area including changes in population density, character, or housing demand?
		X	j. Change in the rate of use or depletion of any natural resources?
		X	k. Substantial increase or impact to vehicle movement, parking or transportation system?
		X	l. Substantial impact to public services such as police, fire, schools, parks, or street maintenance?
		X	m. Impact to or alteration to existing utilities?
		X	n. Substantial increase in energy consumption?
		X	o. Impact to human health or exposure of people to potential health hazards?
		X	p. Change in scenic views or vistas?
		X	q. Alteration of significant archaeological, historical site or structure?

**SUPPLEMENTAL INFORMATION FOR APPLICATIONS
FOR ANY DEVELOPMENT PROJECT**

Section 65962.5(f) of the California Government Code states:

(f) Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site which is included on any of the lists compiled pursuant to this section and shall specify any list. If the site is included on a list, and the list is not specified on the statement, the lead agency shall notify the applicant pursuant to Section 65943.

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

The development project and any alternatives proposed in this application are contained on the lists compiled pursuant to Section 65962.5 of the Government Code. Accordingly, the project applicant is required to submit the following signed statement:

I have reviewed the "Identified Hazardous Waste Sites" list dated _____, 19____, and state that:

The site(s) of the project subject to this application is is not on the "Identified Hazardous Waste Sites" list.

Name of applicant: Derivi Construction & Architecture, Inc.

Applicant's Address: 924 N. Yosemite Street - Stockton, CA 95203

Phone number: 209/462-2873

Address of site: 909 N. Demaree 93291
(street name and number if available, and ZIP Code):

Local agency (city/county): City of Visalia

Assessor's book, page, and parcel number: 085-212-019-000

Specify any list pursuant to Section 65962.5 of the Government Code: None

Regulatory identification number: N/A

Date of list: --

CERTIFICATION:

I hereby certify that the information furnished herein presents to the best of my knowledge and belief, true and correct facts, statements, and information, and that I am the owner, or the authorized agent of the owner, of the subject property.

Signed: *Chris M. Fernald* Date: 12.12.08

Complete this form for all types of permits, except building permits.

AGENCY AUTHORIZATION

OWNER:

I, R&R Development Company LLC, declare as follows:
(Owners Name)

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

085-212-019-000

AGENT:

I designate Derivi Construction & Architecture, to act as my duly authorized
(Agent's Name) (Please type or print)

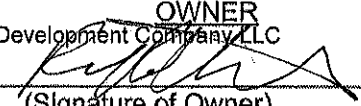
agent for all purposes necessary to file an application for, and obtain a

Variance
(Action Sought)

relative to the property mentioned herein.

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

Executed this 3rd day of December, 2008

OWNER R&R Development Company LLC	AGENT Derivi Construction & Architecture
By: <u></u> (Signature of Owner)	By: _____ (Signature of Agent)
<u>1016 E. Bianchi Rd., Suite A-1</u> (Owner Mailing Address)	<u>924 N. Yosemite Street</u> (Agent Mailing Address)
<u>Stockton, CA 95210</u>	<u>Stockton, CA 95203</u>
<u>209-472-2231</u> (Owner Telephone)	<u>209-462-2873</u> (Agent Telephone)

APPROVED:

CITY OF VISALIA

By: _____
(Signature)

Date: _____

*NOTE: OWNER'S SIGNATURE MUST BE NOTARIZED. Attach acknowledgment of signature(s) by Notary Public.

