

CITY OF FRESNO
CATEGORICAL EXEMPTION
FOR
DEVELOPMENT PERMIT D-17-120
STREET VACATION FILE NO. 13213

City of Fresno
Planning and Development Department
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**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT FOR
DEVELOPMENT PERMIT APPLICATION NO. D-17-120**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES¹

- PROJECT TITLE:** Development Permit Application No. D-17-120 (“Project” or “proposed Project”)
- APPLICANT:** Zinkin & Penny, LLC
- PROJECT LOCATION:** The Project site is located in Fresno, California on the southeast corner of North Fresno Street and East Shaw Avenue at 417 E Shaw Ave, Fresno, CA 93710 (**Figure 1**). The Project site consists of one (1) parcel that is 0.22 acres in size. The site is identified by Fresno County Assessor as Assessor’s Parcel Number (APN) 427-030-01.
- GENERAL DESIGNATION:** **PLAN** The Project site has a planned land use designation of Commercial – Regional (**Figure 2**).
- ZONING:** The Project site is within the Commercial Regional (**Figure 3**).
- PROJECT DESCRIPTION:** The Applicant proposes the development of an approximately 2,240 square-foot (sf.) commercial retail shell building of the property located on the southeast corner of North Fresno Street and East Shaw Avenue at 417 East Shaw Avenue, Fresno, CA 93710. The Project site consists of one (1) parcel that is 0.22 acres in size. As part of the proposed Project, Development Permit No. D-17-120 and Variance No. V-17-009 were approved on June 21, 2018. Building Permit No. B22-14922 was issued on 1/24/2023 for tenant improvement for an AT&T store to be constructed in the new shell building while it was under construction pertaining Building Permit No. B22-0195. In addition, Signs Application No. P22-04668 was approved on 12/20/2022 and the Sign Permit No. B22-18834 was issued on 1/3/2023 for the installation of (3) illuminated outdoor signs. Currently, the Applicant proposes a Street Vacation of approximately 68.88 square feet along North Fresno Street (File No. 13213) (**Figure 4**). This vacation is an existing easement.

¹ Public Resources Code 210000-21189 and California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000-15387 available from <http://leginfo.ca.gov> and <http://ccr.oal.ca.gov>

The Project site is currently developed with the proposed 2,240-sf. commercial retail shell building with improvements along North Fresno Street and East Shaw Avenue, including curb, gutter, sidewalk, streetlight, etc. There are also parking stalls and landscaping that are currently under construction on the site. No water features exist on site. The building will be operated by AT&T for retail uses.

Since physical development of the site has been approved and is under construction, the Project analyzed below only includes the proposed vacation.

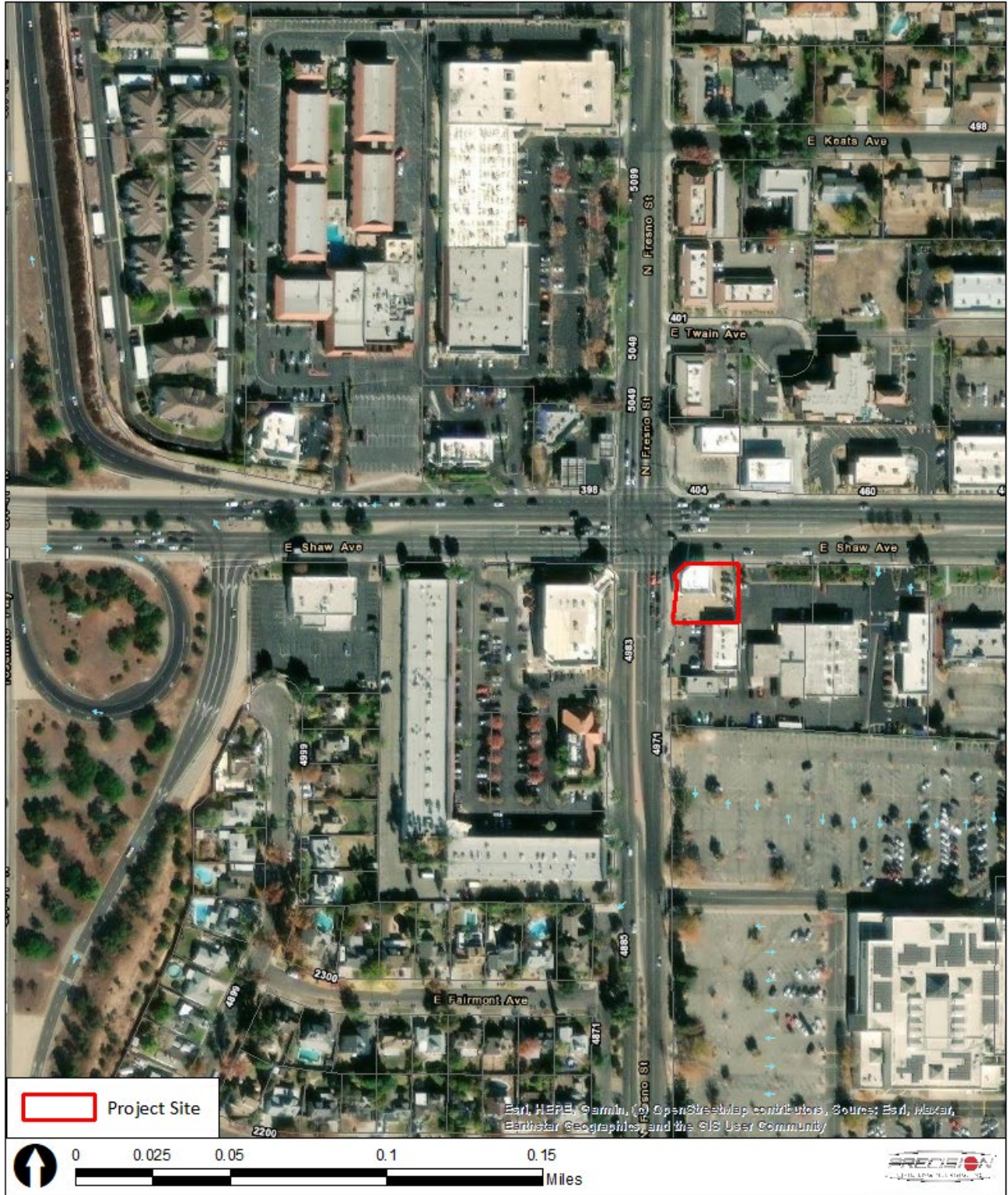


Figure 1. Project Regional Location

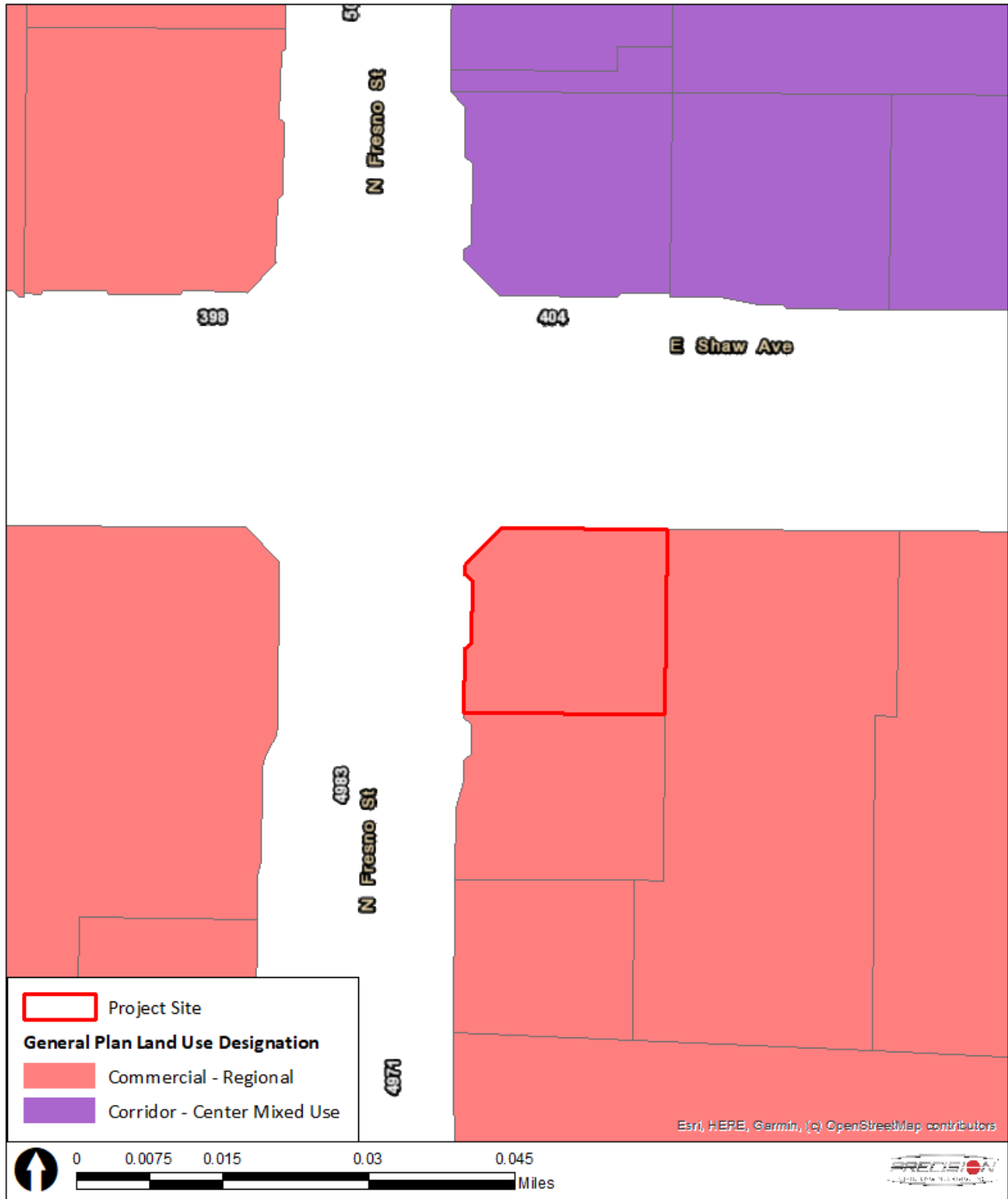
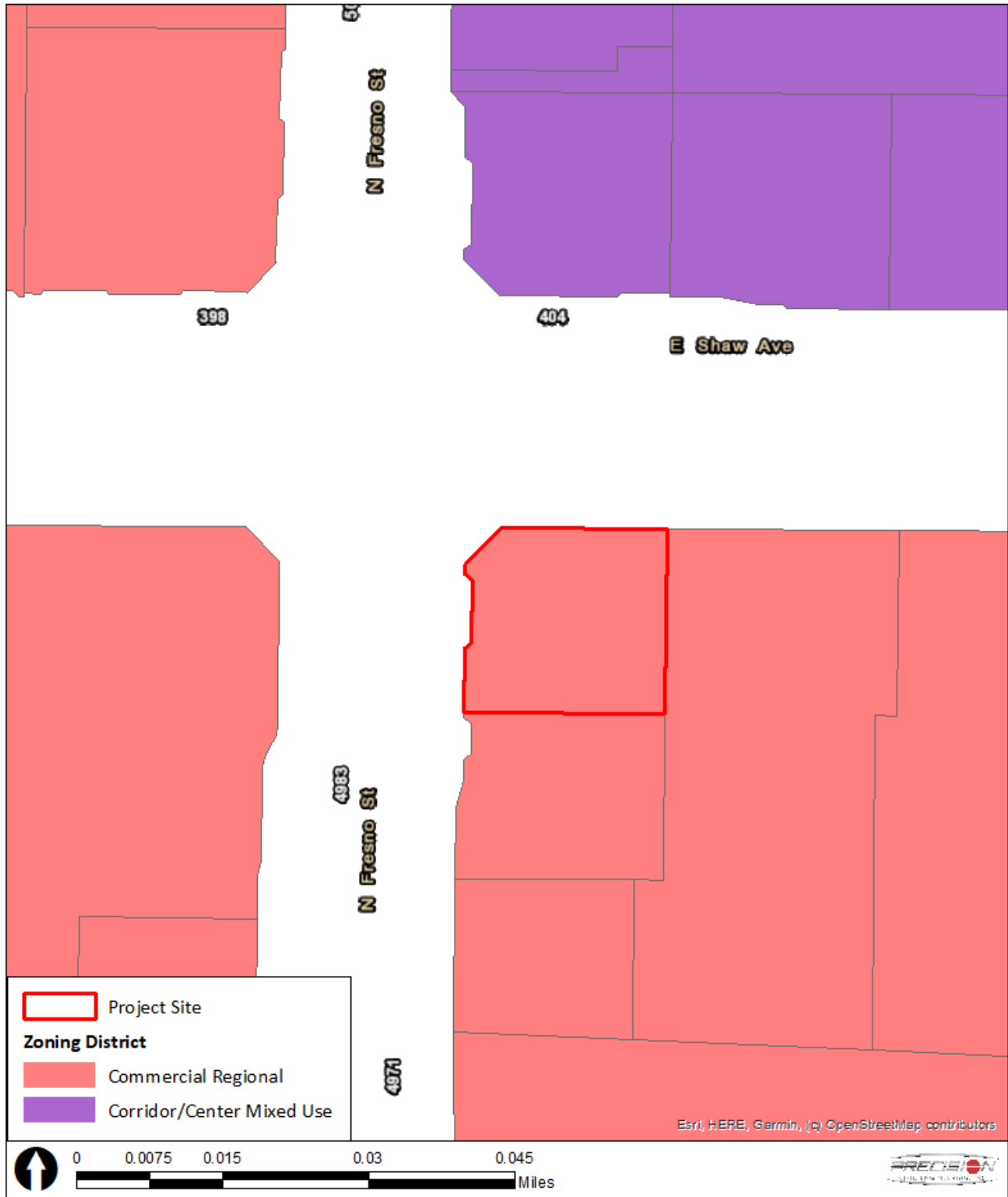


Figure 2. General Plan Land Use Designation Map



CREATED 7/14/2023

Figure 3. Zoning Map

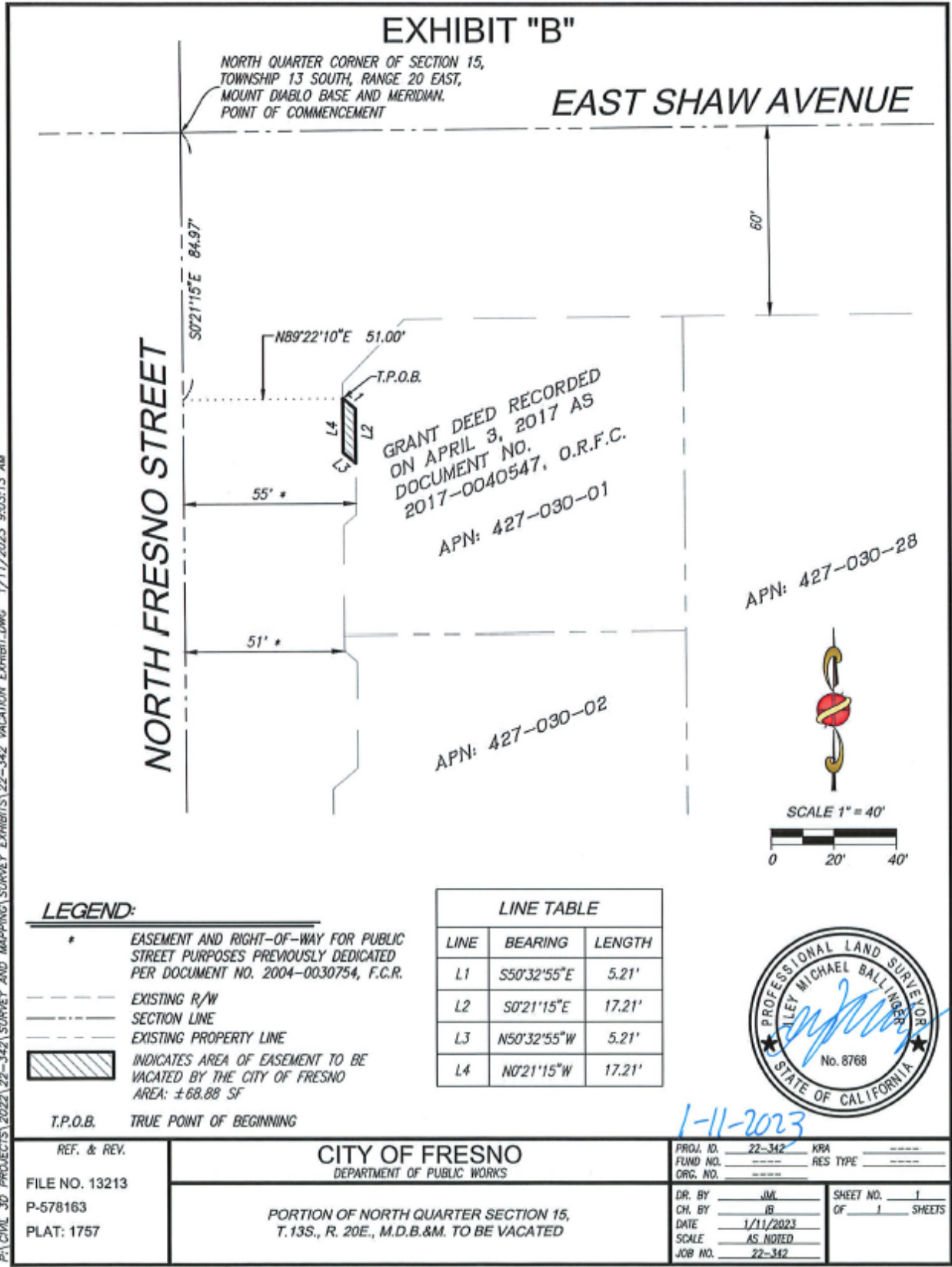


Figure 4. Signed Street Vacation Exhibit

This project is exempt under Section 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines.

Under Section 15332/Class 32, the Project is exempt from CEQA requirements. Section 15332/Class 32 consists of projects characterized as in-fill development meeting conditions described below.

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c) The project site has no value as habitat for endangered, rare, or threatened species.
- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- e) The site can be adequately served by all required utilities and public services.

The following is an analysis of how the Project meets all conditions required to be exempt under Section 15332/Class 32 of the CEQA Guidelines.

a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. According to the Fresno General Plan, the Project site has a planned land use designation of Commercial – Regional. The Commercial – Regional land use designation is intended to *“meet local and regional retail demand, such as large-scale retail, office, civic and entertainment uses; shopping malls, with large format or “big-box” retail allowed; and supporting uses such as gas stations, and hotels. Buildings typically have relatively large footprints.”* The proposed Project, an AT&T service/retail store, provides local retail demand, and is thus consistent with this land use designation. In addition, as shown in **Table 1** below, the Project is generally consistent with the applicable General Plan policies for commercial development within the city.

Table 1. Project Consistency with Applicable General Plan Policies

<i>Objective LU-6. Retain and enhance existing commercial areas to strengthen Fresno’s economic base and site new office, retail, and lodging use districts to serve neighborhoods and regional visitors.</i>	
Implementing Policies	Project Consistency
LU-6-a. Design of Commercial Development. Foster high quality design, diversity, and a mix of amenities in new development with uses through the consideration of guidelines, regulations and design review procedures.	Consistent. The Project has been reviewed and approved by the city’s planning department to ensure that the Project are compliant with regulations and design standards within the City of Fresno Municipal Code.
LU-6-f. Auto-Oriented Commercial Uses. Direct highway-oriented and auto-serving commercial uses to locations that are compatible with the Urban Form policies of the General Plan. Ensure adequate buffering measures for adjacent residential uses, noise, glare, odors, and dust.	Consistent. The Project site is in proximity with State Route 41. The Project is surrounded by commercial development to the north, south, east, and west. In addition, the Project operations includes an AT&T service store which would not create substantial noise, odors, or dust. Glare and lighting impacts are mitigated through compliance with the City of Fresno

	Municipal Code. As such, the Project is not anticipated to create substantial noise, glare, odors, and dust impacts to residential uses.
<i>Objective LU-2. Plan for infill development that includes a range of housing types, building forms, and land uses to meet the needs of both current and future residents.</i>	
Implementing Policies	Project Consistency
LU-2-a. Infill Development and Redevelopment. Promote development of vacant, underdeveloped, and re-developable land within the City Limits where urban services are available by considering the establishment and implementation of supportive regulations and programs	Consistent. The Project site is within an infill area surrounded by existing urbanized development. In addition, the site was previously developed with commercial uses (lock smith) a couple years ago.

Therefore, the Project is consistent with the applicable general plan designation and all applicable general plan policies.

The Project site is within the CR – Commercial Regional Zone District. According to Section 15-1201 of the Fresno Municipal Code, the *“CR district is intended to meet local and regional retail demand, such as large-scale retail, office, civic and entertainment uses, shopping malls with large-format or “big-box” retail, and supporting uses such as gas stations and hotels. Buildings are typically larger-footprint and urban-scaled. Development and design standards will create a pedestrian-orientation within centers and along major corridors, with parking generally on the side or rear of major buildings, but automobile-oriented uses also will be accommodated on identified streets and frontages.”*

According to use regulations for commercial districts, business services and general retail are permitted in the CR Zone District. The development of the Project has been reviewed and approved by the City during the entitlement review process to meet all applicable zoning regulations including but not limited to density, intensity, and massing development standards (FMC Section 15-1203), site design development standards (FMC Section 15-1204), and façade design development standards (FMC Section 15-1205). Through compliance, it can be determined that the Project is consistent with the zoning designation and associated regulations.

- b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.** The Project site consists of one (1) parcel that is 0.22-acres in size. In addition, the proposed Street Vacation would decrease the size of the Project site by 68.88 square feet.

The site is located within Fresno city limits. The site is designated by the Fresno General Plan for commercial use. Surrounding existing uses and structures include commercial uses to the north, south, east, and west. Existing uses within the broader Project vicinity (i.e., 0.25-mile radius) comprise a mix of commercial, residential, and public institutional uses. Thus, the Project occurs within city limits on a site with an area of work that is no more than five (5) acres and is substantially surrounded by urban uses.

- c) The project site has no value as habitat for endangered, rare, or threatened species.** The existing biotic site conditions and resources can be defined primarily as urban. The

Project site was previously developed with commercial use including a lock smith store, paved parking lot, and improvements. Currently, the Project site is under construction with a fully-built building. There are no existing natural elements on site such as vegetative cover, native trees and plant species, or water features. In addition, the site is within an established urban neighborhood and is surrounded by existing commercial, residential, and public institutional uses. Consequently, the site and surrounding area are highly disturbed and lack cover, vegetation, and water features that would otherwise provide habitat for special status species. Thus, the Project site has no value as a habitat for endangered, rare, or threatened species and no impact would occur as a result of the Project.

d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

- i. **Traffic.** Senate Bill (SB) 743 requires that relevant CEQA analysis of transportation impacts be conducted using a metric known as vehicle miles traveled (VMT) instead of Level of Service (LOS). VMT measures how much actual auto travel (additional miles driven) a proposed project would create on California roads. If the project adds excessive car travel onto our roads, the project may cause a significant transportation impact.

The State CEQA Guidelines were amended to implement SB 743, by adding Section 15064.3. Among its provisions, Section 15064.3 confirms that, except with respect to transportation projects, a project's effect on automobile delay shall not constitute a significant environmental impact. Therefore, LOS measures of impacts on traffic facilities is no longer a relevant CEQA criteria for transportation impacts.

CEQA Guidelines Section 15064.3(b)(4) states that “[a] lead agency has discretion to evaluate a project’s vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure. A lead agency may use models to estimate a project’s vehicle miles traveled and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate VMT and any revision to model outputs should be documented and explained in the environmental document prepared for the project. The standard of adequacy in Section 15151 shall apply to the analysis described in this section.”

On June 25, 2020, the City of Fresno adopted CEQA Guidelines for Vehicle Miles Traveled Thresholds, dated June 25, 2020, pursuant to Senate Bill 743 to be effective of July 1, 2020. The thresholds described therein are referred to herein as the City of Fresno VMT Thresholds. The City of Fresno VMT Thresholds document was prepared and adopted consistent with the requirements of CEQA Guidelines Sections 15064.3 and 15064.7. The December 2018 Technical Advisory on Evaluating Transportation Impacts in CEQA (Technical Advisory) published by the Governor’s Office of Planning and Research (OPR), was utilized as a reference and guidance document in the preparation of the Fresno VMT Thresholds.

The City of Fresno VMT Thresholds adopted a screening standard and criteria that can be used to screen out qualified projects that meet the adopted criteria from needing to prepare a detailed VMT analysis.

The City of Fresno VMT Thresholds Section 3.0 regarding Project Screening discusses a variety of projects that may be screened out of a VMT analysis including specific development and transportation projects. For development projects, conditions may exist that would presume that a development project has a less than significant impact. These may be size, location, proximity to transit, or trip-making potential.

The proposed Project is eligible to screen out because the Project is within 0.50-miles of a Transit Priority Area and a High-Quality Transit Area. In particular, the Project is within 0.25-miles from four (4) bus stops located on East Shaw Avenue and North Fresno Street (Route 09 and Route 32). As a result, the Project can be presumed to have a less than significant transportation impact pursuant to the Project Screening identified in the City of Fresno Guidelines for VMT Thresholds.² In conclusion, the Project will result in a less than significant VMT impact and is consistent with CEQA Guidelines section 15064.3(b).

- ii. **Noise.** The Project site is an infill site located within an urban neighborhood surrounded by existing urban uses including commercial and residential uses. As such, there are existing ambient noise levels that are typical of these types of developments including traffic and transit. As such, there are existing ambient noise levels that are typical of these types of developments including traffic and transit. Development of the site for an AT&T service store would not generate a new, noise generating source that would not otherwise occur in the Project vicinity. In addition, the closest sensitive land uses (single-family residences) are more than 500 from the site. While the Project would require construction, construction-related noise impacts would be temporary, short-term, and subject to compliance with FMC Section 10-109, which limits construction hours. Operational uses would not create significant noise impacts since no amplifying system is proposed. For these reasons, the Project would not result in any significant effects relating to noise.
- iii. **Air Quality.** The Project would not have any significant effects relating to air quality pursuant to the San Joaquin Valley Air Pollution Control District (SJVAPCD) Small Project Analysis Level (SPAL) based on pre-quantified emissions and determined values related to project type, size, and number of vehicle trips. According to the SPAL, projects that fit specified descriptions are deemed to have a less than significant impact on air quality and as such are excluded from quantifying criteria pollutant emissions for CEQA purposes. Based on the Project description, the applicable land use types for the proposed Project include the Strip Mall (closest use type to service store). The corresponding thresholds for these land uses are shown in **Table 2** below.

² In accordance with SB 743, "Transit Priority Areas" are defined as "an area within one-half miles of a major transit stop that is existing or planned," a "High-Quality Transit Area" is a corridor with fixed route bus service with service internals no longer than 15 minutes during peak commute hours," and a "Major Transit Stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service of 15 minutes or less during the morning and afternoon peak commute periods."

Table 2. SPAL Thresholds for Applicable Uses

Land Use Type: General Light Industrial	Size/Unit	Average Daily One-Way Trips for all fleet types (except HHDT)	Average Daily One-Way for HHDT Trips only (50 mile trip length)
<i>SPAL Thresholds</i>	49,600 sf.	375	7
<i>Proposed Project</i>	2,240 sf.	133	0
Below Threshold?		Yes	Yes

Altogether, the proposed Project generates under the 375 ADT threshold and thus the Project would have a less than significant impact on air quality and is excluded from quantifying criteria pollutant emissions for CEQA purposes.

iv. **Water Quality.** The Project site is an infill site that was previously developed. Development of the Project would require connections to existing utilities including water and stormwater systems. Further, runoff resulting from development of the site would be managed by the Fresno Municipal Flood Control District (FMFCD) in compliance with the Storm Drainage and Flood Control Master Plan in addition to approved grading and drainage plans. Thus, compliance with existing regulations including the General Construction Permit, BMPs, and Storm Drainage and Flood Control Master Plan would reduce potential impacts related to water quality and waste discharge to less than significant levels.

e) **The site can be adequately served by all required utilities and public services.**

i. **Utilities and Service Systems.** Because the site is previously developed and located within an urban neighborhood surrounded by existing uses, there is existing utility infrastructure including water, sewer, stormwater, natural gas, electricity, and telecommunication services to which the Project would connect. Further, the Project has been reviewed and approved by the City and responsible agencies through the entitlement review process. The entitlement review process ensured that the Project is developed in accordance with applicable regulations including the permitted density, intensity, and massing development standards. Consequently, the Project would be consistent with the planned land use previously accounted for in the Fresno General Plan and subsequent utility master plans including the 2020 Urban Water Management Plan and 2015 Wastewater Collection System Master Plan. For these reasons, it can be determined that the Project would not require or result in the relocation or construction of new or expanded facilities and thus, can be adequately served by all required utilities and service systems.

ii. **Public Services.** The Project is located within Fresno city limits and thus, would be subject to fees for the construction, acquisition, and improvements for public services including fire protection, police protection, schools, parks and recreation, and other public facilities such as libraries and post offices. The Project has been reviewed and approved by the Fire Department, Police Department, and School District. As such, it can be determined that the Project would not result in the need for new or altered facilities and as a result, a less than significant impact would occur.

Based on the analysis contained above, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this Project as analyzed in the following:

- a) *Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, Class 3 is considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.*

Classes 3 (New Construction or Conversion of Small Structures), 4 (Minor Alterations to Land), 5 (Minor Alterations in Land Use Limitations), 6 (Information Collection), and 11 (Accessory Structures) are not applicable to the proposed Project, therefore such location considerations are not applicable.

- b) *Cumulative Impact. All exemptions for this class are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. (“Cumulative Impact” is defined as the condition under which “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts,” pursuant to CEQA Guidelines Section 15355)*

The Project proposes a use that is consistent with and permitted by the Fresno General Plan and FMC. Adherence to the applicable policies and regulations would ensure that implementation of successive projects of the same type in the same place, over time would not constitute a significant, cumulative impact.

- c) *Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.*

Based on the analysis provided above, the Project is not expected to have a significant effect on the environment due to unusual circumstances. The Project is proposed on a previously developed site within an urban neighborhood and there are no unusual circumstances with regard to the site, its location, or surroundings. The proposed senior center and housing are uses that are permitted within the planned land use designation and zone district. Since the site and surrounding area are already developed and the proposed use is permitted, and is easily accommodated on the site, there is no reasonable possibility that the activity would have a significant effect on the environment due to unusual circumstances.

- d) *Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources within a highway officially designated as a state scenic highway.*

According to the California State Scenic Highway System Map, the Project is not located near a State-designated scenic highway and therefore, the Project would not damage scenic resources within a state scenic highway.

- e) *Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. The Project is not located on a site that is included in any list compiled pursuant to Section 65962.5 of the Government Code.*

A search of the California Department of Toxic Substance Control's EnviroStor database³ and the State Water Resources Control Board's GeoTracker database⁴ reveal no hazardous material release sites on the Project site. Thus, no impact would occur.

- f) *Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.*

According to the Fresno General Plan, there are no local, state, or federal designated historical resources on the Project site or within the Project Area (i.e., ½-mile radius).

Overall, the Project is consistent with the applicable general plan designation and policies as well as the applicable zoning designation and regulations. It occurs within city limits on a site less than five (5)-acres in size within an urbanized area. The highly disturbed site within an urbanized area has no value as habitat for endangered, rare, or threatened species. Further, the Project would not result in any significant effects relating to traffic, noise, air quality, or water quality and can be adequately served by all required utilities and public services. As such, the proposed Project is not expected to have a significant effect on the environment. Accordingly, a categorical exemption, as noted above, has been prepared for the Project.

Date: July 14, 2023

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³ California Department of Toxic Substances Control. Envirostor. Accessed July 14, 2023, <https://www.envirostor.dtsc.ca.gov/public/>

⁴ California State Water Resources Control Board. GeoTracker. Accessed July 14, 2023, <https://geotracker.waterboards.ca.gov/>