

**REGULAR MEETING AGENDA
CITY OF MADERA
PLANNING COMMISSION**

**COUNCIL CHAMBERS - CITY HALL
TUESDAY
August 11, 2015
6:00 pm**

CALL TO ORDER

ROLL CALL

Commissioner Kenneth Hutchings (Chairperson)
Commissioner Ruben Mendoza (Vice Chairperson)
Commissioner Robert Gran, Jr.
Commissioner Bruce Norton
Commissioner Pamela Tyler
Commissioner Jim DaSilva
Commissioner Jeff Dal Cerro

INTRODUCTION OF STAFF

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

The first fifteen minutes of the meeting are reserved for members of the public to address the Commission on items which are within the subject matter jurisdiction of the Commission. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Chairperson has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Commission is prohibited by law from taking any action on matters discussed that are not on the Agenda and no adverse conclusions should be drawn if the Commission does not respond to public comment at this time.

MINUTES: None

CONSENT ITEMS: None

NON-PUBLIC HEARING ITEMS

NP1. CUP 2013-16 & SPR 2013-18 - Auto Dock

A review of the performance of Conditional Use Permit 2013-16 and Site Plan Review 2013-18, a conditional use permit and site plan review allowing for the establishment of an automobile repair shop.

PUBLIC HEARING ITEMS

1. GPA 2015-01 – City of Madera 2016-2024 Housing Element

A noticed public hearing to consider adoption of a resolution recommending to the City Council adoption of the 2016-2024 Housing Element of the Madera General Plan. An Addendum to the 2009 General Plan Environmental Impact Report has also been prepared pursuant to CEQA Guidelines Section 15162 and 15164.

2. CUP 2011-18 MOD & SPR 2015-22 – Super Auto Smog

A noticed public hearing to consider modification of a conditional use permit and site plan review to allow for the establishment of an automotive repair shop where a transmission repair facility was originally permitted. The project site is located on the west side of the intersection of North E Street and 5th Street (128 North E Street), in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 007-074-005). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

**3. CUP 2002-07 MOD2 & SPR 2015-21 – Rescue Mission Refrigeration Unit
(Staff requests that this item be continued to September 8, 2015)**

A noticed public hearing to consider modification of a conditional use permit and site plan review to allow for the removal of a cold box and the placement of a refrigeration unit at the Madera Rescue Mission. The Rescue Mission is located at the northwest corner of Elm Avenue and Clinton Street in the R2 (Residential) and PD-4500 (Planned Development) Zone District, with a MD (Medium Density) and LD (Low Density) General Plan land use designation. The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15303.

4. CUP 2009-14 – BJ's Liquor/Stereo Express (Consideration of Revocation)

A noticed public hearing to consider revocation of Conditional Use Permit 2009-21, which allowed for the operation of an automotive repair/car stereo installation use in an existing building at BJ's Gas and Liquor on the southeast corner of the intersection of the North Gateway Drive and East 4th Street (225 North Gateway Drive) in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 007-072-001). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

ADMINISTRATIVE REPORTS

COMMISSIONER REPORTS

ADJOURNMENT: The next regular meeting will be held on September 8, 2015.

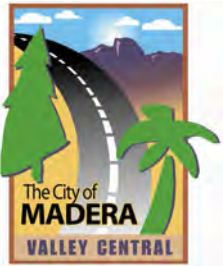
Any writing related to an agenda item for the open session of this meeting distributed to the Planning Commission less than 72 hours before this meeting is available for inspection at the City of Madera Planning Department, 205 W. 4th Street, Madera, CA 93637 during normal business hours.

In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation in the public meeting should be made at least seventy-two (72) hours before the meeting. Please call the Human Resources Office at (559) 661-5401. Those who are hearing impaired, may call 711 or 1-800-735-2929 for TTY Relay Services.

Pursuant to Section 65009 of the Government Code of the State of California, notice is hereby given that if any of the foregoing projects or matters is challenged in Court, such challenge may be limited to only those issues raised at the public hearing, or in written correspondence delivered to the Planning Commission at or prior to the public hearing.

All Planning Commission actions may be appealed to the City Council. The time in which an applicant may appeal a Planning Commission action varies from 10 to 30 days depending on the type of project. The appeal period begins the day after the Planning Commission public hearing. There is NO EXTENSION for an appeal period.

Para asistencia en Español sobre este aviso, por favor llame al (559) 661-5430.



<p>CITY OF MADERA</p> <p>PLANNING COMMISSION</p>	<p>205 W. Fourth Street Madera CA 93637 (559) 661-5430</p>
--	--

Staff Report: General Plan Amendment – GPA 2015-01
Update of the General Plan Housing Element
Item #1 – August 11, 2015

PROPOSAL: A noticed public hearing to consider adoption of a resolution recommending to the City Council adoption of the 2016-2024 Housing Element update of the Madera General Plan.

APPLICANT:	City of Madera	OWNER:	Citywide
ADDRESS:	N/A	APN:	N/A
APPLICATION:	GPA 2015-01	CEQA:	2009 Madera General Plan EIR and Addendum

LOCATION: Citywide

PARCEL SIZE: Not Applicable

GENERAL PLAN DESIGNATION: Not Applicable

ZONING DISTRICT: Not Applicable

ENVIRONMENTAL REVIEW: An Addendum to the 2009 General Plan Environmental Impact Report has been prepared pursuant to CEQA Guidelines Section 15162 and 15164.

SUMMARY & RECOMMENDATION: The proposed amendment, updating the Housing Element of the General Plan meets the statutory requirements of state housing law. With adoption by the City, the 2016-2024 Housing Element will be forwarded to the state Department of Housing and Community Development Department for formal approval.

APPLICABLE CODES AND PROCEDURES

Gov. Code §65358 General Plan Amendments

Gov. Code Article 10.6 Housing Element Law

PRIOR ACTION

In preparation for the update of the Housing Element, the Planning Commission approved Rezone 2014-02 on February 10, 2015. Rezone 2014-02 rezoned specific parcels in order to provide consistency with the General Plan and compliance with the previously adopted 2010 Housing Element. The City Council approved the rezoning ordinance on March 18, 2015. The Planning Commission also approved Ordinance Amendment 2015-01 on April 14, 2015. Ordinance Amendment 2015-01 recommended several text amendment to the zoning ordinance in order to be in compliance with the State Department of Housing and Community Development requirements for qualification for the Housing Element streamlined review process. The City Council approved the ordinance amendment on May 20, 2015. Multiple public workshops were also held as part of the Housing Element update process.

ANALYSIS

Housing Element Process

Housing elements are one of the mandatory elements of a General Plan. They are the only element that requires specific approval by the State. The State Department of Housing and Community Development "HCD" is the State agency responsible for reviewing housing elements. Every City and County is required to update and have their housing element certified on a four year cycle (Compliance with SB 375 extended this to eight years). With formal adoption of this 2015 update, the City will qualify for the eight year, 2016-2024, cycle.

The Housing Element contains the City's goals, policies, and strategic plan for addressing the most critical housing needs in the community over the coming years. The Housing Element is designed to provide the City with a coordinated and comprehensive strategy for promoting the production of safe, decent and affordable housing within the community. Housing element law requires a quantification and analysis of existing housing needs, including:

- Identification of population and employment trends;
- Household characteristics (i.e., existing households, existing extremely low income households, low and extremely low income households overpaying, overcrowded households);
- Special needs (i.e., number of persons with disabilities, number of persons with developmental disabilities, female headed households);
- Projected needs; and
- Inventory of at-risk units.

Streamlining

The HCD has recognized that local governments and its own staff are facing resource challenges. At the same time, for many local governments much of the information in their existing housing elements is still current and/or particular conditions and circumstances have not changed significantly since the last housing element update. Recognizing these circumstances, HCD created a streamlined review process that jurisdictions may use to reduce the time and resources needed to update the Housing Element. The streamlined review process allows jurisdictions to update areas of the existing Housing Element where changes have occurred instead of conducting a comprehensive update. HCD in turn focuses its review on those sections of the housing element that have changed.

In order to use HCD’s streamlined review process, a jurisdiction must document that its existing housing element was adopted and found to be in compliance with State housing element law, and that the jurisdiction’s policies, regulations, and procedures meet the requirements of State housing law. Specifically, the jurisdiction must document compliance with five items: 1) implementation of a housing element rezone program (if applicable), 2) adoption of emergency shelter provisions, 3) adoption of transitional and supportive housing provisions, 4) adoption of reasonable accommodation procedures, and 5) consistency with State density bonus law.

The City qualified for and utilized the streamlined review process in completing the 2016-2024 Housing Element update. The modifications and/or additions to the draft Housing Element are highlighted in yellow.

Regional Housing Needs Allocation

HCD also establishes specific housing goals known as the Regional Housing Need Allocation “RHNA” that projects how many housing units will be needed in each jurisdiction to accommodate the increasing population during the next housing element certification cycle and estimates what percentages of that housing need to accommodate the five income levels as shown below.

Normally, there is ample opportunity for moderate and above moderate housing. Low and very low income housing is more difficult to develop due to fiscal constraints. One of the basic premises that HCD maintains is that low income housing is only possible where the allowed density is high. Housing elements must contain an inventory of vacant land that demonstrates that there are sufficient acreages of high density zoning to facilitate the potential development of the RHNA projections for low and very low income housing.

Income Category	RHNA DU	Percentage of Total
Above Moderate Income	2600	43%
Moderate Income	1091	18%
Low Income	1056	17%
Very Low Income	676	11%
Extremely Low Income	676	11%
Total	6,099	100%

However, it is a reasonable argument that density is only one of many factors that influence the affordability of housing, and that other factors such as land costs and increased costs per square foot for multi-story construction can be equally important to affordable projects. It is important to remember that the properties are now not only limited to a maximum density of development, but are also required to build at minimum and target densities as called for in the General Plan. Properties given higher densities cannot simply elect to develop at lower densities without having the land use designation and zoning reduced through formal amendments.

The 2016-2024 Housing Element update identifies a surplus of properties, providing ample land to satisfy the housing goals of the RHNA and the City.

Need for Certification

In order for final certification, the Planning Commission must adopt of a resolution recommending to the City Council adoption of the 2016-2024 Housing Element update of the Madera General Plan. The HCD has already provided a statement that the draft housing element meets the requirements and will comply with state housing element law when adopted by the City and submitted to the HCD for final approval.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

The first of the four core vision statements in the Vision Plan is “a well-planned city”. Adopting a certifiable housing element supports this essential concept. The project is also consistent with the following specific Vision 2025 strategies:

- Strategy 101.7, Create an assessment of existing housing inventory to determine the gap between affordability and income.
- Strategy 101.8, Promote and encourage development and redevelopment of low and moderate cost housing.
- Strategy 101.9, Promote development of new affordable housing oriented to the senior market.

SUMMARY OF RECOMMENDATIONS

The information presented in this report supports a recommendation to the City Council to approve the proposed General Plan amendment updating the Housing Element and providing consistency with the state housing element law. It is recommended that the Commission consider this information, together with testimony provided at the public hearing, and adopt a resolution making such recommendations to the City Council.

PLANNING COMMISSION ACTION

The Commission will be making a recommendation to the City Council regarding the proposed amendment of the Housing Element of the City’s General Plan.

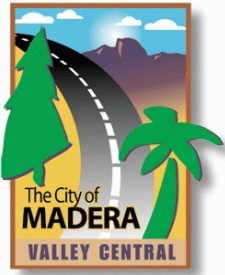
Motion 1: Move to adopt a resolution recommending to the City Council adopt a resolution approving General Plan Amendment 2015-01, approving the 2016-2024 Housing Element update as attached in Exhibit A.

(or)

Motion 2: Move to continue the application to a date specified, for the following reasons or in order for the following information to be provided: (Please specify date and reasons for continuance.)

Attachments

Exhibit “A” 2016-2024 Housing Element update
July 10, 2015 HCD Draft Approval letter
Planning Commission Resolution
Addendum to the 2009 General Plan EIR



CITY OF MADERA
PLANNING COMMISSION

205 W. Fourth Street
Madera CA 93637
(559) 661-5430

**Staff Report: Super Auto Smog
CUP 2011-18 MOD, SPR 2015-22 & Environmental Determination
Item #2 – August 11, 2015**

PROPOSAL: Consideration of a request to modify an existing conditional use permit to allow for the establishment of an automotive repair facility.

APPLICANT:	Hector Mejia	OWNER:	Martha Ochoa
ADDRESS:	128 N. E Street	APN:	007-074-005
APPLICATIONS:	CUP 2011-18 MOD & SPR 2015-22	CEQA:	Categorical Exemption

LOCATION: The site is located on the west side of North E Street at the intersection of North E Street and 5th Street.

STREET ACCESS: Access to the parcel is provided via North E Street.

PARCEL SIZE: The parcel in question is 4,000 square feet in area (50' by 80').

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C2 (Heavy Commercial)

SITE CHARACTERISTICS: The project site is a fully developed heavy commercial / light industrial property including a 900 square foot shop building that has historically been utilized for automotive repair. The site is located between the Union Pacific Railroad right-of-way and North E Street, just north of the downtown Yosemite Avenue corridor. Beginning with the project site, there is a transition from commercial retail land uses typical of downtown to light industrial land uses northward on to the river.

ENVIRONMENTAL REVIEW: This project is categorically exempt under §15301(a) (Existing Facilities) of the CEQA Guidelines.

SUMMARY & RECOMMENDATION: The establishment of an automobile repair shop where a transmission shop was once entitled is consistent with the purpose and intent of the Zoning Ordinance and is compatible with the surrounding uses. It is recommended that the conditional use permit be approved as conditioned.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.505 R; Conditional Uses; Commission Approval
MMC § 10-3.1202 Parking Regulations
MMC § 10-3.1301 et seq. Use Permit Procedures

The General Plan designates the project site as C (Commercial) property. The project site is located in the C2 (Heavy Commercial) Zone District. The C2 (Heavy Commercial) Zone District allows for the establishment of an automobile repair shop subject to the approval of a use permit by the Planning Commission.

The City's Zoning Ordinance allows for the granting of a use permit by the Planning Commission subject to the Planning Commission being able to make findings that the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

PRIOR ACTION

This site was developed in its present state in 1982. Conditional Use Permit CUP 2011-18 and Site Plan Review SPR 2011-18 were approved December, 2011 to allow for the re-establishment of a transmission repair shop.

ANALYSIS

Background

The property owner had used the property for several years in the past as a transmission repair facility. Of note, no conditional use permit was issued for the use in advance of it first being established on the property. The property then sat vacant for at least a year. With no tenant prospects, in 2011 the property owner decided to re-establish their transmission repair shop on the site. A use permit was required for the re-establishment of a transmission shop in the C2 (Heavy Commercial) Zone District. The transmission repair shop has been compatible with surrounding uses, and has acted as a suitable buffer between the downtown shopping district and the adjacent automotive services available to the north. The discontinuance of a transmission shop and the establishment of a smog shop requires an amendment to the existing use permit.

Operations and Compatibility

The business proposes to start out as a smog shop only, but would like to develop into automotive repair. This entitlement would allow for minor automotive repair, including smog checks and general maintenance such as oil changes and tune-ups. It is recommended that no auto body work, painting, or engine overhaul be allowed at this location. The business will operate from 8:00 am until 5:00 pm, Monday through Saturday. Cars kept overnight should be stored inside the shop structure. The use of the outdoor lift is potentially inconsistent and/or

incompatible with the downtown retail environment contemplated by the General Plan. Therefore, staff recommends use of the outdoor lift be discontinued and that it be removed from site. The removal of the outdoor lift will also allow for the installation of a new trash enclosure. As the trash bin has been observed consistently stored within the public right of way, on the sidewalk, staff recommends the installation of a new trash enclosure.

Parking

The project site has been developed with a 900 square foot shop structure. The standard parking ratio for automotive repair facilities is one parking space for each 400 square feet of gross floor area plus one space for each two employees. The three required parking stalls are provided, including one accessible parking stall. There is sufficient parking to allow the modification of the use from transmission repair to smog and general auto repair. It is recommended that required parking be maintained for customers and employees at all times. No required parking should be used for the storage of vehicles being kept for repair.

This proposed conditional use permit was reviewed by various City Departments and outside agencies. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of an automotive repair shop is not specifically addressed in the vision or action plans, the overall project does directly support “the need for good jobs and a broad spectrum of business opportunities.” Moreover, **Action 115.1 and 115.2** “encourage viable economic development” and “increase retail outlets and promote Shop Madera ...”

SUMMARY OF RECOMMENDATIONS

The project site can be a suitable location for the proposed automobile repair shop. It is recommended that the conditional use permit be approved as conditioned.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permit 2011-18 MOD and Site Plan Review 2015-22, determining to either:

- approve the applications with or without conditions
- continue the hearing, or
- deny the applications

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission’s action.

Motion 1: Move to approve the requested Conditional Use Permit 2011-18 MOD and Site Plan Review 2015-22 based on and subject to the findings and conditions of approval as listed.

Findings

- This project is categorically exempt under §15301(a) (Existing Facilities) of the California Environmental Quality Act.

- The establishment of an automobile repair shop is consistent with the purposes of the C (Commercial) General Plan designation and the C2 (Heavy Commercial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- There is adequate parking and site features to allow for the proposed automobile repair shop use.
- As conditioned, the automobile repair shop will be compatible with surrounding properties, because its operation will not negatively impact adjoining uses.
- As conditioned, the establishment, maintenance or operation of the automobile repair shop will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

CONDITIONS OF APPROVAL

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty (30) days of the date of approval for this use permit.
2. Site Plan Review 2015-22 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code or take the required action to extend the approval before the expiration date. (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval)
3. The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
4. The applicant's failure to utilize this use permit within one year following the date of this approval shall render the conditional use permit null and void unless a written request for extension has been submitted to and approved by the Planning Commission.
5. Conditional Use Permit 2011-18 MOD will expire and be rendered null and void if the use is discontinued for a twelve month period.
6. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.

Fire Department

7. A Building Permit is required for interior work such as lifts, dynameters, etc. All work shall comply with codes in effect at the time of permit issuance.
8. Portable fire extinguishers are required. A minimum of one 2A10BC-rated fire extinguisher is required for each 3,000 square feet of floor area or fraction thereof.
9. A key box is required for Fire Department operational access to the site and structure.
10. All conditions of approval of CUP 2011-18 remain in effect unless determined otherwise during the inspection process.

Planning Department

11. Site Data
 - Building Area 900 square feet
 - Approved Use of Building Automotive Repair
 - Minimum Parking Requirements 3 stalls
 - Accessible Spaces Required 1
 - Compact Spaces Allowed 0
12. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
13. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster and refuse containers owned by the property owner.
14. The applicant shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause for revocation of this permit.
15. The smog check/minor automotive repair business may be open from as early as 7:30 a.m. until as late as 7:00 p.m., seven days per week.
16. Overnight parking of vehicles shall only occur within the interior of the building.
17. All automotive repair work shall occur inside of the structure.
18. The existing outdoor car hoist shall be moved into the structure or removed from site prior to occupancy by Super Auto Smog.
19. No temporary outdoor structures shall be permitted or erected on the project site.
20. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
21. A new trash enclosure with a finish and color similar to the primary structure shall be built to City standards to hold one bin. The location of the trash enclosure shall be approved by the Planning Manager.

22. The trash bin shall be stored inside the trash enclosure. The bin may be placed outside of the gate the night before the designated trash service day, and shall be moved back into the enclosure by midnight the day of service.
23. The property owner shall maintain all landscaping in a healthy and well-manicured appearance; this includes, but is not limited to, ensuring the climbing vine planted inside the planter box which runs along the length of the property frontage to North E Street is maintained. The applicant is fully responsible for insuring the good health and predictable growth of the vines, so as to effectively screen the interior of the site from the public right-of-way.
24. On-site parking shall be provided at all times in conformance with the Municipal Code. All required parking shall be permanently maintained with all parking spaces as shown on the submitted site plan.
25. All signage shall be consistent with the Madera Municipal Code at all times.

Motion 2: Move to continue the application for Conditional Use Permit 2011-18 MOD and Site Plan Review 2015-22 to the September 8, 2015 Planning Commission meeting.

(OR)

Motion 3: Move to deny the request for Conditional Use Permit 2011-18 MOD and Site Plan Review 2015-22, based on and subject to the following findings (specify):

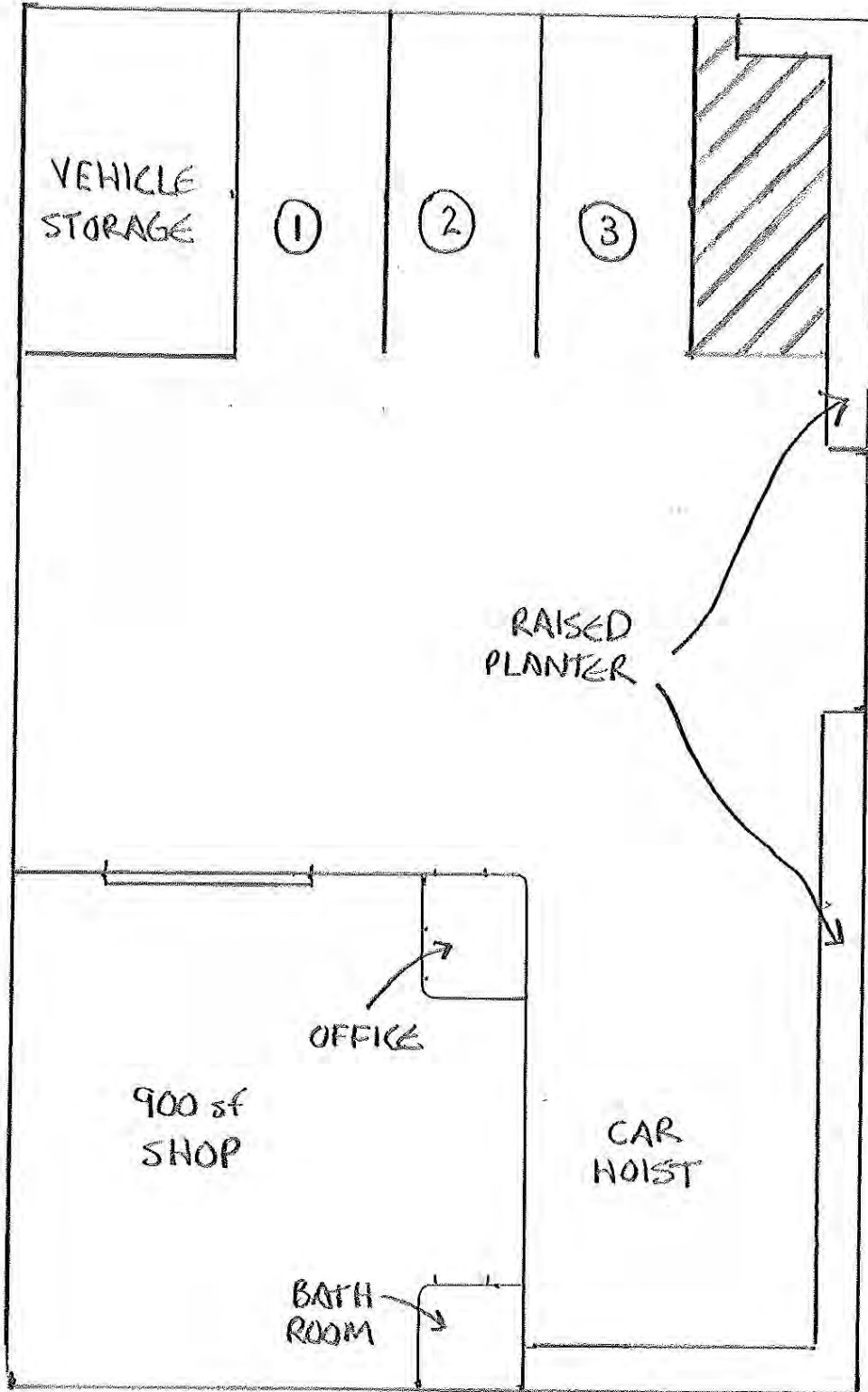
ATTACHMENTS

Aerial Photo
Site Plan
Site Photos

Aerial Photo



Site Plan



128 NORTH "E" STREET

Site Photos



Project site looking west



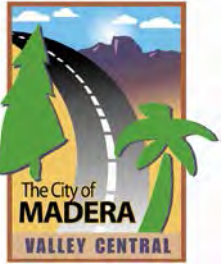
Outdoor lift to be removed



Location of required parking

**Staff Report: Rescue Mission Refrigeration Unit
CUP 2002-07 MOD2, SPR 2015-21 and Environmental Determination
Item #3 – August 11, 2015**

Staff Requests that this item be Continued to September 8, 2015.



CITY OF MADERA
PLANNING COMMISSION

205 W. Fourth Street
Madera CA 93637
(559) 661-5430

**Staff Report: BJ's Liquor/Stereo Express – CUP 2009-14
Revocation Hearing
Item #4 – August 11, 2015**

PROPOSAL: Consideration of revocation of Conditional Use Permit, allowing for the establishment of an automotive repair/car stereo installation use in an existing building at BJ's Gas and Liquor.

APPLICANT:	Kuldip Singh Bagri	OWNER:	Kuldip Singh Bagri
ADDRESS:	225 N. Gateway Drive	APN:	007-072-001
APPLICATIONS:	CUP 2009-14 & SPR 2009-13	CEQA:	Categorically Exempt

LOCATION: This site is located at the southeast corner of the intersection of the North Gateway Drive and East 4th Street (225 North Gateway Drive).

STREET ACCESS: The site is accessed from North Gateway Drive and East 4th Street.

PARCEL SIZE: Approximately 14,700 square feet

GENERAL PLAN DESIGNATION: C (Community Commercial)

ZONING DISTRICT: C2 (Heavy Commercial)

SITE CHARACTERISTICS: The site is developed with an approximately 5,000 square foot building which houses BJ's Gas and Liquor and an automotive use, Valley Smog & Repair. The Union Pacific Railroad right-of-way is immediately to the east. Developed C-2 (Heavy Commercial) property is located to the north, south and west of the site.

ENVIRONMENTAL REVIEW: The proposed facility is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

SUMMARY & RECOMMENDATION: The site is not in compliance with the conditions of approval for Conditional Use Permit 2009-14. It is recommended that the Planning Commission consider this information, together with testimony provided during the public hearing, and make the appropriate findings and decision regarding the project.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.405 Uses
MMC § 10-3.901 Heavy Commercial Zones
MMC § 10-3.1301 Use Permits
MMC § 10-3.1311 Termination and Revocation

The City's Zoning Ordinance allows for the granting of a use permit by the Planning Commission subject to the Planning Commission being able to make findings that the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.

All use permits which have been granted may be revoked by the Planning Commission after a hearing as set forth below in the event the user of such permit, or his or its successor in interest to the real property in favor of which the permit was granted, breaches or fails to abide by any of the conditions designated in such permit.

PRIOR ACTION

The establishment of the liquor store was first contemplated in conjunction with Conditional Use Permit (CUP) 1976-01, which allowed for the expansion of an outdoor equipment rental business. The Planning Commission staff report and minutes explain that although the request for CUP centered on the expansion of the equipment rental operation, the applicant was also opening a liquor store on the site. No liquor store was actually opened in 1976 and, at that time, liquor sales did not require a CUP.

Site Plan Review (SPR) 1985-19 (Traina Liquor Store) was approved in 1985. This entitlement allowed for the establishment of a liquor store and retention of the equipment rental business.

There is no record available that provides a clear understanding of when the gas station component of the use was established. There is also no definite date when the equipment rental business was discontinued, but the extended discontinuance of the equipment rental business has rendered CUP 1976-01 null and void.

Conditional Use Permit 2009-14 and Site Plan Review 2009-13, allowing for the establishment of an automotive repair/car stereo installation use, was approved by the Planning Commission on December 8, 2009, subject to forty-one (41) conditions of approval.

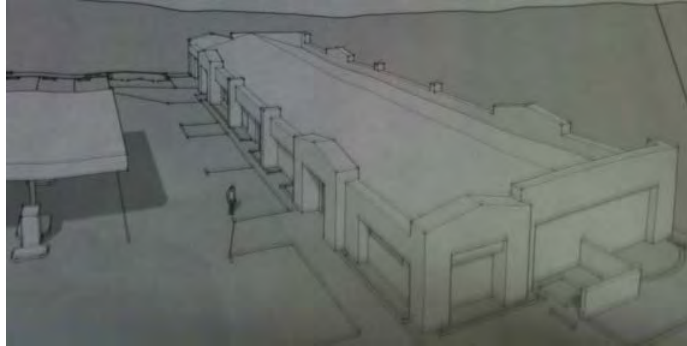
Site Plan Review 2013-37 was completed January 13, 2014 in an effort to meet conditions of approval required by CUP 2009-14. The SPR conditions were never signed, and action was not taken within the allowable one year timeframe, therefore SPR 2013-37 has expired.

ANALYSIS

This staff report will discuss the level of compliance with the conditions of approval for CUP 2009-14.

Background

The original request for this entitlement in 2009 was in response to a code enforcement action for operating the stereo business without a business license and without the proper entitlements. The Planning Department had advised the property owner on at least one occasion that the additional use could not be allowed for due to a lack of parking. A formal application for Conditional Use Permit and Site Plan Review were submitted to allow for the operation of the stereo business to continue. Concerns raised during the original entitlement included parking and site aesthetics. Over time, the building housing both the convenience market and stereo business had been allowed to deteriorate. Staff and the Planning Commission had concerns with the applicant's proposal to intensify the business activity on the site without seeing an investment in the building which would help achieve consistency with general plan goals and policies addressing community design.



The use permit granted an intensification of the site by approving an automotive repair/car stereo use with the stipulation that the site would be improved. The conditions agreed to by the owner and approved by the Planning Commission required the site to be rehabilitated, including making improvements to the facade and gable roof. The owner was allowed five years to make the improvements. The five year timeline was based on the idea that the rental income generated by the auto use tenant would allow the owner to secure a loan to finance the remodeling. As of this date, those improvements have not been made, and staff is not aware of any information suggesting that the owner intends to initiate work on the building in the foreseeable future.

The original entitlement was for a stereo installation business. With Planning Manager approval, a smog shop was established on site in 2010 with the expectation and understanding that only smog checks would be performed. The smog business was sold to a new owner in 2013 and the use has expanded beyond what is allowed by the conditions of approval.

Compliance with Conditions of Approval

Please find a compliance matrix of the conditions of approval for CUP 2009-14 attached to this report. These conditions were evaluated by staff for compliance. Shaded conditions of approval are currently not in compliance. Of the forty-one conditions of approval, fourteen need attention in order to be in compliance with the conditions of approval. Compliance with twenty-seven of forty-one conditions equates a 66 percent compliance rate.

Most notably, Conditions No. 15, 16, and 17 have not been satisfied.

- 15. The property owner shall make substantial improvements to the site in an agreed upon period of time. The improvements and associated timeline are as follows:**
 - **Within six months (180 days) – Installation of landscaping per the approved site plan.**
 - **Within four months (120 days) – Submit and obtain approval from the Planning and Building Departments remodeling plans to include a new roof and building fascia.**

- **Within five (5) years – Completion of all improvements, to include the rehabilitation of the structure on the site, including a new roof and fascia, and the installation of other appurtenances such as the required trash enclosure.**

16. The property owner/applicant shall abide by the agreed upon scope of work and timelines called out in the immediately previous condition of approval. Approval of the use permit is contingent upon fully satisfying the agreed upon scope of work within the agreed upon timeframes. Failure to complete the agreed upon improvements within the agreed upon timeframes shall render the conditional use permit null and void.

The owner was given five (5) years to revitalize the site and bring it in compliance with current city standards, but has failed to do so. Staff has had many conversations with the property owner over the years, and has seen two proposals to remodel the building, but no action has ever been taken except for the replacement of the roof.

17. All automotive repair shops allowed on the site shall comply with the following conditions:

- 1. All work will be confined to the interior of the building.**
- 2. No overnight storage of vehicles will occur outside of the interior of the building.**
- 3. Automobile service bays will not be used for the extended storage of vehicles.**
- 4. Auto accessory, sales and installation as determined by the Planning Director.**
- 5. No repair or installation work of any kind shall be allowed to occur outside of the building interior.**
- 6. No outdoor display of any kind is allowed.**

Failure to comply with any of these conditions is grounds for review and possible revocation of this conditional use permit.

The auto repair business occupying the site, Valley Smog & Repair, has not operated in compliance with these conditions, substantially contributing to the blight on the project site. The smog business is now performing general auto repair including oil changes and tune-ups, and repairing air conditioning, brakes, and fuel injection systems. These activities were not approved by the Planning Director and violate Condition No. 17.

Additionally, issues associated with circulation, parking, and signage are also unresolved. Non permitted signage is in place and has been utilized extensively in the past. Due to site constraints, there is not adequate space to provide sufficient parking. Staff recommends that if the auto use is permitted to continue on the site, a new application for Variance and Site Plan Review should be processed to memorialize the provision of less than the required number of parking stalls.

SUMMARY OF RECOMMENDATIONS

It is recommended that the Planning Commission consider this information, together with testimony provided during the public hearing, and make the appropriate findings and decision regarding the project.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permit 2009-14, determining to either:

- revoke the use permit
- continue the hearing, or
- find that revocation of the use permit is not warranted at this time

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission's action.

Motion 1: Move to revoke Conditional Use Permit CUP 2009-14 effective immediately, based on and subject to the following findings:

Findings

- Conditions of approval, including Nos. 2, 10, 11, 13, 15, 16, 17, 18, 19, 21, 22, 23, 24, and 35 adopted by the Planning Commission and agreed to by the applicant and property owner, have not been satisfied.
- As of this date, site improvements required to be completed within five (5) years have not been completed.
- Based on observations of staff and the evidence from the whole of the record, the use has not operated in compliance with conditions of approval; and
- The continued operation of the use in violation of the conditions of approval may be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city, and;
- The above findings are supported by evidence presented at the public hearing, by field observations by multiple City departments, and in staff reports during the processing and review of this entitlement; which is made a part of this record by this reference.

(OR)

Motion 2: Move to continue the review hearing of Conditional Use Permit CUP 2009-14 to a future date (specify) for the following reasons: (Specify)

(OR)

Motion 3: Move to find that revocation of Conditional Use Permit CUP 2009-14 is not warranted at this time for the following reasons: (Specify)

ATTACHMENTS

Aerial Photo
CUP 2009-14 Conditions of Approval Compliance Matrix
Site Photos

Aerial Photo



CUP 2009-14 Conditions of Approval Compliance Matrix

<u>CONDITIONS OF APPROVAL</u>		
General Conditions		
1.	Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant and property owner signatures upon an Acknowledgement and Acceptance of Conditions within (30) thirty days of the date of approval for this use permit.	In compliance.
2.	The site or building plans submitted for any building permit applications shall reflect changes required by the herein listed conditions of approval.	Not in compliance. Building plans have not been submitted for improvements.
3.	The applicant's failure to utilize this use permit within one year following the date of this approval shall render the conditional use permit and site plan null and void unless a written request for extension has been submitted to and approved by the Planning Commission.	In compliance.
4.	This conditional use permit will expire and be rendered null and void if the use is discontinued for a twelve-month period.	In compliance.
5.	The use permit may be made null and void without any additional public notice or hearing at any time by the owner's of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.	Procedural condition.
6.	It shall be the responsibility of the property owner and management to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to establishment of the use.	In compliance.
Engineering Department		
<u>General</u>		
7.	Nuisance on-site lighting shall be redirected as requested by the City within 48 hours of notification. Director.	In compliance.
8.	In the event archeological resources are unearthed or discovered during any construction activities on site, construction activities shall cease and the Community Development Director or City Engineer shall be notified so that procedures required by state law can be implemented.	In compliance.
9.	Vandalism and graffiti shall be removed or corrected within 24 hours of notification.	In compliance.

Planning Department		
10.	<p>Site Data</p> <ul style="list-style-type: none"> • Approved Use of Building: Gas Station & Liquor Store Automotive Repair/Car Stereo Installation • Minimum Parking Requirements 17 stalls • Parking Provided 11 stalls • Accessible Stalls Required 1 stall • Accessible Stalls Provided 1 stall • Loading Spaces Required None 	<p>Not in compliance.</p> <p>Adequate parking is not provided.</p>
11.	<p>All parking and loading areas shall be marked and striped to City standards: Perpendicular (90 degree) parking spaces shall measure a minimum of nine (9') feet wide by nineteen (19') feet deep (including a 2.5' maximum bumper overhang into landscaped area). Minimum backing / maneuvering / drive aisle space is twenty-six feet (26') or fifteen feet (15') in conjunction with parallel parking stalls). All required parking shall be permanently maintained with all parking spaces to be shown on plans submitted for building permits. Any modifications in the approved parking layout shall require approval by the Planning Department.</p>	<p>Not in compliance. The required number of parking stalls are not provided.</p>
12.	<p>No left turn movements shall be allowed from the subject property. "No Left Turn" signage approved by the City Engineer shall be installed at all points of egress.</p>	<p>In compliance.</p>
13.	<p>Three parking stalls/service bays shall be provided and maintained within the interior of the automotive repair portion of the building.</p>	<p>Not in compliance.</p>
14.	<p>No conversion of storage space as identified on the site plan shall be allowed. Storage space shall not be converted to retail floor space or any other more intensive use. All storage areas shall remain as storage areas only.</p>	<p>In compliance.</p>
15.	<p>The property shall make substantial improvements to the site in an agreed upon period of time. The improvements and associated timeline are as follows:</p> <ul style="list-style-type: none"> • Within six months (180 days) – Installation of landscaping per the approved site plan. • Within four months (120 days) – Submit and obtain approval from the Planning and Building Departments remodeling plans to include a new roof and building fascia. • Within five (5) years – Completion of all improvements, to include the rehabilitation of the structure on the site, including a new roof and fascia, and the installation of other appurtenances such as the required trash enclosure. 	<p>Not compliance.</p> <p>Project was approved in December of 2009. The 5 year timeline to complete improvements ended December of 2014.</p>
16.	<p>The property owner/applicant shall abide by the agreed upon scope of work and timelines called out in the immediately previous condition of approval. Approval of the use permit is contingent upon fully satisfying the</p>	<p>Not in compliance. The agreed upon improvements were not completed within the</p>

	agreed upon scope of work within the agreed upon timeframes. Failure to complete the agreed upon improvements within the agreed upon timeframes shall render the conditional use permit null and void.	agreed upon timeframes.
17.	All automotive repair shops allowed on the site shall comply with the following conditions: <ol style="list-style-type: none"> 1. All work will be confined to the interior of the building. 2. No overnight storage of vehicles will occur outside of the interior of the building. 3. Automobile service bays will not be used for the extended storage of vehicles. 4. Auto accessory, sales and installation as determined by the Planning Director. 5. No repair or installation work of any kind shall be allowed to occur outside of the building interior. 6. No outdoor display of any kind is allowed. Failure to comply with any of these conditions is grounds for review and possible revocation of this conditional use permit.	Not in compliance. Work is not confined to the interior of the building, and auto repair work is being conducted that was not entitled by the CUP.
HVAC and PG&E Utility Placement Considerations/Screening Requirements		
18.	Prior to the issuance of building permits, applicant shall identify the following information for Planning Department review and approval: <ul style="list-style-type: none"> • Utility meter locations identified on the site plan • HVAC (heating, ventilation, or air conditioning) equipment locations if any • All HVAC, compressor, utility meter locations, mechanical and electrical equipment 	Not in compliance.
19.	All electrical and HVAC equipment shall be screened to the specifications of the Planning Department. If located in view of the general public, applicant shall show methods proposed to architecturally integrate equipment locations or show methods proposed to screen equipment using landscaping. Any roof-mounted equipment placements shall be completely screened from view and architecturally integrated into the roof using roof wells or continuous building perimeter fascia screening. Any wall-mounted equipment shall be painted to match the exterior wall.	Not in compliance. A large unit is visible from the Gateway Drive right of way.
20.	The air and water station will be relocated in such a way as to not conflict with the required accessible parking stall per the approval of the Planning Director.	In compliance.
Building Colors, Materials and Lighting Considerations		
21.	Within four months (120 days), the applicant shall submit a color and materials presentation board to the Planning Department for review and approval detailing building colors and materials. The scope and extent of improvements shall be approved by the Planning Director.	Not in compliance.
22.	Within four months (120 days), the applicant shall provide for Planning Department review and approval a representative color section rendering of the proposed	Not in compliance.

	building, using a scale similar to the exterior elevation drawings.	
23.	The construction/rehabilitation of building(s) approved as part of site plan review shall be consistent with the approved color and materials presentation board and representative color section rendering of the proposed building as reviewed and approved by the Planning Department. Any alteration shall require amendment of the site plan review.	Not in compliance.
Signage		
24.	Signage shall be consistent with the Madera Municipal Code. Signage not allowed per the sign ordinance shall be removed immediately.	Not in compliance. Non permitted signage is utilized on the site.
Landscaping		
25.	<p>A detailed landscaping and irrigation plan shall be submitted to and approved by the Planning Director prior to issuance of building permits. The plans shall include:</p> <ul style="list-style-type: none"> • Landscaping areas throughout the project shall be landscaped, so as to provide a minimum of 70% vegetative cover. • The property's frontage with the public right-of-way shall be improved with a 5-foot park strip with turf and street trees. Concrete shall be removed where necessary, consistent with the approved landscaping plans. The park strip shall be planted consistent with the requirements of the Parks Department (See Condition #26). • Landscaped areas shall be provided with permanent automatic irrigation systems. • A climbing vine shall be planted in conjunction with the chain-link fence along the property frontage to the Union Pacific Railroad right-of-way. • A detailed planting list for existing and proposed landscaping shall be included, with the number, size and specie of all plantings. • All shrubbery and ground cover plantings shall be spaced at no greater than two (2) feet on center. Depending upon size and specie, closer separation may be required. 	In compliance.
26.	The park strip along the street frontage shall be landscaped and provided with an automatic irrigation system by the applicant. A minimum of one City approved street tree every 30 feet shall be provided, along with root guards. No trees shall be planted within five (5) feet of any fire hydrant. Each street tree shall be planted with a City approved root barrier. Detailed landscape and irrigation plan shall have been submitted and approved by the Parks and Community Services Director and Planning Director prior to issuance of building permits. Any deviation shall require prior	In compliance.

	written request and approval. Removal or modification shall be at developer's expense. Landscaping water meter (if applicable) shall be connected after the backflow device.	
27.	The approved landscape and irrigation plan shall be fully installed and operational in no less than one hundred eighty (180) days from date of approval.	In compliance.
28.	The property owner shall maintain landscaping in an acceptable appearance that enhances the aesthetic value of the area and is consistent with the approved landscaping plan.	In compliance.
<u>Walls and Fences</u>		
29.	A trash enclosure with containers for both regular and recyclable refuse shall be constructed of split-faced masonry block units and/or in a fashion architecturally compatible with the remodeled building fascia.	In compliance.
<u>Regulatory Comments</u>		
30.	The developer shall meet all regulations of the San Joaquin Valley Air Pollution Control District (Regulation VIII) concerning dust suppression during construction of the project. Methods include, but are not limited to; use of water or chemical stabilizers/suppressants to control dust emissions from disturbed area, stock piles and access ways; covering or wetting materials that are transported off-site; limit construction related speeds to 15 mph on all unpaved areas/washing of construction vehicles before they enter public streets to minimize carryout/trackout; and cease grading and earth moving during periods of high winds (20 mph or more).	In compliance.
31.	Any construction grading plans shall include a statement that all construction equipment shall be tuned and maintained in accordance with the manufacturer's specifications.	In compliance.
32.	Any construction grading plans shall include a statement that work crews shall shut off construction equipment when not in use.	In compliance.
<u>Streets</u>		
33.	Developer shall reconstruct the handicap ramp at the intersection of Gateway Drive and 4 th Street to current City and ADA standards.	In compliance.
34.	Developer shall maintain handicap accessibility around entire site.	Parking field is in compliance.
<u>Water</u>		
35.	New water service connection shall be constructed to current City standards including water meter located within city right-of-way and shall read in cubic feet and a backflow prevention device located within private property.	Not in compliance.
<u>Sewer</u>		
36.	New sewer connection(s) shall be constructed to current City standards.	In compliance.

Fire Department		
37.	The information provided relates to the automotive repair shop use and does not affect the nature of the “existing non-conforming” mini-mart space. If the proposed automotive repair shop is replacing a repair garage, it is considered a less hazardous similar use and need only comply with current fire code requirements of imminent life safety required for all occupancies.	In compliance.
38.	Portable fire extinguishers are required. A minimum of one, 2A10BC-rated fire extinguisher is required for each 3,000 square feet of area or fraction thereof. A maximum of 75 feet of travel distance is permitted. If the retail space and the automotive repair shop are not operated in common then each must be independently equipped. Additional fire extinguisher provisions apply to the fuel dispensing operation.	In compliance.
39.	At least one legally complying exit must be provided from the automotive repair shop. The exterior path of exit travel (Exit Discharge) for the Stereo Shop must be shown on the plans.	In compliance.
40.	A rated separation is required between the mini-mart and stereo shop. This should have been provided between the mini-mart and garage at the time that remodel was performed. The placement needs to be verified.	In compliance.
41.	The above-referenced project is protected by the Madera City Fire Department. Prior to approval of the business license or any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection development requirements. All new construction shall comply with existing Uniform Fire Code requirements and all applicable statues, codes and ordinances.	Not in compliance.

Site Photos



