

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

**COUNCIL CHAMBERS - CITY HALL
TUESDAY
August 8, 2017
6:00 pm**

CALL TO ORDER

ROLL CALL

Commissioner Kenneth Hutchings (Chairperson)
Commissioner Robert Gran, Jr. (Vice Chairperson)
Commissioner Jim DaSilva
Commissioner Bruce Norton
Commissioner Pamela Tyler
Commissioner Israel Cortes
Commissioner Richard Broadhead

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 July 11, 2017

CONSENT ITEMS

PUBLIC HEARING ITEMS

1. VAR 2017-04 – Pond Place Setback Variance

A noticed public hearing to consider a variance from the setback requirements of the R1 (Residential) Zone District in order to allow for less than the required fifteen foot rear yard structural setback on property located at the northwest corner of stadium road and El Monte Avenue (805 El Monte Avenue) in the R1 (Low Density) Zone District with an LD (Low Density) General Plan land use designation (APN: 012-440-019).

2. General Plan Conformity and Environmental Determination – India Park

A noticed public hearing to consider findings of General Plan Conformance and an Environmental Determination for the future development of a park on an 8.1 acre property located approximately 600 feet southeast of the intersection of Martin Street and Austin Street (16557 Austin Street), in the LD (Low Density) General Plan land use designation within the AR-5 (Agricultural Rural – 5 acres) Zone District of Madera County (APN: 038-030-027). The future park site is currently developed as a rural residential property in the County of Madera, approximately 500 feet from the current City limits.

3. CUP 2016-08 – Herbalife Fitness Revocation

A continued public hearing to consider revocation of Conditional Use Permit 2016-08, which allows for a fitness use on property located east on North D Street, approximately 215 feet north of the intersection of North D Street and East Riverside Drive (711 North D Street) in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 004-011-007).

NON PUBLIC HEARING ITEMS:

1. CUP 2015-26 MOD, SPR 2016-27 – Madera’s Finest Car Wash (Performance Review)

A performance review of Conditional Use Permit 2015-26 MOD and Site Plan Review 2016-27, allowing for a car wash and auto detailing business on a C1 (Light Commercial) Zone district, to determine whether it is appropriate to schedule a public hearing for a conditional use permit revocation.

ADMINISTRATIVE REPORTS

1. Informational Workshop Regarding the City of Madera General Plan

COMMISSIONER REPORTS

ADJOURNMENT

The next regular meeting will be held on September 12, 2017.

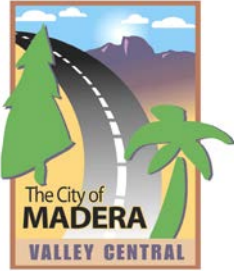
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation in the public meeting should be made at least seventy-two (72) hours before the meeting. If you need special assistance to participate in a City meeting or other services offered by this City, please contact the Planning Department office at (559) 661-5430. Those who are hearing impaired, may call 711 or 1-800-735-2929 for TTY Relay Services. Any and all persons interested in this matter may provide comments.

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.

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.

If you have any questions or comments regarding this hearing notice, you may call the Planning Department at (559) 661-5430. Si usted tiene preguntas, comentarios o necesita ayuda con interpretación, favor de llamar el Departamento de Planeamiento por lo menos 72 horas antes de esta junta (559) 661-5430.



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Pond Place Setback Variance
VAR 2017-04 and Environmental Determination
Item #1 - August 8, 2017**

PROPOSAL: An application for a variance from the setback standards of the R (Residential) Zone District to allow for an approximately five-foot, five-inch (5',5") rear yard structural setback where a minimum of fifteen (15') feet is allowed.

APPLICANT:	Berry Construction	OWNER:	Berry Construction
ADDRESS:	805 El Monte Avenue	APN:	012-440-019
APPLICATIONS:	VAR 2017-04	CEQA:	Categorically Exempt

LOCATION: The property is located at the northwest corner of Stadium Road and El Monte Avenue.

STREET ACCESS: The site has access to El Monte Avenue.

PARCEL SIZE: Approximately 0.16 acres

GENERAL PLAN DESIGNATION: LD (Low Density Residential)

ZONING DISTRICT: R1 (Low Density Residential)

SITE CHARACTERISTICS: The property is located within the Pond Place Estates subdivision, which consists of twenty-nine (29) single-family residential lots. The surrounding area is characterized as a single-family residential neighborhood. A ponding basin is located to the west. A county island currently in agricultural production is located to the south.

ENVIRONMENTAL REVIEW: The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15303 (New Construction or Conversion of Small Structures) and 15305 (Minor Alterations in Land Use Limitations).

SUMMARY: The applicant proposes to construct a residential structure that does not comply with the rear yard structural setback requirement of the R (Residential) Zone District. The R (Residential) Zone District allows for a minimum rear yard structural setback of fifteen (15') feet when windows face the rear property line. The applicant proposes to construct a residential structure with an approximately five-foot, five-inch (5',5") rear yard structural setback. The property abuts a Madera Irrigation District (MID) easement that impedes the construction of a residential structure in compliance with the rear yard structural setback standards of the R (Residential) Zone District. The proposed variance will recognize the non-conforming setback and allow a structure to be built with the reduced rear yard structural setback.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.508 R; Yard Requirements
MMC § 10-3.1401 Variances

A variance may be granted by the Planning Commission where practical difficulties, unnecessary hardships, or results that are inconsistent with the general purposes of the Zoning Ordinance may result from the strict and literal application of any of the provisions of the ordinance. If the Commission cannot make the appropriate findings, the variance request should be denied. Conditions may be attached to the approval of the variance 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.

PRIOR ACTION

Tentative Subdivision Map (TPM) 2004-11 was approved on October 12, 2004 which allowed for the division of a 7.5 acre parcel into twenty-nine (29) parcels ranging between approximately 6,700 and 10,500 square feet. The final map subsequently recorded on December 27, 2005.

ANALYSIS

Justification for Variance

There are two (2) findings that need to be made in order to be able to grant a variance. The ordinance states those findings as follows:

1. Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this chapter may result from the strict and literal application of any of the provisions of this chapter, a variance may be granted as provided in this subchapter.
2. Variances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning regulations deprives such property of privileges enjoyed by other property in the vicinity under identical zoning classifications. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

The R (Residential) Zone District requires a minimum rear yard structural setback of fifteen (15') feet where windows face the rear property line, and ten (10') where no windows face the rear property line. The proposed structure has windows that face the property line. The rear yard structural setback of five-feet, five-inches (5',5") is inconsistent with the development standards of the R (Residential) Zone District.

A variance from the development standards can be supported because the site suffers from a special circumstance that deprives the property of setback privileges that other properties in the vicinity under the R (Residential) Zone District do not suffer from. The property abuts a Madera Irrigation District (MID) easement, which does not allow the construction of any structures within it. The MID easement removes approximately 563 additional square feet from the site that would allow for the construction of the proposed structure. Even though the builder is proposing their smallest available model, it still cannot be constructed consistent with the rear yard structural setback standards of the R (Residential) Zone District. Without approval of the variance, the builder's ability to construct a residence similar to and compatible with the surrounding construction would be significantly diminished.

Cumulatively, the residential property suffers from a special circumstance that other properties do not suffer from. Staff is in support of the variance to allow for a rear yard structural setback of five (5') feet where a minimum rear yard structural setback of fifteen (15') feet is required.

Block Fence

Staff recommends the construction of the proposed block fence to be set back five (5') feet from the exterior side yard property line, consistent with the block fence on Lot 1 of the Pond Place Estates subdivision. The block fence should be constructed of identical materials to match the block wall constructed in association with Lot 1 of the subdivision.

RECOMMENDATION

The information presented in this report supports approval of the variance. It is recommended that the Planning Commission consider this information, together with testimony provided during the public hearing, and make a decision regarding the project.

PLANNING COMMISSION ACTION:

The Planning Commission will be acting on the request for Variance 2017-04, determining to either:

- approve the application 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 fifteen (15) calendar days of the Commission's action:

Motion 1: Move to approve the application for Variance 2017-04 based on and subject to the findings and conditions of approval as listed.

Findings:

- This project is categorically exempt under Section 15305 (Minor Alterations in Land Use Limitations) of the California Environmental Quality Act (CEQA) because the setback variance does not result in the creation of a new parcel.
- Because of special circumstances of the site, practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this chapter, a variance may be granted to allow for a rear yard structural setback of five-feet, five-inches (5',5") for any proposed residential structure located at 805 El Monte Avenue, where a minimum of fifteen (15') feet is required in the R (Residential) Zone District.
- The practical difficulty and special circumstance of the site results from the inability to comply with the setback standards of the R (Residential) Zone District caused by an MID easement, which would have otherwise allowed for enough area to construct a new residential structure that would comply with the setback standards of the R (Residential) Zone District.

CONDITIONS OF APPROVAL

Engineering Department

General

1. All off-site improvements shall be completed prior to issuance of a building permit.
2. Impact fees shall be paid at time of building permit issuance.
3. Improvements within the City right-of-way require an Encroachment permit from the Engineering Division.
4. Currently, the Pond Place subdivision public improvements have not been accepted by the City and are not at present entitled to currently on-going typical street maintenance that includes street sweeping and street lighting. The buyer of this property shall be alerted to the current status and that such maintenance, while it may be occurring, cannot be guaranteed in the future.

Planning Department

Variance

5. Variance 2017-04 provides for a five-foot, five-inch (5',5") rear yard structural setback for any proposed residential structure from the requirements of the R (Residential) Zone District for the property located at 805 El Monte Avenue.
6. A block fence shall be constructed on the exterior side yard of the property. The location shall be five (5') feet from the property line. The material shall be consistent with and identical to Lot 1 of the Pond Place Estates subdivision (See Exhibit 1 for reference).

(OR)

Motion 2: Move to continue the public hearing for Variance 2017-04 to September 12, 2017, to allow the following information to be provided or for the following reason(s): (specify)

(OR)

Motion 3: Move to deny the application for Variance 2017-04 based on the following findings: (specify)

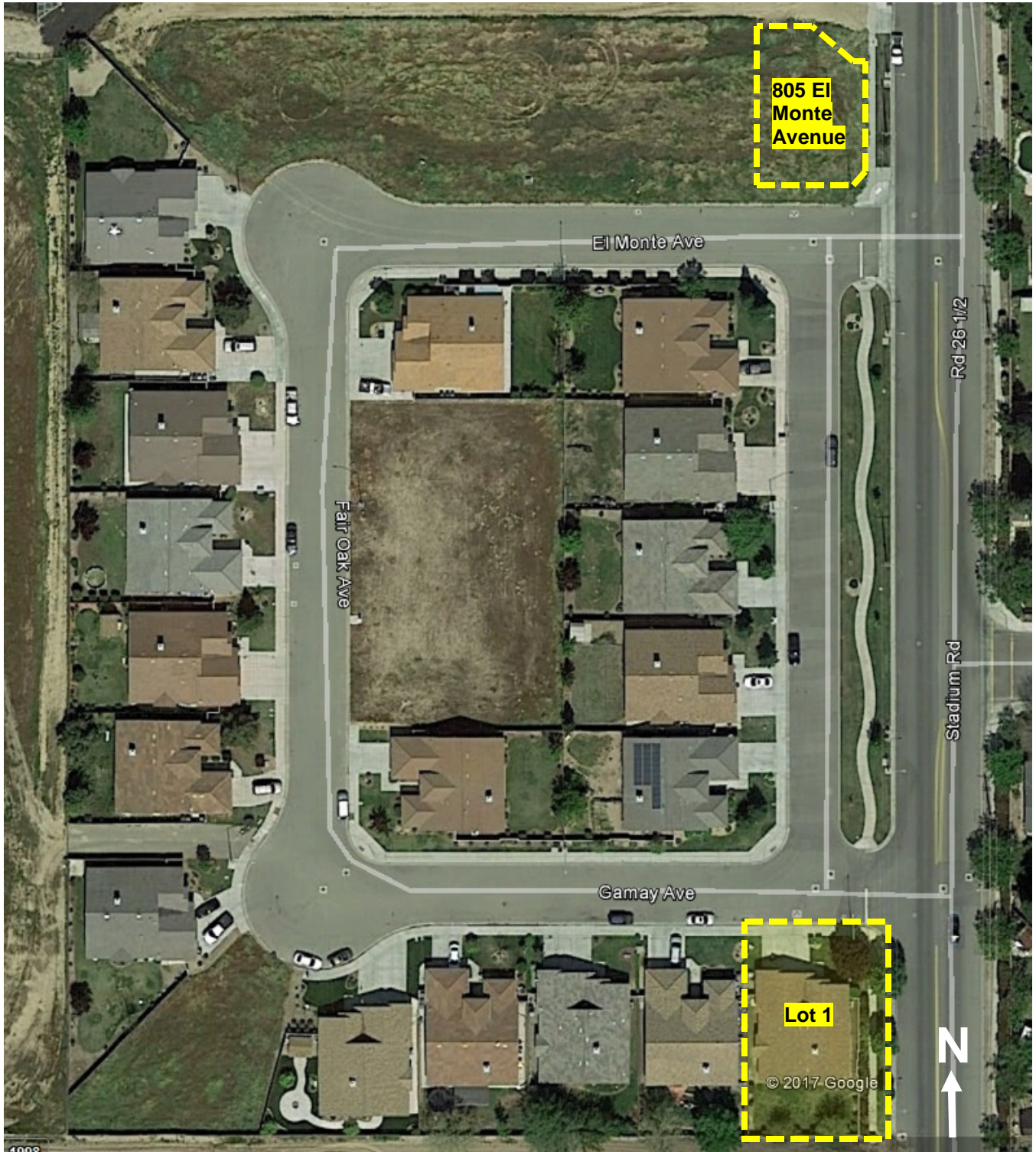
ATTACHMENTS

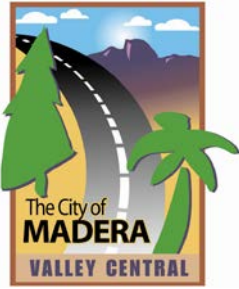
Aerial Photo
Site Plan
Exhibit 1

Aerial Photo



Exhibit 1





CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Gift of Future India Park
General Plan Conformance and Environmental Determination
Item #2 – August 8, 2017**

PROPOSAL: Consideration of findings of General Plan conformance and an Environmental Determination for the future development of a park on an 8.1 acre property. The park would be named India Park.

APPLICANT: City of Madera

OWNER: Divya J Shah, etal

ADDRESS: 16557 Austin Street

APN: 038-030-027

APPLICATION: ENV 2017-06

CEQA: Categorical Exemption

LOCATION: The site is located approximately 600 feet southeast of the intersection of Martin Street and Austin Street.

STREET ACCESS: The site is accessed from Austin Street.

PARCEL SIZE: 8.1 acres

GENERAL PLAN DESIGNATION: LD (Low Density Residential)

ZONING DISTRICT: County Zoning AR-5 (Agricultural Rural – 5-acre)

SITE CHARACTERISTICS: The site is currently developed as a rural residential property in the County of Madera, approximately 500 feet from the northern extent of the current City limits. Two homes are located on the property, with the remainder left as fallow farmland.

ENVIRONMENTAL REVIEW: The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15325(f), (Transfer of Ownership in Land to Preserve Existing Natural Conditions and Historical Resources).

SUMMARY: The property owners of 8.1 acres of land just north of the City have offered to gift the property for the purposes of developing a park on the property in the future. The proposed gift of lands for the purpose of the development of a park, on the property, in the future is in conformance with the General Plan. The gifting of the property for purposes of preserving open space lands for park purposes is categorically exempt from the California Environmental Quality Act.

APPLICABLE CODES AND PROCEDURES

2009 General Plan, Parks and Recreation Element
2009 General Plan, Community Design Element
California Environmental Quality Act

PRIOR ACTION

None.

ANALYSIS

Background

Recently, seven individuals who collectively own an 8.1-acre parcel of land approached the City with an offer to donate the property for the development of a future park. Their request included the desire to have the future park named India Park. The proposal to gift the land and name the future park space India Park was born out of a desire to acknowledge the country of their present nationality (USA) and the country of their origin (India). Please review the attached letter from the property owners/donors.

General Plan Consistency

Goal PR-1 of the Parks and Recreation element of the General Plan envisions “a system of parks and recreation facilities and programs that enhance the quality of life; improve public health and safety; are distributed throughout the city; and are responsive to the needs and interests of the people who live and work in Madera.” Policy PR-1 further states that “the City shall endeavor to develop and maintain a complete system of public parks distributed throughout the City that provides opportunities for passive and active recreation.”

The General Plan anticipates the development of the area surrounding the proposed India Park property into low density single family residential neighborhoods. The 8.1-acre site is sized consistent with a neighborhood park per the General Plan. The General Plan notes that “Neighborhood Parks are the most important type of park in Madera. [They] are large enough to include both passive and active facilities (including sports fields), but are small enough to be placed in neighborhoods, where they serve the needs of residents in a local setting.” Policy PR-21 further states that “the City’s first priority shall be to provide Neighborhood Parks in residential areas, with emphasis on planning for and locating parks within reasonable walking distance of established and new neighborhoods. The City will work to achieve the preservation, enhancement and acquisition of neighborhood parks.” Since the General Plan envisions neighborhoods in all directions from the proposed park space, the proposed park is ideally located for development into a neighborhood park facility.

By accepting the gift of land for the construction of a future park facility, the City is taking active steps toward being prepared for the future growth of the City. The gifted land provides for a logical future park site, appropriately distanced from existing park facilities and existing and proposed schools, and centrally located within a large expanse of future low density single family neighborhoods.

The property in question is located within the LD (Low Density Residential) General Plan land use designation. General Plan Policy LU-9 states that “public facilities, such as fire stations, wells for public water supplies, parks, and other governmental facilities, are permitted in and considered to be consistent with any land use designation.”

CEQA Compliance

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15325(f), (Transfer of Ownership in Land to Preserve Existing Natural Conditions and Historical Resources). Section 15325(f) clearly exempts the “acquisition, sale, or other transfer to preserve open space or lands for park purposes.”

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Although the donation of a future park space is not specifically addressed in the vision or action plans, the project cumulatively supports the statement of A Safe, Healthy Environment that “recognizes the need for Madera’s parks and open spaces to be convenient and well-maintained.” The development of the northwest fire station does directly address Strategy 414, which challenges the City to “Ensure recreational availability by providing a park in close proximity to every neighborhood.”

RECOMMENDATIONS

The gifting of the 8.1-acre future India Park site is consistent with the goals and policies of the General Plan. A Categorical Exemption has been prepared consistent with the requirements of the California Environmental Quality Act. Findings of conformance are included as part of the decision before the Planning Commission.

PLANNING COMMISSION ACTION

The Planning Commission will be acting on a finding of General Plan Conformity.

Motion 1: Move to approve a Finding of Conformity with the General Plan for the future development of a park on an 8.1 acre property located at 16557 Austin Street, subject to the findings as listed below.

Findings

- The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15325(f), (Transfer of Ownership in Land to Preserve Existing Natural Conditions and Historical Resources) which exempts the “acquisition, sale, or other transfer to preserve open space or lands for park purposes.”
- The acquisition of the subject property and future establishment of a neighborhood park is consistent with the Land Use Element of the General Plan, in which Policy LU-9 states that public facilities, such as fire stations, wells for public water supplies, parks, and other governmental facilities, are permitted in and are considered to be consistent with any land use designation.
- The acquisition of the subject property and future establishment of a neighborhood park is consistent with the purposes of the General Plan’s Community Design element which states that the City shall require that all new development is well-planned and of the highest possible quality, adhering to the basic principles of high-quality urban design, architecture and landscape architecture.
- The acquisition of the subject property and future establishment of a neighborhood park is consistent with the purposes of the General Plan’s Community Design element which envisions “a system of parks and recreation facilities and programs that enhance the

quality of life; improve public health and safety; are distributed throughout the city; and are responsive to the needs and interests of the people who live and work in Madera.”

- The acquisition of the subject property and future establishment of a neighborhood park is consistent with the purposes of the General Plan’s Parks and Recreation element which states that “the City’s first priority shall be to provide Neighborhood Parks in residential areas, with emphasis on planning for and locating parks within reasonable walking distance of established and new neighborhoods. The City will work to achieve the preservation, enhancement and acquisition of neighborhood parks.”

ATTACHMENTS

Aerial Photo

Owners/Donors Letter of 7/30/2017

Aerial Photo



July 30, 2017

To
Hon. Mayor and Hon. Council Members
City of Madera
205 West 4th Street
Madera, Ca. 93637

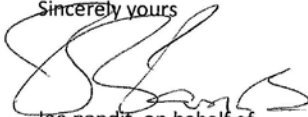
Dear City Leaders:

We are very happy that you are considering to accept our donation of about 8+ acres land bordering the present city boundary for a future development as a public park to be named as "India Park". There are two older homes on the property that can be rented out by the City to generate some income while it waits to develop the park. We wanted to attend the meeting but due to various reasons we would not make it.

We are seven friends who bought this land about 45 years ago for investment purpose. About five years ago, a developer had approached us with an "option to buy" the land for \$ 400,000 but we decided to hold on at that time. Last year, we thought of selling it again and listed also. But at one of our friends meetings, we came up with an idea of donating the land for public purpose. We all believe in preserving open space and environment and decided that it would be most appropriate to develop it as a public park and name it as "India Park". In doing so we would be serving both countries to which we are indebted to; the country of our present nationality (USA) and the country of our origin (India).

We are glad that City of Madera has agreed to accept our land donation. We would like to thank, Mary Ann Seay, the City Park and Community Services Director for providing us assistance in coordinating this transition. We are also thankful to the planning department and legal department staff of the City of Madera, who would be helping us in preparing final documents for the transfer of ownership.

Sincerely yours

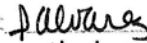


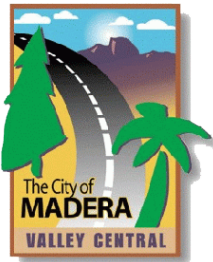
Joe Pandit, on behalf of

Joe Pandit
Divya Shah
Arvind Mody
Anil Desai
Ramesh Shah
Mahendra Nirmal and
Umikant Mody

RECEIVED

City of Madera City Clerk

By: 
Date: 7/31/17
C: City Administrator
City Attorney
Comm Dev. Dir.
Parks & Comm. Svs Director



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Herbalife Fitness Revocation
CUP 2016-08 and SPR 2016-01 MOD
Item #3 – August 8, 2017**

PROPOSAL: A continued noticed public hearing to consider revocation of Conditional Use Permit 2016-08 allowing for an athletic fitness use as a component of a retail Herbalife business.

APPLICANT:	Florencio Jasso	OWNER:	Daud A Abu Ziadih
ADDRESS:	711 North D Street	APN:	004-011-007
APPLICATIONS:	CUP 2016-08 & SPR 2016-01 MOD	CEQA:	Categorical Exemption

LOCATION: The property is located on the east side of North D Street, approximately 215 feet north of the intersection of North D Street and East Riverside Drive.

STREET ACCESS: The site has access to North D Street.

PARCEL SIZE: Approximately 0.14 acres.

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C1 (Light Commercial)

SITE CHARACTERISTICS: The site is a fully developed commercial property. The property includes an 1,800 square foot office building with two tenant suites. Residential properties are located east of the project site. Various retail stores are located north, south and west of the project site along the North D Street corridor. A recycling center is immediately south. The former Bridge Store is across North D Street, west of the project site.

ENVIRONMENTAL REVIEW: The current review of the use permits and site plan review has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15321 (Enforcement Actions).

SUMMARY: The site is not in compliance with the conditions of approval for Conditional Use Permit 2016-08 and Site Plan Review 2016-01 MOD. Outreach to assist the applicant in attaining compliance has been unsuccessful. Staff's most recent inspection of the site shows that the upgraded water meter and sewer cleanout have been installed since the continuance of the revocation for CUP 2016-08 and compliance has been increased to sixty-eight (68%) percent. The property owner has also submitted plans to the Building Department for the trash enclosure and ADA parking stall, although no building permit has been officially submitted.

APPLICABLE CODES AND PROCEDURES

MMC §10-3.802, Light Commercial Zones, Uses Permitted
MMC § 10-3.1301 Use Permits

PRIOR ACTION

Conditional Use Permit 2016-08, which allowed for the establishment of a fitness use in conjunction with a retail “Herbalife” store, was conditionally approved by the Planning Commission on May 10, 2016. A review of the use was completed on June 13, 2017 wherein the Planning Commission scheduled the use permit for public hearing to consider possible revocation.

ANALYSIS

History

Conditional Use Permit 2016-08 and Site Plan Review 2016-01 MOD were submitted in response to an inspection of the site, as part of the original SPR 2016-01. During the noted inspection, staff observed the operation of an athletic fitness workout component operating in conjunction with the Herbalife store. The athletic fitness use required the approval of Conditional Use Permit 2016-08, which was approved by the Planning Commission in May of 2016.

Due to the lack of significant progress being made to come into compliance with required conditions of approval, staff sent communication letters in February and March of 2017 to the business owner. Prior to the revocation hearing on July 11, 2017, the business owner and property owner informed staff they would complete the required on- and off-site improvements.

The Planning Commission granted a continuance of the revocation hearing to the August 8, 2017 hearing.

Findings of Review

Since the continuance, the property owner has submitted plans to the Building Department for the trash enclosure and ADA parking stall, although no official building permit has been submitted. Staff’s most recent site visit on August 1, 2017 observed that the upgraded water meter and sewer cleanout were installed. The property owner has assured staff that the pending non-compliant conditions of approval will be in compliance in a short period of time.

Attached please find a matrix of the conditions of approval for Conditional Use Permit 2016-08 and Site Plan Review 2016-01 MOD. These conditions were evaluated by staff for compliance on multiple occasions, the last inspection occurring on August 1, 2017. Shaded conditions of approval are currently not in compliance. Of the thirty-four (34) conditions of approval, eleven (11) need attention in order to be in compliance with the conditions of approval. Compliance with twenty-one (23) of thirty-four (34) conditions equates to a sixty-five (68%) percent compliance rate.

Progress has been made towards meeting off-site requirements from the Engineering Department. The property owner has made progress to obtain a building permit to construct the trash enclosure and stripe the loading zone for the ADA parking stall. Although progress has been made, not all of the conditions of approval have been satisfied. Because the applicant and property owner have not complied with all of the conditions of approval, the conditional use permit is now brought before the Commission for revocation.

RECCOMENDATION

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 revocation of Conditional Use Permit 2016-08.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permit 2016-08, determining to either:

- revoke Conditional Use Permit 2016-08, or
- find that revocation of the use permit is not warranted at this time.

Any action by the Planning Commission is subject to appeal to the City Council within fifteen (15) calendar days of the Planning Commission's action.

Motion 1: Move to revoke Conditional Use Permit 2016-08 effective immediately, based on and subject to the following findings.

Findings

- Conditions of approval for Conditional Use Permit 2016-08, Nos. 5, 6, 8 through 10, 12 through 14, 27, 30 and 33, adopted by the Planning Commission on May 10, 2016, are not in compliance.
- Based on observations of staff and the evidence from the whole of the record, the use is not operating 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 find that the revocation of Conditional Use Permit 2016-08 is not warranted at this time for the following reasons (Specify):

ATTACHMENTS

Aerial Map
Conditions of Approval Compliance Matrix
Site Photos

Aerial Photo



Conditions of Approval Compliance Matrix

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 days of the date of approval for this use permit	In compliance
2.	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.	Procedural
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 null and void unless a written request for extension has been submitted to and approved by the Planning Commission	Procedural
4.	Conditional Use Permit 2016-08 will expire and be rendered null and void if the use is discontinued for a twelve month period unless a written request for extension has been submitted to an approved by the Planning Commission.	Procedural
5.	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, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to revoke the permit or modify the conditions of approval.	Not in compliance
6.	The site or building plans submitted for any building permit applications shall reflect changes required by the herein listed conditions of approval. Any deviation from the approved plan or any condition contained herein shall require, at a minimum, prior written request by the applicant and approval by the Planning Manager.	No building permit submitted.
7.	Any proposed future modifications to the site, including but not limited to, building exteriors, parking/loading areas, fence/walls, new buildings or landscaping shall require an amendment to this site plan review.	Procedural

8.	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.	Not in compliance
Building Department		
9.	Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection and shall apply to proposed and future development.	Non-conformant ADA stall. No loading zone.
10.	Additional items identified as not complying with current codes and ordinances which require correction or attention may be identified. Any item not in conformance with current codes and ordinances must be corrected.	Not in compliance
Engineering Department		
11.	Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.	Procedural
12.	Improvement plans for the project shall include the most recent version of the City's General Notes.	Not in compliance
13.	Improvements within the City right-of-way shall require an Encroachment Permit from the Engineering Division.	Not in compliance
14.	The developer shall pay all required fees for completion of the project. Fees due may include, but shall not be limited to, the following: encroachment permit processing and improvement inspection fees.	Not in compliance
15.	Existing water service connections shall be upgraded to current City standards including water meters located within city right-of-way and backflow prevention device located within private property by July 1, 2016.	In compliance
16.	Existing sewer service connection shall be upgraded to meet current City standards, at a minimum site shall have a sewer clean out installed per current City standards by July 1, 2016.	In compliance

Fire Department		
17.	2A10BC-rated portable fire extinguishers are required. A minimum of one is required, which must be mounted between three (3') and five (5') feet above the floor in a visible and accessible location.	In compliance
18.	Door hardware must open from the inside without the use of a key or any special knowledge or effort.	In compliance
Planning Department		
19.	This use permit allows for the establishment of a fitness component to the existing Herbalife lounge/café located in an approximately 780 square foot tenant suite.	In compliance
20.	The maximum number of fitness participants allowed in the exercise area of the tenant suite is ten (10).	In compliance
21.	The fitness use shall be utilized within the tenant suite at all times. No outdoor activities are permitted as a component of the business.	In compliance
22.	The fitness use shall only be permitted to operate from between the hours of 8:00 a.m. and 10:00 a.m., and 4:00 p.m. until 7:00 p.m.	In compliance
23.	The business may be open from as early as 7:00 a.m. in the morning to as late as 11:00 p.m. at night, seven days a week.	In compliance
24.	Vandalism and graffiti shall be corrected per the Madera Municipal Code.	In compliance
25.	Outdoor dining shall not be allowed. The provision of chairs and/or tables outdoors is prohibited.	In compliance
26.	Outdoor storage of goods and/or materials shall not be allowed.	In compliance
27.	The construction of a new trash enclosure will be required that will provide service to all tenants on this site and must be constructed on or before July 1, 2016. The trash enclosure will be located along the alley that abuts the property to the east.	Not in compliance

28.	The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.	In compliance
29.	The property owner, operator and manager shall keep the property clear of trash, rubbish, and debris at all times; and dumping of refuse shall be restricted to the dumpster and/or refuse containers owned by the property owner.	In compliance
30.	The applicant shall comply with all federal, state and local laws. Material violation of any of those laws concerning the use will be cause for revocation of this permit.	Not in compliance
31.	The hosting of special events and competitions is not allowed for by this use permit. At no time shall the occupancy of the space exceed the occupancy load as determined by the Fire Official.	In compliance
32.	On-site parking shall be provided at all times in conformance with the Municipal Code. All required parking shall be permanently maintained.	In compliance
33.	The property owner shall maintain all landscaping in a healthy and well-manicured appearance. This includes, but is not limited to; ensuring irrigation equipment is properly operating at all times, trimming and pruning trees and shrubs and replacing dead or unhealthy vegetation with drought tolerant plantings.	Not in compliance
34.	All signage shall be in compliance with the Madera Sign Ordinance. All signage is required to have an approved Sign Permit issued by the Planning Department per MMC § 10-6.	In compliance. Other businesses on-site do not have permits.

Site Photos



All landscaping on the site is dead. Condition #33 is in non-compliance.



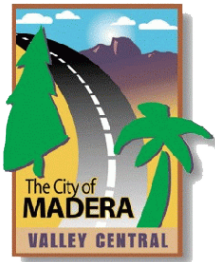
Site Photos



ADA parking stall is not correct. No loading zone is provided.



The required trash enclosure has not been constructed.



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Madera's Finest Car Wash (Performance Review)
CUP 2015-26 MOD, SPR 2016-27 & Categorical Exemption
Item # NP1 – August 08, 2017**

PROPOSAL: A performance review of Conditional Use Permit 2015-26 MOD and Site Plan Review 2016-27, allowing for a car wash and auto detailing business on a C1 (Light Commercial) Zone District, to determine whether it is appropriate to schedule a public hearing for a conditional use permit revocation.

APPLICANT:	Tony Ortega	OWNER:	Don Bonander
ADDRESS:	96 East 6 th Street	APN:	007-152-007
APPLICATIONS:	CUP 2015-26 MOD & SPR 2016-27	CEQA:	Categorical Exemption

LOCATION: The property is located at the southwest corner of East 6th Street and South E Street.

STREET ACCESS: The site has access to East 6th Street and South E Street.

PARCEL SIZE: One parcel encompassing approximately 0.18 acres.

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C1 (Light Commercial)

SITE CHARACTERISTICS: The project site is located in the City's downtown district. Various commercial businesses surround the site, including the Honda/Suzuki dealership to the east, the downtown commercial district to the north and retail shops to the south. The Union Pacific Rail Road is located adjacent to the west side of the project site.

ENVIRONMENTAL REVIEW: The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15321, (Enforcement Actions).

SUMMARY: The site is currently not in compliance with the conditions of approval for Conditional Use Permit 2015-26 MOD and Site Plan Review 2016-27. Outreach to assist the applicant in attaining compliance has been unsuccessful. Staff recommends that CUP 2015-26 MOD be scheduled for a public hearing to determine whether revocation is appropriate.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.801 Light Commercial Zones
MMC § 10-3.4.0102 Site Plan Review Applicability
MMC § 10-3.1205 Parking Exemptions
MMC § 10-3.1301 Use Permits
MMC § 10-3.1311 Termination and Revocation

PRIOR ACTION

In December 2012, a Preliminary Project Review (PPR) was completed at the request of the applicant. The PPR identified a conditional use permit and site plan review would be required in order to allow the establishment of an auto detailing business on the site. Despite the PPR's initial guidance, Madera's Finest Hand Car Wash proceeded to operate without the required land use permits or business license between the period of January 2013 and October 2014. In October 2014, the Planning Commission approved Conditional Use Permit 2014-24 and Site Plan Review 2014-33, allowing for a car wash and auto detailing use at the 96 East 6th Street address. None of the required conditions of approval were ever completed in association with the use permit, which was ultimately extinguished by a written letter signed by the business and property owner.

In October 2015, the Planning Commission approved Conditional Use Permit 2015-26 and Site Plan Review 2015-30 allowing for a used auto sales business on the property. Accounts for the used auto sales business were officially closed in August 2016, leaving the site vacant with none of the required off-site improvements ever being completed.

Following the aforementioned actions, an application for a Conditional Use Permit 2015-26 MOD and Site Plan Review 2016-27 was filed in May 2016. Conditional approval was granted by the Planning Commission on August 9, 2016, which allowed for the establishment of a car wash and auto detailing business on the site.

ANALYSIS

Status of Required Improvements

Upon acceptance of the conditions of approval, the applicant made minimal efforts to comply with the list of conditions. The majority of on-and-off site improvements have not been completed. Regardless, the tenant opened for business, in further violation of the conditions of approval.

Condition No.16, which entails upgrading the existing sewer utility on the site, has not been fulfilled. Although efforts to locate the sewer service on the site were attempted, the upgrade of the sewer cleanout was never completed. After the applicant's unsuccessful attempt to fulfill all components of Condition No. 16, further sewer service improvement efforts were discontinued.

Additional off-site improvements also not completed, include: upgrade/reconstruction of the handicap access ramps; and reconstruction of the driveway approaches to provide ADA accessibility and reconstruction of damaged sidewalks. On-site improvements not completed include: ADA accessible parking stalls, construction of a single bin trash enclosure, a key box for emergency service personnel and maintenance of the site's landscaping to ensure a healthy and well-manicured appearance.

Findings of Review

No significant progress has been made towards meeting the required on-and-off site requirements. Only one encroachment permit has been secured to allow for the upgrade of the water meter on the site. No building permits have been secured for on-site improvements nor have the necessary steps been taken to secure a business license.

Attached please find a matrix of the conditions of approval for Conditional Use Permit 2015-26 MOD and Site Plan Review 2016-27. These conditions were evaluated by staff for compliance on multiple occasions, the most recent inspection occurring on June 22, 2017. Shaded conditions of approval are currently not in compliance. Of the forty-one (41) conditions of approval, nineteen (19) need attention in order to be in compliance with the conditions of approval. Compliance with twenty-two (22) of forty-one (41) conditions equates to a fifty-four (54%) percent compliance rate.

SUMMARY OF RECOMMENDATIONS

It is recommended that Conditional Use Permit 2015-26 MOD be scheduled for a public hearing at the September 12, 2017 Planning Commission meeting to determine whether revocation of the conditional use permit is appropriate.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permit 2015-26 MOD, determining to either:

- schedule a public hearing to consider revocation of the use permit, or
- find that the review of the use permit is not warranted at this time

Any action by the Planning Commission is subject to appeal to the City Council within fifteen (15) calendar days of the Planning Commission's action.

Motion 1: Move to schedule a public hearing to consider the revocation of Conditional Use Permit 2015-26 MOD at the September 12, 2017 Planning Commission meeting, based on and subject to the findings.

Findings

- Staff has observed non-compliance with the conditions of approval, warranting review of Conditional Use Permit 2015-26 MOD as approved by the Planning Commission on August 9, 2016.

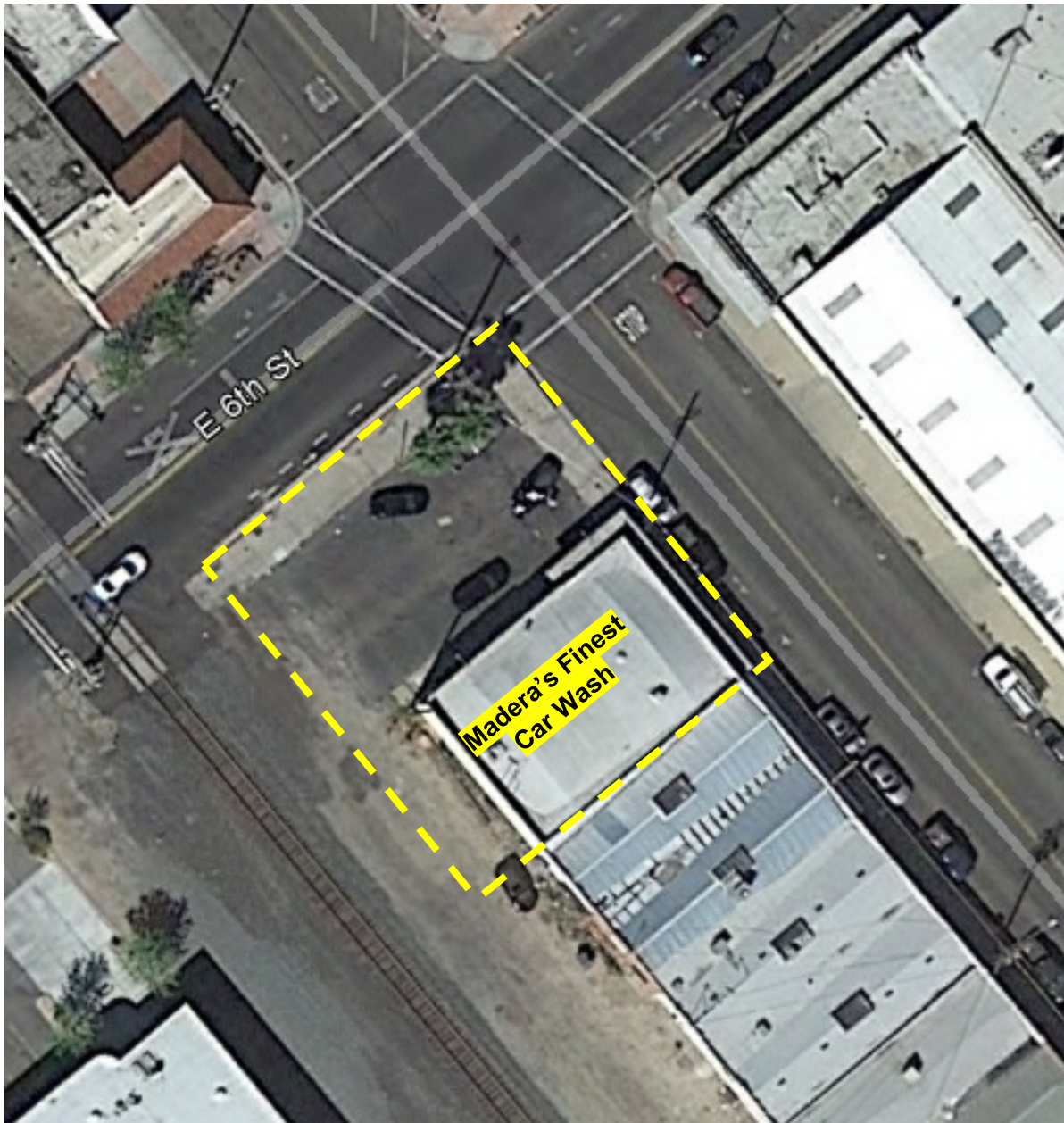
(OR)

Motion 2: Move to find that the review of Conditional Use Permit 2015-26 MOD is not warranted at this time for the following reasons (Specify):

ATTACHMENTS

Aerial Map
Conditions of Approval Compliance Matrix
Site Photos

Aerial Photo



Conditions of Approval Compliance Matrix

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 days of the date of approval for this use permit.	In compliance
2.	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.	Procedural
3.	Conditional Use Permit 2015-26 MOD 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.	Procedural
4.	Conditional Use Permit 2015-26 MOD will expire and be rendered null and void if the use is discontinued for a twelve month period unless a written request for extension has been submitted to and approved by the Planning Commission.	Procedural
5.	Site Plan Review 2016-27 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code or required action is taken to extend the approval before expiration date. (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval)	Partial compliance- no building permit has been secured nor has a request for an extension been submitted.
6.	Conditional Use Permit 2015-26 MOD and Site Plan Review 2016-27 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.	Not in compliance

7.	The site or building plans submitted for any building permit applications shall reflect changes required by the herein listed conditions of approval. Any deviation from the approved plan or any condition contained herein shall require, at a minimum, prior written request by the applicant and approval by the Planning Manager.	Site plan does not reflect required changes i.e. trash bin enclosure, ADA parking stall.
8.	Any proposed future modifications to the site, including but not limited to building exteriors, parking/loading areas, fence/walls, new buildings or landscaping shall require an amendment to Site Plan Review 2016-27.	Procedural
9.	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.	Not in compliance
Building Department		
10.	Building permits are required for any tenant improvements. The uses of all rooms and activity areas shall be identified on any plans submitted for issuance of building permits.	Not in compliance
11.	Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at the permit stage and confirmed at final inspection.	Non-conforming ADA parking stall. No handicap ramp.
Engineering Department		
12.	Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.	Procedural
13.	The developer shall pay all the required fees for completion of the project. Fees due may include, but shall not be limited to, the following: encroachment permit processing and improvement inspection fees.	Not in compliance
14.	The improvement plans for the project shall include the most recent version of the City's General Notes	Not in compliance
15.	Improvements within the City right-of-way require an Encroachment Permit from the Engineering Department.	Not in compliance

16.	The existing sewer service connection shall be upgraded to current City standards including cleanouts, if not previously installed.	Improvements begun but never completed.
17.	The existing handicap access ramp located at the southwest corner of South E Street and East 6 th Street intersection shall be upgraded/reconstructed to current ADA standards. If the applicant believes that a hardship waiver is applicable based on the cost of this improvement in relation to overall project costs, a request for waiver may be submitted for consideration and an ultimate determination by the City.	Not in compliance
18.	The existing driveway approaches on South E Street and East 6 th Street shall be re-constructed to the extent necessary to provide ADA accessibility along the entire site frontage.	Not in compliance
19.	The damaged sidewalk along East 6 th Street shall be reconstructed per current City standards.	Not in compliance
20.	The applicant/property owner shall submit a Circulation Plan that demonstrates the elimination of vehicles queuing in the City right-of-way. If the circulation plan illustrates non-use of any driveway, the driveway shall be removed and reconstructed as sidewalk per City standards. The required circulation plan shall be incorporated into and consistent with the site plan required as part of Condition No. 30.	Complete
21	The existing water service connection shall be upgraded to current City standards including an Automatic Meter Reading (AMR) water meter located within City right-of-way and a backflow prevention device located within private property.	In compliance
Fire Department		
22.	Portable fire extinguishers shall be provided. A minimum of one for each 3,000 square feet or fraction thereof. Maximum travel distance to reach a fire extinguisher shall not exceed 75 feet.	In compliance
23.	Heavy automotive repair is not permitted without a complete analysis of the structure and its life safety components. The occupancy classification may be altered in such a case increasing the requirements.	In compliance

24.	A key box must be provided for access by emergency services personnel.	Not in compliance
Planning Department		
25.	The applicant shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.	In compliance
26.	Vandalism and graffiti shall be corrected per the Madera Municipal Code.	In compliance
27.	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. Outdoor storage of goods or materials shall not be allowed.	In compliance
28.	Hours of operation shall be from as early as 8:00 a.m. until as late as 6:00 p.m., seven (7) days a week.	In compliance
29.	Except as noted herein, all on- and off-site improvements shall be made prior to occupancy and issuance of a business license.	Business is operational without an approved business license.
30.	The applicant/property owner shall submit a Parking Plan for review and approval by the Planning Manager. The Parking Plan shall be consistent with the Circulation Plan required as part of Condition No. 20. The Parking Plan shall propose a parking lot striping plan for the existing parking field consistent with City standards. It shall also identify the location of the trash enclosure required as part of Condition No. 35.	Not in compliance. Trash enclosure not proposed or approved.
31.	Consistent with the Site Plan/Circulation Plan required in Condition No. 30, the existing parking field shall be slurry sealed and restriped consistent with a Parking Plan.	Complete
32.	The property owner shall maintain all landscaping in a healthy and well-manicured appearance. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation with drought-tolerant plantings	Not in compliance

33.	The existing "Vintage" billboard sign on the north elevation shall be removed from the structure. The wall shall be repainted to match the remainder of the structure.	Complete
34.	If the applicant wishes to repaint or refurbish the structure, a color and materials board of the proposed paint colors will be required for approval prior to paint application.	In compliance
35.	A new single bin trash enclosure shall be constructed consistent with City standards. The color of the trash enclosure shall be painted to match the existing structure. The location of the trash enclosure shall be shown on the required site plan for the parking field and shall be approved by the Public Works Director.	Not in compliance
36.	All signage shall be in compliance with the Madera Sign Ordinance. All signage is required to have an approved Sign Permit issued by the Planning Department per MMC §10-6.	In compliance
37.	Conditional Use Permit 2015-26 MOD allows for the following automotive services: <ul style="list-style-type: none"> • Hand car wash and auto detailing • Automotive glass tinting installation 	Per condition #29, no use is allowed at this time. Required improvements not completed.
38.	No other automotive services, repairs, and/or installations are allowed on the project site without the approval of a separate conditional use permit. The allowance for used car sales is extinguished within this request for modification of Conditional Use Permit 2015-26.	In compliance
39.	All automotive services shall occur inside of the structure.	In compliance
40.	Outdoor storage of goods and/or materials shall not be allowed.	In compliance
41.	Overnight parking of vehicles shall only occur within the interior of the building.	In compliance

Site Photos



Untreated landscape, unmarked ADA parking stalls, no single bin trash enclosure, unreconstructed handicap ramps



Unreconstructed driveway approaches and damaged sidewalk

Administrative Reports:

Informational Workshop Regarding the City of
Madera General Plan.