

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

**COUNCIL CHAMBERS - CITY HALL  
TUESDAY  
October 10, 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**

Minutes of September 12, 2017

**CONSENT ITEMS**

**PUBLIC HEARING ITEMS**

**1. GPA 2017-01 & REZ 2017-03 – Avila Residential**

A noticed public hearing to consider a General Plan Amendment and Rezoning to allow for the future development of residential dwellings at a higher density than presently allowed. The General Plan Amendment would change the General Plan land use designation on the project site from the LD (Low Density Residential) land use designation to the HD (High Density Residential) land use designation. The rezone would change the zoning for the project site from the R2 (Medium Density Residential) to the R3 (High Density Residential) Zone District. The project site is

located on the west side of North K Street, north of its intersection with West Yosemite Avenue (APN: 010-081-002).

**2. CUP 2017-15 & SPR 2017-21 – Fresh Kebob Outdoor Dining**

A noticed public hearing to consider a conditional use permit and site plan review to allow for the establishment of outdoor dining as a component of an existing drive-thru food service kiosk on property located at the northwest corner of North Q Street and West Yosemite Avenue (1209 West Yosemite Avenue) in the C1 (Light Commercial) Zone District and the C (Commercial) General Plan land use designation (APN: 010-062-015)

**3. CUP 2017-18 & SPR 2017-30 – Elsayed Pharmacy**

A noticed public hearing to consider a conditional use permit and site plan review to allow for the establishment of a pharmacy in an existing professional office complex located approximately 150 feet west of the northwest corner of West Cleveland Avenue and North Schnoor Avenue (2311 West Cleveland Avenue) in the PO (Professional Office) Zone District, with an O (Office) General Plan land use designation (APN: 013-141-033).

**4. CUP 2017-19 & SPR 2017-31 – 99 Cents Only Store Beer and Wine Sales**

A noticed public hearing to consider a conditional use permit and site plan review to allow for the sale of beer and wine for off-site consumption as a component of an existing retail food store located at the northeast corner of Country Club Drive and West Sherwood Way (1333 Country Club Drive) in the C1 (Light Commercial) Zone District and the C (Commercial) General Plan land use designation (APN: 003-210-025).

**5. CUP 2017-20 & SPR 2017-32 – Panchito's On-Site Alcohol Sales**

A noticed public hearing to consider a conditional use permit and site plan review to allow for the sale of beer and wine for on-site consumption as a component of an existing restaurant located approximately 100 feet north of the northwest corner of South C Street and East 9<sup>th</sup> Street (412 South C Street) in the C1 (Light Commercial) Zone District and an HD (High Density) General Plan land use designation (APN: 011-021-003).

**6. OTA 2017-01 – Accessory Dwelling Units**

A public hearing and consideration of adoption of a resolution recommending to the City Council adoption of an ordinance repealing in its entirety Section 513 of Chapter 10 of Title III of the Madera Municipal Code pertaining to Secondary Dwelling Units, and replacing it with revised text under the title, Accessory Dwelling Units, as required by state law.

**NON PUBLIC HEARING ITEMS**

**1. Review of CUP 2015-27 & SPR 2015-31 – Franks Auto Repair**

A review of the performance of Conditional Use Permit 2015-27 allowing for the establishment of an auto repair shop on the east side of South Gateway Drive near its intersection with 12<sup>th</sup> Street, to determine whether it is appropriate to schedule a hearing on revocation.

## **ADMINISTRATIVE REPORTS**

1. Informational Workshop Part 3 – General Plan Land Use Element

## **COMMISSIONER REPORTS**

## **ADJOURNMENT**

The next regular meeting will be held on November 14, 2017.

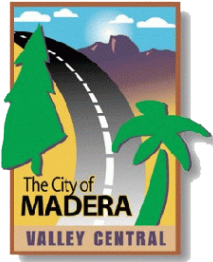
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation 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: Avila Residential Rezone and General Plan Amendment  
GPA 2017-01 and REZ 2017-03  
Item #1 – October 10, 2017**

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**PROPOSAL:** An application to change the General Plan land use designation on the project site from the LD (Low Density Residential) land use designation to the HD (High Density Residential) land use designation, and a Rezone for the project site from the R2 (Medium Density Residential) to the R3 (High Density Residential) Zone District.

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<b>APPLICANT:</b>	Humberto Avila	<b>OWNER:</b>	Humberto Avila
<b>ADDRESS:</b>	118 North K St.	<b>APN:</b>	010-081-002
<b>APPLICATIONS:</b>	REZ 2017-01	<b>CEQA:</b>	Exempt

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**LOCATION:** The project site is located approximately 200 feet northwest of the corner of West Yosemite Avenue and North K Street.

**STREET ACCESS:** The site is accessed from North K Street.

**PARCEL SIZE:** 7,500 square feet.

**GENERAL PLAN DESIGNATION:** LD (Low Density)

**ZONING DISTRICT:** R2 (Medium Density Residential)

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**SITE CHARACTERISTICS:** The project site is developed with two residential dwellings.

**ENVIRONMENTAL REVIEW:** The proposed General Plan amendment and rezone is exempt under Section 15061(b)(3) of the California Environmental Quality Act "CEQA". The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

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**SUMMARY:** The proposed General Plan Amendment and rezoning provide consistency between the Zoning Ordinance and the Madera General Plan, providing for future redevelopment of the site consistent with adjacent residential properties.

## **APPLICABLE CODES AND PROCEDURES**

GC § 65358, General Plan Amendments  
MMC § 10-3.1501-06 Amendments

**PRIOR ACTION:** None

## **ANALYSIS**

### Background

The owner/applicant desires to have the opportunity to increase the density of the project parcel in the future. No specific project has been proposed by the owner/applicant at this time. In that property immediately abutting the project parcel to the north is developed with a high density multifamily residential apartment complex and property to the south is being developed as a professional office complex, it is appropriate to alter land use on the site to more closely align with surrounding uses.

### General Plan Amendment

The General Plan currently designates the project site as LD (Low Density), which allows for the development of traditional single family residential neighborhoods at a density of between 2.1 and 7 units per acre. The applicant has requested a change in General Plan land use designation to the HD (High Density) land use designation. The HD land use designation would provide consistency between the proposed R3 (High Density Residential) and the expected future development of multifamily residential development.

### Rezone

The project site is currently within the R2 (Medium Density Residential) Zone District. The property is currently developed with two residential units which results in existing development that is consistent with zoning but inconsistent with the existing General Plan land use designation. Approval of the proposed rezone to the R3 (High Density Residential) would provide the required consistency between zoning and the proposed change in General Plan, providing a higher density of development than currently allowed.

### General Plan Conformity

General Plan Goal CD-1 calls for “the City of Madera [to] require that all new development is well-planned and of the highest possible quality. The City will seek to build an image of Madera as a contemporary small city with vibrant, livable neighborhoods and walkable pedestrian -and bicycle- oriented development.” Goals CD-2 expands that vision by requiring that “all new development shall adhere to the basic principles of high-quality urban design, architecture and landscape architecture.” Although no development is currently proposed, the proposed rezoning will provide the foundation for future development consistent with the goals and policies of the General Plan. Any future proposed development will require, at a minimum, the approval of site plan review, wherein findings of General Plan conformance are required.

## **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

The first of the four core vision statements in the Vision Plan is “a well-planned city”. The Commission, by considering how this development connects to other developments and how the neighborhood and infrastructure can be maintained, is actively implementing this key concept of the Vision Plan.

## **RECOMMENDATION**

The information presented in this report supports approval of the General Plan amendment and rezone. It is recommended that the Commission consider this information, together with

testimony provided at the public hearing, and adopt a Resolution recommending approval of the General Plan amendment and rezone to the City Council.

## **PLANNING COMMISSION ACTION**

The Commission will be acting on General Plan Amendment 2017-01 and Rezone 2017-03, determining to either;

- adopt a Resolution recommending to the City Council adoption of an ordinance rezoning the property
- 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 adopt a resolution recommending to the City Council approval of the requested General Plan amendment and introduction of an ordinance rezoning the subject property, with the findings as stated below:

### Findings

- The proposed General Plan Amendment will provide consistency between the General Plan and Zoning Ordinance.
- The proposed rezoning will zone affected properties in a manner consistent with the existing and proposed land use.

**(OR)**

Motion 2: Move to continue the public hearing on General Plan Amendment 2017-01 and Rezone 2017-03 to the November 14, 2017 Planning Commission meeting.

**(OR)**

Motion 3: Move to deny the application for General Plan Amendment 2017-01 and Rezone 2017-03, based on the following findings: (specify)

## **ATTACHMENTS**

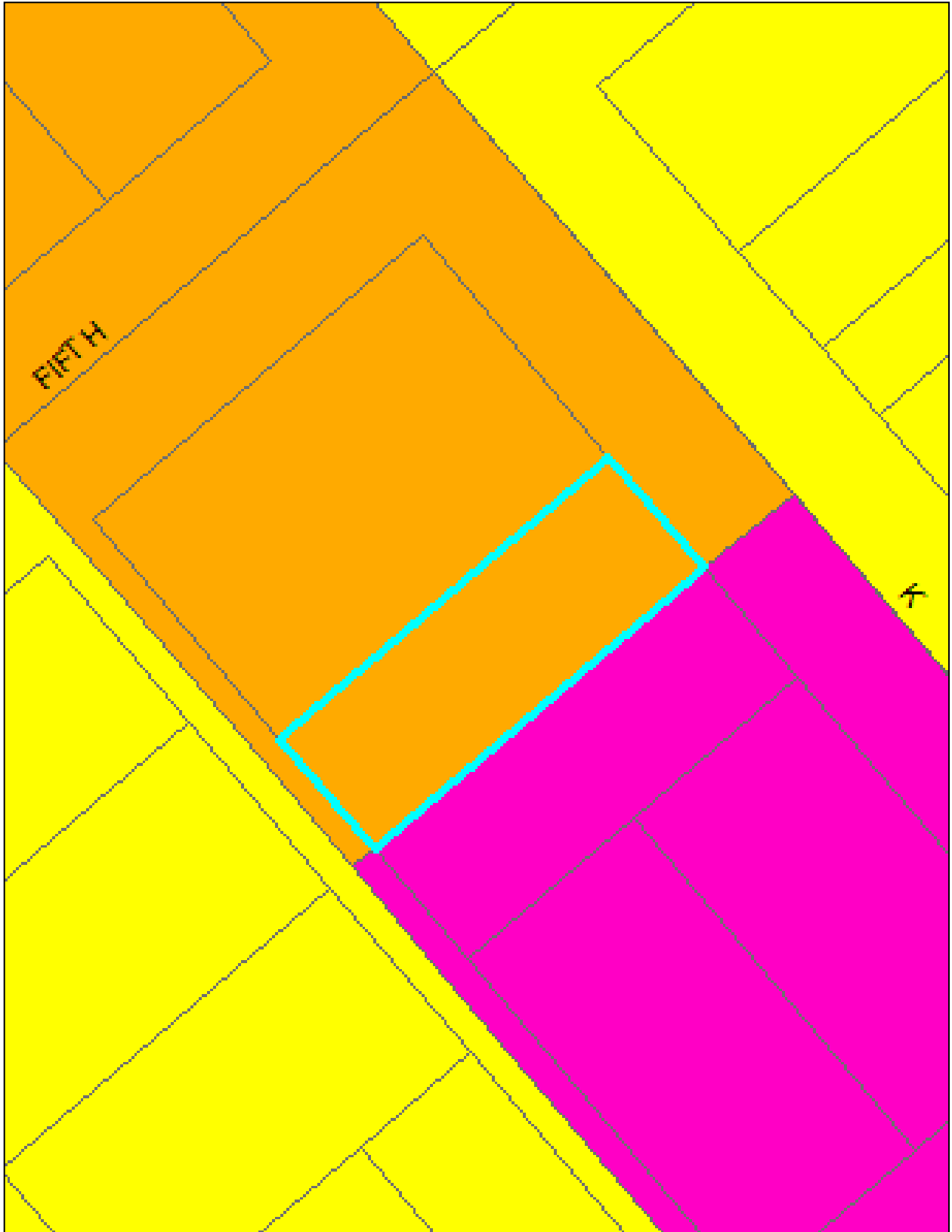
Aerial Map  
General Plan Map  
Zoning Map  
Resolution of Recommendation to the City Council  
    Exhibit A – General Plan Land Use Map  
    Exhibit B – Zoning Map  
Draft Ordinance  
    Exhibit A - Zoning Map

# Aerial Photo

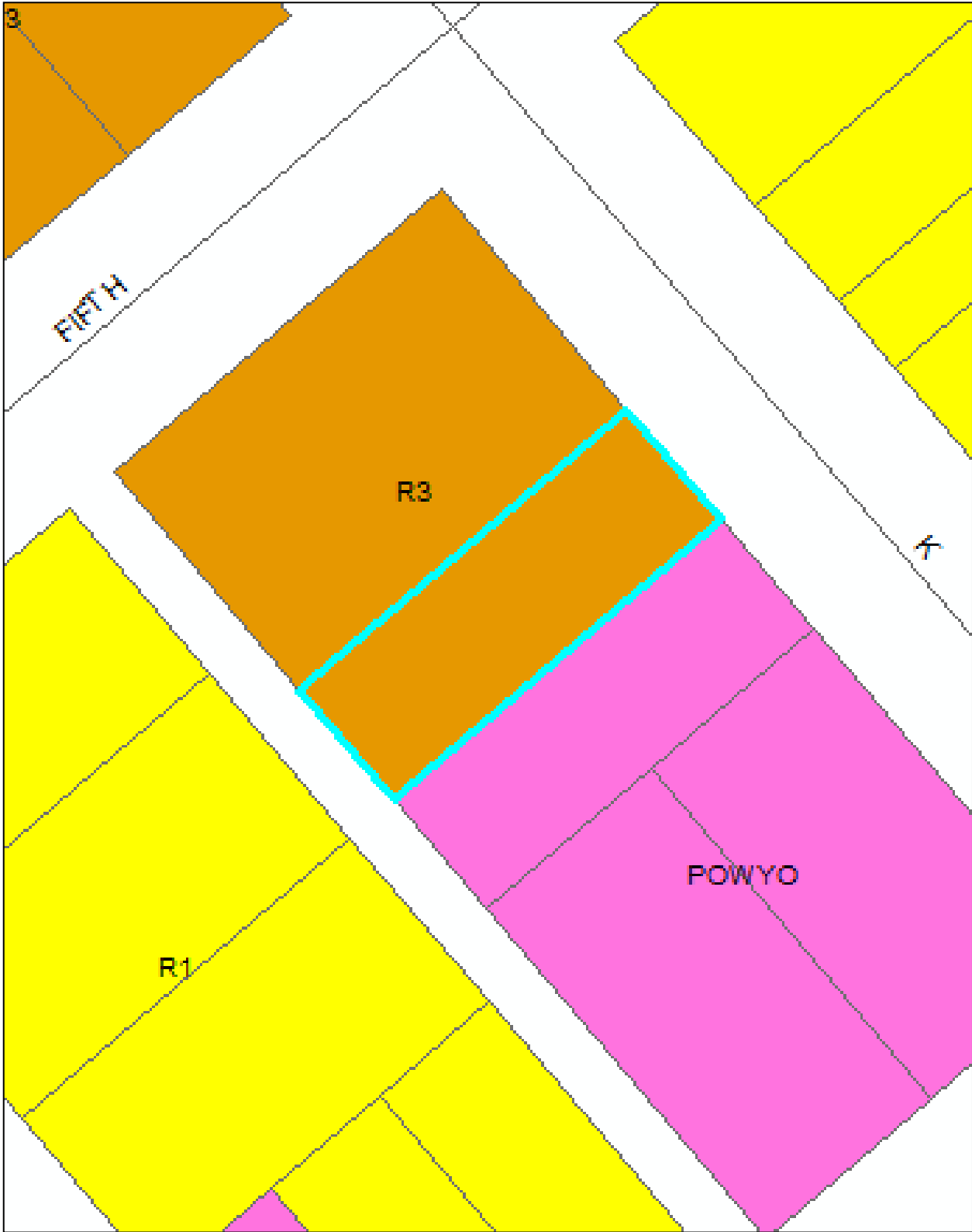




# General Plan Map



# Zoning Map



**RESOLUTION NO. 1821**

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MADERA APPROVAL OF AN AMENDMENT OF THE GENERAL PLAN CHANGING THE LAND USE DESIGNATION OF ONE PARCEL ENCOMPASSING APPROXIMATELY 7,500 SQUARE FEET LOCATED AT 118 NORTH K STREET FROM THE LD (LOW DENSITY) GENERAL PLAN LAND USE DESIGNATION TO THE HD (HIGH DENSITY) GENERAL PLAN LAND USE DESIGNATION AND REZONING OF THE PROPERTY FROM THE R2 (MEDIUM DENSITY RESIDENTIAL) ZONE DISTRICT TO THE R3 (HIGH DENSITY RESIDENTIAL) ZONE DISTRICT

WHEREAS, State Law requires that local agencies adopt General Plans containing specific mandatory elements; and

WHEREAS, the City of Madera has adopted a Comprehensive General Plan Update and Environmental Impact Report, and the City of Madera is currently in compliance with State mandates relative to Elements of the General Plan; and

WHEREAS, State law also provides for periodic review, updates, and amendments of its various plans; and

WHEREAS, the City has initiated an amendment to the Madera General Plan amending the land use designation for approximately 7,500 square feet of property located at 118 North K Street from the LD (Low Density) land use designation to the HD (High Density) land use designation, as shown in the attached Exhibit A; and

WHEREAS, the City has initiated a Rezone of the property from the R2 (Medium Density Residential) Zone District to the R3 (High Density Residential) Zone District, as shown in the attached Exhibit B; and

WHEREAS, the proposed General Plan amendment and Rezone will provide the required consistency between the General Plan and Zoning Ordinance; and

WHEREAS, the proposed General Plan amendment and Rezone are compatible with the neighborhood and are not expected to be detrimental to the health, safety, peace, comfort or general welfare of the neighborhood or the City; and

WHEREAS, the proposed General Plan amendment and rezone are exempt under Section 15061(b)(3) of the California Environmental Quality Act "CEQA" which states that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.; and

WHEREAS, public notice of this public hearing was given by mailed and published notice in accordance with the applicable State and Municipal Codes and standard practices; and

WHEREAS, the Planning Commission has completed its review of the staff report and documents submitted for the proposed project, evaluated the information and considered testimony received as a part of the public hearing process.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MADERA AS FOLLOWS:

1. The above recitals are true and correct.
2. The Planning Commission hereby recommends that the Madera General Plan land use map be amended as specified in attached Exhibit "A".
3. The proposed amendment to the Land Use Map is hereby found consistent with all elements of the Madera General Plan.
4. The proposed Rezone is hereby found to be consistent with all elements of the Zoning Ordinance, including the Zoning Map as amended by this application.
5. The Planning Commission hereby recommends the City Council adopt an ordinance rezoning property as specified within the attached Exhibit "B".
6. This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 10<sup>th</sup> day of October, 2017, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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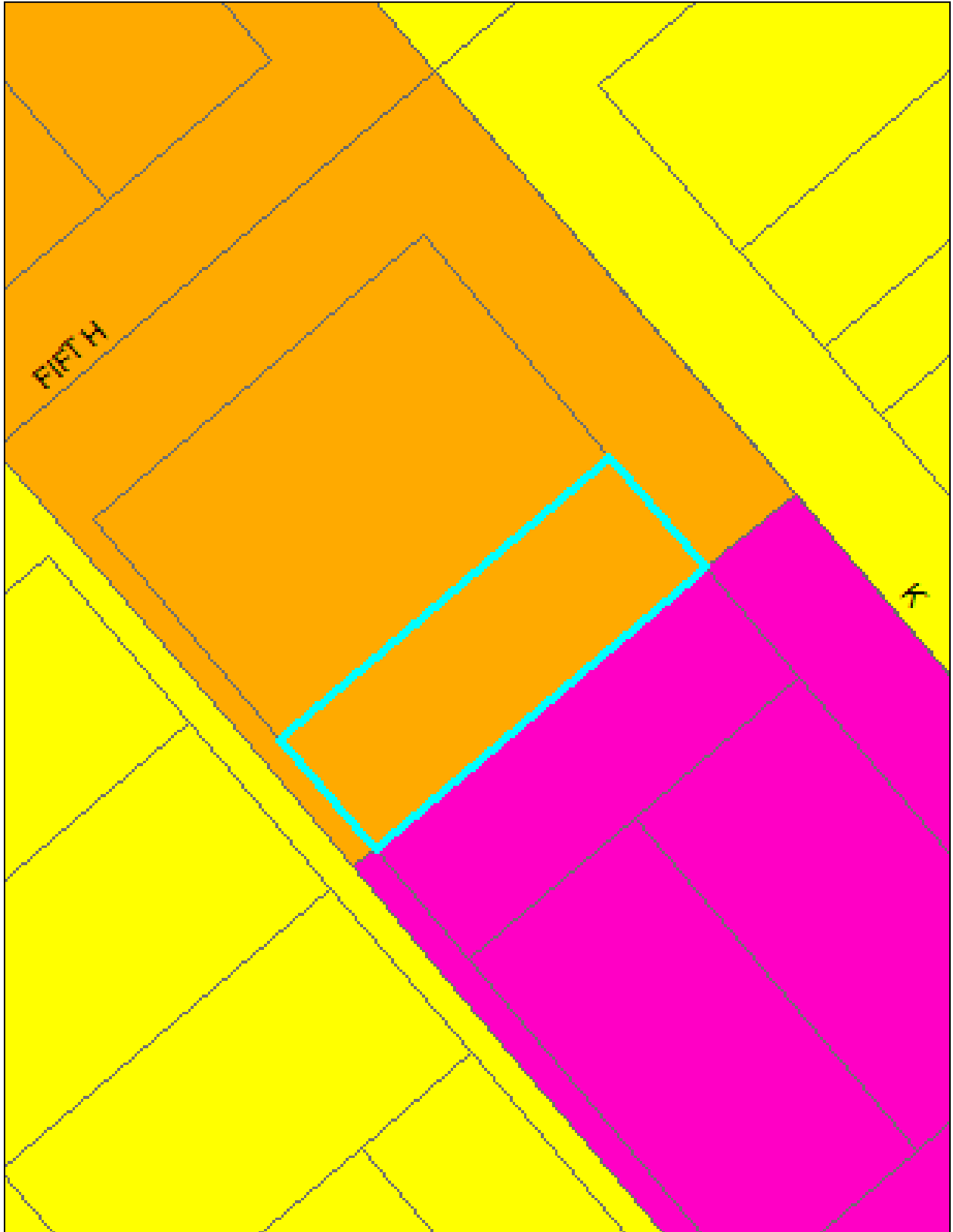
Kenneth Hutchings  
Planning Commission Chairperson

Attest:

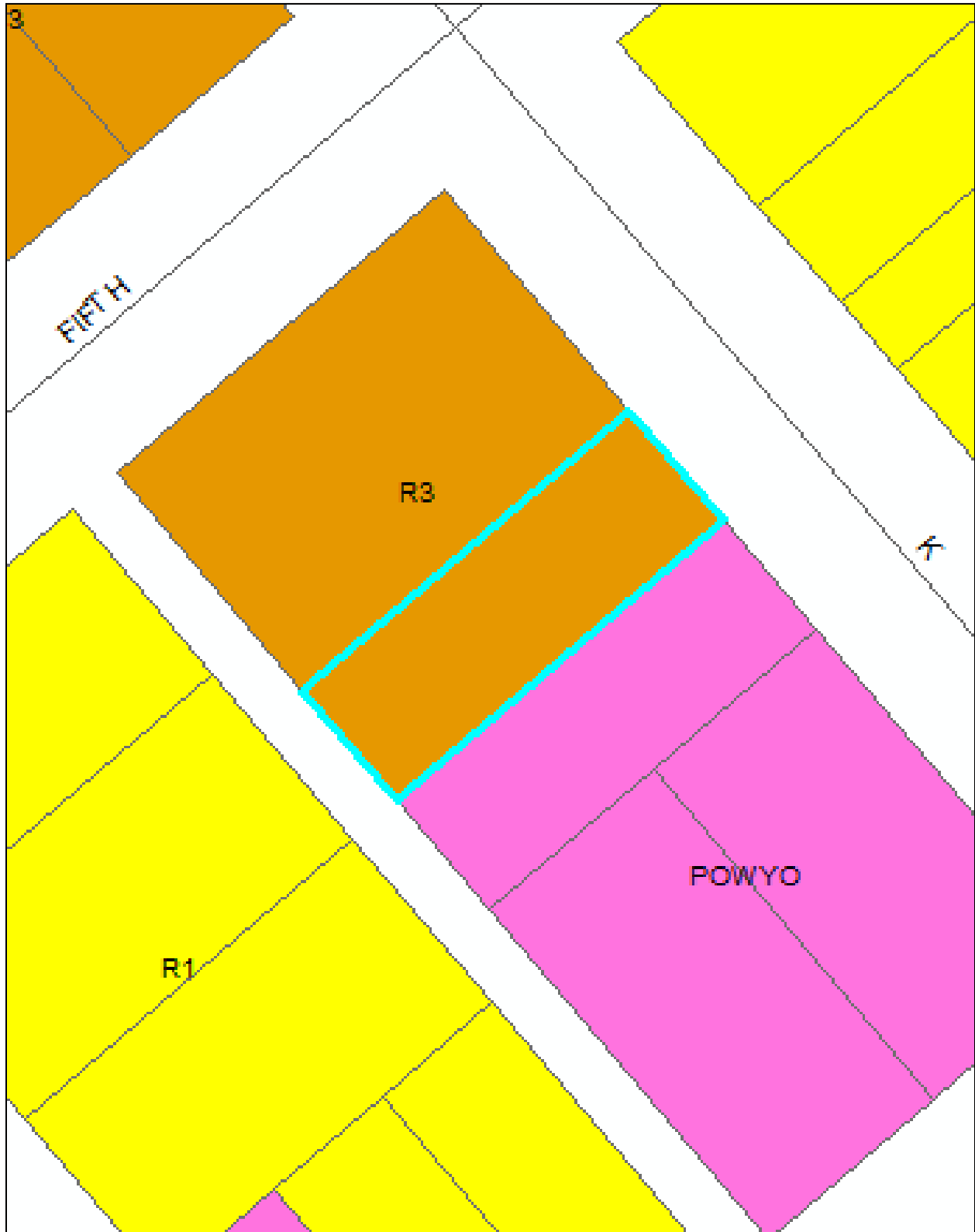
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Christopher F. Boyle  
Planning Manager

PLANNING COMMISSION RESOLUTION NO. 1821  
EXHIBIT 'A'



PLANNING COMMISSION RESOLUTION NO. 1821  
EXHIBIT 'B'



**DRAFT ORDINANCE**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP REZONING AN APPROXIMATELY 7,500 SQUARE FOOT PARCEL LOCATED AT 118 NORTH K STREET FROM THE R2 (MEDIUM DENSITY RESIDENTIAL) ZONE DISTRICT TO THE R3 (HIGH DENSITY RESIDENTIAL) ZONE DISTRICT AS IDENTIFIED WITHIN EXHIBIT "A"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADERA AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Madera and this Council have held public hearings upon the rezoning of this property and have determined that the proposed rezoning is consistent with the General Plan as amended and subsequent development will be in conformance with all standards and regulations of the Municipal Code.

SECTION 2. The City of Madera Zoning Map as provided for in Chapter 3 of Title 10 of the Madera Municipal Code is hereby amended as illustrated in the hereto attached Exhibit "A" which indicates the segment of the City of Madera Zoning Map to be amended. Unless the adoption of this amendment to the Zoning Map is lawfully stayed, thirty-one (31) days after adoption of this amendment, the Planning Director and City Clerk shall cause these revisions to be made to the City of Madera Zoning Map which shall also indicate the date of adoption of this revision and be signed by the Planning Director and City Clerk.

SECTION 3. Based upon the testimony and information presented at the hearing, the adoption of the proposed rezoning is in the best interest of the City of Madera, and the Council hereby approves the rezoning based on the following findings:

FINDINGS:

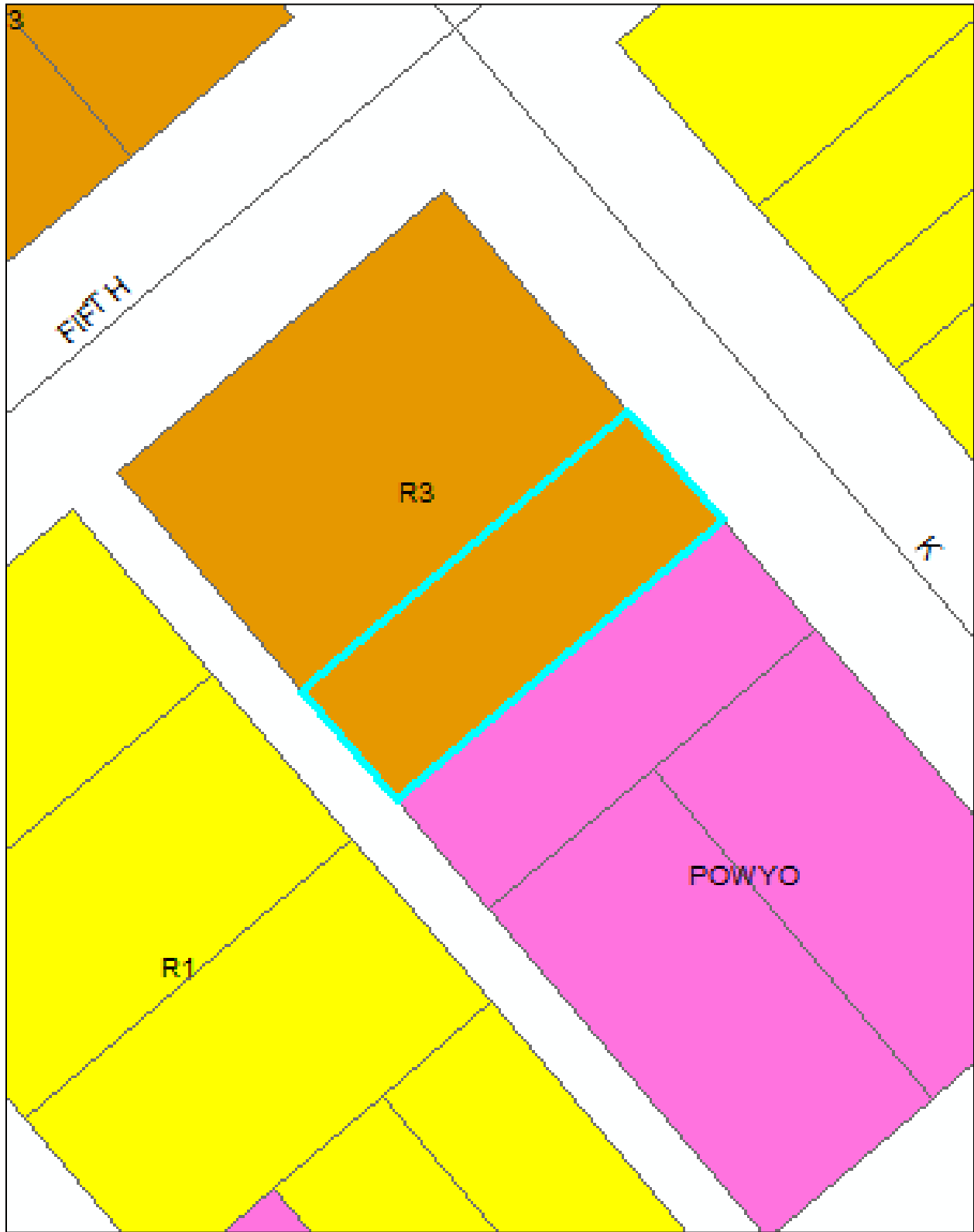
1. THE PROPOSED REZONE WILL PROVIDE THE REQUIRED CONSISTENCY BETWEEN THE GENERAL PLAN AND ZONING ORDINANCE.
2. THE REZONE IS NOT EXPECTED TO BE DETRIMENTAL TO THE HEALTH, SAFETY, PEACE, COMFORT OR GENERAL WELFARE OF THE NEIGHBORHOOD OR THE CITY.
3. CITY SERVICES AND UTILITIES ARE AVAILABLE OR CAN BE EXTENDED TO SERVE THE AREA.

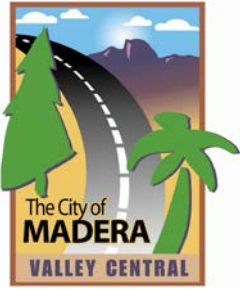
SECTION 4. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

\* \* \* \* \*



DRAFT ORDINANCE - EXHIBIT A





CITY OF MADERA  
PLANNING COMMISSION

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

**Staff Report: Fresh Kebab  
CUP 2017-15 & SPR 2017-21 & Categorical Exemption  
Item #2 – October 10, 2017**

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**PROPOSAL:** An application for a conditional use permit and a site plan review to allow for the establishment of outdoor dining as an addition to an existing drive-thru restaurant use.

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<b>APPLICANT:</b>	Mosalh Alhomed	<b>OWNER:</b>	J S T LLC
<b>ADDRESS:</b>	1209 W Yosemite Avenue	<b>APN:</b>	010-062-015
<b>APPLICATION:</b>	CUP 2017-15 & SPR 2017-21	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The project site is located at the northwest corner of North Q Street and West Yosemite Avenue.

**STREET ACCESS:** The site has access to North Q Street and West Yosemite Avenue.

**PARCEL SIZE:** Approximately 15,000 square feet (0.34 acres).

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C1 (Light Commercial)

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**SITE CHARACTERISTICS:** The project site is an existing small, freestanding drive-thru “kiosk” structure located on the same parcel as a dry cleaning business. There is commercial development to the west and south in proximity to the intersection of West Yosemite Avenue, Howard Road, and Pine Street, and a mixture of office and residential to the east and north in conjunction with the West Yosemite Avenue Professional Office Zone District.

**ENVIRONMENTAL REVIEW:** This project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15301, (Existing Facilities).

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**SUMMARY:** Fresh Kebab will be reutilizing the former Swirl Express Drive-Thru kiosk structure, while adding an outdoor dining area as a component of the business model. Although there is an active permitted use for the drive-thru on the site, approval of a conditional use permit and site plan review is required for outdoor dining. Approval of outdoor dining for Fresh Kebab will allow for the restoration of the site’s structural and esthetic deficiencies by providing a refurbished look to landscaping, parking, and other necessary on and off-site improvements.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.802 Uses Permitted; Light Commercial Zone  
MMC § 10-3.4.0102 Site Plan Review Applicability  
MMC § 10-3.1202 Parking Spaces Required  
MMC § 10-3.1301 Use Permits

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**

The site was originally developed as a Shell service station in 1963. The business was then remodeled in 1974 as a Zip-N-Go Market and gas station. Conditional Use Permit 1979-06 was later approved, allowing for the conversion of the site to a dry cleaning business in conjunction with a service station. The drive-thru component on the site was later established through Conditional Use Permit 2002-06, upon approval by Planning Commission on October 15, 2002, which allowed for the construction of the Café e Via drive-thru coffee shop. Following Café e Via, the Planning Commission approved Conditional Use Permit 2013-35 on January 14, 2014, allowing the establishment of Swirl Express Drive-Thru Restaurant. Swirl Express discontinued business operations in September of 2016.

## **ANALYSIS**

### Operations

The Fresh Kebab proposes to re-establish a drive-thru restaurant in the existing 160 square feet kiosk at the northwest corner of West Yosemite Avenue and North Q Street. The applicant also proposes to add approximately 420 square feet of outdoor dining area as a component of the drive-thru restaurant operation.

The outdoor dining area will accommodate seating for fifteen (15) people. The anticipated maximum number of visitors per day will be approximately 100 customers for both on-site dining and drive-thru service. The hours of operations are proposed to occur, Monday through Sunday, 10:00 a.m. to 8:00 p.m.

The proposed outdoor dining area will be positioned on a six (6") inch raised poured concrete and curbed platform, that will be protected with planter boxes and wrought iron fencing. Additional signage and ADA access ramps will be constructed to allow accessibility onto the dining area.

### Parking and Circulation

The Madera Municipal Code requires that the dry cleaning business provide seven (7) parking stalls and four (4) parking stalls for the on-site dining of the restaurant. The project site as proposed allows for adequate parking. Currently, there are thirteen (13) parking stalls on-site with

an additional two (2) parking stalls being proposed. With more parking on the site, the Fresh Kebab will be able to accommodate additional seating for on-site dining. The proposed two parking stalls will also serve as an additional safety barrier for the on-site dining space.

The Fresh Kebab is proposing to utilize the existing southern drive-thru to serve as the only drive-thru window. The northern drive-thru window will be repurposed to serve as the customer pick-up window. It is anticipated the drive-thru can queue three (3) cars at once. The applicant has indicated drive-thru queuing time will be approximately 2-3 minutes per vehicles. For service time lapsing longer than three (3) minutes, vehicles will be instructed to park on-site to allow for expeditious circulation of drive-thru customers. Signs will be posted on the site to guide vehicle circulation on the site.

## **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

Though approval of a drive-thru restaurant with outdoor dining use is not specifically addressed in the vision or action plans, the overall project does indirectly support **Action 115.2-** *As a component of the General Plan Update, increase retail outlets and promote Shop Madera ...;*

## **RECOMMENDATION**

The information presented in this report provides support for the conditional approval of the conditional use permit request. It is recommended that the Planning Commission consider the information in this report, as well as testimony in the public hearing, to determine an appropriate decision on Conditional Use Permit 2017-15 and Site Plan Review 2017-21 subject to the findings and conditions of approval outlined in this report.

## **PLANNING COMMISSION ACTION**

The Planning Commission will be taking action regarding Conditional Use Permit 2017-15 and Site Plan Review 2017-21, determining to either:

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

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

Motion 1: Move to approve Conditional Use Permit 2017-15 and Site Plan Review 2017-21, based on and subject to the following findings and conditions of approval:

### Findings

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).
- The drive-thru and outdoor dining restaurant are consistent with the purpose of the C (Commercial) General Plan designation and the C-1 (Light Commercial) Zone District which provides for the use, subject to the issuance of a conditional use permit.
- There is adequate parking and site features to allow for the proposed drive-thru and outdoor dining patio.

- As conditioned, the drive-thru and outdoor dining patio will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use 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 days of the date of approval for this use permit.
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.
3. Conditional Use Permit 2017-15 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. Conditional Use Permit 2017-15 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.
5. Site Plan Review 2017-21 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)
6. Conditional Use Permit 2017-15 and Site Plan Review 2017-21 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 an item before the Planning Commission so that it may determine whether to consider setting a hearing regarding revocation of the permit.
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.
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 2017-21. Changes or expansion in the use shall require an amendment to Conditional Use Permit 2017-15.

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.
10. All on-site and off-site requirements listed herein shall be completed in advance of any request for occupancy of the tenant suite and issuance of a business license.

### **Building Department**

11. Building permits are required for all proposed tenant improvements. The uses of all rooms and activity areas shall be identified on any plans submitted for issuance of building permits
12. The applicant shall submit details plans that include interior setbacks for ADA compliance to be approved by the Building Department.

### **Engineering Department**

#### General

13. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
14. The developer shall pay all required fees for the completion of the project. Fees due may include, but shall not limited to the following: encroachment permit processing and improvement inspection fees.
15. Improvements within the City's right-of-way require an Encroachment Permit be secured from the Engineering Division.

#### Streets

16. The developer shall reconstruct/upgrade the existing handicap access ramp located at the northwest corner of Yosemite Avenue and Q Street to current ADA standards. If the applicant believes that a hardship waiver is applicable based on the cost of this improvement in relation to the overall project costs, a request for waiver may be submitted for consideration and an ultimate determination by the City.
17. The existing eastern-most driveway approach on Yosemite Avenue shall be removed and replaced with concrete sidewalk, curb and gutter per current City standards.

#### Water

18. The existing water service connection(s) shall be upgraded to include an Automatic Meter Reading water meter per City standards.

### **Environmental Health (Madera County)**

19. Two sets of scaled plans with specifications of all equipment to be installed shall be provided.
20. Plans shall be submitted to Madera County Environmental Health Department accompanied by a completed Environmental Health Plan Review application and associated fee.

## **Fire Department**

21. A building permit is required for all building and site alterations.
22. One (1) 2A10BC rated fire extinguisher is required. The fire extinguishers shall be mounted in a visible and accessible location.
23. One K Class fire extinguisher is required for the protection of cooking equipment.
24. A kitchen hood and duct suppression system is required. A separate building permit is required.
25. Fire lanes must be properly posted.

## **Planning Department**

### General

26. On-site vandalism and graffiti shall be corrected per the Madera Municipal Code.
27. The applicant shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
28. 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.
29. 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 Conditional Use Permit 2017-15.
30. Existing restroom facilities located at the exterior of the dry cleaning establishment shall be made available to all customers and employees of the drive-thru restaurant at all times. Written confirmation of use access agreement shall be provided to the Planning Department prior to issuance of a business license on the site.
31. The aforementioned restroom shall be upgraded to current ADA standards.
32. The parking field shall be slurry sealed and restriped to current City standards.
33. The monumental plaque located at the northwest corner of the intersection shall be removed or relocated to an open space area on the northeast corner of the property.

### Operations

34. Conditional Use Permit 2017-15 allows for the establishment of an approximately 420 square foot outdoor dining patio as a component of an existing 160 square foot drive-thru restaurant use.
35. On-site dining shall not exceed a maximum of eighteen (18) seats. Any additional number of seating shall require an amendment to Conditional Use Permit 2015-15 and Site Plan Review 2017-21.
36. Hours of operation shall be limited to occur between 7:00 a.m. and 10:00 p.m. daily, seven days a week.

37. No outdoor display of merchandise shall be allowed.
38. Smoking shall be prohibited in the outdoor dining area, except as provided by law.

#### Fences and Walls

39. The applicant shall construct a three (3') foot tall decorative wrought iron fence around the outdoor dining area. The fence and outdoor dining area shall not impede any required ADA path of travel. The location of the fence shall be placed consistent with the approved site plan. The design and placement of the fence shall be approved by the Planning Manager prior to installation.
40. The outdoor dining area shall be on a raised six inch (6") poured concrete platform with curb. The curb shall not impede any required ADA path travel to the site.

#### Building Colors

41. The applicant shall provide a color and material board to the Planning Department for approval. The kiosk shall be painted consistent with the approved color material board.

#### Landscaping

42. Landscape and irrigation plans shall be submitted to and approved by the Planning Department prior to installation of improvements. The landscaping plan shall identify the location, species, number, size and spacing of all plantings. All landscaping and irrigation shall be installed and operational prior to issuance of a business license. Landscaping planters along the frontage of West Yosemite Avenue and North Q Street shall be replanted, mulched and maintained in a healthy and well-manicured appearance.

#### Signage

43. No permanent or temporary signage shall be placed within the outdoor patio dining area or affixed onto the outdoor dining patio fence.
44. The use of on-building and/or free standing signage on the site shall be in compliance with the Madera Sign Ordinance at all times. All signage is required to have an approved Sign Permit issued by the Planning Department per MMC §10-6.

**(OR)**

Motion 2: Move to continue the application for Conditional Use Permit 2017-15 and Site Plan Review 2017-21 to the November 14, 2017 Planning Commission hearing for the following reasons: (specify)

**(OR)**

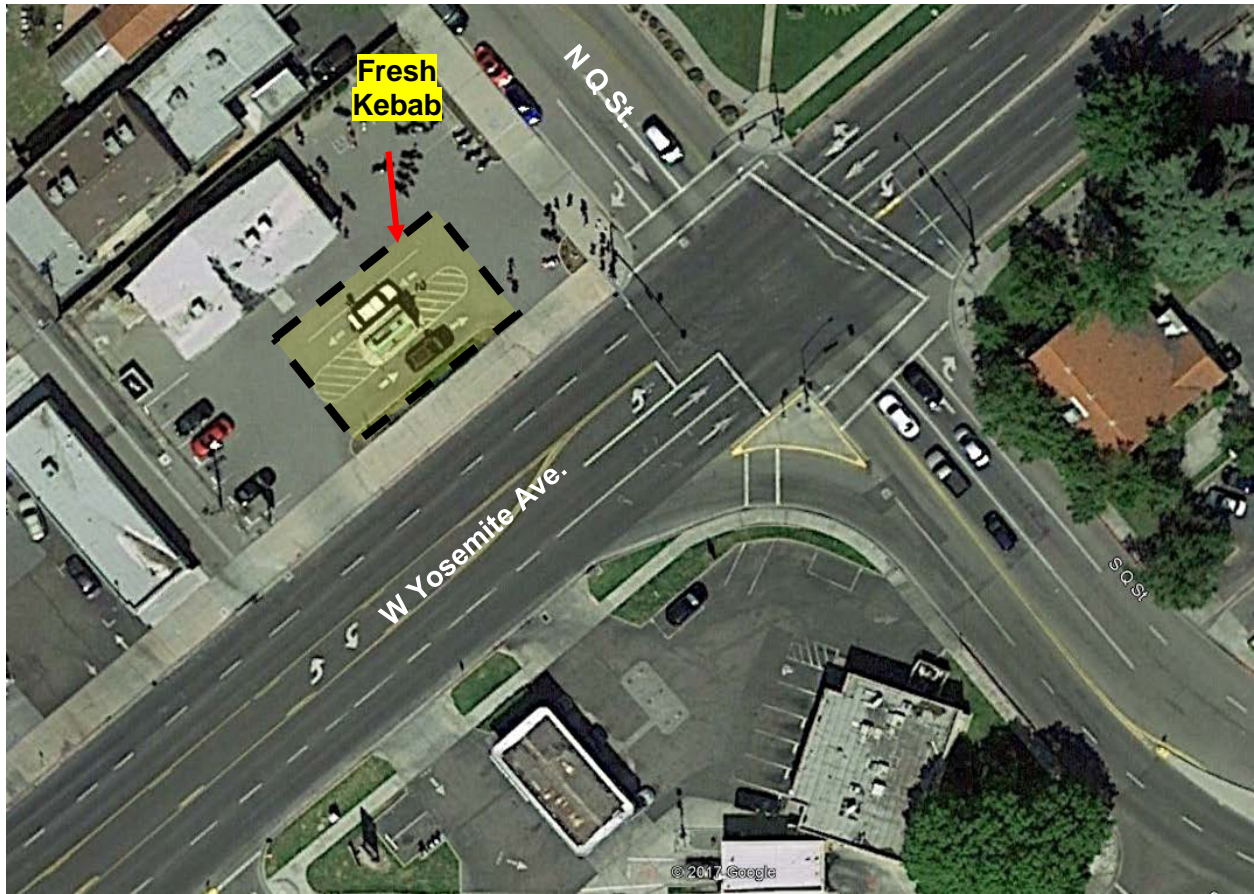
Motion 3: Move to deny the application for Conditional Use Permit 2017-15 and Site Plan Review 2017-21, based on and subject to the following findings: (specify)

### **ATTACHMENTS**

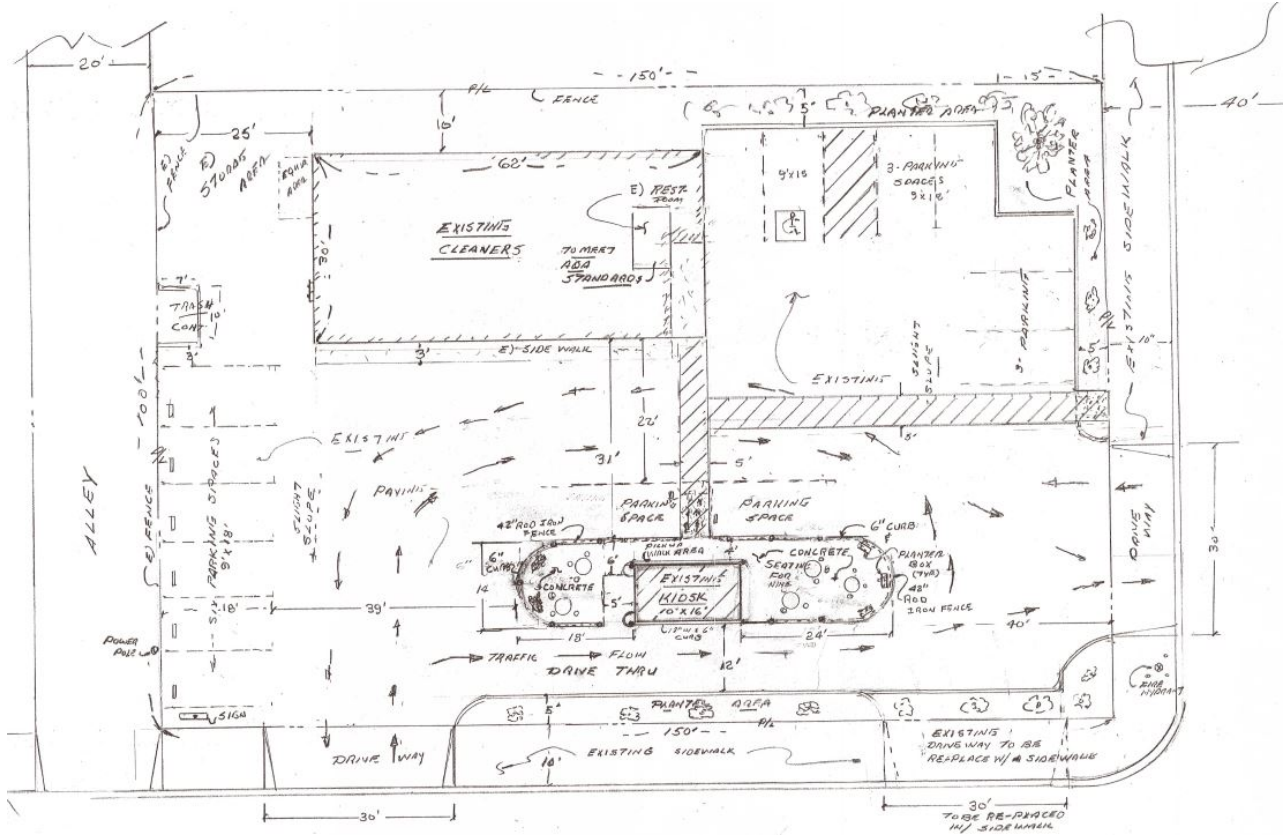
Aerial Photo  
Floor/Site Plans



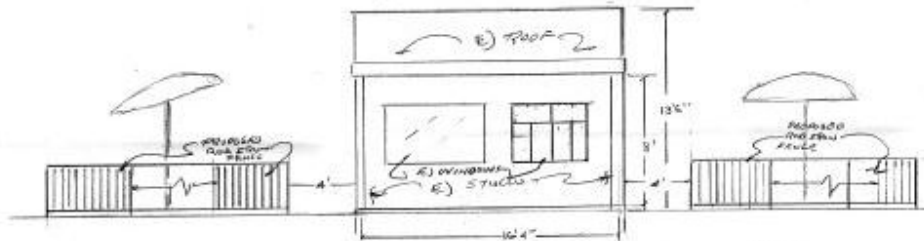
Aerial Photo



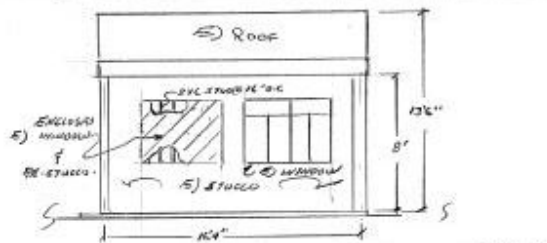
# Floor Plan



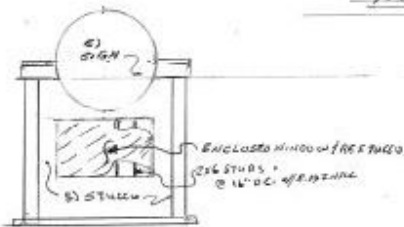
Proposed circulation and site plan



SOUTH ELEVATION SCALE: 1/4"=1'



NORTH ELEVATION SCALE: 1/4"=1'



EAST ELEVATION SCALE: 1/4"=1'

NOTE: WEST ELEVATION FOR BI/BI/BI DOOR.

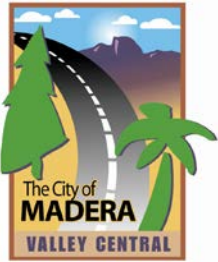
North and south elevations



Current site



Proposed drive-thru window to be reutilized



CITY OF MADERA  
PLANNING COMMISSION

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

**Staff Report: Elsayed Pharmacy  
CUP 2017-18 & SPR 2017-30  
Item #3 – October 10, 2017**

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**PROPOSAL:** An application for a conditional use permit and site plan review to allow for the establishment of a pharmacy in the PO (Professional Office) Zone District.

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<b>APPLICANT:</b>	Mohamed Elsayed	<b>OWNER:</b>	Elsayed Ahmed & Amer Shaimaa
<b>ADDRESS:</b>	2311 W Cleveland Ave.	<b>APN:</b>	013-141-033
<b>APPLICATION:</b>	CUP 2017-18 & SPR 2017-30	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The property is located on the north side of West Cleveland Avenue, approximately 200 feet west of the West Cleveland Avenue and North Schnoor Street intersection.

**STREET ACCESS:** The site has access to West Cleveland Avenue.

**PARCEL SIZE:** Approximately .10 acres

**GENERAL PLAN DESIGNATION:** O (Office)

**ZONING DISTRICT:** PO (Professional Office)

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**SITE CHARACTERISTICS:** The site is a developed professional office complex within the Cleveland Office Plaza. There is commercial use to the south, professional office development to the west, residential use to the north and a large day care facility to the east of the complex.

**ENVIRONMENTAL REVIEW:** The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15301, (Existing Facilities).

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**SUMMARY & RECOMMENDATION:** The use is consistent with the purpose and intent of the Zoning Ordinance and complements the surrounding uses. Staff recommends approval of the establishment of a pharmacy at the professional office development.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.751 Professional Office Zone  
MMC § 10-3.1202 Parking Spaces Required  
MMC § 10-3.1301 Use Permits

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**

The project site was developed as one (1) of eight (8) structures in the Cleveland Office Plaza as part of Conditional Use Permit 2004-03 and Site Plan Review 2004-03. The structure and associated land were divided into two parcels via Tentative Parcel Map 2012-04.

## **ANALYSIS**

### Background

The City's General Plan indicates that land designated as O (Office) provides for the development of office centers near residential areas and is designed to buffer between residential areas and more intense uses. The City's Zoning Ordinance also allows for a pharmacy use in the PO (Professional Office) Zone District, through the approval of a conditional use permit from the City's Planning Commission. The proposed pharmacy would be occupying a portion of an existing space currently being utilized as a dental office. The proposed pharmacy would be taking advantage of its proximity to the medical complex and surrounding residential and commercial uses.

### Operations

The pharmacy would occupy approximately 500 square feet of the overall 5,001 square foot professional office structure. Hours of operation are anticipated to be as early as 9:00 am until no later than 6:00 pm, Monday through Friday, consistent with the surrounding office uses. The establishment of the pharmacy provides a mutually beneficial relationship between land uses in the Cleveland Office Plaza and surrounding development. Based on the parking criteria requirements, the establishment of the pharmacy will not require additional parking to be provided on the site.

### Signage

The project site has an adopted Master Sign Program (MSP) in place with specifications to the total allowable amount of on-building and monumental signage area for the office plaza. The MSP states Building "G" allows for a total of 24 sq. ft. for its tenants.

The pharmacy will be operating as a retail use in a professional office zone. As a component of the use, the pharmacy will not be able to optimize typical signage visibility due to its placement within the office complex. Any proposed signage for the pharmacy would need to remain consistent with the MSP for the office complex.

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

## **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

Though approval of a pharmacy in a professional office zone district is not specifically addressed in the vision or action plans, the overall project does indirectly support **Action 115.1 and 115.2** – *As a component of the General Plan Update, “encourage viable economic development” and “increase retail outlets and promote Shop Madera ...”*

## **SUMMARY OF RECOMMENDATIONS**

The information presented in this report supports conditional approval of the use permit request.

## **PLANNING COMMISSION ACTION**

The Planning Commission will be acting on Conditional Use Permit 2017-18 and Site Plan Review 2017-30, 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 Conditional Use Permit 2017-18 and Site Plan Review 2017-30, based on and subject to the following findings and conditions of approval:

### Findings

- The establishment of a pharmacy is consistent with the purposes of the O (Office) General Plan designation and the PO (Professional Office) 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 pharmacy.
- As conditioned, the development will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use 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.

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) since there will be no expansion of the existing structure.

## **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 days of the date of approval for this use permit.
2. Site Plan Review 2017-30 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 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 2017-18 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.
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.
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 Director.
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 this site plan review.
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.

## **Building Department**

10. Detailed plans shall be submitted for review and approval prior to obtaining all required permits for construction of interior tenant improvements.
11. Site development shall be consistent with the approved site plan and floor plan. The uses of all rooms and activity areas shall be identified on any plans submitted for issuance of building permits.
12. Current State of California and federal handicap requirements applicable to the establishment of the pharmacy shall be checked at the permit stage and confirmed prior to occupancy at final inspection.

## **Engineering**

### General

13. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
14. The developer shall pay all required fees for completion of project. Fees due may include but shall not be limited to the following: encroachment permit processing and improvement inspection fees.
15. Improvements within the City right-of-way require encroachment permits from the Engineering Division.

### Water

16. Prior to the issuance of building occupancy and/or the issuance of a business license, the existing water service connection(s) shall be upgraded to current City standards including Automatic Meter Reading (AMR) water meter installed within City right-of-way or public utility easement and backflow prevention divided installed within private property.

## **Fire**

17. A building Permit is required for tenant improvements.
18. The changes to the building may require alteration of the fire sprinkler system. A fire sprinkler permit must be obtained prior to any modification of the system. Verification of fire sprinkler needs must occur prior to the framing inspection but will be allowed as a deferred submittal until that point.
19. One 2A10BC rated fire extinguisher is required. The fire extinguisher shall be mounted in a visible and accessible location.

## **Planning Department**

20. Vandalism and graffiti on the site shall be corrected per the Madera Municipal Code.
21. No outdoor display of merchandise shall be allowed without first securing a conditional use permit approved by the Planning Commission.



22. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
23. 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.
24. 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.
25. All signage shall be consistent with the Cleveland Office Plaza master sign program MSP 2006-01. New signage shall be reviewed and approved by the Planning Department prior to issuance of a separate building permit(s) which may be required by the Building Department.
26. The pharmacy may be open from as early as 8:00 am to as late as 8:00 pm, seven days a week.
27. Upon issuance of a certificate of occupancy, the site and structure shall remain in compliance with the conditions of approval at all times.

**(OR)**

Motion 2: Move to continue the application for Conditional Use Permit 2017-18 and Site Plan Review 2017-30 to the November 14, 2017 Planning Commission hearing for the following reasons or in order for the following information to be provided: (Please specify reasons)

**(OR)**

Motion 3: Move to deny the application for Conditional Use Permit 2017-18 and Site Plan Review 2017-30, based on and subject to the following findings: (Please specify reasons.)

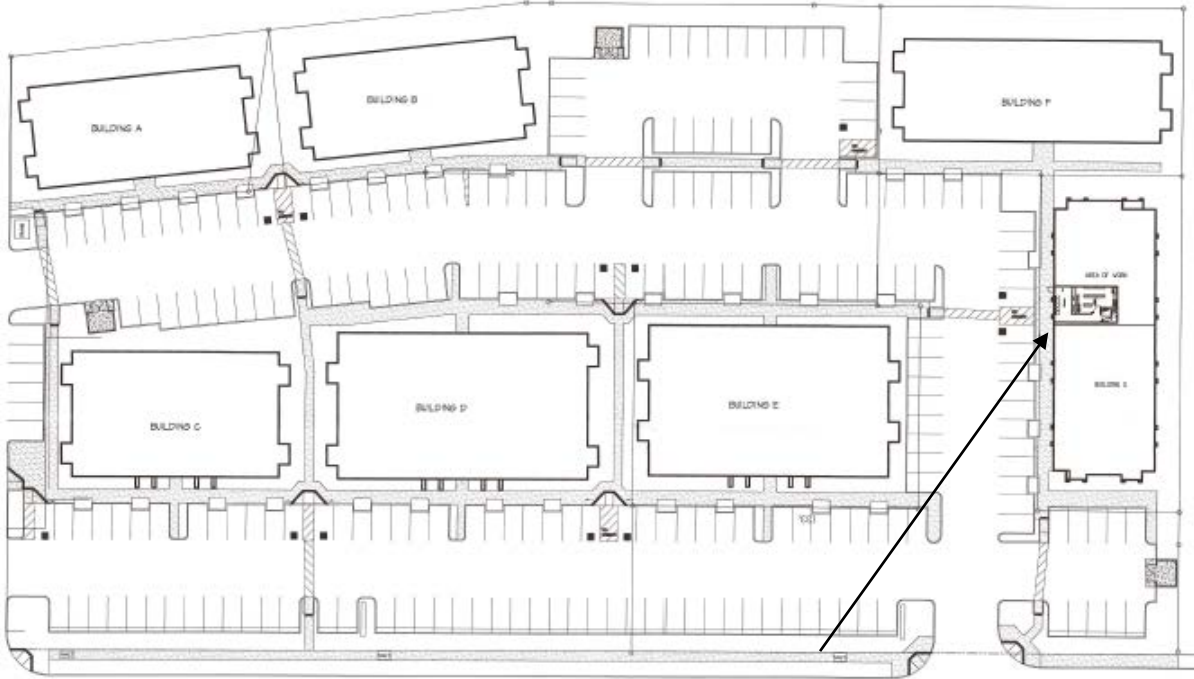
## **ATTACHMENTS**

Aerial Photo  
Site/Floor Plan

Aerial Photo

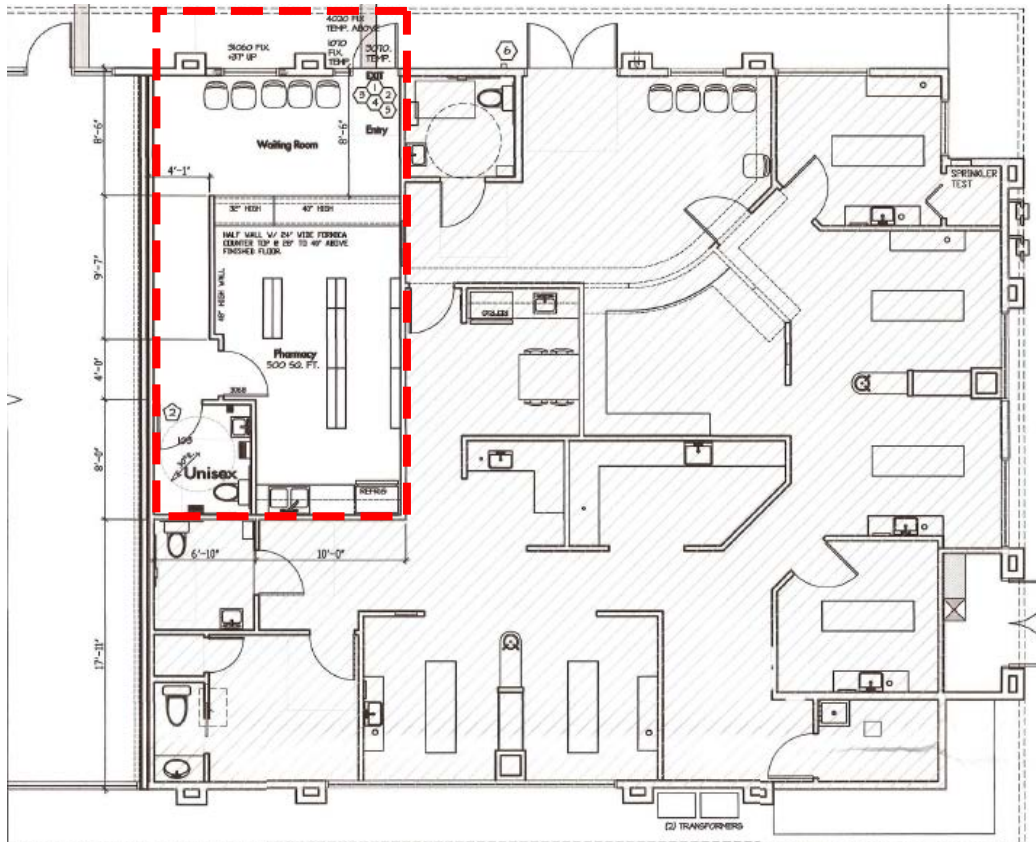


### Site Plan



**500 square foot tenant space for pharmacy**

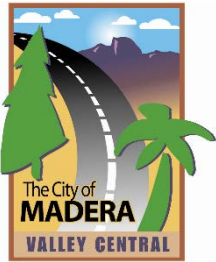
### Floor Plan



**Proposed pharmacy floor plan**

**CUP 2017-19 & SPR 2017-31**  
**99 Cents Only Beer and Wine Sales**

Staff is requesting this item be continued to the November 14, 2017 meeting to allow further collaboration with the applicant.



CITY OF MADERA  
PLANNING COMMISSION

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

**Staff Report: Panchito's Onsite Alcohol Sales  
CUP 2017-20 & SPR 2017-32  
Beer and Wine Sales for On-Site Consumption  
Item #5 – October 10, 2017**

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**PROPOSAL:** An application for a conditional use permit and site plan review to allow for on-site consumption of beer and wine as a component of the existing restaurant use (Panchito's Mexican Food).

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<b>APPLICANT:</b>	Sylvia Garnica	<b>OWNER:</b>	Marcella Andrews
<b>ADDRESS:</b>	412 South C Street	<b>APN:</b>	011-021-003
<b>APPLICATION:</b>	CUP 2017-20 & SPR 2017-32	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The property is located 85 feet north of the northwest corner of South C Street and East 9<sup>th</sup> Street.

**STREET ACCESS:** The site has access to South C Street.

**PARCEL SIZE:** Approximately 0.17 acres.

**GENERAL PLAN DESIGNATION:** HD (High Density)

**ZONING DISTRICT:** C1 (Light Commercial)

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**SITE CHARACTERISTICS:** The existing restaurant is on the west side of South C Street, in a mixed use neighborhood. There are single family residences to the north and south of the project site. Commercial retail businesses align along the South C Street corridor of the project site.

**ENVIRONMENTAL REVIEW:** The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15301 (Existing Facilities).

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**SUMMARY:** The applicant is requesting allowance for the sale of beer and wine to be permitted as part of daily operations of the already established restaurant. The restaurant is within a census tract with an over-concentration of Alcohol Beverage Control (ABC) licenses. A conditional use permit is required in order to establish on-site alcohol sales. Conditions of approval require site improvements be completed in order to address deficiencies present on the site.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.802 Light Commercial Zones  
MMC § 10-3.405 Uses  
MMC § 10-3.1205 Exemptions from Parking Requirements  
MMC § 10-3.1301 Use Permits  
MMC § 10-3.4.0102 Site Plan Review Applicability

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**

In 1971, the Planning Commission approved Conditional Use Permit 1971-03 to allow for the establishment of retail and wholesale of tortillas. In 1977, the Planning Commission approved Conditional Use Permit 1977-18 to allow for secondhand sales which was active for an unknown period of time. With no further recorded entitlements, the site secured a certificate of occupancy in April of 1987 as a food establishment.

## **ANALYSIS**

### Background

The proposed site was formerly known as Madera Tortas, which opened in December of 1989 as a restaurant. A change in ownership occurred in March of 2017 to the current Panchito's Mexican Food restaurant. The restaurant wishes to add the sale of beer and wine for on-site consumption as a component of the restaurant's daily operations. The sale of beer and wine would be ancillary to the restaurant use. Food consumption will primarily occur on-site, however customers will have the option to take-out. Alcohol sales will be limited to on-site consumption, with no allowance for the off-site consumption of beer and wine for this establishment.

### Parking

In accordance with § 10-3.1205(A) of the Madera Municipal Code, establishing a use is exempt from off-street parking requirements when the proposed use of a building is consistent with original use recorded in August of 1987. Building records indicate the proposed site was granted a certificate of occupancy in July of 1987 for a restaurant establishment. Therefore, with no change in use, the project site is exempt from off-street parking requirements.

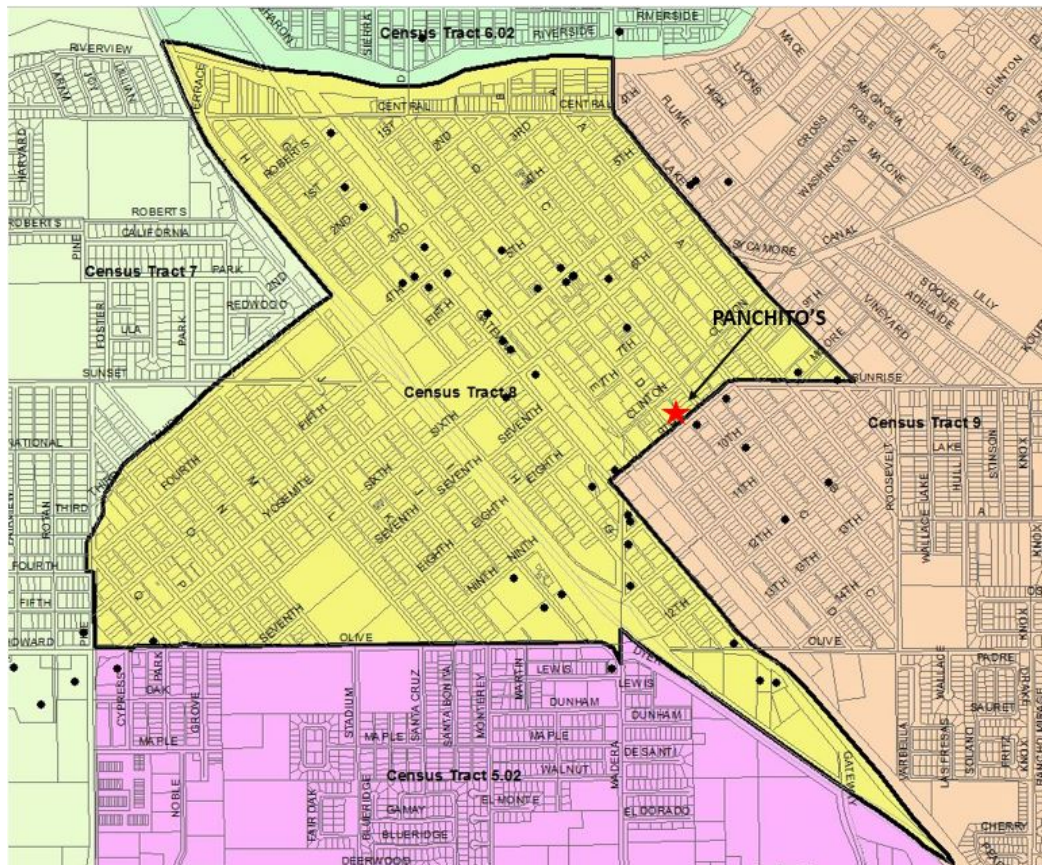
### Zoning

The project site is zoned as a C1 (Light Commercial) Zone District, which allows for the restaurant use. The City's General Plan calls out for a HD (High Density) use of the site. Despite the long range plans for a high density residential development, there has been no recent proposal to redevelop the site to be consistent with its General Plan designation. Records dating back to April 10, 1987 indicate the site has continuously operated as food establishment.

Additionally, the project site is shared with a single-family dwelling unit located to the rear of the parcel. Both uses operate independently of one another and are separated by a fence. Utility billing records indicate the property has a single billing account for all units on the property.

### Sale of Alcohol

The applicant wishes to establish on-site beer and wine consumption as a daily operational component of the existing restaurant. Alcohol sales would be ancillary to a menu serving approximately twenty (20) combination and a-la-cart items. The sale of alcohol is proposed to occur during the business hours of 10:00 am and no later than 10:00 pm, six (6) days a week.



A Type 41 (On-Sale Beer and Wine for Bona Fide Eating Place) license from the California Department of Alcoholic Beverage Control would be required. The site is in Census Tract 8, which encompasses a majority of the downtown region of the City. Census Tract 8, is an over-concentrated area for California Department of Alcoholic Beverage Control (ABC) licenses for both the on- and off-site sale and consumption of alcoholic beverages. Currently, Census Tract 8.0 holds sixteen (16) Alcohol Beverage Control (ABC) licenses for off-site consumption of alcoholic beverages and twenty (20) ABC licenses for on-site consumption of alcoholic beverages. The current population of Census Tract 8.0 (7,027 residents) allows for a maximum of six (6) ABC licenses for each of on- and off-site consumption of alcoholic beverages. The over-concentration of ABC licenses is primarily due to the high concentration of commercial activity in relation to the low numbers of residences within Census Tract 8.0.

Many years ago, the policy of the City was not to allow the issuance of additional ABC license in over-concentrated Census Tracts. However, the policy was modified by the City Council to make case by case exceptions, particularly in conjunction with the on-site sale of beer and wine licensure when ancillary to a bona fide eating establishment. In a case by case review, approval of the conditional use permit would require that the site operate consistent with federal, state, and local laws, as stated by condition No. 18.

## CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of the on-site consumption of beer and wine in conjunction with a restaurant are not specifically addressed in the vision or action plans, the overall project does indirectly support **Action 115.2** – *As a component of the General Plan Update, increase retail outlets and promote Shop Madera ...*

## RECOMMENDATIONS

Approval of Conditional Use Permit 2017-20 would provide the establishment with an equitable opportunity to compete with similar surrounding business uses, despite the overconcentration of ABC licenses within Census Tract 8. The information presented in this report supports approval of the conditional use permit request. It is recommended that the Planning Commission consider the information in this report, as well as testimony in the public hearing, and approve Conditional Use Permit 2017-20 and Site Plan Review 2017-32 subject to the findings and conditions of approval outlined in this report.

## PLANNING COMMISSION ACTION

The Planning Commission will be taking action regarding Conditional Use Permit 2017-20 and Site Plan Review 2017-31 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 Conditional Use Permit 2017-20 and Site Plan Review 2017-32, based on and subject to the findings and conditions of approval:

### Findings

- This project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15301 (Existing Facilities).
- The sale of alcoholic beverages is consistent with the purposes of the C1 (Light Commercial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- The site is exempt from off-street parking requirements, typically requiring parking spaces be included to accommodate for a new use.
- As conditioned, the development will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use will not 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. The use is deemed to be a compatible use that is consistent with the zoning for the site.



## **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 days of the date of approval for this use permit.
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.
3. Conditional Use Permit 2017-20 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. Conditional Use Permit 2017-20 and Site Plan Review 2017-32 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.
5. Site Plan Review 2017-32 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code and a request to extend the approval is received before the expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).
6. 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 2017-32.
7. 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.

### **Building Department**

8. A building permit is required for all tenant improvements. The tenant space shall meet the requirements of the California Building Code, California Fire Code, and Americans with Disabilities Act, if not already met.

### **Madera County Environmental Health**

9. The existing food facility will be required to submit two sets of plans and specification sheets of all the equipment if the owner is proposing a bar.
10. Plans should be submitted to the Madera County Environmental Health Department accompanied by a completed Environmental Health Plan Review application and associated fee.

## **Engineering Department**

### General

11. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification
12. 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.
13. Improvements within the City right-of-way shall require an encroachment permit from the Engineering Division.

### Water

14. The existing water service connection currently serves the two buildings numbered 410 and 412 South C Street. Records show that 410 (APN: 011-021-002) and 412 (APN: 011-021-003) South C Street are in two separate parcels. The property owner or applicant shall sever the existing cross lot connection by reconfiguring the existing plumbing system. As an alternative, the property owner shall record a reciprocal utility easement acceptable to the City of Madera across the entire project site and applicable to both parcels. The developers shall pay associated fees to the Engineering Department.

### Sewer

15. The existing sewer service connection shall be upgraded to include a cleanout per City standards, prior to the issuance of a business license and/or occupancy of the tenant suite.

## **Planning Department**

### General

16. The applicant shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
17. On-site vandalism and graffiti shall be corrected per the Madera Municipal Code.
18. 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.
19. 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.

### Operations

20. Conditional Use Permit 2017-20 allows for the sale of beer and wine in association with the operation of a bona fide eating establishment. This entitlement requires a Type 41 Alcohol Beverage Control license to be obtained. Modification of the license type requires amendment of this use permit.
21. The sale of alcoholic beverages shall be restricted to on-site consumption only. No sale of alcoholic beverages for off-site consumption shall be allowed or shall occur as a component of the use.
22. The sale of on-site alcohol shall be limited to occur as early as 10:00 am and as late as midnight, seven days a week.

23. No outdoor consumption of alcoholic beverages shall be allowed at any time.
24. No outdoor dining shall occur without first securing a use permit to provide for such activity as approved by the Planning Commission.
25. There shall be no allowance for the outdoor display and/or storage of goods, merchandise and/or materials without first amending the conditional use permit, approved by the Planning Commission.
26. Except as noted herein, all on- and off-site improvements shall be made prior to the commencement of the sale of alcohol beverages.

Signage

27. Existing non-conforming signage on the site shall be brought to current sign regulations and maintained at all times. Any new signage is required to have an approved Sign Permit issued by the Planning Department per MMC § 10-6.

**(OR)**

Motion 2: Move to continue the application for Conditional Use Permit 2017-20 and Site Plan Review 2017-31 to the November 14, 2017 Planning Commission hearing, based on and subject to the following (specify):

**(OR)**

Motion 3: Move to deny the application for Conditional Use Permit 2017-20 and Site Plan Review 2017-32 based on and subject to the following findings (specify):

**ATTACHMENTS**

Aerial Photo  
Site Photos

# Aerial Photo



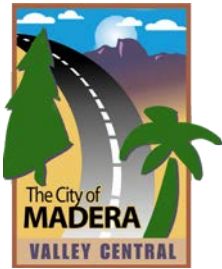
Site Photos



Frontage view of the site from C Street with unutilized driveway approach



Potential placement of refrigerator with beer and wine



CITY OF MADERA  
PLANNING COMMISSION

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

**Staff Report: Ordinance Text Amendment  
OTA 2017-01 - Accessory Dwelling Units  
Item #6 – October 10, 2017**

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**PROPOSAL:** Consideration of adoption of a resolution recommending to the City Council adoption of an ordinance deleting in its entirety Title X, Chapter 3, Section 513 (Secondary Dwelling Units) of the Madera Municipal Code and replacing it with Title X, Chapter 3, Section 513 (Accessory Dwelling Units), and amending Subsection 10-3.504.1 (R; Uses Allowed With Zoning Administrator Permit) in order to address recently adopted state laws, AB 2299 (Bloom) and SB 1069 (Wieckowski).

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<b>APPLICANT:</b>	City of Madera	<b>OWNER:</b>	N/A
<b>ADDRESS:</b>	N/A	<b>APN:</b>	N/A
<b>APPLICATIONS:</b>	OTA 2017-010	<b>CEQA:</b>	Exempt

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**LOCATION:** Citywide

**STREET ACCESS:** N/A

**PARCEL SIZE:** N/A

**GENERAL PLAN DESIGNATION:** N/A

**ZONING DISTRICT:** N/A

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**SITE CHARACTERISTICS:** N/A

**ENVIRONMENTAL REVIEW:** The proposed ordinance is exempt under Section 15282(h) of the California Environmental Quality Act "CEQA", which statutorily exempts the adoption of an ordinance regarding second units in a single-family residential zone.

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**SUMMARY:** In order to address the requirements of recently adopted state legislation, it is recommended that amendment of the City's secondary dwelling unit ordinance be approved.

## **APPLICABLE CODES AND PROCEDURES**

State law

## **PRIOR ACTION**

The City's current secondary dwelling unit ordinance (Ord. 607 C.S.) was passed on December 15, 1993, and amended (Ord. 752 C.S.) on May 21, 2003.

## **BACKGROUND**

The State of California recently adopted into law two interrelated pieces of legislation that mandate the passage of an accessory dwelling unit ordinance. AB 2299 (Bloom) and SB 1069 (Wieckowski) set revised standards for the development of second units on single family residential properties. Since 1993, the current Zoning Ordinance has made provision for these residential housing units via Section 10-3.513, which provided for secondary dwelling units. With the adoption of this revised ordinance, the Zoning Ordinance will essentially change the name of secondary dwelling units to accessory dwelling units and provide for revised development standards consistent with the new state laws.

## **ANALYSIS**

The proposed, revised ordinance is a requirement of newly adopted state law.

There are some fundamental changes in the revised ordinance. For instance:

- The application process is standardized, with minimum submittal requirements and performance deadlines implemented within a ministerial process.
- Development standards have been aligned with new state laws.
- Parking standards have been relaxed in certain instances.
- Impact fees have been waived in certain scenarios.
- Deed restrictions have been required to insure owner occupants reside on the premises.
- A "junior" accessory dwelling unit has been recognized.

Cumulatively, although an ordinance was already in place that provided for second units within single-family residential properties, the proposed, revised ordinance is hoped to simplify the process and encourage accessory dwelling units as integral components of neighborhoods within the urban fabric of the City, as envisioned by the mandated new state laws.

## **RECOMMENDATION**

The information presented in this report supports approval of an ordinance replacing the current secondary dwelling unit ordinance to address new state legislation. It is recommended that the Planning Commission consider this information, together with testimony provided during the public hearing and make a decision regarding the ordinance amendment.

## **PLANNING COMMISSION ACTION**

The Planning Commission will be acting on the ordinance amendment.

The Commission would be taking action regarding Ordinance Text Amendment 2017-01, determining to either:

- adopt of a resolution recommending to the City Council adoption of the ordinance amendment
- continue the hearing, or
- adopt a resolution recommending to the City Council denial of the ordinance amendment

Any decision of the Commission will be forwarded to the City Council for subsequent action.

Motion 1: Move to adopt a resolution recommending to the City Council of the City of Madera approval of Ordinance Text Amendment 2017-01, deleting in its entirety Title X, Chapter 3, Section 513 (Secondary Dwelling Units) of the Madera Municipal Code and replacing it with Title X, Chapter 3, Section 513 (Accessory Dwelling Units), and amending Subsection 10-3.504.1 (R; Uses Allowed With Zoning Administrator Permit) in order to address the requirements of recently adopted state law;

**(OR)**

Motion 2: Move to adopt a resolution recommending to the City Council of the City of Madera approval of Ordinance Text Amendment 2017-01, subject to the following Planning Commission recommendations: (Insert revised ordinance text).

**(OR)**

Motion 3: Move to adopt a resolution recommending to the City Council denial of Ordinance Text Amendment 2017-01.

## **ATTACHMENTS**

Planning Commission Resolution  
Draft Ordinance



**RESOLUTION NO. 1822**

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MADERA ADOPTION OF AN ORDINANCE AMENDING THE MADERA MUNICIPAL CODE TO PROVIDE FOR COMPLIANCE WITH RECENTLY ADOPTED STATE LAW AB 2299 (BLOOM) AND SB 1069 (WIECKOWSKI) RELATING TO ACCESSORY DWELLING UNITS.

WHEREAS, the City of Madera has adopted the mandatory elements of the General Plan, as required by the State of California; and

WHEREAS, the City has adopted regulations and established policies toward the betterment of public welfare; and

WHEREAS, the City has adopted zoning regulations and established land use zones to further implement the General Plan; and

WHEREAS, State law also provides for periodic review, updates, and amendments of its various Plans and Codes; and

WHEREAS, the Planning Commission recommends to the City Council of the City of Madera adoption of an ordinance amending the Madera Municipal Code to provide for compliance with recently adopted state law AB 2299 (Bloom) and SB 1069 (Wieckowski) relating to accessory dwelling units; and

WHEREAS, the Madera Municipal Code authorizes the Planning Commission to initiate Code Amendments through adoption of a Resolution; and

WHEREAS, the Planning Commission has completed its final review and evaluated information contained in the Staff Report.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MADERA AS FOLLOWS:

1. The above recitals are true and correct.
2. The proposed ordinance is exempt under Section 15282(h) of the California Environmental Quality Act "CEQA", which statutorily exempts the adoption of an ordinance regarding second units in a single-family residential zone.

3. It is recommended that the City Council of the City of Madera adopt an ordinance amending the Madera Municipal Code to provide for compliance with recently adopted state law AB 2299 (Bloom) and SB 1069 (Wieckowski) relating to accessory dwelling units, as set forth in the attached Exhibit 'A'.

4. This resolution is effective immediately upon adoption.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 10<sup>th</sup> day of October 2017, by the following vote:

AYES:  
NOES:  
ABSTENTIONS:  
ABSENT:

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Kenneth Hutchings, Chairperson  
City Planning Commission

Attest:

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Christopher Boyle  
Planning Manager

**PLANNING COMMISSION RESOLUTION NO. 1822**

**EXHIBIT 'A'**

**DRAFT ORDINANCE**

AN ORDINANCE AMENDING THE MADERA MUNICIPAL CODE TO PROVIDE FOR COMPLIANCE WITH RECENTLY ADOPTED STATE LAW AB 2299 (BLOOM) AND SB 1069 (WIECKOWSKI) RELATING TO ACCESSORY DWELLING UNITS.

THE CITY COUNCIL OF THE CITY OF MADERA DOES ORDAIN AS FOLLOWS:

**SECTION 1.** The Planning Commission of the City of Madera and this Council have held public hearings and have determined that the proposed ordinance is consistent with the General Plan as amended.

**SECTION 2.** The Planning Commission and the City Council of the City of Madera have determined that the ordinance is consistent with the purpose and intent of Chapter 3 of Title X of the Madera Municipal Code.

**SECTION 3.** Section 10-3.513 of Chapter 3 of Title X to the Madera Municipal Code is hereby deleted in its entirety and replaced as follows:

**[ § 10-3.513 ACCESSORY DWELLING UNITS.**

Accessory dwelling units shall comply with the requirements of this Section.

(A) For the purposes of this chapter, the following definitions shall apply:

**ACCESSORY DWELLING UNIT.** An attached or detached dwelling unit that provides complete independent living facilities on the same parcel as a legal single family residence, including permanent provisions for living, sleeping, eating, cooking and sanitation. An accessory dwelling unit may be located within the living space of an existing primary single-family residence, may be an efficiency dwelling as defined in Section 17958.1 of the California Health and Safety Code, and may be a manufactured home, as defined in Section 18007 of the California Health and Safety Code. Accessory dwelling units are not accessory uses as defined in this Section.

**JUNIOR ACCESSORY DWELLING UNIT.** A unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure, and utilizing an existing bedroom, and containing an efficiency kitchen. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.”

(B) Purpose. The provisions of this Section are intended to set standards, in compliance with California Government Code Sections 65582.1, 65852.2, and 65852.22, for the development of accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that such housing remains compatible with the existing neighborhood. It is not the

intent of this chapter to override lawful use restrictions as set forth in Conditions, Covenants and Restrictions.

(C) General requirements. An accessory dwelling unit:

- (1) May be located on any R (Residential) Zone District lot that allows single-family or multifamily dwellings and that contains only one single-family detached dwelling;
- (2) May be located on any PD (Planned Development) Zone District lot wherein a Precise Plan allowing for the construction of accessory dwelling units has been approved. In all cases, the Precise Plan shall provide that only one accessory dwelling unit shall be permitted per parcel;
- (3) Is not subject to the density requirements of the General Plan, but shall otherwise be consistent with the General Plan's principles, goals and policies.
- (4) Shall not be allowed on, or adjacent to, real property that is listed in the California Register of Historic Places.
- (5) Shall not be used for rentals with terms of less than 30 days.
- (6) Shall not be sold separate from the primary residence.

(D) Permit requirements. An application for an accessory dwelling unit that complies with all applicable requirements of this Section shall be approved ministerially.

(E) Application and processing requirements.

- (1) Step One—Submittal. An application for a Zoning Administrator Permit to allow for an accessory dwelling unit shall be submitted to the Planning Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for a Zoning Administrator Permit to allow for an accessory dwelling unit shall include all of the following (except as noted in Subsection (1)(i) below):
  - (a) Plot plan. A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the accessory dwelling unit; the location and dimensioned setbacks of all existing and proposed structures on the site and structures located within 50 feet of the site; all easements, building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.
  - (b) Floor plan. A floor plan, drawn to scale, showing the dimensions of each room, and the resulting floor area. The use of each room shall be identified, and the size and location of all windows and doors shall be clearly shown.

- (c) Elevations. Architectural elevations of each side of the proposed structure showing all openings, exterior finishes, original and finish grades, stepped footing outline, and roof pitch.
  - (d) Materials and color board. A materials and color board for the existing residence and the proposed second dwelling unit.
  - (e) Cross sections. Building cross sections including structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.
  - (f) Photographs. Color photographs of the site and adjacent properties, taken from each property line of the site, to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of each photograph.
  - (g) Deed Restrictions. Deed restrictions completed, signed and ready for recordation.
  - (h) Fee. A fee corresponding to the fee for a Zoning Administrator Permit shall be paid at time of submittal.
  - (i) Applications for accessory dwelling units which do not modify a building's exterior are not required to submit c, d, or f above.
- (2) Step two—Decision. The Department shall act on the application for Zoning Administrator Permit to allow for an accessory dwelling unit within 120 days of submittal of a complete application. The Zoning Administrator Permit shall be issued only if the proposed accessory dwelling unit complies with all applicable standards in this Section.
- (3) Utility Connection Fees.
- (a) Except as provided in subsection (3)(b), a separate new utility connection and payment of a connection fee or capacity charge pursuant to State law and City fee schedule will be required for any new accessory dwelling unit.
  - (b) No new or separate utility connection or related connection fee or capacity charge will be required for accessory dwelling units that are internal conversions of existing space within a single family residence or permitted accessory structure constructed as habitable space.
- (F) Development standards. A Zoning Administrator Permit to allow for an accessory dwelling unit shall be issued only if the unit complies with the following development standards:

(1) Setbacks.

(a) R (Residential) Zone District. An accessory dwelling unit shall comply with the setback requirements of the applicable residential zoning district for the primary dwelling, except as follows:

1. A new detached single-story accessory dwelling unit shall observe a front setback of 20 feet, a rear setback of 5 feet, an interior side setback of 5 feet, and a corner side setback of 15 feet.
2. A new detached two-story accessory dwelling unit shall observe a front setback of 20 feet, a rear setback of 15 feet, an interior side yard setback of 5 feet for a one-story portion, and 10 feet for a two-story portion, and a corner side yard setback of 15 feet.
3. An accessory dwelling unit that is fully contained within the existing space of a single-family residence or within an approved accessory structure and has independent exterior access from the existing residence or structure shall adhere to the setback requirements of the residential zone it is located within.
4. No portion of an attached or detached accessory dwelling unit shall be closer than 10 feet to a primary dwelling on an adjacent lot.
5. A setback of no less than five feet from the side and rear property lines is required for any accessory dwelling unit. No existing nonconforming structures built within less than 5 feet of any property line may be converted to an accessory dwelling unit.
6. A detached accessory dwelling unit shall always be located within 100 feet of the primary dwelling, but never closer to the primary dwelling than permitted by the California Building Code.

(b) PD (Planned Development) Zone District. An accessory dwelling unit shall comply with the setback requirements as defined within the approved Precise Plan applicable to the primary dwelling.

(2) Maximum floor area.

(a) New detached unit. No newly constructed detached accessory dwelling unit may contain floor area in excess of 1,200 square feet.

(b) New attached unit. No newly constructed attached accessory dwelling unit may contain floor area in excess of 50% of the existing residential square footage or 1,200 square feet, whichever is less.

- (c) Internal conversion. An accessory dwelling unit created entirely by the internal conversion of an existing single family dwelling shall not occupy more than 45 percent of the existing floor area of the residence, excluding the garage, nor shall it exceed 1,200 square feet, or a maximum of 1,200 square feet for detached accessory structures.
- (3) Height limit. A one-story accessory dwelling unit shall not exceed a maximum height of 16 feet. A two-story accessory dwelling unit shall not exceed a maximum height of 27 feet.
- (4) Open Space. An accessory dwelling unit shall provide an additional 500 square feet of open space, in addition to the open space requirements of the primary residential dwelling on the parcel.
- (5) Architectural compatibility. If visible from a public street, an accessory dwelling unit shall incorporate the same or substantially similar architectural features, building materials and colors as the main dwelling unit and/or compatible dwellings located on adjacent properties.
- (6) Privacy. A balcony, window or door of a second story accessory dwelling unit shall be designed to lessen privacy impacts to adjacent properties. Appropriate design techniques may include obscured glazing, window placement above eye level, screening treatments, or locating balconies, windows and doors toward the existing on-site residence.
- (7) Existing development. A single-family dwelling must already exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
- (8) Number per lot. A maximum of one accessory dwelling unit and one junior accessory dwelling unit shall be permitted on any lot.
- (9) Parking. One off-street parking space is required for an accessory dwelling unit, except as set forth below. The off-street parking shall be permitted uncovered, compact, tandem and in setback areas, unless the review authority determines that tandem parking or parking within a setback is not feasible due to specific site or topographical or fire and life safety conditions. No off-street parking shall be required if one or more of the following circumstances exist:
- (a) The accessory dwelling unit is 750 square feet or less in area.
  - (b) The accessory dwelling unit is located within one-half mile of public transit.
  - (c) The accessory dwelling unit is located within a historic preservation district.

- (d) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
  - (e) When on-street parking permits are required but not offered to the occupant of an accessory dwelling unit.
  - (f) When there is a car share vehicle located within one block of the accessory dwelling unit.
  - (g) To qualify for an exception, the applicant must provide supporting evidence, such as a map illustrating the location of the accessory dwelling unit and its proximity to a public transit stop or car share vehicle or its location within a historic preservation district, or proof of local parking permit requirements.
  - (h) If a garage, carport, or covered parking is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking spaces must be provided in any configuration on the lot, including as uncovered, compact, tandem parking and within a setback area.
- (10) Deed restrictions. Prior to occupancy of an accessory dwelling unit, the property owner shall file with the County Recorder a deed restriction containing a reference to the deed under which the property was acquired by the owner and stating that:
- (a) The accessory dwelling unit shall not be sold separately from the single family residence;
  - (b) The accessory dwelling unit shall not exceed 1200 square feet and shall comply with the development standards in Subsection (E);
  - (c) The accessory dwelling unit shall be considered legal only so long as either the primary residence or the accessory dwelling unit is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or non-profit housing organization; and
  - (d) The restrictions shall run with the land and be binding upon any successor in ownership of the property. Lack of compliance shall void the approval of the accessory dwelling unit and may result in legal action against the property owner.
  - (e) The developer of a subdivision that includes accessory dwelling units shall record the deed restrictions required by this Subsection prior to the recordation of the Final Map or Parcel Map. Each lot with a accessory dwelling unit shall remain unoccupied until the property transfers ownership, allowing for compliance with the recorded owner-occupancy restriction.



(G) Junior Accessory Unit. The following provisions are intended to set standards, in compliance with California Government Code Section 65852.22, for the development of junior accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that such housing remains compatible with the existing neighborhood. It is not the intent of this Section to override lawful use restrictions as set forth in Conditions, Covenants and Restrictions.

(1) General requirements. A junior accessory dwelling unit:

- (a) May be located on any R (Residential) Zone District lot that allows single family or multifamily dwellings and that contains only one single-family detached dwelling. Only one junior accessory dwelling unit and one standard accessory dwelling unit shall be permitted per parcel;
- (b) May be located on any PD (Planned Development) Zone District lot wherein a Precise Plan allowing for the construction of junior accessory dwelling units has been approved. In all cases, the Precise Plan shall provide that only one junior accessory dwelling unit shall be permitted per parcel;
- (c) Is not subject to the density requirements of the General Plan, but shall otherwise be consistent with the General Plan's principles, goals and policies.
- (d) Shall not be allowed on, or adjacent to, real property that is listed in the California Register of Historic Places.
- (e) Shall not be used for rentals with terms of less than 30 days.
- (f) Shall not be sold separate from the primary residence.

(2) Permit requirements. An application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit that complies with all applicable requirements of this Section shall be approved ministerially.

(3) Application and processing requirements.

- (a) Step One—Submittal. The application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be submitted to the Planning Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit shall include all of the following:
  - 1. Plot plan. A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the junior accessory dwelling unit; the location and dimensioned setbacks of all existing and proposed structures on the site and structures located within 50 feet of the site; all easements,

building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.

2. Floor plan. A floor plan, drawn to scale, showing the dimensions of each room, the area devoted to the junior accessory dwelling unit, and the resulting floor areas of the junior accessory dwelling unit and of the primary residence. The use of each room shall be identified, and the size and location of all windows and doors shall be clearly shown. The plan shall identify whether separate or shared sanitation facilities are proposed.

3. Deed Restrictions. Deed restrictions completed, signed and ready for recordation.

4. Fee. A fee corresponding to the fee for a Zoning Administrator Permit shall be paid at time of submittal.

(b) Step two—Decision. The Department shall act on an application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit within 120 days of submittal of a complete application. A Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be issued only if the proposed junior accessory dwelling unit complies with all applicable standards in this Section.

(c) Utility Connection Fees.

1. No new or separate utility connection and no connection fee for water sewer, or power is required for a junior accessory dwelling unit.

(4) Development standards. A Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be issued only if the unit complies with the following development standards:

(a) Maximum floor area. The junior accessory dwelling unit shall not exceed 500 square feet in area.

(b) Existing development. The junior accessory dwelling unit shall be contained entirely within the existing walls of an existing single-family dwelling and shall utilize one of the existing bedrooms.

(c) Kitchen. The junior accessory dwelling unit must contain an efficiency kitchen with the minimum criteria:

1. A sink with a maximum waste line diameter of 1.5 inches.

2. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.
  3. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- (d) Sanitation. Bathroom facilities may be separate from or shared with the single family dwelling.
- (e) Entrance. The junior accessory dwelling unit shall include an exterior entrance separate from the main entrance to the single family dwelling, and an interior entry into the main living area. The junior accessory dwelling unit may include a second interior doorway for sound attenuation.
- (f) Parking. Off-street parking shall not be required for junior accessory dwelling units that meet the development standards.
- (5) Deed restrictions. Prior to occupancy of a junior accessory dwelling unit, the property owner shall file with the County Recorder a deed restriction containing a reference to the deed under which the property was acquired by the owner and stating that:
- (a) The junior accessory dwelling unit shall not be sold separately from the single family residence;
  - (b) The junior accessory dwelling unit shall not exceed 500 square feet and shall comply with the development standards in Subsection F;
  - (c) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence or the junior accessory dwelling unit is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or non-profit housing organization; and
  - (d) The restrictions shall run with the land and be binding upon any successor in ownership of the property. Lack of compliance shall void the approval of the junior accessory dwelling unit and may result in legal action against the property owner.
  - (e) The developer of a subdivision that includes junior accessory dwelling units shall record the deed restrictions required by this Subsection prior to the recordation of the Final Map or Parcel Map. Each lot with a junior accessory dwelling unit shall remain unoccupied until the property transfers ownership, allowing for compliance with the recorded owner-occupancy restriction. ]

SECTION 4. Subsection 1 of Section 504 of Chapter 3 of Title X to the Madera Municipal Code is hereby amended as follows:

**§ 10-3.504.1 R; USES ALLOWED WITH ZONING ADMINISTRATOR'S PERMIT.**

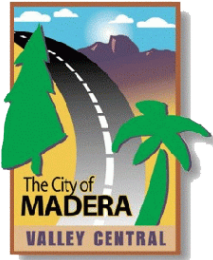
(A) The following uses shall be permitted subject to the approval by the Zoning Administrator:

- (1) [ Accessory dwelling units and junior accessory dwelling units ] ~~Second dwelling with kitchen facilities on the same lot as primary residence~~ subject to the standards contained in § 10-3.513.
- (2) Manufactured housing.
- (3) Home occupations (appealed).
- (4) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(B) Other approvals as per Zoning Administrative Code Section.

SECTION 5. This Ordinance shall be effective and of full force and effect at 12:01 am on the thirty-first day after its passage.

\* \* \* \* \*



CITY OF MADERA  
PLANNING COMMISSION

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

**Staff Report: Frank's Auto Repair - Performance Review**  
**CUP 2015-27 & SPR 2015-31**  
**NP #1 – October 10, 2017**

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**PROPOSAL:** A review of the performance of Conditional Use Permit 2015-27 allowing for the establishment of an auto repair shop.

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<b>APPLICANT:</b>	Francisco Villagomez	<b>OWNER:</b>	Harjeet Singh
<b>ADDRESS:</b>	801 South Gateway Drive	<b>APN:</b>	011-151-008
<b>APPLICATIONS:</b>	CUP 2015-27 & SPR 2015-31	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The project site is located on the east side of South Gateway Drive, near its intersection with 12<sup>th</sup> Street.

**STREET ACCESS:** The site has access to South Gateway Drive.

**PARCEL SIZE:** Approximately 15,000 square feet

**GENERAL PLAN DESIGNATION:** I (Industrial)

**ZONING DISTRICT:** I (Industrial)

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**SITE CHARACTERISTICS:** The property is a fully improved industrial site. The Union Pacific Railroad right-of-way is located immediately northeast of the project site. A mix of industrial uses and one gas station are located southeast of the site. Primarily single family homes are located southwest of the site. A varying mix of commercial uses are located in proximity to the site along the Gateway Drive commercial corridor.

**ENVIRONMENTAL REVIEW:** The project is categorically exempt under 15321 (Enforcement Actions by Regulatory Agencies) of CEQA Guidelines.

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**SUMMARY:** Approved in December of 2015, Conditional Use Permit 2015-27 allows for the establishment of an auto repair shop. Conditions of approval required on and off-site improvements be completed. Although physical improvements to the site have been completed, outreach to assist the applicant in attaining operational compliance has been unsuccessful. Staff recommends that a public hearing be scheduled on November 14, 2017 to determine whether revocation is appropriate.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.405 Uses  
MMC § 10-3.505 R; Conditional Uses; Commission Approval  
MMC §10-3.1002, Industrial Zones, Uses Permitted  
MMC § 10-3.1301 Use Permits  
MMC § 10-3.1311 Termination and Revocation

## **PRIOR ACTION**

Site Plan Review 1985-01 allowed for the construction of the building, and Site Plan Reviews 1986-12 and 1987-19 were completed to allow for changes to the site to bring it to a current City standard during that time. Conditional Use Permit 2015-27 and Site Plan Review 2015-31 allowed for the establishment of an auto repair shop. Conditional Use Permit 2016-03 and Site Plan Review 2016-09 allowed for the establishment of a church.

## **ANALYSIS**

### History

In 2016, staff was in process of writing a review for revocation of Conditional Use Permit 2015-27 in response to the incomplete status of on- and off-site improvements. The property owner then achieved compliance with the conditions of approval for all on- and off-site improvements by hiring a contractor to complete the work.

Within the past few months, staff has received complaints from the neighboring church about Frank's Auto Repair's operational conditions of approval. According to the complaints, the business is storing vehicles overnight and working beyond the business' hours of operation. Staff visited the site during the early morning hours on various days and observed that cars were being stored overnight.

Staff has made efforts to communicate with the business owner within the past few months, but the business owner has made no effort to resolve the operational issues that are negatively affecting adjacent tenants.

### Findings of Review

Attached please find a matrix of the conditions of approval for Conditional Use Permit 2015-27. These conditions were evaluated by staff for compliance. Shaded conditions of approval are currently not in compliance. Of the thirty-three (33) total conditions of approval, nine (9) need attention in order to be in compliance with the conditions of approval. Compliance with twenty-five (25) of the thirty-three (33) conditions of approval equates to a seventy-six (76%) percent compliance rate.

## **RECOMMENDATION**

It is recommended that Conditional Use Permit 2015-27 be scheduled for a public hearing at the November 14, 2017 Planning Commission meeting to determine whether revocation is appropriate.

## **PLANNING COMMISSION ACTION**

The Commission would be taking action regarding Conditional Use Permit 2015-27, 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

Motion 1: Based on the following findings, move to schedule a public hearing to consider revocation of Conditional Use Permit 2015-27 at the November 14, 2017 Planning Commission regularly scheduled meeting.

Findings

- Staff has observed non-compliance with the conditions of approval, warranting review of Conditional Use Permit 2015-27, as approved by the Planning Commission on December 8, 2015.

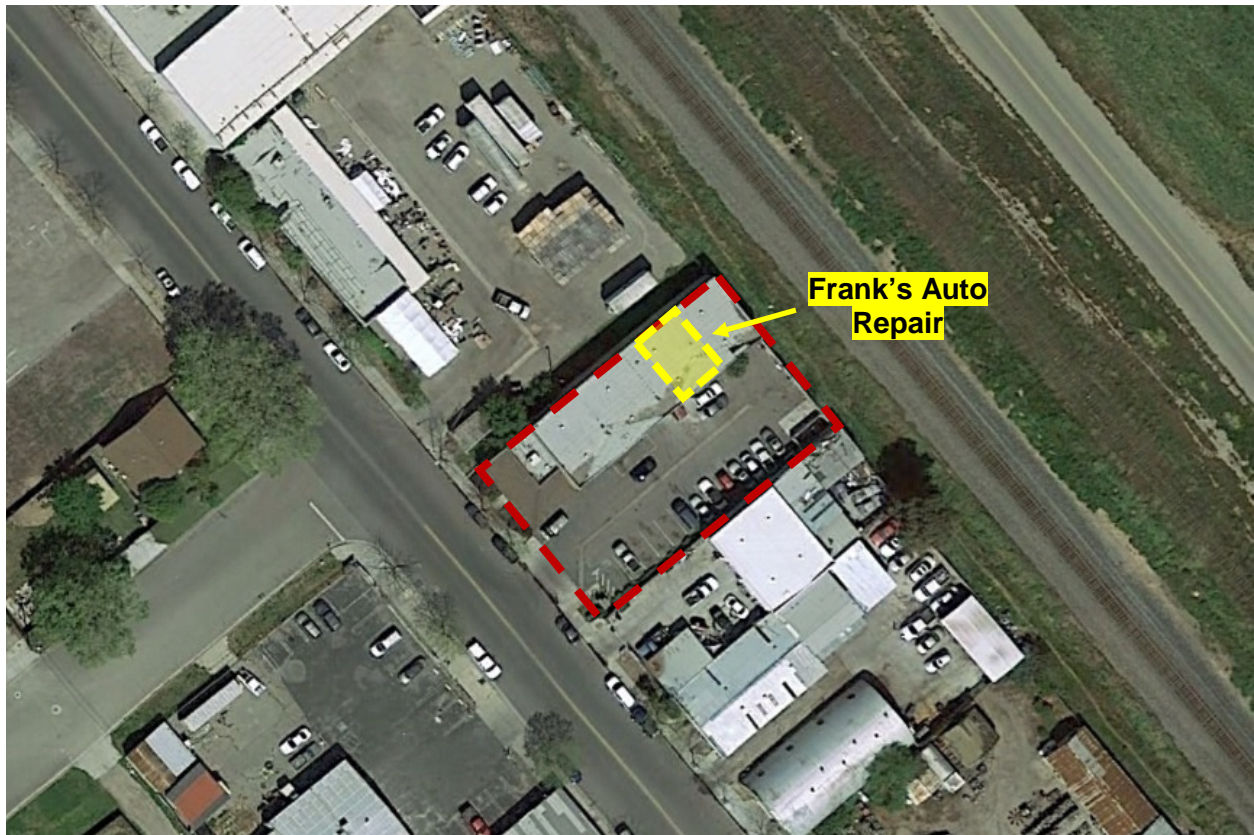
**(OR)**

Motion 2: Move to find that the review of Conditional Use Permit 2015-27 is not warranted at this time for the following reasons: (specify)

**ATTACHMENTS**

Aerial Map  
Conditions of Approval Compliance Matrix

Aerial Photo





### Conditions of Approval Compliance Matrix

Condition No.	Condition Statement	Condition Status
1.	Project approval is conditioned upon acceptance of the conditions of approval, as evidenced by receipt in the Planning Department of the application's signature upon an Acknowledgement and Acceptance of Conditions within thirty (30) days of the date of approval for this use permit.	Received
2.	Site Plan Review 2015-34 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).	Procedural
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.	Procedural
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.	Procedural
5.	Conditional Use Permit 2015-27 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
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.	Staff's inspections observed conditions 21, 22, 23, 29, 30, 31, 32 & 33 are in non-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.	Procedural
8.	Any proposed future modifications to the site, including but not limited to building exteriors, parking/loading areas, fences/walls, new buildings or landscaping shall require an amendment to this site plan review.	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.	In compliance
<b>Building Department</b>		
10.	Site development shall be consistent with the approved site plan and floor plan. The uses of all rooms and activity areas shall be identified on any plans submitted for issuance of building permits.	In compliance
<b>Engineering Department</b>		
11.	Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.	In compliance
12.	Improvements within the City right-of-way require Encroachment permit from Engineering Division.	In compliance
13.	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.	In compliance
14.	Existing water service connection shall be upgraded to meet current city standards including water meter located within city right-of-way and a backflow prevention device located within private property.	In compliance

<b>Fire Department</b>		
15.	Portable fire extinguishers shall be provided. A minimum of one fire extinguisher for each 3,000 square feet or fraction thereof. Maximum travel distance to reach a fire extinguisher shall not exceed 75 feet.	In compliance
16.	A complete analysis of the structure and its life safety components shall be submitted and approved by the Fire Marshal prior to occupancy. The submittal shall include at a minimum, a complete floorplan showing locations of uses, as well as quantities of hazardous materials, flammable liquids, gases, and waste oil and their proposed locations within the tenant area.	In compliance
17.	The City of Madera Building Official will apply the requirements of the code based on information submitted as part of Condition No. 16.	In compliance
18.	A key box shall be provided for access by emergency services personnel.	In compliance
<b>Planning Department</b>		
19.	This use permit allows for the establishment of a heavy automotive repair facility in an approximately 1,200 square foot tenant suite. The applicant shall provide a revised site plan reflective of the conditions of approval herein at the time of submittal for building permits for the required trash enclosure.	In compliance
20.	Vandalism and graffiti shall be corrected per the Madera Municipal Code.	In compliance
21.	All automotive repair work shall occur inside of the structure.	Automotive work occurring outdoors.
22.	Outdoor storage of goods and/or materials shall not be allowed.	Storage of non-operative cars outdoors.
23.	Overnight parking of vehicles shall only occur within the interior of the building.	Vehicles are being parked overnight within the parking lot.

24.	The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.	In compliance
25.	A new trash enclosure with a finish and color similar to the primary structure shall be built to City standards to hold two bins. The location of the trash enclosure shall be approved by the Planning Manager.	In compliance
26.	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/refuse containers owned by the property owner.	In compliance
27.	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.	In compliance
28.	The business may be open from as early as 7:00 a.m. in the morning to as late as 7:00 p.m. at night, seven days a week.	In compliance, but staff has received a complaint that repair work occurs throughout the night beyond 7:00 p.m. Staff has not been able to verify this complaint.
29.	The property owner shall ensure the removal of all non-operative/abandoned vehicles from the site, prior to occupancy by Frank's Auto Repair.	Non-operative vehicles are on the site.
30.	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. Any modifications in the approved parking layout shall require approval by the Planning Commission.	Because vehicles are stored in required parking, the site is in non-compliance with providing parking at all times.
31.	The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the City. 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 plants.	The landscaping strip within the parking lot is not healthy and has not been replaced with drought tolerant plants.

32.	The property owner shall ensure all non-permitted signage is removed from the site prior to occupancy by Frank's Auto Repair.	The business has a non-permitted temporary banner sign affixed to their wall.
33.	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.	A temporary banner sign has been installed without a permit. There is also a freestanding sign within the public right-of-way.

## Site Photos



Condition 23: Overnight parking of vehicles shall only occur within the interior of the building. This picture was taken at 7:30 a.m. on September 6, 2017. No employees were working at that time.



This picture was taken at 7:30 a.m. on September 20, 2017. No employees were working at that time.



Condition 31: The landscaping is kept in an unhealthy manner and needs to be replaced with drought-tolerant plants.



Conditions 31 & 32: This is the non-permitted temporary banner sign that has been installed on the business frontage since they opened in 2015.