

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

**CITY HALL – COUNCIL CHAMBERS
TUESDAY
February 8, 2022
6:00 pm**

The Council Chambers will be open to the public. This meeting will also be available for public viewing and participation through Zoom. Members of the public may participate in the meeting remotely through an electronic meeting in the following ways: via phone by dialing (669) 900-6833 enter ID: [#83730777408](https://www.zoom.us/j/83730777408) followed by *9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/83730777408>. Public comment will also be accepted via email at planningcommissionpubliccomment@madera.gov.

The City will observe the Madera County Public Health Department recommendations. This may limit seating in the Council Chamber; however, the City will have seating available in the foyer. All persons visiting City facilities shall observe health and safety protocols.

CALL TO ORDER

ROLL CALL

Commissioner Robert Gran Jr. (Chairperson)
Commissioner Ryan Cerioni
Commissioner Ramon Lopez-Maciel
Commissioner Rohi Zacharia
Commissioner Khubaib Sheikh
Commissioner Balwinder Singh

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, but are not required, to identify themselves and state the subject of their comments. If the subject is an item on the Agenda, the Chairperson has the option of asking the speaker to hold the comment until the hearing is opened. 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: May 24, 2021, June 8, 2021, August 10, 2021, August 26, 2021 & September 14, 2021

WORKSHOP:

- 1. The Impact of Flavored Tobacco on Youth and Our Community
(Report by Madera County Tobacco Control Program)**

CONSENT ITEMS: None

PUBLIC HEARING ITEMS:

- 1. SPR 2009-21 EXT 9 & CUP's 2013-04, 05, 06 and 07 – Foxglove Shopping Center**

A request for a one-year extension of an approved site plan review and various conditional use permits in support of the development of a retail shopping center. Conditional Use Permit 2013-04 allows for outdoor seating areas for the site in conjunction with food and beverage service, Conditional Use Permit 2013-05 allows for a drive-thru window for drug store use, Conditional Use Permit 2013-06 allows for alcohol sales for on-site consumption (beer, wine and spirits) within the shopping center project and shall be limited to sale and consumption within restaurant/café tenants where it is an accessory to food service and on or in the pads/shops specified. Conditional Use Permit 2013-07 allows for alcohol sales for off-site consumption within the shopping center and shall be limited to the Grocery Store use, Major A tenant (CUP 2013-07A) and the Pharmacy use on Pad G (CUP 2013-07G). The site is located on the southeast corner of N. Schnoor Ave. and Foxglove Way in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation. APN's: 013-160-005 & 013-160-016.

An environmental impact report was certified by the City on February 12, 2013, for the approved site plan review and conditional use permits. No further environmental review is required for the proposed extension.

- 2. CUP 2021-16 & SPR 2021-33 – Dutch Bros Coffee Shop**

A noticed public hearing to consider an application for a site plan review, which would allow for the construction of a 950 square foot coffee shop with a drive through on an approximately 0.65-acre site and a conditional use permit which would allow for the operation of the drive through in association with the coffee shop. The site is located in the Vallarta Shopping Center at the southeast corner of Country Club Drive and Clark Street in the C1 (Light Commercial) zone district and has a C (Commercial) General Plan land use designation. (APN: 003-210-019)

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15332 (In-Fill Development Projects).

- 3. CUP 2021-19 & SPR 2021-39 – In-N-Out Burger**

A noticed public hearing to consider Site Plan Review 2021-39, which would allow for the construction of a 3,879 square foot restaurant with a 747 square foot patio structure and a drive through on an approximately 1.45-acre site. Conditional Use Permit 2021-19 would allow for the operation of the drive through in association with the restaurant. The project is located in the Commons at Madera Fair shopping center and will occupy the current location occupied by the Sugar Pine Smokehouse, which would be raised and removed to facilitate the construction of the new In-N-Out Burger. The project site is bounded by a Madera fairgrounds parking lot to the east, the Madera fairgrounds facilities to the south, commercial businesses to the west, with Cleveland Avenue and other commercial establishments beyond to the north. The property is in the C2 (Heavy Commercial) zone district and has a C (Commercial) General Plan land use designation.

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15332 (In-Fill Development Projects).

NON-PUBLIC HEARING ITEMS: None

ADMINISTRATIVE REPORTS:

1. 2022 Meeting Calendar Update

COMMISSIONER REPORTS:

ADJOURNMENT:

The next regular meeting will be held on March 8, 2022.

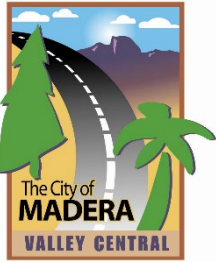
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation 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: Foxglove Shopping Center Extension SPR 2009-21 EXT 9 and CUP 2013-04, 05, 06 and 07 EXT 9 Item # 1 – February 08, 2022

PROPOSAL: Consideration of a request for a one-year (1-year) time extension of the Foxglove Shopping Center Site Plan Review (SPR 2009-21) and various use permits (CUPs 2013-04, 05, 06 and 07) in support of the development of a retail shopping center. The request is the ninth extension requested by the applicant for Foxglove Shopping Center Site Plan Review and CUPs originally approved in February 2013. All previously approved conditions of approval remain in effect.

APPLICANT:	Zinkin Development Richard Fairbank 5 E River Park Place West, Ste 203 Fresno, CA 93720	OWNER:	Dewayne Zinkin Family Partnership LP 5 E River Park Place West, Ste 203 Fresno, CA 93720
ADDRESS:	None	APN:	013-160-005 & 013-160-016
APPLICATION:	SPR 2009-21 & CUP 2013-04, 05, 06 and 07	CEQA:	Environmental Impact Report (Certified)

LOCATION: The project site is located on the southeast corner of North Schnoor Avenue and Foxglove Way.

STREET ACCESS: Foxglove Way and S North Schnoor Avenue

PARCEL SIZE: Approximately 20.47 acres

GENERAL PLAN DESIGNATION: C – Commercial

ZONING DISTRICT: C2 – Heavy Commercial

SITE CHARACTERISTICS: The project is approximately 20.47 acres in size. The Home Depot Shopping Center and Sonic drive-through restaurant are located north of the site. Madera Market Place is located to the south and North Schnoor Avenue fronts the property to the west. A Madera Irrigation District canal and State Route 99 are located directly east of the proposed site. The project site itself consists of vacant and undeveloped land.

ENVIRONMENTAL REVIEW: The project has previously been environmentally assessed. An environmental impact report, mitigation monitoring and reporting program, statement of overriding considerations, and related findings for all project components were completed in conjunction with the proposal. The environmental impact report (EIR) was certified by the Planning Commission on February 12, 2013. Since the certification of this project's EIR, there have been no additional developments in the surrounding area that would require an updated analysis. This time extension does not require any physical alterations to the environment and does not require an updated EIR. Therefore, the adopted original EIR is sufficient

and, pursuant to the California Environmental Quality Act Guidelines Section 15162, which identifies the requirements for which subsequent analysis is required, no further environmental review is required.

SUMMARY: The proposed shopping center remains compatible with the surrounding commercial properties and requires no additional environmental analysis. The original findings presented in SPR 2009-21 and CUP 2013-04, 05, 06 and 07 remain the same and the findings in this report supports conditional approval of a one-yea (1 year) time extension. No amendments to the original conditions of approval are recommended. It is recommended that a one-year (1 year) extension for the site plan review and conditional use permits be approved by the Planning Commission.

APPLICABLE CODES AND PROCEDURES

Madera Municipal Code § 10-3.4.0114 (Lapse of Site Plan Approval)

Madera Municipal Code § 10-3.1311 (Termination and Revocation)

California Public Resources Code Section 21000 et. seq., California Environmental Quality Act.

Madera Municipal Code (MMC) § 10-3.4.0114 requires that all site plan approvals be void one year following the date on which approval by the Community Development Director, Planning Commission, or City Council became effective unless, prior to the expiration of one (1) year, a building permit is issued, and construction is commenced or a written request for an extension is submitted to the Director.

MMC § 10-3.1311 sets forth the requirement of any use permit granted by the City to be utilized within 12 months after the effective date thereof. Failure to act on any use permit within those 12 months shall render the permit null and void unless a written request for extension is submitted to the Director and Planning Commission prior to the expiration date of said permit.

The Commission, in considering the time extension request, may approve, deny, or conditionally approve a time extension. If the time extension is denied, the applicant may re-file the site plan review and conditional use permit requests for further consideration by the Planning Commission. The applicant has made a written request for a one-year (1 year) extension consistent with the Planning Commission's prior extension approval of the project.

PRIOR ACTION

The project site was historically used for agricultural purposes. The site plan review, conditional use permit entitlements, and environmental impact report in question were originally approved by the Planning Commission on February 12, 2013. Time extensions have been granted by the Planning Commission annually since 2014.

ANALYSIS

The project proposes to develop a retail shopping center with up to 191,500 square feet of tenant space on approximately twenty acres of vacant and unimproved land. A primary anchor space would contain approximately 84,000 square feet of gross floor area. Several smaller anchors, shops and freestanding pads would fill out the remaining square footage. Site Plan Review 2009-21 establishes a site plan, building design, and construction requirements for the proposed shopping center. Multiple conditional use permits (CUP 2013-04, 05, 06 & 07) memorialize uses such as outdoor seating, a drive-thru window, and alcohol sales in conjunction with restaurants and retail stores.

The applicant requested an extension to the site plan review and use permits in a written communication dated December 23, 2021. Over the past year, the property owner has been in contact with prospective tenants and is consulting with an engineering firm in providing plans for intersection improvements, water demand and other related improvements. The applicant has stated that, "While we were optimistic about commencement of construction in 2020 and 2021, once COVID-19 hit, our proposed major tenants have placed their plans on hold. Concerns about potential shutdowns and supply chain problems continue." Applicant also claims that within the last extension granted, serious marketing efforts have been made. They are in conversation with a potential anchor tenant which may substantially progress the proposed project. As there have not been substantive changes in the City's zoning ordinance over the past year, a new application for the same project would likely generate similar conditions, hence, a time extension rather than a re-filing is appropriate.

If approved by the Commission, the project will have an additional year to commence construction. In total, eight (8) years of time will have been granted to project proponents since the original approval in February 2013.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Site Plan Review 2009-21 and Conditional Use Permits 2013-04, 05, 06 and 07 have been determined to provide consistency with the Madera Vision 2025 Plan by supporting a well-planned city, good jobs, and economic opportunity. The proposed time extension in question does not alter or amend the original findings and therefore remains consistent with the goals and policies set forth by the Madera Vision Plan 2025.

RECOMMENDATION

The information presented in this report supports approval of a resolution approving a one-year (1 year) extension of the site plan review and conditional use permits as originally conditioned. It is recommended that the Commission consider the information in this report, as well as testimony received during the public hearing, and make a determination on Site Plan Review 2009-21 EXT 9, subject to the findings and original conditions of approval below.

PLANNING COMMISSION ACTION

The Commission will be acting on a one-year (1 year) time extension for Site Plan Review 2009-21 & Conditional Use Permits 2013-04, 05, 06 and 07 (SPR 2009-21 EXT 9) and will determine to:

Motion 1: Move to approve a one-year (1 year) time extension to February 13, 2023, for Site Plan Review 2009-21 and CUPs 2013-04, 05, 06 and 07 subject to the original conditions based on the following findings:

Findings to Approve Site Plan Review 2009-21 One-Year Extension

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). Site Plan Review 2009-21 is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and does not conflict with City standards or other provisions of the Code.

Finding c: *The proposed project includes facilities and improvements; vehicular and pedestrian ingress, egress, and internal circulation; and location of structures, services, walls, landscaping, and drainage that are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, there will be no adverse effects on surrounding property, light is deflected away from adjoining properties and public streets, and environmental impacts are reduced to acceptable levels.*

Site Plan Review 2009-21 has been previously reviewed and is consistent with surrounding uses.

Finding d: *The proposed project is consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality.*

Site Plan Review 2009-21 as approved is consistent with established street and circulation improvements and conditioned to conform with City policies and improvement standards for street improvements, dedication, and safety. The previously approved SPR has been subject to an EIR certified by the City.

Findings to Approve Conditional Use Permits 2013-04, 05, 06 and 07 One-Year Extension

Finding a: *The proposal is consistent with the General Plan and Zoning Ordinance.*

The proposals for a drive-through window, outdoor seating and dining, and alcohol sales as ancillary uses to the retail shopping center are consistent with the purposes of the C – Commercial General Plan land use designation and the C1 – Heavy Commercial zone district.

Finding b: *The proposed uses permissible by CUPs 2013-04, 05, 06 and 07 are comparable uses to those surrounding the proposed site.*

Because the site has been designed for the development of an integrated shopping center to accommodate a variety of retail and restaurant uses, the conditional uses proposed, as conditioned, will not be detrimental to health, safety, peace, comfort, morals or general welfare of the neighborhood or the City, and will be compatible with the surrounding area.

Finding c: *The proposed site has enough space to accommodate all uses proposed.*

There is adequate parking and site area to accommodate the participants of the existing and proposed uses, including stacking distances required for the drive-through window.

(OR)

Motion 2: Move to continue the public hearing on a one-year (1 year) time extension on Site Plan Review 2009-21 and Conditional Use Permits 2013-04, 05, 06 and 07 to the March 8, 2022, Planning Commission meeting with direction to staff to return with an updated resolution with appropriate findings for the following reasons: (Specify – Planning Commission should articulate reasons for modifications to findings and/or conditions of approval)

(OR)

Motion 3: Move to continue the application for a one-year (1 year) time extension on Site Plan Review 2009-21 and Conditional Use Permits 2013-04, 05, 06 and 07 to the March 8, 2022, Planning Commission meeting with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify- Planning Commission should articulate reasons for denial)

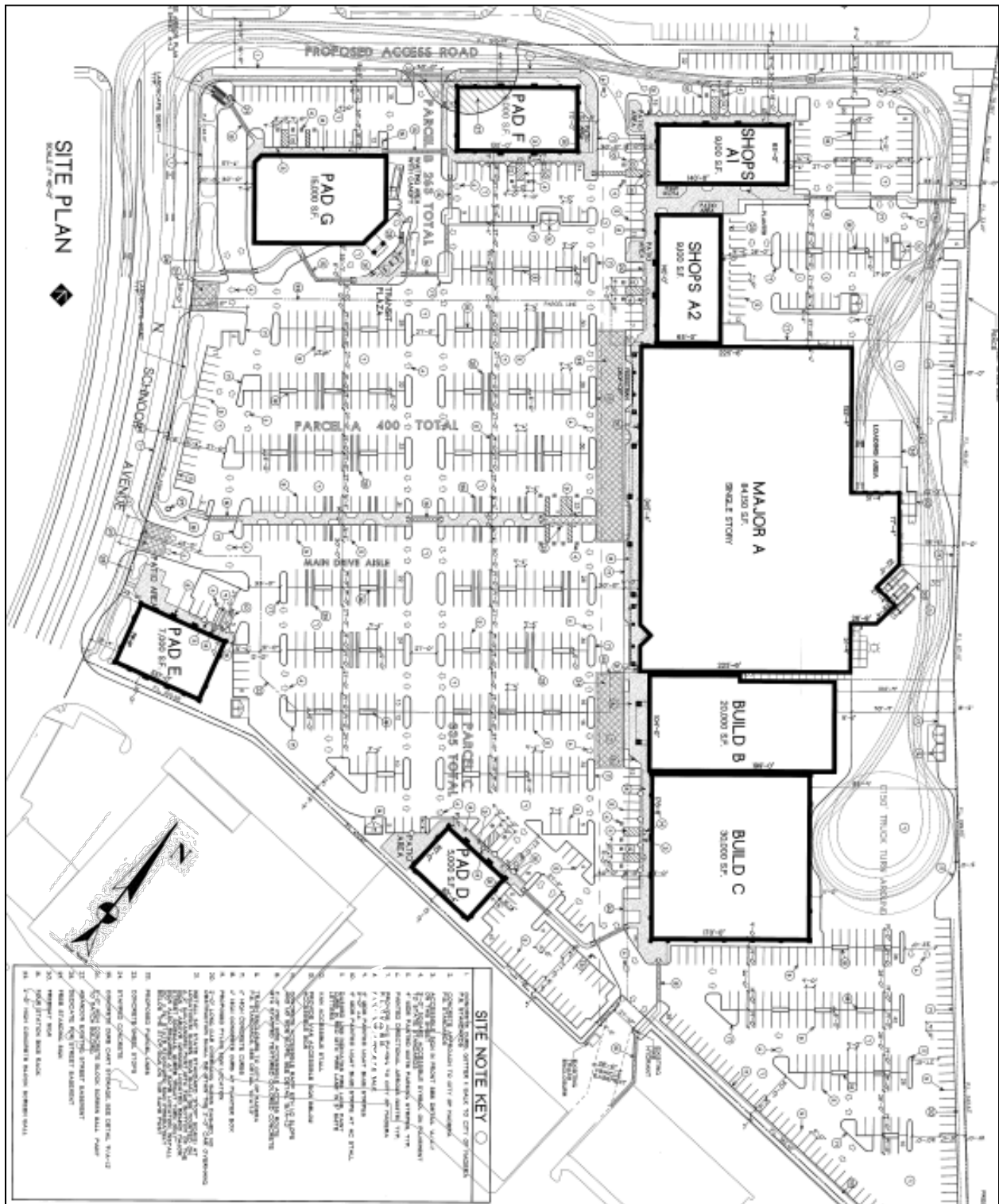
ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: Extension Request Letter

Attachment 3: Planning Commission Resolution for SPR 2009-21 EXT 9

Attachment 1: Site Plan



Attachment 2: Extension Request Letter

SPR 2009-21
EXT 9



ZINKIN
DEVELOPMENT

Pr. 1/3/21
Rec. # 005872-
0003

December 23, 2021

Brandi Garcia | Administrative Assistant
City of Madera | Planning Department
205 West 4th Street, Madera, CA 93637

Brandi,

The purpose of this letter is to request a one-year extension for the Site Plan Review approval for SPR 2009-21 and all of the various conditional use permits that were granted and approved with it at the Planning Commission meeting on February 12, 2013. While we were optimistic about commencement of construction in 2020 and 2021, once COVID-19 hit, our proposed major tenants have placed their plans on hold. Concerns about potential shut downs and supply chain problems continue. We would like to request another one-year extension from the City and I would appreciate it if you would please put that on the calendar of the City Planning Commission for action in January, 2022. A check in the amount of \$1,650.00 for the extension filing fees will be sent to your attention the first week of January.

As you know, I believe that the efforts, costs, and obligations made and incurred by the Owner, in reliance upon the SPR-2009-21 and related CUPs would justify a finding that those entitlements have become vested and perfected, but I anticipate it will be some time before the City will be able to review that and agree, so out of an abundance of caution, this application is submitted for an extension.

We would appreciate the extension of the CUP and entitlements so that we can move forward with the project as soon as we have a commitment from the major tenant. Thank you for your time and attention to this matter.

Sincerely,



Richard L. Fairbank
Attorney at Law

RLF/kc

Attachment 3: Planning Commission Resolution for SPR 2009-21 EXT 9

RESOLUTION NO. 1901

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
APPROVING A ONE-YEAR TIME EXTENSION OF SITE PLAN REVIEW 2009-21 EXT
9, CONDITIONAL USE PERMITS 2013-04 EXT 9, 2013-05 EXT 9, 2013-06 EXT 9
AND 2013-07 EXT 9 (FOXGLOVE SHOPPING CENTER) TO FEBRUARY 13, 2023,
SUBJECT TO THE ORIGINAL CONDITIONS OF APPROVAL**

WHEREAS, Planning Commission of the City of Madera approved Site Plan Review (SPR) 2009-21 and Conditional Use Permits (CUPs) 2013-04, 05, 06 and 07 at a regularly scheduled hearing on February 8, 2013; and

WHEREAS, the Planning Commission of the City of Madera may grant approval of Site Plan Review extension requests for one-year periods of time according to Madera Municipal Code Section 10-3.4.0114 ; and

WHEREAS, the Planning Commission of the City of Madera granted yearly subsequent extensions to SPR 2009-21 and CUPs 2013-04, 05, 06 and 07 at regularly scheduled hearings since February 8, 2013 and most recently at a regularly scheduled hearing on January 12, 2021; and

WHEREAS, the City received written application prior to the expiration date from the authorized representative of the owner requesting an extension to SPR 2009-21 and to CUPs 2013-04, 05, 06 and 07; and

WHEREAS, the City provided notice of the Planning Commission hearing as required by law; and

WHEREAS, the Planning Commission received and reviewed the extension request at a duly noticed meeting on February 08, 2022; and

WHEREAS, a public hearing was held, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Planning Commission; and

WHEREAS, the Planning Commission now desires to approve the extension request for SPR 2009-21 and CUPs 2013-04, 05, 06 and 07 subject to the original conditions of approval.

NOW THEREFORE, be it resolved by the Planning Commission of the City of Madera as follows:

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA: The Planning Commission finds that this project has previously been environmentally assessed. An environmental impact report, mitigation monitoring and reporting program, statement of overriding considerations, and related findings for all project components were completed in conjunction with the proposal. The environmental impact report was certified by the Planning Commission on February 12, 2013. The setting for the project has not substantially changed since the adoption of the EIR. No additional development in the area has occurred since the approval of SPR 2009-21 and CUPs that would require additional environmental analysis of the project. The

extension of time does not involve any physical changes in the environment and hence does not have the potential for causing a significant effect on the environment. There is no new information, which was not known and could not have been known at the time of the EIR that the project will have significant effect not discussed in the EIR. None of the mitigation measures and alternatives previously determined to be infeasible are now feasible. In addition, no new mitigation measures or alternatives that would substantially reduce one or more significant effect on the environment have been identified. Therefore, the adopted EIR is sufficient and, pursuant to State CEQA Guidelines Section 15162, which identifies the requirements for which subsequent analysis is required, no further environmental review is required.

3. Findings to approve SPR 2009-21 Extension:

- a. *The proposal is consistent with the General Plan and Zoning Ordinance.*

Basis for Finding: The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). Site Plan Review 2009-21 is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and does not conflict with City standards or other provisions of the Code.

- b. *The proposed project includes facilities and improvements; vehicular and pedestrian ingress, egress, and internal circulation; and location of structures, services, walls, landscaping, and drainage that are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, there will be no adverse effects on surrounding property, light is deflected away from adjoining properties and public streets, and environmental impacts are reduced to acceptable levels.*

Site Plan Review 2009-21 has been previously reviewed and is consistent with surrounding uses.

- c. *The proposed project is consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality.*

Site Plan Review 2009-21 as approved is consistent with established street and circulation improvements and conditioned to conform with City policies and improvement standards for street improvements, dedication, and safety. The previously approved SPR has been subject an EIR certified by the City.

4. Findings to Approve Conditional Use Permits 2013-04, 05, 06, and 07 One-Year Extension

- a. *The proposal is consistent with the General Plan and Zoning Ordinance.*

The proposals for a drive-through window, outdoor seating and dining, and alcohol sales as ancillary uses to the retail shopping center are consistent with the purposes of the C – Commercial General Plan land use designation and the C1 – Heavy Commercial zone district.

- b. *The proposed uses permissible by CUPs 2013-04, 05, 06, and 07 are comparable uses to those surrounding the proposed site.*

Because the site has been designed for the development of an integrated shopping center to accommodate a variety of retail and restaurant uses, the conditional uses proposed, as conditioned, will be detrimental to health, safety, peace, comfort, morals or general welfare of the neighborhood or the City, and will be compatible with the surrounding area.

- c. *The proposed site has enough space to accommodate all uses proposed.*

There is adequate parking and site area to accommodate the participants of the existing and proposed uses, including stacking distances required for the drive-through window.

- 5. Approval of time extension of one year for Site Plan Review 2009-21 and CUPs 2013-04, 05, 06, and 07: Given that all findings can be made, the Planning Commission hereby approves SPR 2009-21 EXT 9 and CUPs 2013-04 EXT 9, 2013-05 EXT 9, 2013-06 EXT 9 and 2013-07 EXT 9, the one-year time extension request to February 13, 2023 for SPR 2009-21 and CUPs 2013-04, 05, 06 and 07 as conditioned as set forth in the Conditions of Approval attached as Exhibit "A."

- 6. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 8th day of February 2022, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Gary Conte
Planning Manager

EXHIBIT "A"

**SPR 2009-21 AND CUP 2013-04, CUP 2013-05, CUP 2013-06,
AND CUP 2013-07 EXT 9 (FOXGLOVE RETAIL CENTER)**

CONDITIONS OF APPROVAL

February 8, 2022

CONDITIONS OF APPROVAL

A. Site Plan Review Conditions

General Conditions

1. The project approval is conditioned upon acceptance of these conditions contained herein within 30 calendar days, as evidenced by the applicant's signature on a required acknowledgment form.
2. The applicant's or owner's failure to utilize this site plan review within one year following the date of this approval shall render the site plan review null and void unless a written request for extension has been submitted to and approved by the Planning Commission.
3. The approval of this site plan review authorizes the development of the improvements as specified in the site plan, subject to the revisions and clarifications required in these conditions of approval below. All standard permits and approvals required for the improvements, including, but not limited to building permits, grading permits, and construction permits, shall be obtained prior to commencing construction. Modifications to actual building/unit sizes may be authorized by the Community Development Director prior to the issuance of building permits. Such changes may not substantively change the nature of the site plan or building elevations and may not increase the overall square footage allowances for the development as specified in the environmental impact report for the project.
4. Any changes to the site plan required after, or because of, the preparation of grading plans, final on and off-site utility plans, or other changes made by the developer will require the approval of the Community Development Director. Substantive changes to the site plan, as determined by the Community Development Director, may require the completion of an amended site plan review process.
5. The development of the shopping center shall be subject to compliance with, and implementation of, the mitigation measures identified in the mitigation monitoring and reporting program approved as part of the Foxglove Shopping Center Final Environmental Impact Report.

ENGINEERING DEPARTMENT

6. Engineering plans for off-site improvements and for on-site public improvements shall comply with Section 27 of the City of Madera Standard Plans and Specifications and approved addenda and shall be submitted to the City Engineer for review and approval, prior to issuance of building permits. Engineering plans shall be wet stamped by a licensed civil engineer and shall be accompanied by a final site plan showing existing and/or re-established lot corner monuments, including a bearing and distance for each boundary line. Plans shall show dedication of all land by

easements or other mechanism which may be acceptable to the City for all public streets, sanitary sewer mains (on and off site), water mains (on and off site), storm drains lines (on and off site) and detention basins.

7. Construction work within the City rights-of-way shall not begin prior to obtaining an encroachment permit from the Engineering Division in accordance with Section VI, Madera Municipal Code. All encroachment permits shall be obtained prior to the commencement of construction within the public rights of way.
8. Excavated or graded material shall be sufficiently watered to prevent excessive amounts of air borne dust. Watering should occur at least twice a day with complete coverage, preferably in the late morning and after work as directed by the City Engineer.
9. Material transported offsite should be securely covered to prevent excessive amounts of dust.
10. Streets adjacent to the project may be required to be swept and silt removed manually or mechanically at least once a day as required by the City Engineer. Water hosing will not be allowed as a cleanup method.

Grading and Drainage

11. Under the direction of a licensed architect or civil engineer, a site grading and drainage plan shall be prepared. No lot fill, rough grading or rough plumbing shall commence until plans are approved. The grading plan should include cut and fill quantities, along with a City Engineer approval signature line. This plan shall demonstrate that storm water drainage will be adequately handled. This plan shall be approved by the City Engineer prior to the issuance of any building permits. Storm drainage runoff engineering calculations shall be submitted for compliance with City standards.
12. As part of a master grading plan, the applicant shall provide detailed drainage calculations to demonstrate to the satisfaction of the City Engineer that the existing storm drain basin (Basin 43550) located southwest of the intersection of Foxglove Way and Schnoor Avenue is sufficiently sized to accommodate both the commercial development and the Fairgrounds related storm water runoff. Calculations shall be submitted for basin capacity and sizing of onsite main.
13. The site shall be graded to provide drainage to approved storm drainage facilities. Fill in excess of 8-inches requires compaction tests when supporting structures. Geotechnical and soil testing reports shall be submitted prior to issuance of building permits in compliance with state requirements.
14. Grading certification by developer's soils and civil engineers upon completion of each building pad shall be provided by letter or as built plans prior to temporary or final occupancy.

Streets and Drives

15. The development shall implement any and all traffic mitigation measures specified in the Final Environmental Impact Report and Mitigation Monitoring and Reporting Program prepared for the Foxglove Shopping Center project. All measures requiring physical improvements shall be incorporated into civil improvement plans required pursuant to Condition #6.

16. Proposed entrances on North Schnoor Avenue shall be a minimum of 24 feet wide, shall be street type entrances with minimum face of curb radius of 15 feet and shall include the construction of standard handicapped ramps with an ADA accessible path from ramp to ramp. Proposed driveways shall be spaced in accordance with the results of the traffic study prepared for this project.
17. A median island shall be constructed on Foxglove Way that extends from North Schnoor Avenue to a minimum of 50 feet east of the first driveway on the north side of Foxglove Way.
18. Project driveways on Foxglove Way should be aligned with those on the north side of the street. If this is not feasible due to overall project design constraints, reasonable measures shall be implemented to minimize vehicular conflicts.
19. Free and unimpeded access shall be maintained from this development to the Marketplace shopping center located to the south.
20. All public utilities shall be undergrounded, except transformers, which may be mounted on pads.
21. Prior to the issuance of a grading permit, the developer shall dedicate an additional 8 feet to an existing 7-foot Public Utility Easement (PUE) to complete a 15-foot PUE along North Schnoor Avenue.
22. Prior to the issuance of the grading permit, the developer shall record a reciprocal ingress/egress, utility and parking easement acceptable to the City of Madera across the entire center that is applicable to all existing and/or future parcels. The easement shall provide the mutual right to cross access and parking for all future uses. With such easements in place, compliance with City parking standards for each building will be based on total number of spaces available at the Center.
23. Prior to issuance of a grading permit, the developer shall cause the existing 60-foot-wide easement for access and utilities to be shifted westward to avoid the proposed structures being constructed within the easement.
24. The developer shall reimburse its fair share of cost to the City for previously constructed infrastructure in and on Foxglove Way to the extent that such infrastructure is utilized by the project. The developer shall not be responsible for reimbursement of cost for those improvements removed due to the project's reconstruction of Foxglove Way or improvements otherwise not incorporated into the project. Determination of fair share costs will be calculated in conjunction with submittal and review of civil plans for off-site improvements.
25. Additional detailed review will be conducted by the City when more detailed off-site street plans, and on/off site utility plans are submitted to the City; additional requirements may be specified based on this subsequent review. This will include, but not be limited to, further refinement to street plan for Foxglove Way alignment from North Schnoor Avenue through transition to private drive alignment on the project site.

Sewer

26. Sewer service connection shall be constructed to current City standards.

27. Sewer connections larger than 4 inches shall require construction of a manhole.
28. Existing septic tanks, if found, shall be removed, permitted, and inspected by the City of Madera Building Department.
29. Prior to the issuance of encroachment permits to construct utility connections, the developer shall reimburse its fair share of cost to the City for the previously constructed sewer main in North Schnoor Avenue. Total reimbursement due by the developer to the City is \$12,293.00.

Water

30. Water service connection(s) shall be constructed to current City standards including water meter(s) located within the City right-of-way and shall read in cubic feet. A backflow prevention device shall be located within private property.
31. A separate water meter and backflow prevention device will be required for landscape consumption.
32. Existing wells, if any, shall be abandoned as directed and permitted by City of Madera for compliance with state standards.
33. Prior to the issuance of encroachment permits to construct utility connections, the developer shall reimburse its fair share of cost to the City for the previously constructed water main in North Schnoor Avenue. Total reimbursement due by the developer to the City is \$7,822.00.
34. Additional detailed review of the water system requirements will be conducted by the City when more detailed off-site street plans, and on/off site utility plans are submitted to the City; additional requirements may be specified based on this subsequent review.

PLANNING DEPARTMENT

Site Plan and Building Design - General

35. This site plan approval authorizes the development of an integrated shopping center with a cohesive parking and circulation system and consistent design criteria. All buildings, regardless of tenant, shall be designed and constructed in a manner consistent with the City's Design and Development Guidelines for Commercial Development and the master design guidelines prepared for the project.
36. Consistent with the above-described guidelines, consideration will be given to all tenants to be allowed to retain important elements of their corporate identity and architectural details which support their branding and themed experience. While buildings and related site features shall incorporate a standard color palette, architectural features, roof types, and materials, etc., they may feature such aforementioned corporate elements and architectural details as well as variations to the color palette. Final elevations for all buildings/units are subject to the approval of the Community Development Director prior to the issuance of building permits.
37. The landscape and irrigation plan submitted for the project shall be in compliance with the State Department of Water Resources Model Water Efficient Landscape Ordinance.

38. Prior to the issuance of the first building permit, a final landscaping plan for the shopping center shall be submitted which encompasses the following revisions and clarifications:
- a. A phasing plan for all site landscaping shall be submitted for approval.
 - b. All landscaping areas shall have a minimum of 75% vegetative ground cover.
 - c. Indicate species, size and spacing of shrubs where used. Clear distinction between landscaping symbols should be provided.
 - d. Clearly designate what is ground cover and what is turf.
 - i) Landscape islands with shade trees separating facing parking stalls shall be a minimum of 5'x18' (at outside of curb). Where used, tree wells shall be a minimum of 5' in length and minimum of 5' in width (at outside of curb).
 - e. Raised planters, free standing planters (pots, containers), and tree wells in walking surfaces (with grates) shall be incorporated along storefronts which abut parking spaces.
 - f. Root barriers shall be provided for all trees which are planted 5' or less from curb, gutter and walkways.
 - g. Along the rear of the site, adjacent to the existing MID canal, it is recommended that efforts be made to create a more functional screen of this area for views from SR99. This can be accomplished in a variety of ways, including through the addition of berms or solid fencing, by planting additional evergreen trees, or combination thereof.
 - h. All landscaping shall be developed with permanent irrigation systems and shall be controlled with an irrigation control system approved by the Parks and Community Services Director. Tree wells should provide for deep watering versus surface watering.
 - i. All unpaved areas within the public right-of-way along the street frontages shall be landscaped and maintained by the developer/property owner. Landscaping shall be continuous from the curb-face, around the sidewalks, and up to the pavement in the parking area. Detailed landscape and irrigation plans shall be submitted and approved by the Parks and Community Services Director prior to issuance of any building permits. Street trees shall be placed as specified in the approved landscaping plan. No temporary or permanent occupancy of any buildings shall be approved until the landscaping has been installed as per the landscaping phasing plan and approved by the Parks and Community Services Director.
 - j. Any fencing, landscaping and irrigation within the public right-of way shall not be installed until the Parks and Community Services Director approves the plans. Any deviation shall require prior written request by the developer and approval by the Parks and Community Services Director. Removal or modification shall be at the developer's expense. A landscaping water meter (if applicable) shall be connected after a back-flow device.
 - k. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design approved as part of the project's landscape and

irrigation plan(s). This includes, but is not limit to, ensuring properly operating irrigation equipment at all times, trimming and pruning trees and shrubs, mowing lawns consistent with industry standards, replacing dead or unhealthy vegetation, etc.

- I. Landscaping inspection fees for this project shall be paid in accordance with the fee schedule adopted by the Resolution of the City Council, no later than the issuance of building permits for the first building.
39. The location of all exterior transformers and similar utility/service equipment within the parking and circulation areas, common areas, and landscaped areas shall be shown on building plans; above ground features shall be screened with a combination of landscaping, berms, architecturally treated walls, etc. to the satisfaction of the Community Development Director.
40. All building-related electrical and utility service panels and equipment shall be enclosed in mechanical rooms or screened from public views with architectural features or landscaping.
41. Roof access ladders shall be located inside the buildings or be located within an enclosure matching the adjacent architectural features.
42. Submit for review and approval a lighting plan and information (tear sheets) on fixtures. This should be accomplished in conjunction the requirements of the mitigation measures required for the project.
43. Outdoor lighting fixtures shall be directed downward and shielded away from adjacent properties, unless accent lighting is specifically authorized by the City. Any nuisance lighting conditions which are found to exist after commencement of operation shall be corrected by the owner to a configuration that is acceptable to City at the owner's expense, within (30) days of notification by the City.
44. A plan for internal pedestrian crossings shall be submitted for review and administrative approval by the Community Development Director which indicates the type and design of pavement markers (e.g., stamped concrete, pavers) pursuant to the provisions of the Master Design Guidelines. The use of painted lines in lieu of alternative pavement types to delineate pedestrian connections should be used only where alternative pavement is limited by ADA access requirements.
45. To the extent feasible, pedestrian connections/sidewalks shall be meandered with landscape strips to avoid long, continuous paved edges. Meander may be accomplished with a curvilinear or angular pattern.
46. The placement and design of bollards or planters adjacent to store fronts shall be shown on the building plans for all buildings. Any such features shall be consistent with the overall architectural style for the center. Bollards shall have decorative features rather than simple solid pipes or posts and may vary by design.
47. Submit for review and administrative approval by the Community Development Director, a plan and detail for refuse storage areas. Where any side is exposed to public view, landscape screening (and berm, where possible) shall be incorporated, or the enclosure shall be surfaced with an architectural treatment compatible with the adjacent building.

48. Provide details and locations for cart storage areas in conjunction with each building permit application. Storage areas shall be buffered with landscaping or architectural features. The only signage allowed will be a basic symbol.
49. Vandalism and graffiti shall be corrected at the owner's expense within 72 hours of notification.

Site Plan and Building Design – Specific Modifications

50. Light sconces or other architectural embellishments should be included along building frontages to break up wall mass. Wainscoting and/or banding treatment are recommended at columns and entryways.
51. Major A – The building shall be modified in accordance with the provisions of the City's Design and Development Guidelines. A stucco finish shall be applied to the front exterior elevation, currently presented as a painted CMU (Concrete Masonry Unit) block finish. This would bring the lines and exterior finish of the building closer to the conceptual elevations of other buildings in the shopping center.
52. Shops A1 and A2 – The buildings shall be modified in accordance with the provisions of the City's Design and Development Guidelines. Landscape features such as tree wells and/or planter beds shall be included at the rear of buildings where currently none are indicated. The use of awnings or other structures placed over rear service doors should be considered.
53. Buildings B & C – The buildings shall be modified in accordance with the provisions of the City's Design and Development Guidelines. Along the southeasterly elevation of Building C (side of building) the project shall include planters and/or tree wells along the curb face where parking spaces abut building. Architectural features shall be included to break up the wall massing of this side of the building, such as vertical landscaping, trellis structures, or combination thereof. The use of awnings or other structures placed over rear service doors should be considered.
54. Pads D, E & F – The rear (northwesterly elevation) of the building proposed for Pad F shall be modified consistent with the General Plan and the Design and Development Guidelines to take into consideration public views from Foxglove Way. A "four-sided building" shall be designed for Pad F and the utility equipment shall be screened by landscaping or by incorporating the mechanical areas into the architectural design of the building. Utility equipment for buildings proposed for Pads D & E should be located at the rear of buildings (southerly elevations), out of public views.
55. Pad G – Pharmacy Use - The building shall be modified to incorporate a smooth textured finish to soften the CMU construction, using colors from the center's primary color palette. Along the northwesterly elevation of Building C (frontage of building facing Foxglove Way) the project shall include planters and/or tree wells along the curb face where parking spaces abut building. The screening enclosure for the trash compactor and trash bins must carry the same architectural treatments as the adjoining walls.
56. A design for the transit site shall be submitted for review and approval of the Community Development Director. The design should:
 - Encourage the use of transit services by providing a positive appealing space.
 - Be located in an area inclusive of the general activities.

- Be a well landscaped attractive setting.
- Provide separation from the traffic.
- Provide a shade and rain shelter that is architecturally consistent with the area,
- Include provisions for seating, trash receptacles and a screened area for depositing carts.

Master Sign Plan

57. A master sign plan shall be developed to demonstrate unified sign styles within the center and to establish allowances for individual sign permits when they are proposed. The plan shall cover building signage, monument signage, or other freestanding signage including any proposed “directional monument”. The master sign plan shall be submitted by the applicant and reviewed and approved by the Planning Department prior to issuance of building permits.
58. All freestanding directional, monument and/or pylon type signs shall be designed to be consistent with the architecture and color schemes of the commercial center. Presentation of multiple tenant names and or symbols shall be done in a manner that provides a uniform consistent presentation. Consistency may be achieved in several ways including but not limited to uniform background colors, alignment of lettering, consistency in font sizes or types. The intent is not to prevent unique tenant identification, but to present corporate images/logos and signage in a thematically coordinated manner rather than in an uncoordinated, dissimilar fashion.

FIRE REQUIREMENTS

59. Fire Department connections shall be located in posted fire lanes 40 feet from the structure protected. Where multiple Fire Department connections are located together, each shall be clearly identified as to the building it serves.
60. Portable fire extinguishers must be provided. A minimum of at least one, 2A10BC-rated portable fire extinguisher is required for each 3,000 square feet of area or fraction thereof. The fire extinguishers must be mounted in visible and accessible locations with 75 feet of travel distance of all portions of each building.
61. Fire sprinklers are required in most buildings. The exact use and occupancy of the smaller structures will determine if fire sprinklers are required.
62. Exit signs and emergency lighting are required in buildings with two or more required exits.
63. Fire lanes need to be provided and clearly identified on the Site Plan including the method of posting. NOTE: The drive access along the north side of the project does not appear to provide proper turning movements for fire apparatus. This may require a slight redesign in building placement or parking layout.
64. The addresses for each building must be visible from the street and the method and placement must be shown on the front elevation of the plans.

65. A fire alarm system for supervision of the fire sprinkler system is required. An evacuation alarm may be required based upon the requirements of California Fire Code Chapter 9 and California Building Code Chapter 9.
66. When commercial cooking systems are proposed, a fire suppression system will be required.
67. The specific use of the "Patio Areas" will need to be identified during the plan review phase.
68. There does not appear to be an adequate accessible path of travel at the rear of Building B and possibly not at Building A either. This shall be addressed prior to submittal for building permits.
69. The proposal shows interconnectivity with the rear of the Marketplace Shopping Center. The fire access lanes need to be identified for review. Careful attention should be given regarding maintenance of the fire lanes.
70. Note, this project will be subject to the City of Madera's new "Shell Building Policy" if such buildings are proposed as is common with this type of development.
71. Cross-access agreements are required for the multiple properties that comprise this site. The access to the existing Home Depot site will be affected and this must be clarified.
72. All onsite underground fire mains and above ground fire protection systems (such as fire hydrants) must be tested and operational prior to the delivery of combustible construction materials to the site.

Building Plans, Permits, Processes

73. Existing property corners shall be found or installed and noted on the site plan, along with the distance from the property lines to the face of curb and street centerline. New property corners shall require record of survey prior to any site construction or issuance of building permits.
74. For each building to be constructed, provide a minimum of 2 sets of the following plans to the Building Division for the initial plan check. The size of plans shall be at least 36" x 24". A complete set of plans shall be prepared by and bearing the stamp and signature of an individual licensed to practice architecture, including the following required drawings drawn to an appropriate scale:
 - a. Site plan bearing City approval or a plan incorporating all site related conditions
 - b. Grading plan prepared by an individual licensed to practice land surveying, civil engineering or architecture
 - c. Floor plan
 - d. Site utilities plan showing on-site sanitary sewer, water, storm sewer, water meters, back flow prevention devices, roof drains, etc., and the connections to off-site utilities
 - e. All exterior elevations
 - f. Engineering plans and calculations
 - g. Foundation plan
 - h. Ceiling framing plan
 - i. Roof framing plan
 - j. Electrical plan

- k. Plumbing plan
- l. Mechanical plan
- m. Sections and details
- n. Disabled access compliance drawings
- o. Energy compliance drawings and documentation
- p. Landscape plan
- q. Landscape irrigation plan

75. The site plan submitted with each building permit application shall include all modifications and clarifications required by these conditions of approval, as applicable to the building proposed for construction. Information required on the plan shall include, but not be limited to: water and sewer service, water meter and sewer cleanout, backflow preventer location and type, existing fire hydrants within (100) feet and street lights within (100) feet, traffic striping and signing, and any other existing or proposed improvements.
76. The plans submitted for building permits shall show compliance with the herein listed conditions of approval and shall comply with the uniform building codes, along with federal and state laws, local resolutions and ordinances. Site development shall be consistent with the approved site plan, floor plan and elevations. Any deviations shall require prior written request and approval from the Community Development Director. The site plan and all plans submitted for building permit purposes shall be at a scale large enough to allow all dimensions and distances to be legible.
77. Site and buildings must meet federal and state disability access regulations. Each first- floor unit must meet accessibility requirements from public spaces and parking lots to each unit. In addition, inside each unit all rooms must meet accessibility and be adaptable for future compliance to disabled access regulations.

San Joaquin Valley Air Pollution Control District

78. The SJVAPCD has commented that the project is subject to District Rule 9510 (Indirect Source Review). District Rule 9510 states that a project proponent shall submit an Air Impact Assessment (AIA) prior to final discretionary approval. It is recommended that the project applicant consult with the SJVAPCD regarding District Rule 9510, as well as any other applicable District Rules and Regulations prior to submittal for building permits.

Caltrans

79. The project applicant shall enter into a fair share agreement with Caltrans to address off-site improvements as identified in the Draft EIR and MMRP prepared for the Foxglove Shopping Center.
80. The applicant shall make all required traffic improvements as identified in the Draft EIR and MMRP prepared for the Foxglove Shopping Center.

Madera Irrigation District

81. The applicant shall coordinate with Madera Irrigation District regarding the location and configuration of required fencing along the canal alignment.

B. Conditional Use Permit Conditions

General

1. Conditioned upon acceptance of the conditions of approval contained herein within thirty (30) days, as evidenced by the Applicant's dated signatures on the required acknowledgment.
2. An applicant's failure to utilize any 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 for the specified permit.

Outdoor Seating (CUP 2013-04)

3. The defined outdoor seating areas for the site shall be limited to use in conjunction with food and beverage service and may be defined and separated from the parking area by a planter or low fence. The seating areas shall not interfere with required path of travel required for the center.

Drive-thru Use (CUP 2013-05)

4. A drive-thru window is proposed for the drug store use. There shall be adequate area to accommodate the drive-thru window and sufficient vehicle stacking area in both drive-thru lanes. The drive-thru window shall be incorporated into the design of the building and not substantively detract from the overall architectural value of the building.

Alcohol Sales for On-Site Consumption (CUP 2013-06...)

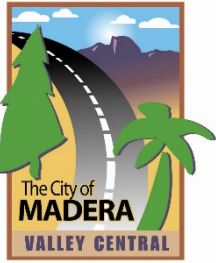
5. Alcohol sales for on-site consumption of beer, wine and spirits, within the shopping center project shall be limited to sale and consumption within restaurant/cafe tenants where alcohol is an accessory component to food service. Alcohol sale for on-site consumption shall be limited to Shops A1 and A2, and also for Pads D, E and F.
6. A separate conditional use permit shall be assigned to each specific location. Each shall operate independent of the others and each shall require individual review for compliance and/or any requested extensions or modifications.
7. Specific locations approved for alcohol sales for on-site consumption shall have the following use permit numbers assigned:
 - Shop A1 - CUP 2013-06A1
 - Shop A2 - CUP 2013-06A2
 - Pad D - CUP 2013-06D
 - Pad E - CUP 2013-06E
 - Pad F - CUP 2013-06F
8. The service and consumption of alcohol in the outdoor seating area for the five identified locations will require that a specific seating area be established, and defined with a fence and gate, and that alcohol not be taken from that area.

- 9. ~~Hours of operation for the restaurant/café uses shall not be earlier than 8:00 a.m. or later than midnight.~~
- 9. Sales of alcoholic beverages for on-site consumption shall not occur earlier than 8:00 a.m. or later than midnight.
- 10. The applicant must, prior to commencing the use contemplated by this permit, provide evidence of a valid ABC license for the sale of alcoholic beverages for consumption on-site of the premises of the restaurant/café use.
- 11. Music or obnoxious noise from the operation or business shall not be audible to persons in the public rights-of-way or on adjacent or nearby properties.
- 12. Loitering shall be prohibited in, upon the premises and in adjacent, and nearby areas both public and private.
- 13. An adult operator or employee 21 years of age or older shall be on site during all hours of operation.
- 14. The limitation/restriction on the number and locations for alcohol sales for on-site consumption within the center, as part of this approval, shall not be construed as a prohibition from a future conditional use permit application being submitted to the City for consideration.

Alcohol Sales for Off-Site Consumption (CUP 2013-07...)

- 15. Alcohol sales for off-site consumption within the shopping center project shall be limited to Major A (Grocery Store use) and Pad G (Pharmacy use) locations.
- 16. A separate conditional use permit shall be assigned to each specific location. Each shall operate independent of each other and require individual review for compliance and/or any requested extensions or modifications.
- 17. Specific locations approved for alcohol sales for off-site consumption shall have the following use permit numbers assigned:
 - Major A (Grocery Store use) – CUP 2013-07A
 - Pad G (Pharmacy use) – CUP 2013-07G
- ~~18. Sales of alcoholic beverages for off site consumption shall not occur earlier than 8:00 a.m. or later than midnight.~~
- 19. The applicant must, prior to commencing the use contemplated by this permit, provide evidence of a valid ABC license for the sale of alcoholic beverages for consumption off the premises of the store.
- 20. Loitering shall be prohibited in, upon the premises and in adjacent, and nearby areas both public and private.
- 21. An adult operator or employee 21 years of age or older shall be on site during all hours of operation.

22. The limitation/restriction on the number and locations for alcohol sales for off-site consumption within the center, as part of this approval, shall not be construed as a prohibition from a future conditional use permit application being submitted to the City for consideration.



CITY OF MADERA PLANNING COMMISSION

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

Staff Report: Dutch Bros CUP 2021-16 and SPR 2021-33 Item # 2– February 8, 2022

PROPOSAL: An application for a site plan review (SPR) 2021-33 for the construction of a new Dutch Bros Coffee on approximately 0.65 acres of undeveloped land. The applicant has applied for a conditional use permit (CUP) CUP 2021-16 which would allow for the operation of a drive through on the project site.

APPLICANT: Russ Orsi, Dutch Bros
110 SW 4th St.
Grants Pass, OR 97526

OWNER: BayKur Madera Pad Partners, LLC
1800 Preston Park Blvd. Suite 104
Plano, TX, 75093

Representative: Brianna Uy, Barghausen Cons. Eng.
18215 72nd Avenue South
Kent, WA, 98302

SITE ADDRESS: Vallarta Shopping Center – 1467
Country Club Dr.

APN: 003-210-019

APPLICATIONS: CUP 2021-16, SPR 2021-33

CEQA: Categorical Exemption 32 (Infill)

LOCATION: The project site is bounded by a parking lot and Vallarta Supermarket to the east, an O’Reilly Auto Parts store to the south, Country Club Drive to the west, and a parking lot and retail stores to the north.

STREET ACCESS: The project site has street access from Country Club Dr. to the west and W. Clark St. to the north.

PROJECT SIZE: 0.65 acres

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C1 (*Light Commercial*)

SITE CHARACTERISTICS: The project is located on an undeveloped parcel within an existing shopping center. As conditioned, the project would result in an approximately 950 square foot (sqft) building with a double drive through lane. Surrounding uses include commercial businesses in all directions.

ENVIRONMENTAL REVIEW: A Categorical Exemption has been prepared consistent with the California Environmental Quality Act (CEQA). The project would utilize the Class 32 Categorical Exemption, allowed for infill development.

SUMMARY: Brianna Uy, on behalf of Russ Orsi (Applicant), is proposing SPR 2021-33, for the construction of an approximately 950 sqft building (Dutch Bros) with a double drive through lane on approximately 0.65 acres. The applicant is also applying for CUP 2021-16 (drive through use). Conditions, as appropriate, have been recommended for the project to ensure consistency with the Zoning Ordinance and General Plan and other applicable City plans and policies.

SURROUNDING LAND USES

The site is bordered in all directions by commercial businesses. All land surrounding the site is planned C (Commercial), while all land surrounding the site is zone C1 (Light Commercial).

Table 1. Existing Uses, General Plan Designations, and Zone Districts of Surrounding Properties

Direction from Project Site	Existing Use	General Plan Designation	Zone District
North	Pizza Hut	Commercial	C1
East	Vallarta Supermarket	Commercial	C1
South	O'Reilly Auto parts	Commercial	C1
West	Business Park	Commercial	C1
C1 – (Light Commercial)			

RELATED ACTIONS

The parcel proposed for development under SPR 2021-33, and CUP 2021-16 also filed Lot Line Adjustment (LLA 2021-03), which proposed adjusting parcel lines to accommodate the proposed development. LLA 2021-03 is a ministerial action and has been approved in December 2021.

PROJECT PROPOSAL

SPR 2021-33 is a request to construct a Dutch Bros coffee shop on a vacant 0.65-acre site. The building would be 950 square feet in size with a double drive through lane proposed. In addition, the application request includes CUP 2021-16 which would allow for the operation of the drive through associated with the coffee shop being constructed.

Following is a summary of the applications for Planning Commission review and action:

- Conditional Use Permit 2021-16 for the operation of a drive through, including related signage such as menu boards, related to the coffee shop to be located within the proposed building.
- Site Plan Review (SPR) 2021-33 to construct a 950 sqft coffee shop building with a double drive through lane.

ANALYSIS

Site Plan Review 2021-33

The project is proposing to construct an approximately 950 sqft building with a double drive through lane. The building will include a drive through window, as well as a walk-up order window. The site will include eight total parking spaces (seven regular, one handicap). The site has sufficient utility service and will not put additional stress on the City of Madera's public infrastructure and utilities systems. The necessary water, electricity, and waste services associated with the commercial use are available on-site as it is located within an existing commercial development area.

Parking

The proposed site plan includes the addition of eight parking stalls including one handicap stall in the parking lot associated with the new building. With the introduction of a 950 sqft coffee shop building, and the requirement of one parking space for every 300 sqft of gross floor area, a minimum of three parking spaces is required. The site will have a total of eight parking stalls, including one handicap stall of off-street parking in front of the coffee shop building.

Landscaping

The applicant will be required to submit a landscaping plan to ensure compliance with state water efficient landscaping requirements. The perimeter of the site is required to be landscaped, except where walks or accessways are proposed. Review and approval of the submitted landscape plan and related irrigation plans are required prior to building permit issuance. Landscaping installed as a part of the project will adhere to the guidelines set forth in the Commercial Design and Development Guidelines.

Elevations

The construction of the building approved under SPR 2021-33 is conditioned to conform with the elevation drawings, including the color and materials schedule, submitted and approved by the Planning Commission. The submitted elevations, subject to all conditions of approval, are consistent with the Commercial Design and Development Guidelines.

Public Infrastructure

As conditioned, the project would be responsible for making improvements, where not already in place, to the eastern half of Country Club Drive along the subject parcel frontage. In addition, the project would be required to replace all broken or damaged concrete improvements within the City right-of-way, including curb, gutter and sidewalk to City standards and American with Disabilities Act (ADA) standards. The project would also be conditioned to reconstruct or modify the ADA ramp at the intersection of Country Club Drive and the driveway south of the project as well as provide an ADA path from the street to the project site to meet ADA standards. The Applicant has prepared a Traffic Impact Study (TIS) for the project with recommendations to provide adequate traffic circulation for the project site and its surrounding area. The recommendations of the TIS, including modification of the Country Club Drive median and construction of a southbound left turn lane from Country Club Drive to the project driveway, have been included as requirements within the conditions of approval.

Conditional Use Permit 2021-16 – Drive Through

CUP 2021-16 is a request to operate a drive through, serving the coffee shop use on site. A drive through is compatible with the surrounding properties and is consistent with applicable requirements regulating such use.

Queuing

The drive through would have a capacity of approximately 22 cars from the service window to the start of the drive through line, utilizing a double queuing lane. Conditions have been included that prohibit queuing from impeding on-site and off-site circulation. An additional condition requires the property owner to identify a circulation management plan should the number of cars exceeds the available queuing length to ensure adequate circulation and access to and from parking spaces is maintained.

Design and Development Standards for Commercial Development

The drive through is subject to specific design standards, as contained in the Design and Development Guidelines for Commercial Development, which provides standards for the design of the drive through as well as criteria for the associated signage, including directional signs, menu boards, and preview boards. The conditions of approval reflect the requirement to identify the location and size of the proposed signage in association with the drive through. The conditions also confirm that a separate sign permit will be required for the proposed signage, in conformance with the standards of the Design Guidelines and the Sign Ordinance. Additionally, the conditions require that a block wall of at least three feet in height be provided to screen the drive through from public view.

The operation of the drive through, as conditioned, would be compatible with the surrounding properties and is consistent with applicable requirements and standards regulating such use.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Staff have performed a preliminary environmental assessment and have determined that the project is exempt under Section 15332 of the State CEQA Guidelines because the project would be in an area that is substantially urbanized within the city limits, would be less than 5 acres in size, would not have any value to an at-risk plant or animal species, and would not result in any potential environmental impacts under CEQA. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of a coffee shop with a drive through is not specifically addressed in the vision or action plans, the overall project does indirectly support one of the four visions for the City: Good Jobs and Economic Opportunities. This principle recognizes the need to provide commercial opportunities within the City.

RECOMMENDATION

The information presented in this report provides support for the adoption of a resolution conditionally approving CUP 2021-16 and a resolution conditionally approving SPR 2021-33. It is recommended that the Commission consider the information in this report, as well as testimony received at the public hearing, and make a determination on CUP 2021-16 and SPR 2021-33, subject to the findings and conditions of approval.

PLANNING COMMISSION ACTION

The Commission will be acting on CUP 2021-16 and SPR 2021-33 and determining to either:

- Adopt a resolution adopting a Finding of a Categorical Exemption pursuant to CEQA Guidelines Section 15332 for the project, and approving CUP 2021-16 as conditioned and SPR 2021-33 as conditioned (Motion 1); or
- Continue the hearing to March 8, 2022, with direction to staff to return with an updated resolution with appropriate findings modifying the conditions of approval for the following reasons: (Specify – Planning Commission should articulate reasons for modifications to findings and conditions of approval) (Motion 2); or
- Move to continue the application for CUP 2021-16 and SPR 2021-33 to the March 8, 2022, Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial.) (Motion 3).

Motion 1: Move to adopt a resolution of the Planning Commission of the City of Madera adopting a Finding of a Categorical Exemption pursuant to CEQA Guidelines Section 15332 (Infill Development), approving CUP 2021-16 and SPR 2021-33, based on and subject to the findings and conditions of approval as follows:

Findings to Approve a Conditional Use Permit

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C1 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). CUP 2021-16 would allow the operation of a drive through which is conditionally allowed within the C1 zone district. CUP 2021-16 is consistent with the purpose and intent of the C1 (Light Commercial) zone district and does not conflict with City standards or other provisions of the Code.

Finding b: The proposed use will be compatible with the surrounding properties.

The project site is suited for commercial uses and the operation of a drive through. The project site is located within a larger commercial development area and is surrounded by other commercial uses to all sides. As conditioned, the operation of a drive through for the coffee shop on site will be compatible with surrounding properties and is consistent with applicable requirements regulating such use.

Finding c: The establishment, maintenance, or operation of the use or building applied for 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 such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

As discussed above, the proposed use is compatible with surrounding properties and will not have a significant, adverse environmental impact. The proposed use will result in the

operation of a drive through on the project site. The request will not result in a detriment to the health, safety, peace, morals, comfort, or general welfare of people residing or working in the neighborhood.

Findings to Approve a Site Plan Review

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C1 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). Development of the coffee shop, as proposed under SPR 2021-33, is consistent with the purpose and intent of the C1 zone district and does not conflict with City standards or other provisions of the Code.

Finding b: The proposal is consistent with any applicable specific plans.

The project is not subject to any specific plan.

Finding c: The proposed project includes facilities and improvements; vehicular and pedestrian ingress, egress, and internal circulation; and location of structures, services, walls, landscaping, and drainage that are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, there will be no adverse effects on surrounding property, light is deflected away from adjoining properties and public streets, and environmental impacts are reduced to acceptable levels.

SPR 2021-33 has been reviewed and is consistent with surrounding uses. The project includes the construction of a 950 sqft building with a double drive through lane that meets all the requirements of the Zoning Ordinance. Public improvements will be installed to ensure that vehicular and pedestrian circulation is provided and that utilities on-site will be accommodated consistent with City standards. Review of the site determined that the project would not result in a significant generation of noise, light, or traffic.

Finding d: The proposed project is consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality.

SPR 2021-33, as conditioned, will require roadway improvements along Country Club Drive, including pedestrian improvements to City and ADA standards. The recommendations from the TIS have been accommodated in the project design and conditions of approval. As conditioned, the project will not have a significant impact on traffic or the environment.

(OR)

Motion 2: Move to continue the public hearing on CUP 2021-16 and SPR 2021-33 to March 8, 2022, Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings modifying the conditions of approval for the following reasons: (Specify – Planning Commission should articulate reasons for modifications to findings and conditions of approval)

(OR)

Motion 3: Move to continue the public hearing on CUP 2021-16 and SPR 2021-33 to March 8, 2022, Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial.)

ATTACHMENTS

Attachment 1: Vicinity Map

Attachment 2: Aerial Photo

Attachment 3: General Plan Land Use Map

Attachment 4: Zoning Map

Attachment 5: Exhibit A-1, Site Plan

Attachment 6: Exhibit A-2, Queuing Exhibit

Attachment 7: Exhibit B-1, Elevations, West

Attachment 8: Exhibit B-2, Elevations, South

Attachment 9: Exhibit B-3, Elevations, East

Attachment 10: Exhibit B-4, Elevations, North

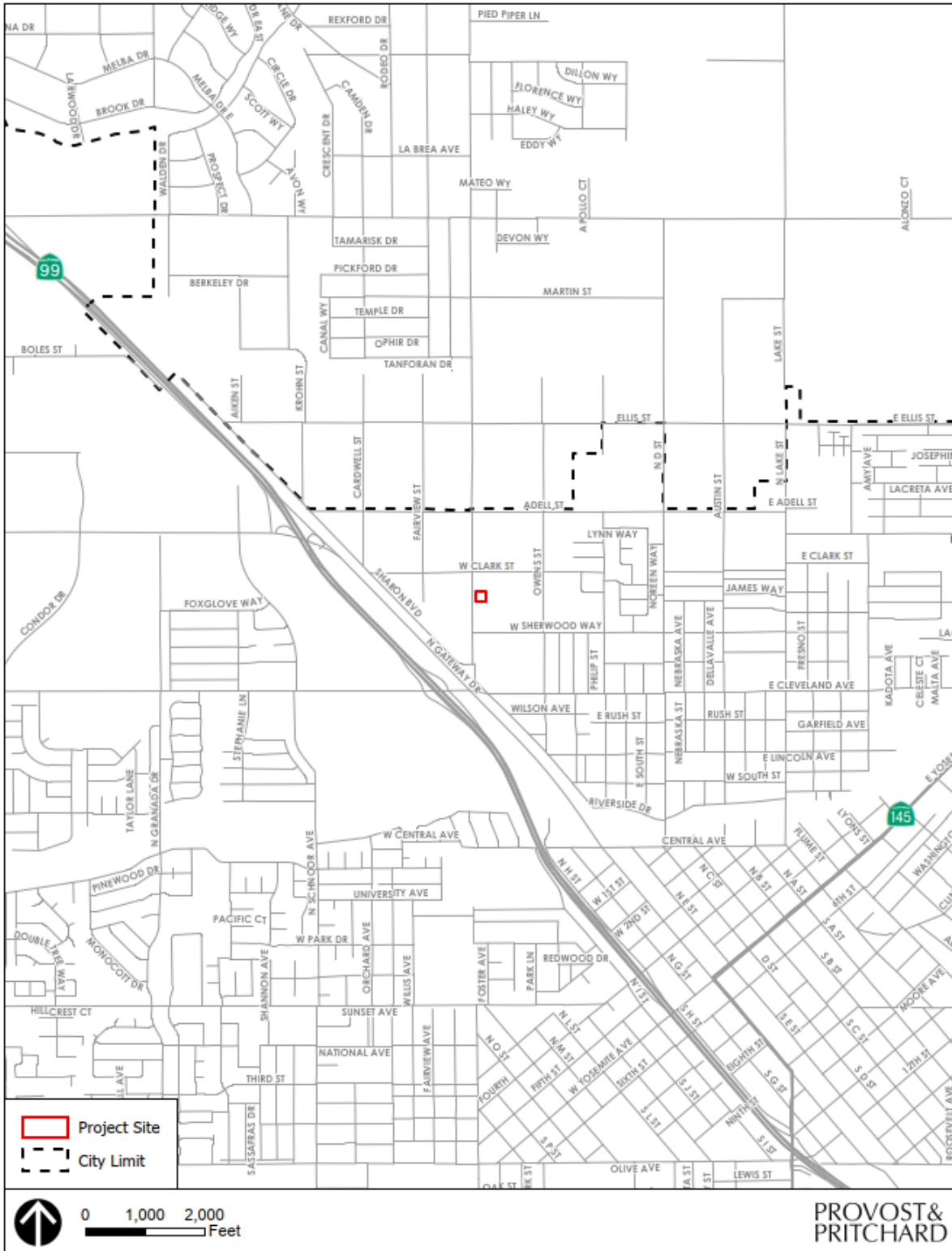
Attachment 11: Exhibit C, Floor Plan

Attachment 12: Exhibit D, Trash Enclosure

Attachment 13: Traffic Impact Study

Attachment 14: Planning Commission Resolution for CUP 2021-16 and SPR 2021-33

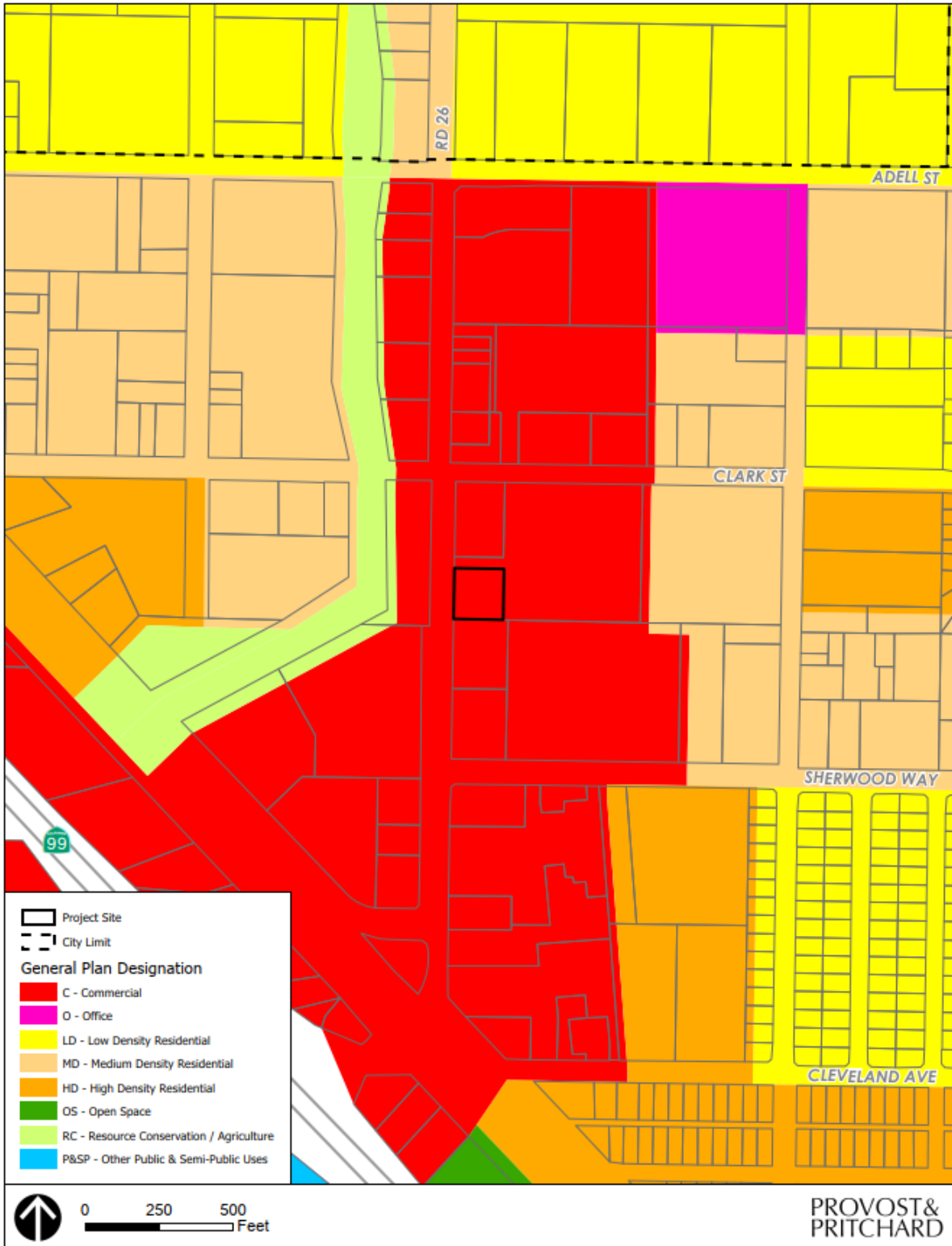
Attachment 1: Vicinity Map



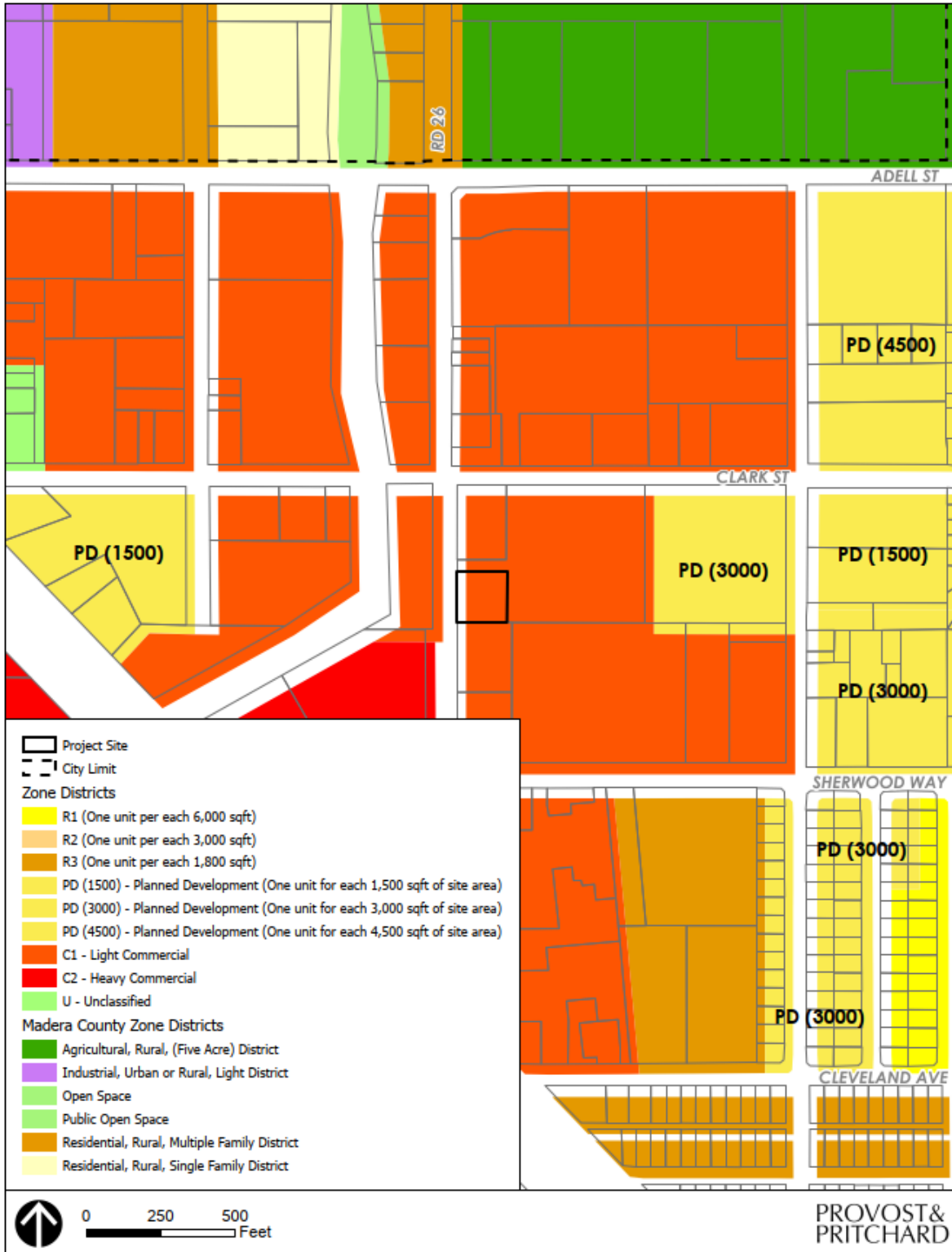
Attachment 2: Aerial Photo



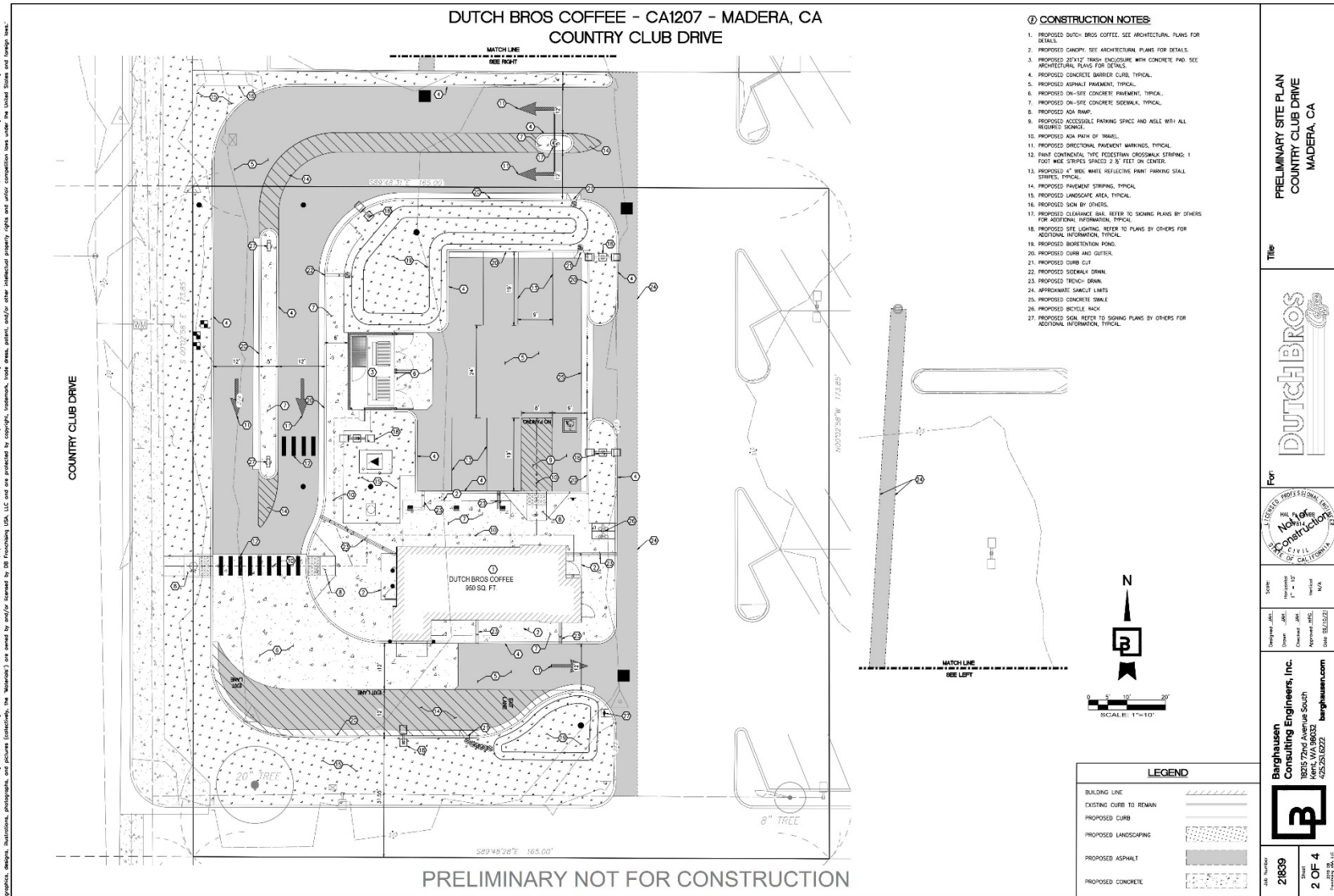
Attachment 3: General Plan Land Use Map



Attachment 4: Zoning Map

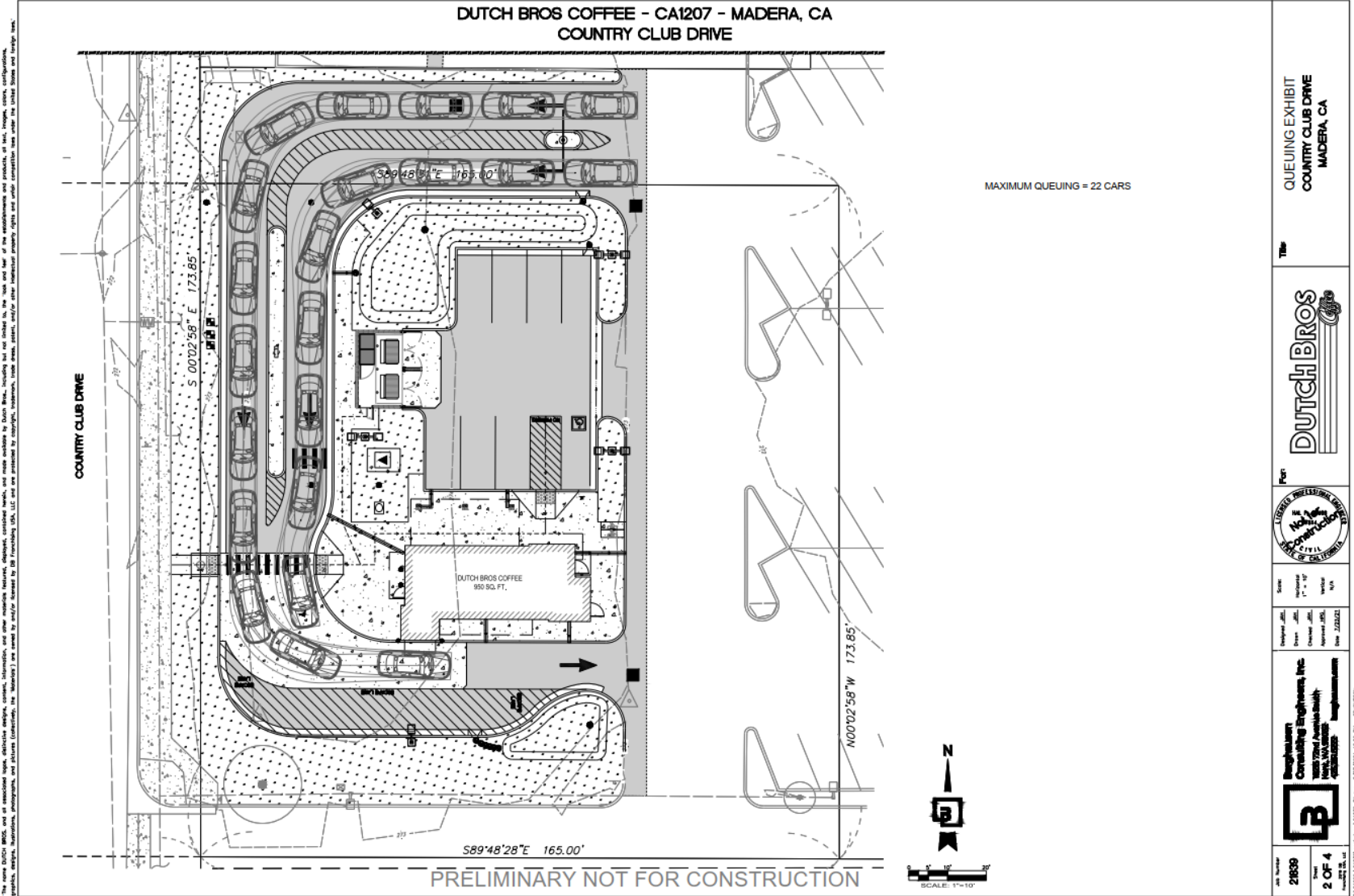


Attachment 5: Exhibit A-1, Site Plan



Attachment 6: Exhibit A-2, Queuing Exhibit

DUTCH BROS COFFEE - CA1207 - MADERA, CA
COUNTRY CLUB DRIVE



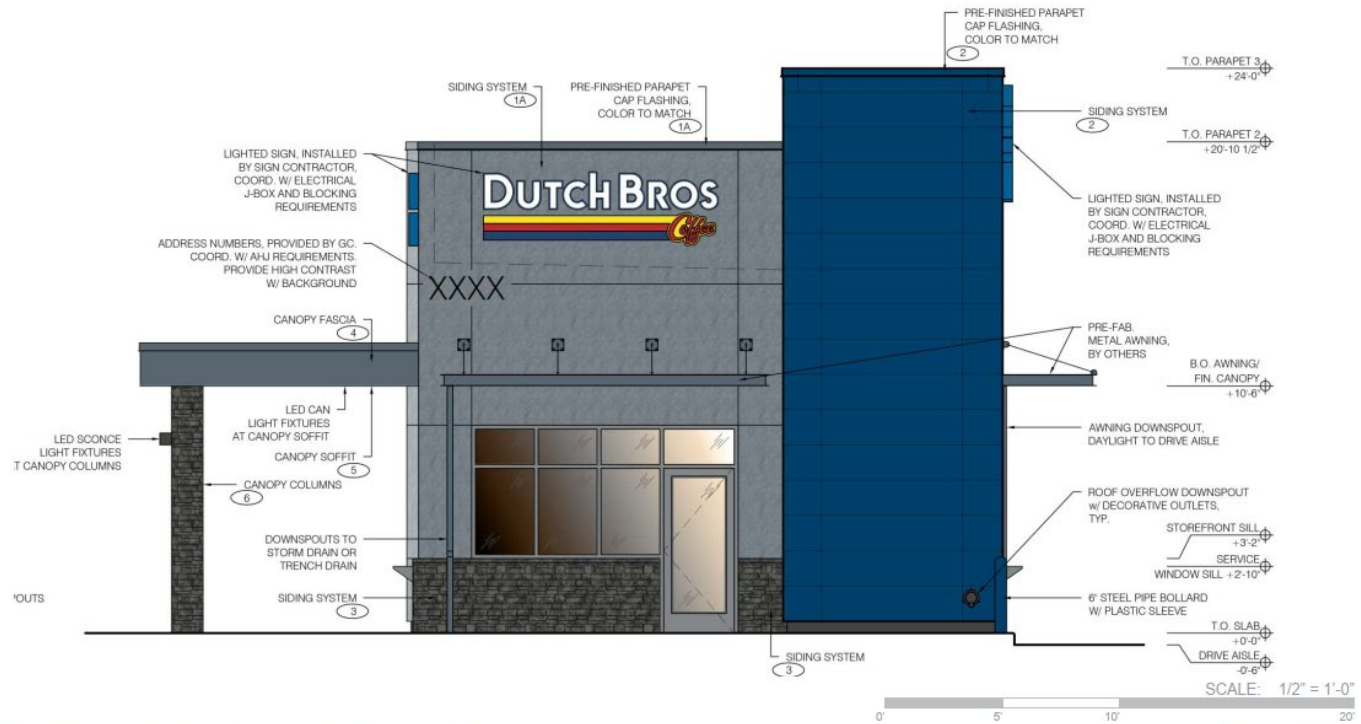
The name DUTCH BROS, and all associated logos, distinctive designs, symbols, information, and other distinctive features, designs, trademarked marks, and trade dress are the trademarks and products of H&M, Inc., Madera, California. All other trademarks, designs, symbols, information, and other distinctive features, designs, trademarked marks, and trade dress are the property of their respective owners. All other trademarks, designs, symbols, information, and other distinctive features, designs, trademarked marks, and trade dress are the property of their respective owners. All other trademarks, designs, symbols, information, and other distinctive features, designs, trademarked marks, and trade dress are the property of their respective owners.

			QUEUING EXHIBIT COUNTRY CLUB DRIVE MADERA, CA
SHEET NO. 21859 DATE 02/08/2022	SCALE 1"=10' DATE 02/08/2022	PROJECT NO. 21859 PROJECT NAME: DUTCH BROS COFFEE - CA1207 - MADERA, CA	PROJECT NO. 21859 PROJECT NAME: DUTCH BROS COFFEE - CA1207 - MADERA, CA

Attachment 7: Exhibit B-1, Elevations, West



ID TAG	MATERIAL	MANUFACTURER	MODEL	REMARKS
SIDING SCHEDULE - ALTERNATE W/ CANOPY				
ZONE 1 (ROOF)				
1A	STUCCO	-	3-COAT SYSTEM W/ ACRYLIC MEDIUM SAND FINISH. REVEALS AS SHOWN	COLOR: BLDG DR DARK GRAY
1B	STUCCO	-	3-COAT SYSTEM W/ ACRYLIC MEDIUM SAND FINISH. REVEALS AS SHOWN	COLOR: BLDG DR LIGHT GRAY
ZONE 2 (FORMER)				
2	FIBER CEMENT SIDING	NCHRA	ILLUMINATION JUMP 18 1/2" w/ METAL OUTSIDE OPEN CORNERS	COLOR: BLDG DR BLUE
ZONE 3 (BASE)				
3	STONE VENEER	ELDORADO STONE	CLIFFSTONE, BARRY SPRINGS	COLOR: PER MFR
	STONE SILL	ELDORADO STONE	SHAPED EDGE WAINSCOT SILL	COLOR: PEWTER
ZONE 4 (FRAMED CANOPY)				
4	FASCIA	WESTERN STATES METAL ROOFING	METAL FASCIA-FLAT	3 SECS. COLOR: BLDG DR DARK GRAY
5	SOFFIT	HEWN ELEMENTS	NATURAL NORTH-WESTERN SPRUCE	1/4" TAG, 1/4" REVEAL
6	COLUMNS	ELDORADO STONE	CLIFFSTONE, BARRY SPRINGS	COLOR: PER MFR
NOTE: PROVIDE 2" x 2" SMOOTH DOWNSPOUTS, AND ALL NECESSARY ADAPTORS, AT AWNING AND CANOPY LOCATIONS. COLOR: BLDG DR DARK GRAY.				



DUTCH BROS COFFEE | CA-1207 | COUNTY CLUB DRIVE | MADERA, CA 93638
 1001 SE SANDY BLVD, SUITE 100 | PORTLAND, OR 97214 | www.GnichArch.com | v. 503.552.9079 | f. 503.241.7055 | JULY 22, 2021

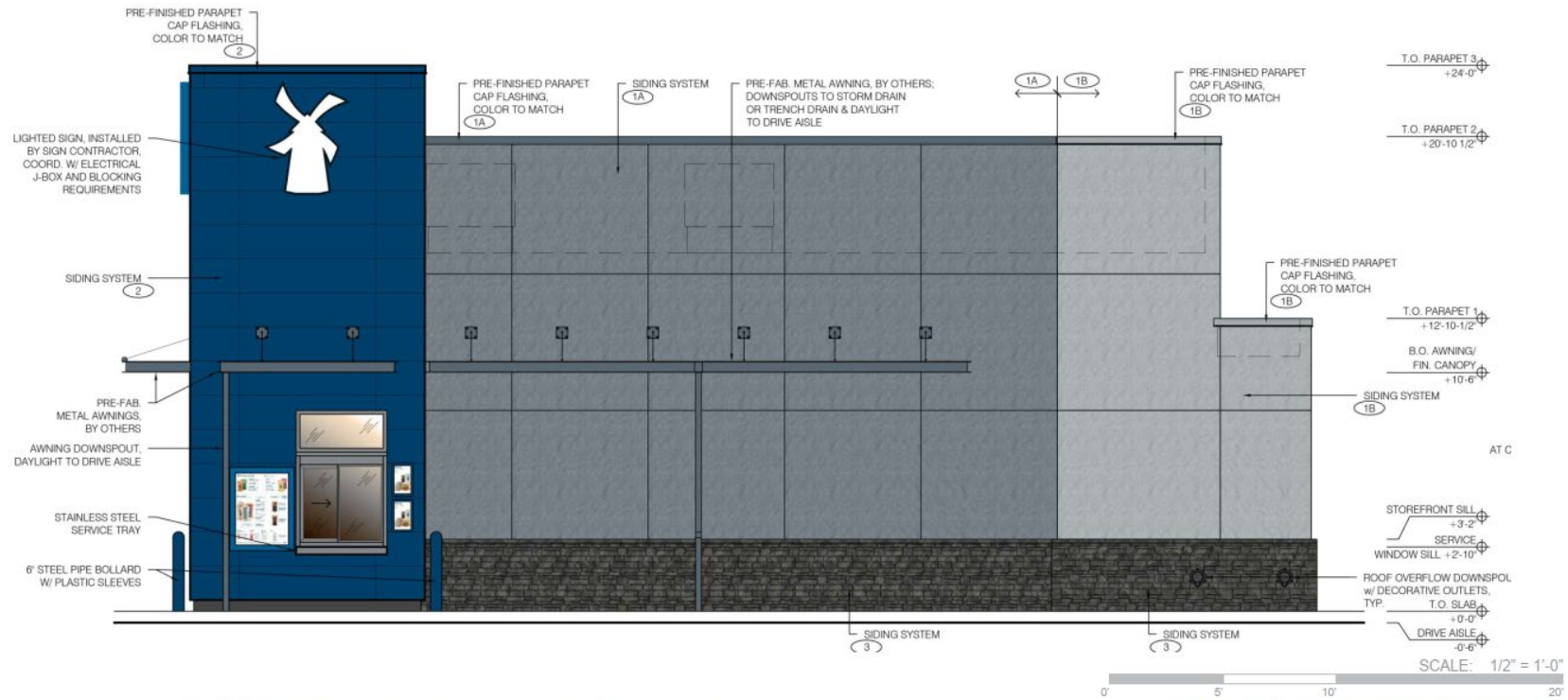
WEST ELEVATION
 PAGE A5

Attachment 8: Exhibit B-2, Elevations, South



SIDING SCHEDULE - ALTERNATE w/ CANOPY				
ID TAG	MATERIAL	MANUFACTURER	MODEL	REMARKS
ZONE 1 (BSPF)				
1A	STUCCO	-	3 COAT SYSTEM W/ ACRYLIC MEDIUM SAND FINISH REVEALS AS SHOWN	COLOR: BLDG DB DARK GRAY
1B	STUCCO	-	3 COAT SYSTEM W/ ACRYLIC MEDIUM SAND FINISH REVEALS AS SHOWN	COLOR: BLDG DB LIGHT GRAY
ZONE 2 (FOWER)				
2	FINISH CEMENT SIDING	NORHA	ILLUMINATION, 8AMP 1/8" W/ METAL OUTSIDE OPEN CORNERS	COLOR: BLDG DB BLUE
ZONE 3 (BASE)				
3	STONE VENSER	ELDORADO STONE	CLIFFSTONE, SANFF SPRINGS	COLOR: PER MFR
	STONE SILL	ELDORADO STONE	SHAPED EDGE WAINSCOTT SILL	COLOR: PEWTER
ZONE 4 (FRAMED CANOPY)				
4	FASCIA	WESTERN STATES METAL ROOFING	METAL FASCIA, FLAT	3 SIDES, COLOR: BLDG DB DARK GRAY
5	SOFFIT	HEWN ELEMENTS	NATURAL NORTHWESTERN SPRUCE	1/4" TAB, 1/8" REVEAL
6	COLUMNS	ELDORADO STONE	CLIFFSTONE, SANFF SPRINGS	COLOR: PER MFR

NOTE: PROVIDE P-27 SMOOTH DOWNSPOUTS, AND ALL NECESSARY ADAPTORS, AT AWNING AND CANOPY LOCATIONS. COLOR: BLDG DB DARK GRAY



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SOUTH ELEVATION - DRIVE-THRU SERVICE WINDOW

PAGE A6

Attachment 10: Exhibit B-4, Elevations, North



SIDING SCHEDULE - ALTERNATE w/ CANOPY				
ID TAG	MATERIAL	MANUFACTURER	MODEL	REMARKS
ZONE 1 (ROOF)				
1A	STUCCO	-	3-COAT SYSTEM W/ ACRYLIC MEDIUM SAND FINISH REVEALS AS SHOWN	COLOR: BLDG DR DARK GRAY
1B	STUCCO	-	3-COAT SYSTEM W/ ACRYLIC MEDIUM SAND FINISH REVEALS AS SHOWN	COLOR: BLDG DR LIGHT GRAY
ZONE 2 (TOWER)				
2	FIBER CEMENT SIDING	NICHINA	ILLUMINATION AMP 1818 w/ METAL OUTSIDE OPEN CORNERS	COLOR: BLDG DR BLUE
ZONE 3 (BASE)				
3	STONE VENEER	ELDORADO STONE	CLIFFSTONE, SANFF SPRINGS	COLOR: PCR MFR
	STONE SILL	ELDORADO STONE	SHAPED EDGE WAINGOT SILL	COLOR: PEWTER
ZONE 4 (FINISHED CANOPY)				
4	FASCIA	WESTERN STATES METAL ROOFING	METAL FASCIA PLAT	3 SIDES, COLOR: BLDG DR DARK GRAY
5	SOFFIT	HEWA ELEMENTS	NATURAL NORTHWESTERN SPRUCE	1x6 TRG, 1/4" REVEAL
6	COLUMNS	ELDORADO STONE	CLIFFSTONE, SANFF SPRINGS	COLOR: PCR MFR

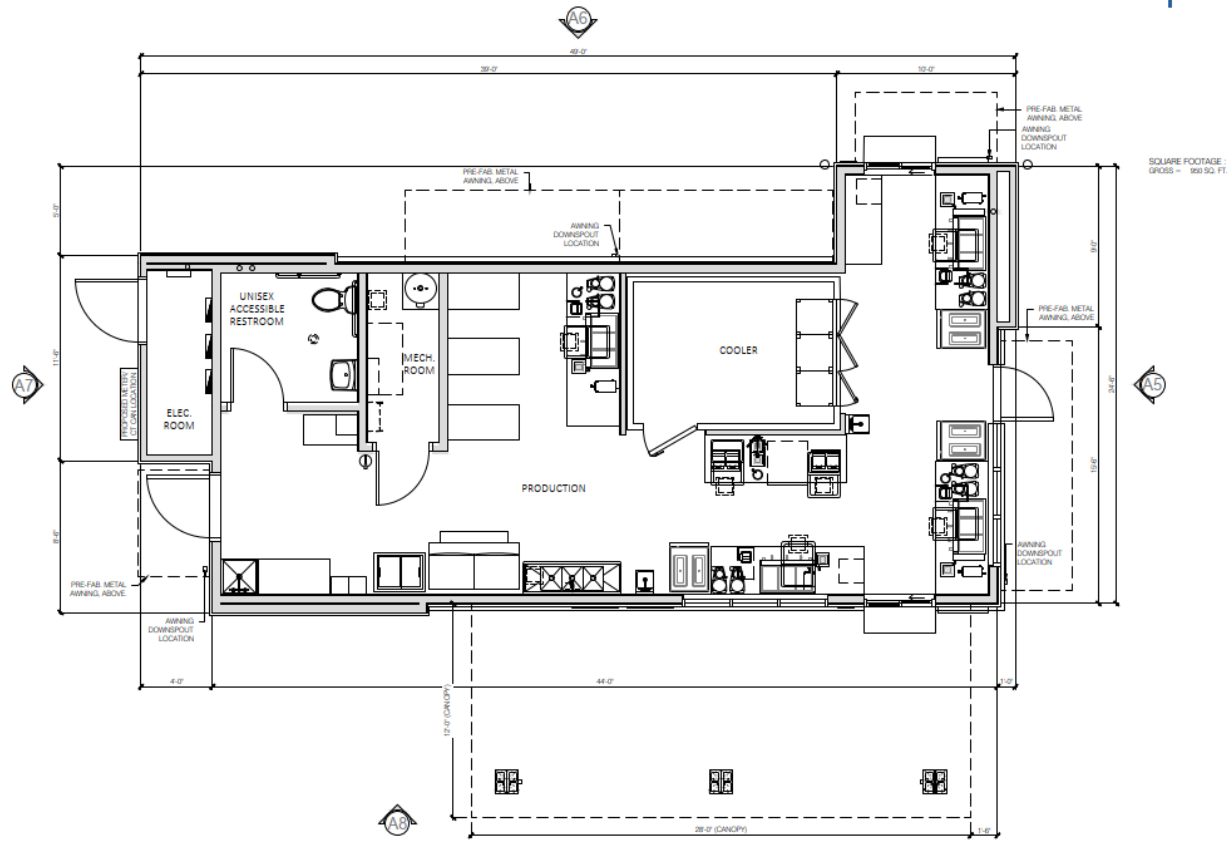
NOTE: PROVIDE 3/4" SMOOTH DOWNPOUTS, AND ALL NECESSARY ADAPTORS, AT AWNING AND CANOPY LOCATIONS. COLOR: BLDG DR DARK GRAY



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NORTH ELEVATION - WALK-UP SERVICE WINDOW
 PAGE A8

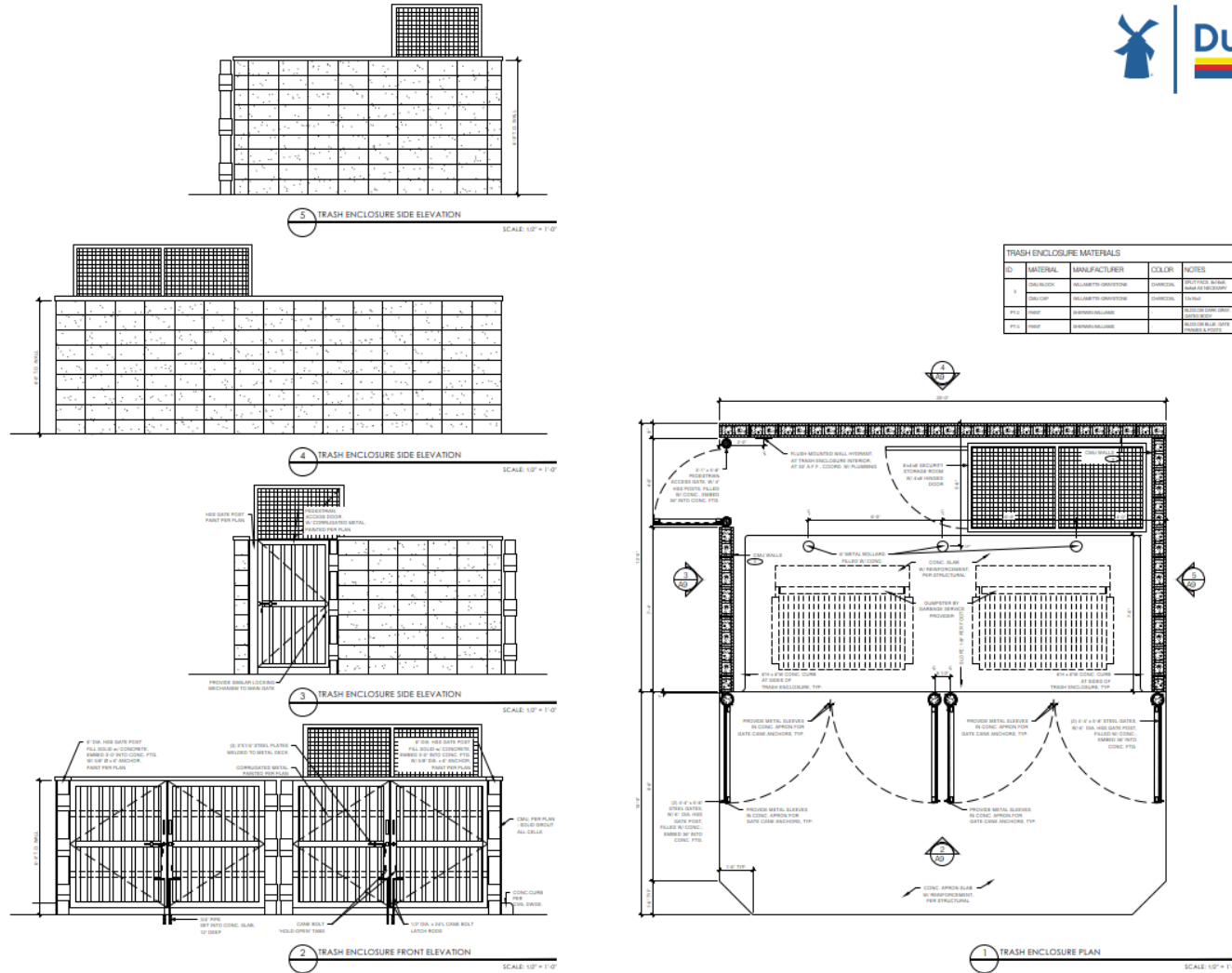
Attachment 11: Exhibit C, Floor Plan



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FLOOR PLAN
 PAGE A3

Attachment 12: Exhibit D, Trash Enclosure



TRASH ENCLOSURE MATERIALS				
ID	MATERIAL	MANUFACTURER	COLOR	NOTES
1	CONCRETE	WILLIAMS BROTHERS	CONCRETE	CONCRETE COLOR SAME AS EXISTING
2	STEEL	WILLIAMS BROTHERS	CONCRETE	STEEL COLOR SAME AS EXISTING
3	STEEL	WILLIAMS BROTHERS	CONCRETE	STEEL COLOR SAME AS EXISTING
4	STEEL	WILLIAMS BROTHERS	CONCRETE	STEEL COLOR SAME AS EXISTING



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TRASH ENCLOSURE
 PAGE A9

Attachment 13: Traffic Impact Study

<https://www.madera.gov/home/departments/planning/#tr-other-planning-documents-243607>

Attachment 14: Planning Commission Resolution for CUP 2021-16 and SPR 2021-33

RESOLUTION NO. 1902

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
APPROVING CONDITIONAL USE PERMIT 2021-16 AND
SITE PLAN REVIEW 2021-33 (DUTCH BROS)**

WHEREAS, BayKur Madera Pad Partners, LLC (“Owner”) owns APN 003-210-019 in Madera, California (“site”) and has authorized Russ Orsi with Dutch Bros (“Applicant”) to submit applications for development on the site; and

WHEREAS, the 0.65-acre site is an undeveloped site and is planned C (Commercial) and zoned C1 (Light Commercial) for commercial land uses; and

WHEREAS, the Applicant is seeking Conditional Use Permit (CUP) 2021-16 to allow for operation of a drive through associated with the proposed coffee shop; and

WHEREAS, the Applicant is seeking Site plan Review (SPR) 2021-33 to allow for construction of a 950 square foot (sqft) Dutch Bros Coffee shop building with related site improvements; and

WHEREAS, the City performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in section 15332 of the California Environmental Quality Act (CEQA) Guidelines as the project is characterized as in-fill development; and

WHEREAS, under the City’s Municipal Code, the Planning Commission is authorized to review and approve site plan reviews and conditional use permits on behalf of the City; and

WHEREAS, the City provided notice of the Planning Commission hearing as required by law; and

WHEREAS, the Planning Commission received and reviewed CUP 2021-16 and SPR 2021-33 at a duly noticed meeting on February 8, 2022; and

WHEREAS, at the February 8, 2022 Planning Commission hearing, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Planning Commission; and

WHEREAS, the Planning Commission now desires to adopt a Class 32 Categorical Exemption per the California Environmental Quality Act and approve CUP 2021-16 and SPR 2021-33, with conditions.

NOW THEREFORE, be it resolved by the Planning Commission of the City of Madera as follows:

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA: A preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning Commission finds and determines that the project falls within the Class 32 Categorical Exemption set forth in CEQA Guidelines Section 15332 as the project is characterized as in-fill development and meets the required conditions described in said Section. As described in further detail below, the project is consistent with the General Plan and its polices, as well as with the applicable zoning designation and regulations.

The proposed development occurs within City limits on a project site of approximately .65 acres, which is substantially surrounded by urban uses. The project site has no value as habitat for endangered, rare, or threatened species, and would not result in any significant effect relating to traffic, noise, air quality, or water quality. Additionally, the site can adequately be served by all required utilities and public services. Furthermore, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines section 15300.2 apply to this project. As such, the Planning Commission adopts a finding of a Categorical Exemption under CEQA Guidelines section 15332 (In-Fill Development Projects) for this project.

3. Findings for CUP 2021-16 and SPR 2021-33: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2021-16 and SPR 2021-33, as conditioned. With conditions, the project is consistent with the requirements of the Municipal Code, including Section 10-3.13 (Use Permits) and Section 10-3.4.01 (Site Plan Review). The Planning Commission further approves, accepts as its own, incorporates as if set forth in full herein, and makes each and every one of the findings, based on the evidence in the record, as follows:

Findings to Approve a Conditional Use Permit

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C1 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). CUP 2021-16 would allow the operation of a drive through which is conditionally allowed within the C1 zone district. CUP 2021-16 is consistent with the purpose and intent of the C1 (Light Commercial) zone district and does not conflict with City standards or other provisions of the Code.

Finding b: The proposed use will be compatible with the surrounding properties.

The project site is suited for commercial uses and the operation of a drive through. The project site is located within a larger commercial development area and is surrounded by other commercial uses to all sides. As conditioned, the operation of a drive through for the coffee shop on site will be compatible with surrounding properties and is consistent with applicable requirements regulating such use.

Finding c: The establishment, maintenance, or operation of the use or building applied for 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 such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

As discussed above, the proposed use is compatible with surrounding properties and will not have a significant, adverse environmental impact. The proposed use will result in the operation of a drive through on the project site. The request will not result in a detriment to the health, safety, peace, morals, comfort, or general welfare of people residing or working in the neighborhood.

Findings to Approve a Site Plan Review

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C1 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). Development of the coffee shop, as proposed under SPR 2021-33 is consistent with the purpose and intent of the C1 zone district and does not conflict with City standards or other provisions of the Code.

Finding b: The proposal is consistent with any applicable specific plans.

The project is not subject to any specific plan.

Finding c: The proposed project includes facilities and improvements; vehicular and pedestrian ingress, egress, and internal circulation; and location of structures, services, walls, landscaping, and drainage that are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, there will be no adverse effects on surrounding property, light is deflected away from adjoining properties and public streets, and environmental impacts are reduced to acceptable levels.

SPR 2021-33 has been reviewed and is consistent with surrounding uses. The project includes the construction of a 950 sqft building with a double through lane that meets all the requirements of the Zoning Ordinance. Public improvements will be installed to ensure that vehicular and pedestrian circulation is provided and that utilities on-site will be accommodated consistent with City standards. Review of the site determined that the project would not result in a significant generation of noise, light, or traffic.

Finding d: The proposed project is consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality.

SPR 2021-33, as conditioned, will require roadway improvements along Country Club Drive, including pedestrian improvements to City and ADA standards. The recommendations from the TIS have been accommodated in the project design and conditions of approval. As conditioned, the project will not have a significant impact on traffic or the environment.

4. Approval of CUP 2021-16 and SPR 2021-33: Given that all findings can be made, the Planning Commission hereby approves CUP 2021-16 and SPR 2021-33 as conditioned as set forth in the Conditions of Approval attached as Exhibit "A."

5. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 8th day of February 2022, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Gary Conte, AICP
Planning Manager

Exhibit "A" – Conditions of Approval for CUP 2021-16 and SPR 2021-33

EXHIBIT "A"
CUP 2021-16 and SPR 2021-33 (Dutch Bros)
CONDITIONS OF APPROVAL
February 8, 2022

NOTICE TO APPLICANT

Pursuant to Government Codes Section 66020(d)(1) and/or Section 66499.37, any protest related to the imposition of fees, dedications, reservations, or exactions for this project, or any proceedings undertaken regarding the City's actions taken or determinations made regarding the project, including but not limited to validity of conditions of approval must occur within ninety (90) calendar days after the date of decision. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

IMPORTANT: PLEASE READ CAREFULLY

This project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies; those determined through plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community; and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Approval of this permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this permit, the zoning ordinance, and all City standards and specifications. This permit is granted, and the conditions imposed, based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this permit. Unless the conditions of approval specifically require operation inconsistent with the application, a new or revised permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the review process or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the permit as delineated herein and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval for CUP 2021-16 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within fifteen (15) days after the decision by the Planning Commission. Approval for SPR 2021-33 will ultimately be deemed final unless appealed by the applicant to the City Council within ten (10) days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld.

These conditions are applicable to any person or entity making use of this permit, and references to "developer" or "applicant" herein also include any applicant, property owner, owner, lessee, operator, or any other person or entity making use of this permit.

GENERAL CONDITIONS

1. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specified in the conditions of approval listed herein or mandated by statutes.
2. The applicant shall submit to the City of Madera Planning Department a check in the amount necessary to file a Notice of Exemption at the Madera County Clerk. This amount shall equal the Madera County filing fee in effect at the time of filing. Such check shall be made payable to the Madera County Clerk and submitted no later than three (3) days following action on CUP 2021-16 and SPR 2021-33.
3. CUP 2021-16 shall expire 12 months from date of issuance, unless a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan or the required action is taken to extend the approval before the expiration date (MMC Section 10-3.1311, Termination and Revocation).
4. SPR 2021-33 shall expire one year from date of issuance, unless a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan or the required action is taken to extend the approval before the expiration date (MMC Section 10-3.4.0114, Lapse of Site Plan Approval).
5. SPR 2021-33 shall be subject to the recordation of LLA 2021-03.
6. It shall be the responsibility of the property owner, operator, and/or management to ensure that any required permits, inspections, and approvals from any regulatory agency be obtained from the applicable agency prior to issuance of a building permit and/or the issuance of a certificate of completion, as determined appropriate by the City of Madera Planning Department.
7. The applicant and property owner acknowledges the City may elect to install improvements to restrict left-turn movements from the Vallarta Center driveway (referenced as Vallarta Supermarket South Driveway in the Traffic Impact Study) onto southbound Country Club Drive, should there be a demonstrated need to address safety concerns at this location. Such improvements may include, but not be limited to:

- Construction of a channelization island along the throat of the Vallarta Supermarket South Driveway access that would direct vehicles to make a right-turn only when exiting the site onto Country Club Drive. This would prevent left-turn movements from the Vallarta Center onto southbound Country Club Drive; or,
 - Construction of a median island within Country Club Drive that would prevent left-turn movements from the Vallarta Center onto southbound County Club Drive as well as prevent left-turn movements from Madera Toyota onto northbound Country Club Drive.
8. Development of the project shall conform to the plans designated by the City as Exhibits A through E, subject to the conditions noted herein. Minor modifications to the approved plans necessary to meet regulatory, engineering, or similar constraints may at the discretion of the Planning Manager without an amendment to CUP 2021-16 and SPR 2021-33. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to CUP 2021-16 and SPR 2021-33 be filed for review and approval through the applicable City process.
 9. Deferrals are not permitted for any condition included herein, unless otherwise stated or unless approved by the City Council, through a separate deferral process.
 10. All construction shall cease, and the Planning Manager and City Engineer shall be notified immediately if any prehistoric, archaeological, or fossil artifact or resource is uncovered during construction. All construction shall immediately stop and an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology shall be retained, at the applicant's and/or successors-in-interest's expense, to evaluate the find(s) and recommend appropriate action according to Section 15064.5 of the California Environmental Quality Act (CEQA) Guidelines. If avoidance is infeasible, other appropriate measures would be instituted. Work may proceed on other parts of the project subject to direction of the archaeologist while assessment of historic resources or unique archaeological resources is being carried out.
 11. All construction shall cease if any human remains are uncovered, and the Planning Manager, City Engineer and County of Madera Coroner shall be notified in accordance to Section 7050.5 of the California Health and Safety Code. If human remains are determined to be those of a Native American or has reason to believe that they are those of a Native American, the Native American Heritage Commission shall be contacted, and the procedures outlined in CEQA Section 15064.5e shall be followed.
 12. Approval of CUP 2021-16 and SPR 2021-33 is for the benefit of the applicant. The submittal of applications by the applicant for this project was a voluntary act on the part of the applicant not required by the City. Therefore, as a condition of approval of this project, the applicant agrees to defend, indemnify, and hold harmless the City of Madera and its agents, officers, consultants, independent contractors, and employees ("City") from any and all claims, actions, or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the project, including any challenges to associated environmental review, and for any and all costs, attorneys fees, and damages arising therefrom (collectively "claim").

The City shall promptly notify the applicant of any claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any claim, and if the City does decide to independently defend a claim, the applicant shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any claim, the applicant shall not be required to pay or perform any settlement arising from any such claim unless the applicant approves the settlement.

PLANNING DEPARTMENT

General

13. Approval of this application for site plan review shall be considered null and void in the event of failure by the applicant and/or the authorized representative to disclose and delineate all facts and information relating to the subject property and proposed uses.
14. CUP 2021-16 and SPR 2021-33 approval is not an authorization to commence construction. On- and off-site improvements, building construction, sign erection or occupancy shall not be permitted without prior approval of the City through issuance of any required grading or building permits.
15. The applicant shall comply with all federal, state and local laws. Material violations of any of those laws concerning the use(s) may be cause for revocation of CUP 2021-16 and SPR 2021-33. Such conditions that constitute such violation include, but are not limited to:
 - The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.
 - The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.
 - The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the City that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.
16. Project site shall be subject to periodic review and inspection by the City to determine compliance with the conditions of approval. If, at any time, the use is determined by staff to be in violation of the conditions, the property owner and/or operator may be subject to corrective action.
17. All on- and off-site improvements shall be completed prior to final building inspection and shall be completed in conformance with CUP 2021-16 and SPR 2021-33 Conditions of Approval

to the satisfaction of the City of Madera prior to issuance of a certificate of completion, occupancy permit and/or issuance of a business license.

18. Vandalism and graffiti shall be corrected in accordance with the provisions of the Madera Municipal Code.
19. The property owner, operator and/or manager shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
20. The property owner, operator and/or manager shall keep the property clear of all trash, rubbish and debris at all times, and disposal of refuse shall be restricted to the dumpster on the site.
21. Prior to the issuance of issuance of building permits, the applicant shall identify on the site plan and/or elevations the following information for Planning Department review and approval. All equipment shall be screened from view.
 - a) The location of all-natural gas and electrical utility meter locations
 - b) The location of all HVAC (heating, ventilation or air conditioning) equipment
 - c) The location of all compressor equipment, and mechanical and electrical equipment

Lighting

22. The specifications and types of exterior lighting fixtures to be installed on the site shall be submitted to and approved by the Planning Department prior to issuance of building permits. All exterior lighting shall be directed away from adjoining properties and not interfere with the driving safety of vehicular traffic. Exposed bulbs will not be permitted.
23. All parking lot lights/lighting shall be incorporated into landscaped areas.
24. The project proponent shall contact the City Engineer when all site lighting is operational. Additional light screening may be required to ensure compliance with City standards and conditions of approval.

Landscaping

25. Trees shall be required to achieve fifty percent shading of all parking areas, inclusive of parking stalls and drive aisles, within 10 years. Carports may be used to account for shading of paved areas.
26. A landscape and irrigation plan shall be prepared by a licensed Landscape Architect and submitted as part of the submittals for a building permit. Landscape and irrigation plans shall be approved by the Planning Department prior to issuance of building permits. The plans shall:
 - a) Demonstrate compliance with the State of California's Model Water Efficient Landscape Ordinance (MWELo);
 - b) Provide permanent automatic irrigation systems for all landscaped areas;
 - c) Provide vegetative matter coverage of a minimum of 75 percent of all landscaped areas;
 - d) Locate landscape material in such a way that it does not interfere with utilities above or below ground; and

- e) Provide detailed planting lists for all landscaping, with the number, size, spacing (where applicable) and species of all plant life and groundcover, as well as soil preparation techniques for all landscaped areas.
 - f) Integrate, to the extent feasible, low impact development practices to reduce, treat, infiltrate, and manage runoff flows caused by storms, urban runoff, and impervious surfaces.
27. The property owner, operator, and/or manager shall develop and submit to the Planning Department for review and approval, prior to issuance of a building permit, a landscape maintenance and irrigation program for the first three years to ensure that streetscapes and landscaped areas are installed and maintained as approved under CUP 2021-16 and SPR 2021-33.
28. 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 plantings.
29. Landscaping along the driveway throat to the south of the site shall be required and included in the landscape and irrigation plans submitted to the City.
30. Street trees shall be provided in accordance with City standards along the Country Club Drive frontage and shall be consistent with the City's Street Master Tree List, as determined by the City.
31. A maintenance agreement is required for all landscaping located within the public right-of-way. Such agreement shall be entered into prior to issuance of a certificate of completion.

Parking

32. As approved under CUP 2021-16 and SPR 2021-33 and shown on the Exhibit A, Site Plan, a minimum of 8 total parking spaces shall be required. The required number of ADA compliant parking spaces shall be provided in accordance with the Building Code.
33. Off-street parking areas shall be paved and maintained so as to eliminate dust or mud and shall be so graded and drained as to dispose of all surface water. In no case shall such drainage be allowed to cross sidewalks, unless approved by the City Engineer.
34. Each off-street parking space shall have a width of not less than nine feet and a length of not less than 19 feet except that up to 25% of the required parking spaces may be designated for compact car use.
35. Parking spaces shall be easily accessible by standard-size automobiles, shall be so designed as to be accessible from a public street or alley, and shall be located so that sufficient area is available for maneuvering purposes.
36. Plans of the proposed parking area shall be submitted to the Building Department at the time of an application for a building permit for any building to which the parking area is accessory. The plans shall clearly indicate the proposed development, including the location, size, shape, design, curb cuts, lighting, landscaping, and other features and appurtenances of the proposed parking lot.

Trash Enclosures

37. A trash enclosure shall be constructed in accordance with City standards and applicable requirements of the waste provider. The location of the trash enclosure shall be located consistent with Exhibit A, Site Plan.
38. All exterior trash facilities should be fully enclosed on all sides by either some type of wall or opaque structure congruent with the massing and design of the principle building.
39. All enclosures must be at least five feet-eight inches (5'8") in height and rise a minimum of six (6) inches above the height of any collector placed within structure.
40. Trash containers/enclosures should not be placed within the public right of way or driveways in such a way that they may potentially cause traffic hazards.
41. Plans for trash enclosure should be drawn to scale and submitted for review.

Signage

42. All signage shall be in compliance with the Sign Ordinance of the Madera Municipal Code Section 10-6. All permanent signage, with the exception of required signs in accordance with City standards, is required to have an approved Sign Permit issued by the Planning Department per Madera Municipal Code Section 10-6.
43. All proposed construction announcement signs used shall conform to the Municipal Sign Ordinance.

Building and Site Aesthetics

44. The construction of all buildings approved as part of CUP 2021-16 and SPR 2021-33 shall be in close conformance with the elevation drawings, as reviewed and approved by the Commission.
45. The construction of buildings approved as part of CUP 2021-16 and SPR 2021-33 shall be consistent with an approved color and materials board and representative color section rendering of the proposed buildings to be reviewed and approved by the Planning Commission. Any substantial alteration shall require Commission approval.
46. Prior to the issuance of building permits, the applicant shall identify on the site plan the following information for Planning Department review and approval:
 - The location of all-natural gas and electrical utility meter locations
 - The location of all HVAC (heating, ventilation or air conditioning) equipment
 - The location of all compressor equipment, and mechanical and electrical equipment
47. All electrical/mechanical equipment shall be located within an electrical/mechanical room in the interior of the structure, with exception to transformers.
48. The specifications and types of exterior lighting fixtures to be installed on the site shall be submitted to and approved by the Planning Department prior to issuance of building permits. All exterior lighting shall be directed away from adjoining properties and not interfere with the driving safety of vehicular traffic. Exposed bulbs will not be permitted.
49. All parking lot lighting shall be incorporated into landscaped areas.
50. The developer shall contact the City Engineer when all site lighting is operational. Additional light screening may be required.

51. Roof access ladders shall be located within the interior of the building.
52. Roof-mounted equipment placements should be completely screened from view and architecturally integrated into the roof using roof wells, continuous building perimeter fascia screening, etc.
53. All rooftop ducts and vents should be directed away from the public street/sidewalk to minimize their appearance, visibility, and noise pollution.

Drive Through (CUP 2021-16)

Conditions 54 through 57 apply specifically to the operation of a drive through as approved under CUP 2021-16.

54. The location of directional signs, menu board, and preview board shall be identified on the site plan prior to building permit submittal. The size and design of the directional signs, menu board, and preview board shall conform to the City's Sign Ordinance and the City of Madera Design and Development Guidelines for Commercial Development. In the event that the City of Madera Sign Ordinance and Design and Development Guidelines for Commercial Development conflict, the stricter requirement shall apply. All permanent signage, with the exception of required signs in accordance with City standards, is required to have an approved Sign Permit issued by the Planning Department per Madera Municipal Code Section 10-6.
55. The drive-through stacking lanes shall be developed consistent with Exhibit A, Site Plan. Queuing of vehicles shall not result in the blocking of traffic circulation on-site, shall not impede access to or from parking areas, and shall not impede the flow of traffic within the public rights-of-way. A circulation management plan shall be submitted to the Planning Department for review and approval to ensure that the queuing of vehicles does not impede circulation or access on- or off-site.
56. A three-foot decorative masonry block wall shall be constructed along the drive-through lane perimeter sufficient to screen headlight glare into the public right-of-way and shall be setback a minimum of two (2) feet from the back edge of the sidewalk. The 3 foot block wall shall be of decorative split face masonry. The decorative wall shall be reviewed and approved by the Planning Manager prior to issuance of a building permit.
57. The drive-through shall be allowed one (1) preview board, one (1) menu board and one (1) digital ordering screen. No additional freestanding signage shall be allowed as a component of the Dutch Bros coffee shop.

BUILDING DEPARTMENT

58. At time of submittal for building permit plan check, a minimum of three (3) sets of the following plans to the Building Department is required. Plans shall be prepared by an individual licensed to practice architecture and include the following required drawings drawn to an appropriate scale:
 - a) Site plan bearing City approval or a plan incorporating all site related conditions
 - b) Grading plan prepared by an individual licensed to practice land surveying, civil engineering or architecture
 - c) Floor plan - The uses of all rooms and activity areas shall be identified on the plans
 - d) All exterior elevations

- e) Site utilities plan showing on-site sanitary sewer, water, storm sewer, water meters, backflow prevention devices, roof drains, etc., and the connections to off-site utilities

Current State of California and federal accessibility requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection, and shall apply to proposed and future development.

ENGINEERING

General

- 59. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
- 60. Development Impact fees shall be paid at time of building permit issuance.
- 61. The developer shall pay all required fees for completion of project. Fees due may include but shall not be limited to the following: plan review, easement acceptance, encroachment permit processing and improvement inspection fees.
- 62. The improvement plans shall be signed and sealed by an engineer and submitted to the Engineering Division in accordance with the submittal process.
- 63. The improvement plans for the project shall include the most recent version of the City's General Notes.
- 64. Improvements extending beyond established parcel lines will require written approval from adjacent property owner(s).
- 65. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.
- 66. All off-site improvements shall be completed prior to issuance of final occupancy.
- 67. The developer shall coordinate with the United States Post Office relative to the proposed location of the postal boxes for the project.

Water

- 68. New or existing water service connection(s), including landscape areas, shall be upgraded or constructed to current City standards including Automatic Meter Reading (AMR) water meter installed within City right-of-way and backflow prevention device installed within private property.
- 69. A separate water meter and backflow prevention device will be required for existing or proposed landscape areas.
- 70. Existing water service connections that will not be used for the project shall be abandoned at the mains per City standards.
- 71. The developer shall reimburse its fair share cost to the City for the previously constructed water main along the entire project frontage on Country Club Drive.
- 72. Existing wells, if any, shall be abandoned as directed and permitted by City of Madera for compliance with State standards, prior to issuance of building permits or any activities in which

the well to be abandoned may be further damaged resulting in potential contamination to the aquifer below.

Sewer

73. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards.
74. Existing sewer service connections that will not be used for the project shall be abandoned at the mains per current City of Madera standards.
75. Sewer main connections six (6) inches and larger in diameter shall require manhole installation.
76. The developer shall reimburse its fair share cost to the City for the previously constructed sewer main along the entire project frontage on Country Club Drive.
77. Existing septic tanks, if found, shall be removed pursuant to issuance of a permit and inspection by the City of Madera Building Department.

Storm Drain

78. Storm runoff from this project site is planned to go to the Sherwood Basin located southeast of the proposed project site. The developer shall, as may be necessary, construct sufficient facilities in accordance with criteria in the Storm Drainage Master Plan to convey storm runoff to the existing basin and excavate or expand the basin to an amount equivalent to this project's impact on the basin. A detailed drainage study shall be provided to support the chosen path of conveyance and design of any necessary conveyance facilities.
79. Support calculations shall be provided that prove the existing storm drain facilities are capable of intercepting runoff in accordance with the provisions of the Storm Drainage System Master Plan.
80. This project shall, as applicable, comply with the design criteria as listed on the National Pollutant Elimination Systems (NPDES) General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer System (MS4's) as mandated by Water Quality Order No. 2013-0001-DWQ, NPDES General Permit No. CAS000004. For the purpose of this proposed development, post development runoff shall match or be less than pre-development runoff. The development shall be subject to future inspections by City or other designated agencies relative to the improvements installed as a result of this condition to ensure they remain in compliance with the conditions imposed under this condition.

Streets

81. Where incomplete, the east half of Country Club Drive along the entire project parcel frontage shall be improved to an arterial roadway standard. The east half of the street shall include but not be limited to fire hydrants, streetlights, curb and gutter, park strip and five-foot sidewalk.
82. The developer shall repair or replace all broken or damaged concrete improvements within City right-of-way including curb, gutter and sidewalk, as necessary, to current City and ADA standards. Limits of repairs shall be established by the City Engineering Inspector.
83. The ADA access ramp on the northeast corner of Country Club Drive and the driveway south of the project shall be removed and reconstructed or modified, as necessary, to meet current City and ADA standards.

84. The drive approach throat length south of the property shall be justified based on anticipated operation of facility and the ability to ensure vehicle queues do not extend into the City right-of-way.
85. An ADA accessible path of travel to the project site from the street and the rest of the shopping center shall be provided, as necessary, to meet ADA requirements.
86. The recommended improvements identified in Traffic Impact Study for CUP 2021-16 and SPR 2021-33, as accepted by the Engineering Department, shall be required.
87. The developer shall record a Reciprocal Easement Agreement for ingress/egress at a minimum and utility, drainage, access for emergency services, and parking easements, as may be necessary, for this project parcel and both the parcel to the north and the parcel to the south in the City of Madera standard form. The easements shall provide the mutual right of access for all future uses in the project site. The developer shall be responsible for paying all associated fees to the Engineering Department. If an existing cross access agreement has already been recorded, it shall be revised based upon the proposed changes.
88. The developer shall annex into and execute such required documents that may be required to participate in Landscape Maintenance District Zone 51 for the purposes of participating in the cost of maintaining landscape improvements within said zone.
89. The developer shall dedicate a Public Utility Easement (PUE) along the entire project parcel frontage on Country Club Drive. The PUE shall be 10 feet, unless otherwise approved by the City Engineer. A \$466 fee or the fee in effect at that time for grant easement or deed acceptance shall be paid with the Engineering Department.

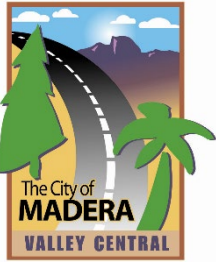
Dry Utilities

90. All existing and proposed public utilities (electric, telephone, cable, etc.) shall be undergrounded, except transformers, which may be mounted on pads. Public utility easements shall be dedicated outside and adjacent to all streets rights-of-way. All public utilities within the project property and adjacent to the project property frontage on peripheral streets (on the development side of the street centerline) shall be placed underground except those facilities exempted by the Public Utilities Commission Regulations or operating at 70,000 volts or greater.

SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (SJVAPCD)

91. The applicant shall comply with the rules and regulations of the San Joaquin Valley Air Pollution Control District.

-End of Conditions-



CITY OF MADERA PLANNING COMMISSION

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

Staff Report: In-N-Out Burger CUP 2021-19 and SPR 2021-39 Item # 3 – February 8, 2022

PROPOSAL: An application for a site plan review (SPR 2021-39) for the construction of a new In-N-Out Burger restaurant on approximately 1.45 acres of land that currently is occupied by the Sugar Pine Smokehouse. As a part of the project, the existing building, parking area, and landscaping will be demolished, resulting in new construction for the In-N-Out Burger restaurant. The applicant has also applied for CUP (CUP 2021-19), which would allow for the operation of a drive through on the project site.

APPLICANT:	Michelle Bennett In-N-Out Burger 13502 Hamburger Lane Baldwin Park, CA, 91706	OWNER:	Newman Development Group of Madera LLC 2255 Van Ness Avenue, Suite 102 San Francisco, CA, 94109
SITE ADDRESS:	1830 W Cleveland Avenue	APN:	006-390-033
APPLICATIONS:	CUP 2021-19, SPR 2021-39	CEQA:	Categorical Exemption 32 (Infill)

LOCATION: The project site, located at the northeasterly corner of The Commons at Madera Fair Shopping Center (The Commons), is bounded by a Madera fairgrounds parking lot to the east, internal drive aisles to the south and west, and West Cleveland Avenue to the north.

STREET ACCESS: The project site has indirect street access from West Cleveland Avenue via the Commons east access and Madera fairgrounds internal drive aisles located to the south and west.

PROJECT SIZE: 1.45 acres

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C2 (*Heavy Commercial*)

SPECIAL PLANNING AREAS: Specific Plan No. 1

SITE CHARACTERISTICS: The project is located at a site that is currently occupied by the Sugar Pine Smokehouse, which would be demolished to facilitate the construction of the new In-N-Out Burger. The project is part of The Commons retail center. As conditioned, the project would result in an approximately 3,879 square foot (sqft) restaurant building, with a 747 sqft covered patio structure. Surrounding uses include commercial businesses to the north and west, Madera fairgrounds to the south, and a fairgrounds parking lot to the east.

ENVIRONMENTAL REVIEW: A Categorical Exemption has been prepared consistent with the California Environmental Quality Act (CEQA). The project would utilize the Class 32 Categorical Exemption, allowed for infill development.

SUMMARY: The applicant, Michelle Bennett of In-N-Out Burger, is proposing SPR 2021-39, for the construction of an approximately 3,879 sqft building (In-N-Out Burger), with a 747 sqft covered structure area, on approximately 1.45 acres. Demolition of the existing Sugar Pine Smokehouse restaurant and related site improvements would be required. The applicant is also applying for CUP 2021-19 (drive through use). Conditions, as appropriate, have been recommended for the site plan (SPR 2021-39) to ensure consistency with the Zoning Ordinance and General Plan and other applicable City plans and policies.

SURROUNDING LAND USES

The site is bordered to the east by a fairgrounds parking lot, to the south by the Madera fairgrounds, to the west by a Panda Express, and to the north by a Perko’s Cafe and Chevron gas station across West Cleveland Avenue. Land to the east and south of the site is planned P&SP (Other Public and Semi-Public Uses) and land to the west and north is planned for C (Commercial) uses. Land to the east and south of the site is zoned PF (Public Facilities), while land to the west and north is zoned C2 (Heavy Commercial).

Table 1. Existing Uses, General Plan Designations, and Zone Districts of Surrounding Properties

Direction from Project Site	Existing Use	General Plan Designation	Zone District
North	Perko’s Cafe/Chevron	Commercial	C2
East	Fairgrounds parking	Other Public and Semi-Public Uses	PF
South	Fairgrounds	Other Public and Semi-Public Uses	PF
West	Panda Express	Commercial	C2
C2 – (Heavy Commercial) PF – (Public Facilities)			

PROJECT BACKGROUND

The Project site is occupied by a Sugar Pine Smokehouse restaurant building that is 6,940 sqf in size. As a part of the project, the existing building and parking area improvements would be demolished and removed to enable the construction of a new In-N-Out Burger restaurant. The site improvements, including the parking areas would also be reconstructed to facilitate the In-N-Out Burger and associated drive through.

PROJECT PROPOSAL

SPR 2021-39 is a request to construct an In-N-Out Burger restaurant on a 1.45-acre site. The building would be 3,879 sqft in size, with a 747 sqft patio structure. In addition, the application includes CUP 2021-19 which would allow for the operation of a drive through associated with the restaurant building being constructed. Included as a part of the application package for the project was a focused traffic analysis (FTA) (see Attachment 10). The FTA has been reviewed by the City, with considerations identified in the FTA being incorporated into the project design and conditions.

Following is a summary of the applications for Planning Commission review and action:

- Conditional Use Permit 2021-19 for the operation of a drive through, including related signage such as menu boards, related to the restaurant to be located within the proposed building.
- Site Plan Review (SPR) 2021-39 to construct a 3,879 sqft In-N-Out Burger, with a 747 sqft patio structure and drive through lane.

ANALYSIS

Site Plan Review 2021-39

The project is proposing to construct an approximately 3,879 sqft building, with a 747 sqft patio structure. The building will include a drive through lane with two windows, one for payment and one for pickup. The site will include a total of 55 parking spaces (48 standard, three handicap, and four recreational vehicle spaces). The site has sufficient utility service and will not put additional stress on the City of Madera's public infrastructure and utilities systems. The necessary water, electricity, and waste services associated with the commercial use are available on-site as it is located within an existing commercial development area.

Parking

With the construction of a 3,879 sqft restaurant building, and the requirement of one parking space for every three fixed seats provided (122 total seats), a minimum of 41 parking spaces is required. The site will have a total of 55 parking stalls, including three handicap stalls and four recreational parking spaces located on the eastern and southern sides of the building. In addition, the project will provide four bicycle parking spaces in the form of a bike rack located portion the east side of the building.

Landscaping

Development of SPR 2021-39 will be conditioned to conform with the landscape plan submitted by the applicant. The perimeter of the site is required to be landscaped, except where walks or accessways are proposed. Review and approval of the submitted landscape plan and related irrigation plans are required prior to building permit issuance. Landscaping installed as a part of the project will adhere to the guidelines set forth in the Design and Development Guidelines for Commercial Development.

Elevations

The construction of the building approved under SPR 2021-39 would be conditioned to conform with the elevation drawings submitted and approved by the Planning Commission. Construction of the building would be conditioned to be consistent with the approved color and materials board as approved by the Planning Commission. Review and approval of submitted elevations and material and color boards are required prior to approval of SPR 2021-39.

Public Infrastructure

As conditioned, the project would be responsible for repair or replacement of all broken or damaged concrete improvements within the City right-of-way, including curb, gutter and sidewalk to current City and American with Disabilities Act (ADA) standards. The project would also modify and reconstruct the "pork chop" median island at the drive aisle connecting the project to Cleveland Avenue, immediately west of the project site. The modification would allow for improved safety and circulation for cars entering the site from Cleveland Avenue going westbound.

Conditional Use Permit 2021-19 – Drive Through

CUP 2021-19 is a request to operate a drive through, serving the restaurant use on site. A drive through is compatible with the surrounding properties and is consistent with applicable requirements regulating such use.

Queuing

The drive through lane would have a capacity of approximately 25 cars from the pickup service window to the start of the drive through line. The restaurant would utilize a floating menu/ordering staff to minimize wait times in the queuing line. The FTA prepared for the project recommends a queuing storage of 17 cars. SPR 2021-39 provides a queuing storage quantity of 25 cars (see Attachment 5), exceeding what has been recommended in the FTA. The project will also be required to complete a circulation management plan in order to display how queuing will be managed, in the event that the storage length of 25 cars is exceeded.

Design and Development Standards for Commercial Development

The drive through is subject to specific design standards, as contained in the Design and Development Guidelines for Commercial Development, which provides standards for the design of the drive through as well as criteria for the associated signage, including directional signs, menu boards, and preview boards. The conditions of approval reflect the requirement to identify the location and size of the proposed signage in association with the drive through. The conditions also confirm that a separate sign permit will be required for the proposed signage, in conformance with the standards of the Design Guidelines and the Sign Ordinance as well as any applicable master sign program. Additionally, the conditions require that a block wall of at least three feet in height be provided to screen the drive through from public view.

The operation of the drive through, as conditioned, would be compatible with the surrounding properties and is consistent with applicable requirements and standards regulating such use.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Staff have performed a preliminary environmental assessment and have determined that the project is exempt under Section 15332 of the State CEQA Guidelines because the project would be in an area that is substantially urbanized within the city limits, would be less than 5 acres in size, would not have any value to an at-risk plant or animal species, and would not result in any potential environmental impacts under CEQA. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of a restaurant with a drive through is not specifically addressed in the vision or action plans, the overall project does indirectly support one of the four visions for the City: Good Jobs and Economic Opportunities. This principle recognizes the need to provide commercial opportunities within the City.

RECOMMENDATION

The information presented in this report provides support for the adoption of a resolution conditionally approving CUP 2021-19 and a resolution conditionally approving SPR 2021-39. It is recommended that the Commission consider the information in this report, as well as testimony received at the public hearing,

and make a determination on CUP 2021-19 and SPR 2021-39, subject to the findings and conditions of approval.

PLANNING COMMISSION ACTION

The Commission will be acting on CUP 2021-19 and SPR 2021-39 and determining to either:

- Adopt a resolution adopting a Finding of a Categorical Exemption pursuant to CEQA Guidelines Section 15332 for the project, and approving CUP 2021-19 as conditioned and SPR 2021-39 as conditioned (Motion 1); or
- Continue the hearing to March 8, 2022, with direction to staff to return with an updated resolution with appropriate findings modifying the conditions of approval for the following reasons: (Specify – Planning Commission should articulate reasons for modifications to findings and conditions of approval) (Motion 2); or
- Move to continue the applications for CUP 2021-19 and SPR 2021-39 to the March 8, 2022, Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial.) (Motion 3).

Motion 1: Move to adopt a resolution of the Planning Commission of the City of Madera adopting a Finding of a Categorical Exemption pursuant to CEQA Guidelines Section 15332 (Infill Development), approving CUP 2021-19 and SPR 2021-39, based on and subject to the findings and conditions of approval as follows:

Findings to Approve a Conditional Use Permit

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). CUP 2021-19 would allow the operation of a drive through which is conditionally allowed within the C2 zone district. CUP 2021-19 is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and does not conflict with City standards or other provisions of the Code.

Finding b: The proposed use will be compatible with the surrounding properties.

The project site is suited for commercial uses and the operation of a drive through. The project site is located within a larger commercial development area and is surrounded by other commercial uses to the north and west, as well as public facilities to the east and south. As conditioned, the operation of a drive through for the restaurant on site will be compatible with surrounding properties and is consistent with applicable requirements regulating such use.

Finding c: The establishment, maintenance, or operation of the use or building applied for 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 such

proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

As discussed above, the proposed use is compatible with surrounding properties and will not have a significant, adverse environmental impact. The proposed use will result in the operation of a drive through on the project site. The request will not result in a detriment to the health, safety, peace, morals, comfort, or general welfare of people residing or working in the neighborhood.

Findings to Approve a Site Plan Review

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). Development of the restaurant use, as proposed under SPR 2021-39, is consistent with the purpose and intent of the C2 zone district and does not conflict with City standards or other provisions of the Code.

Finding b: The proposal is consistent with any applicable specific plans.

The proposed project is subject to Specific Plan No. 1 and found to be consistent with the Specific Plan intended uses for the site and the conditions of approval ensure the project will not conflict with the development standards applicable to the site or intended use of the site.

Finding c: The proposed project includes facilities and improvements; vehicular and pedestrian ingress, egress, and internal circulation; and location of structures, services, walls, landscaping, and drainage that are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, there will be no adverse effects on surrounding property, light is deflected away from adjoining properties and public streets, and environmental impacts are reduced to acceptable levels.

SPR 2021-39 has been reviewed and is consistent with surrounding uses. The project includes the construction of a 3,879 sqft building, with a 747 sqft patio structure, and a drive through lane that meets all the requirements of the Zoning Ordinance and applicable policies. Public improvements will be installed to ensure that vehicular and pedestrian circulation is provided and that utilities on-site will be accommodated consistent with City standards. Review of the site determined that the project would not result in a significant generation of noise, light, or traffic.

Finding d: The proposed project is consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality.

SPR 2021-39, as conditioned, will require repairment or replacement of all broken or damaged concrete improvements, including curb, gutter and sidewalk to current City and ADA standards. The recommendations from the FTA have been accommodated in the project design and conditions of approval. As conditioned, the project will not have a significant impact on traffic or the environment.

(OR)

Motion 2: Move to continue the public hearing on CUP 2021-19 and SPR 2021-39 to March 8, 2022, Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings modifying the conditions of approval for the following reasons: (Specify – Planning Commission should articulate reasons for modifications to findings and conditions of approval)

(OR)

Motion 3: Move to continue the public hearing on CUP 2021-19 and SPR 2021-39 to March 8, 2022, Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial.)

ATTACHMENTS

Attachment 1: Vicinity Map

Attachment 2: Aerial Photo

Attachment 3: General Plan Land Use Map

Attachment 4: Zoning Map

Attachment 5: Exhibit A, Site Plan

Attachment 6: Exhibit B-1, Elevations, South and East

Attachment 7: Exhibit B-2, Elevations, North and West

Attachment 8: Exhibit C, Floor Plan

Attachment 9: Exhibit D, Trash Enclosure

Attachment 10: Exhibit E, Landscape Plan

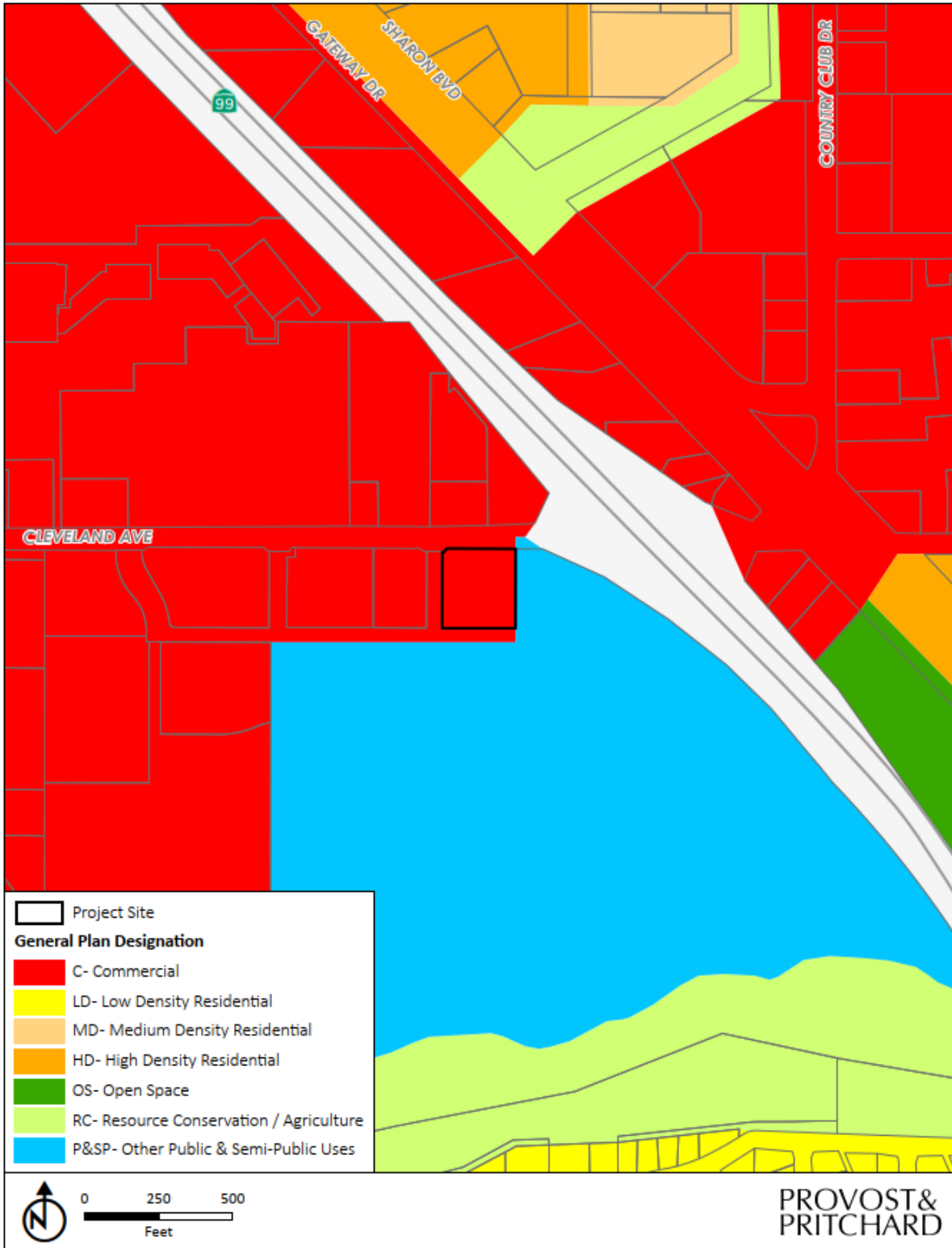
Attachment 11: Focused Traffic Analysis

Attachment 12: Planning Commission Resolution for CUP 2021-19, SPR 2021-39

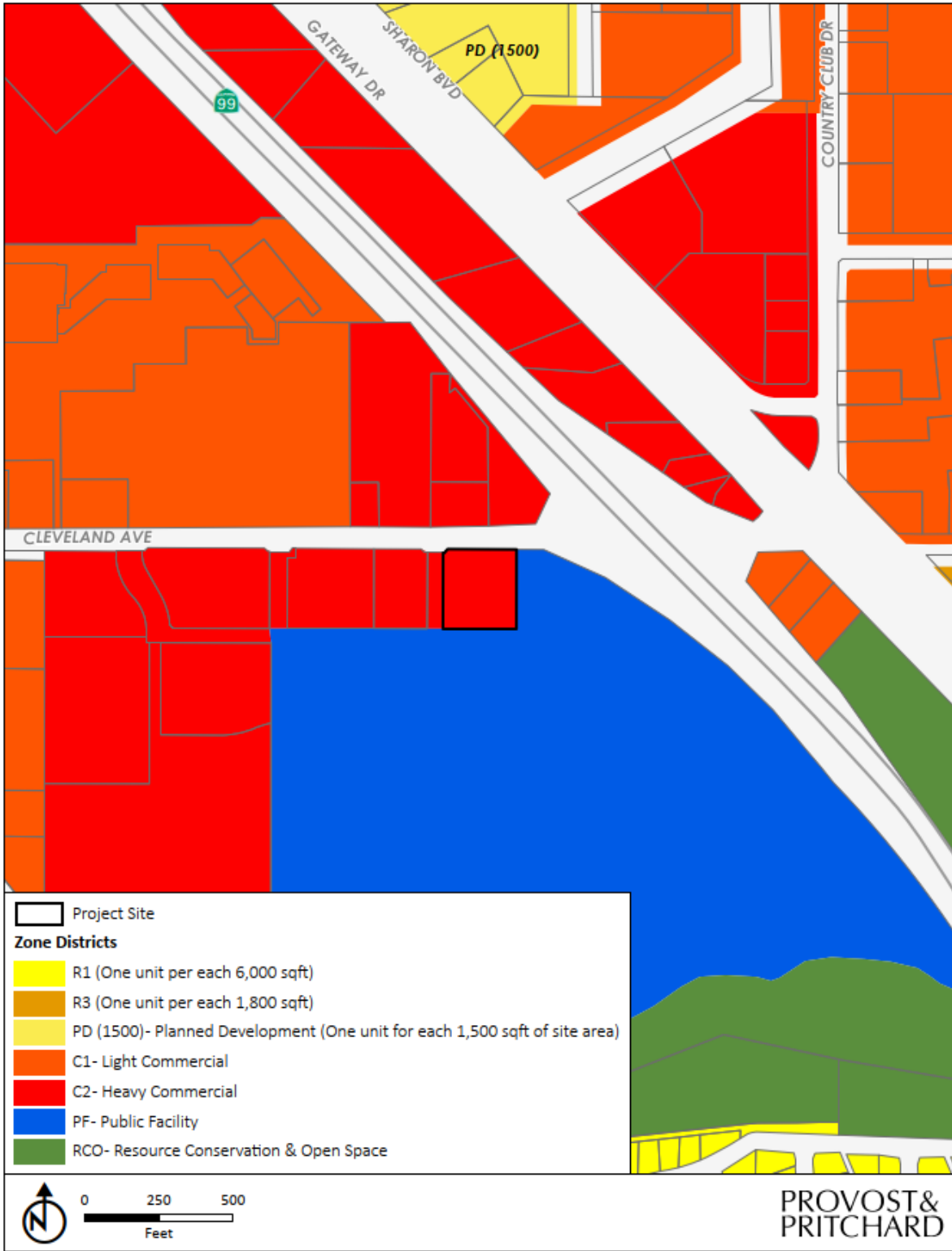
Attachment 2: Aerial Photo



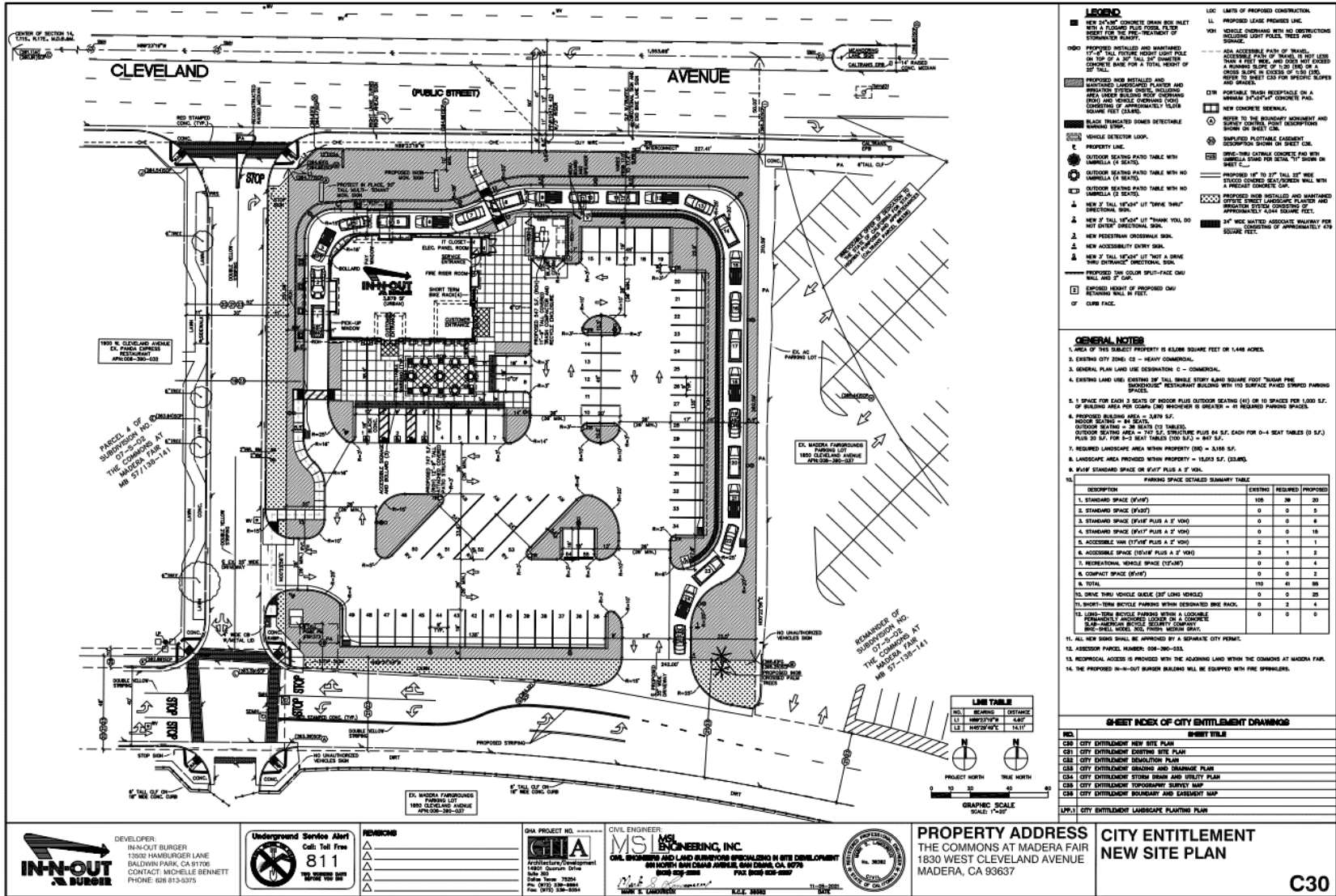
Attachment 3: General Plan Land Use Map



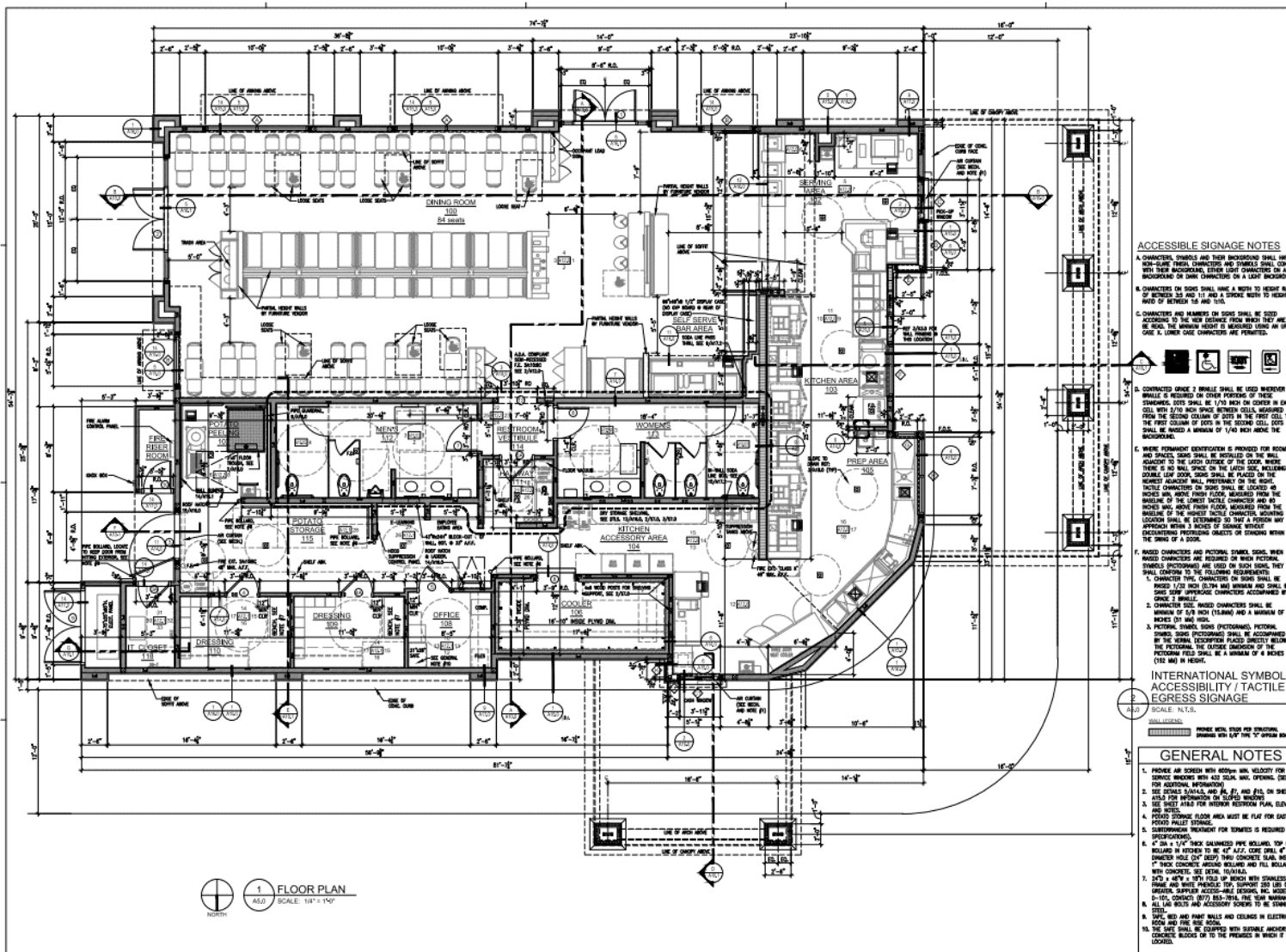
Attachment 4: Zoning Map



Attachment 5: Exhibit A, Site Plan



Attachment 8:Exhibit C, Floor Plan



ACCESSIBLE SIGNAGE NOTES


- A. CHARACTERS, SYMBOLS AND PICTORIAL SIGNAGE SHALL HAVE A HIGH-CONTRAST PASTEL CHARACTERS AND SYMBOLS SHALL CONTRAST WITH THEIR BACKGROUND. LETTER CHARACTERS ON A DARK BACKGROUND OR DARK CHARACTERS ON A LIGHT BACKGROUND.
- B. CHARACTERS ON SIGNS SHALL HAVE A NOTCH TO REEF INTO OF BETWEEN .50 AND .15 AND A CORNER RADIUS TO HEIGHT RATIO OF BETWEEN .75 AND 1.00.
- C. CHARACTERS AND NUMBERS ON SIGNS SHALL BE COORDINATE TO THE SIGN DESIGNER. CHARACTERS THAT ARE TO BE REEFED THE REEFING SHALL BE REEFED USING AN UPPER CASE U. LOWER CASE CHARACTERS ARE PERMITTED.
- D. CONTRACTED GRIFF 2 FINISH SHALL BE USED UNLESS OTHERWISE SPECIFIED OR OTHER FINISHING IS SPECIFIED. SIGNAGES, SIGNS SHALL BE 1/20 INCH ON CENTER IN EACH CELL WITH 2/10 INCH SPACE BETWEEN CELLS. MEASURED FROM THE SECOND COLUMN OF CELLS IN THE FIRST COLUMN TO THE FIRST COLUMN OF CELLS IN THE SECOND COLUMN. CELLS SHALL BE BOUND A MINIMUM OF 1/40 INCH ABOVE THE BACKGROUND.
- E. WHERE FINISHING IDENTIFICATION IS PROVIDED FOR ROOMS AND SPACES, SIGNS SHALL BE REEFED ON THE WALL ADJACENT TO THE LOCKED SIDES OF THE DOOR. WHERE THERE IS NO WALL SPACE ON THE LOCKED SIDE, INCLUDING A DOOR OR WINDOW, SIGNS SHALL BE PLACED ON THE NEAREST ADJACENT WALL, PREFERABLY ON THE RIGHT. PICTORIAL CHARACTERS OR PICTORIAL SIGNS SHALL BE LOCATED AS HIGH AS ABOVE FLOOR FINISH, MEASURED FROM THE BASELINE OF THE HIGHEST PICTORIAL CHARACTER. SIGNATURE LOCATION SHALL BE DETERMINED SO THAT A PERSON MAY APPROXIMATELY REEFED 3 FEET OF SIGNAGE. SIGNAGE IDENTIFICATION CHARACTERS OR SYMBOLS WITHIN THE SIGN OF A SIGN.
- F. RAISED CHARACTERS AND PICTORIAL SYMBOLS, SIGNS, WITH PICTORIAL CHARACTERS AND SYMBOLS ON SIGN PICTORIAL SYMBOLS (PICTORIALS) ARE USED ON SUCH SIGNS, THEY SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:
 1. CHARACTER TYPE, CHARACTERS OR SIGNS SHALL BE 1/16 INCH HIGH (MIN. MAX. HEIGHT) AND SHALL BE SHARP SERIF UPPERCASE CHARACTERS ACCOMPANIED BY 1/16 INCH RADIUS.
 2. CHARACTER SIZE, RAISED CHARACTERS SHALL BE A MINIMUM OF 5/8 INCH (15.88MM) AND A MAXIMUM OF 2 INCHES (50.8MM) HIGH.
 3. PICTORIAL SYMBOLS (PICTORIALS), PICTORIAL SYMBOLS (PICTORIALS) SHALL BE ACCOMPANIED BY THE VERBAL DESCRIPTION PLACED DIRECTLY BELOW THE PICTORIAL. THE CHARACTER SIZE OF THE PICTORIAL SYMBOL SHALL BE A MINIMUM OF 6 POINTS (1.92 MM) IN HEIGHT.

INTERNATIONAL SYMBOL OF ACCESSIBILITY / TACTILE EGRESS SIGNAGE

- SCALE: N.T.S.
- PICTORIAL SYMBOL OF ACCESSIBILITY
 - PICTORIAL SYMBOL OF TACTILE EGRESS SIGNAGE

GENERAL NOTES

1. PROVIDE AN SCREEN WITH 20-MPH WIND VELOCITY FOR SERVICE WINDOWS WITH 400 SQUARE INCH OPENING. SEE 101 FOR ADDITIONAL INFORMATION.
2. PROVIDE SINKS AND ALL 1/2\"/>



Architecture / Development
14301 Quorum Drive
Suite 100
Dallas, Texas 75244
PH: 972.234.8888
WWW.GIA.COM

ISSUE RECORD

DATE	DESCRIPTION
2024.08.08	2024 CLASS PROJECT 162


REVISION RECORD

NO.	DATE	DESCRIPTION
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PROFESSIONAL SEAL

PROJECT NAME
IN-N-OUT BURGER

MADERA CALIFORNIA
1630 WEST CLEVELAND AVE
MADERA, CA 95337



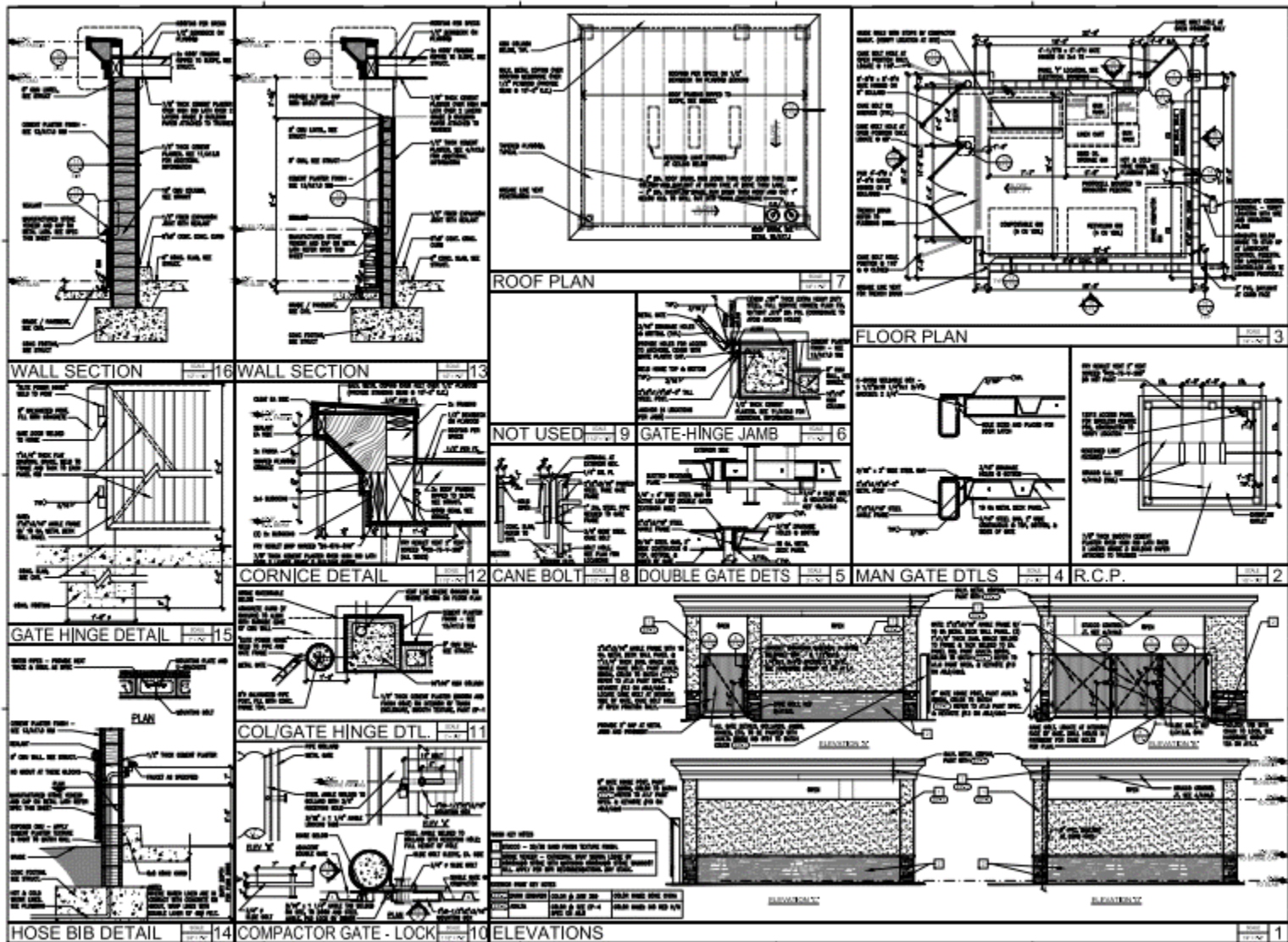
GOD BLESS AMERICA

PROJECT NUMBER
200448

SHEET TITLE
FLOOR PLAN

SHEET NUMBER
A5.0

Attachment 9: Exhibit D, Trash Enclosure



A
 ARCHITECTURE & DESIGN
 1401 S. Green St.
 Suite 100
 Clovis, CA 95326
 (530) 938-1111
 www.aad.com

PROJECT NAME
 TRASH ENCLOSURE
 100 CLEVELAND AVENUE
 MADERA, CALIFORNIA 95361

PROFESSIONAL SEAL

PROJECT NUMBER
 202408

SHEET TITLE
 TRASH ENCLOSURE
 PLANS & ELEVATIONS
 OPTION "B"

DATE
 08/28/2024

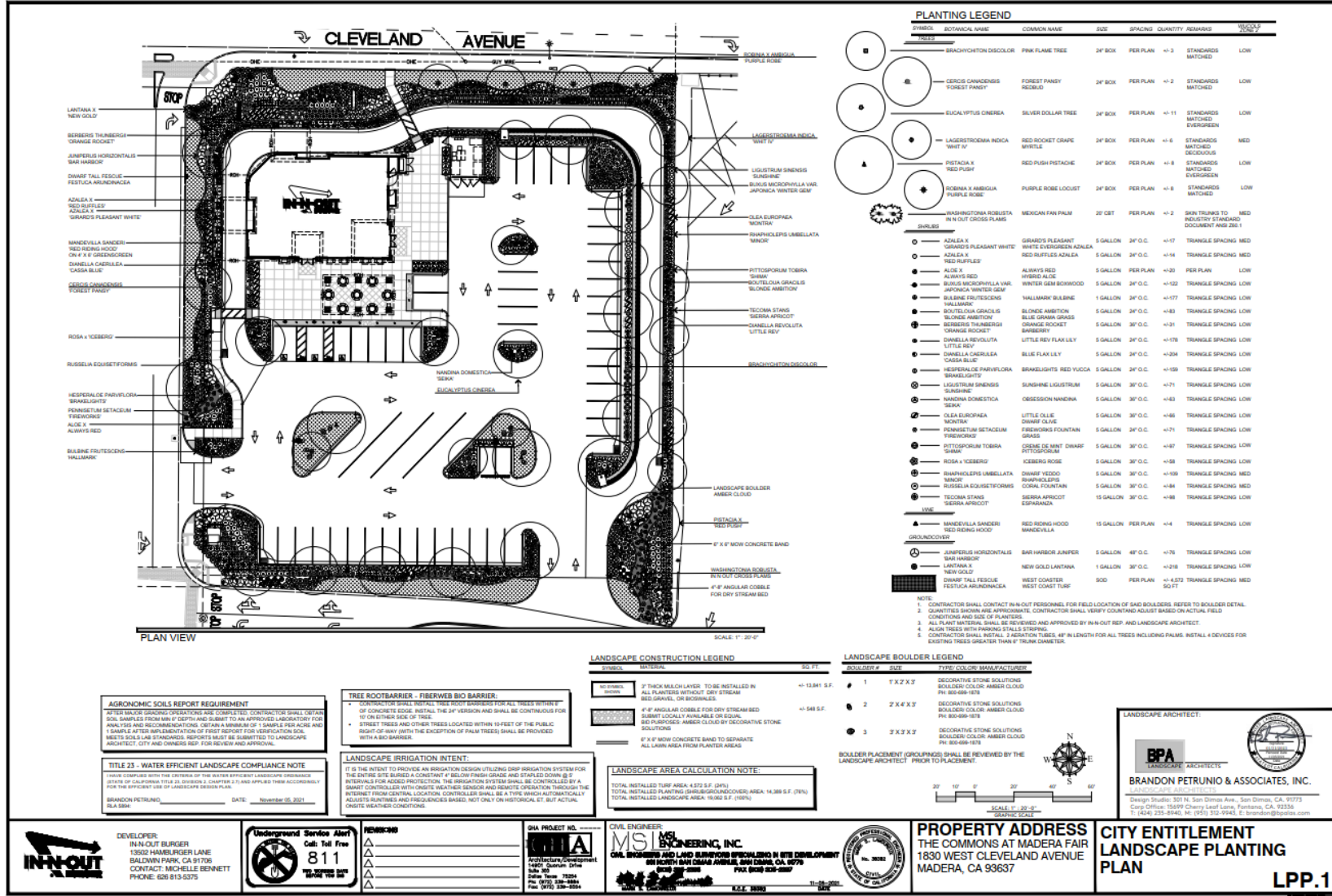
A13.0



IN-N-OUT BURGER
 MADERA CALIFORNIA
 100 WEST CLEVELAND AVE
 MADERA, CA 95361

A13.0

Attachment 10: Exhibit E, Landscape Plan



Attachment 11: Focused Traffic Analysis

<https://www.madera.gov/wp-content/uploads/2022/02/In-N-Out-Traffic-Study-FINAL.pdf>

Attachment 12: Planning Commission Resolution for CUP 2021-19 and SPR 2021-39

RESOLUTION NO. 1903

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
APPROVING CONDITIONAL USE PERMIT 2021-19
AND SITE PLAN REVIEW 2021-39 (In-N-Out)**

WHEREAS, Newman Development Group of Madera, LLC (“Owner”) owns APN 006-390-033 in Madera, California (“site”) and has authorized Michelle Bennett (“Applicant”) to submit applications for development on the site; and

WHEREAS, the 1.45-acre site has been previously developed with a 6,940 square foot (sqft) restaurant building and is planned C (Commercial) and zoned C2 (Heavy Commercial) for commercial land uses; and

WHEREAS, the Applicant is seeking Conditional Use Permit (CUP) 2021-19 to allow for operation of a drive through associated with the proposed restaurant.

WHEREAS, the Applicant is seeking Site Plan Review (SPR) 2021-39 to allow for construction of a 3,879 sqft In-N-Out Burger restaurant building and a 747 sqft covered patio area with related site improvements; and

WHEREAS, the existing building will be demolished allowing for new construction on the site; and

WHEREAS, the City performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in section 15332 of the California Environmental Quality Act (CEQA) Guidelines as the project is characterized as in-fill development; and

WHEREAS, under the City’s Municipal Code, the Planning Commission is authorized to review and approve site plan reviews and conditional use permits on behalf of the City; and

WHEREAS, the City provided notice of the Planning Commission hearing as required by law; and

WHEREAS, the Planning Commission received and reviewed CUP 2021-19 and SPR 2021-39 at a duly noticed meeting on February 8, 2022; and

WHEREAS, at the February 8, 2022, Planning Commission hearing, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Planning Commission; and

WHEREAS, the Planning Commission now desires to adopt a Class 32 Categorical Exemption per the California Environmental Quality Act and approve CUP 2021-19 and SPR 2021-39, with conditions.

NOW THEREFORE, be it resolved by the Planning Commission of the City of Madera as follows:

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA: A preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning

Commission finds and determines that the project falls within the Class 32 Categorical Exemption set forth in CEQA Guidelines Section 15332 as the project is characterized as in-fill development and meets the required conditions described in said Section. As described in further detail below, the project is consistent with the General Plan and its polices, as well as with the applicable zoning designation and regulations. The proposed development occurs within City limits on a project site of approximately 1.45 acres, which is substantially surrounded by urban uses. The project site has no value as habitat for endangered, rare, or threatened species, and would not result in any significant effect relating to traffic, noise, air quality, or water quality. Additionally, the site can adequately be served by all required utilities and public services. Furthermore, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines section 15300.2 apply to this project. As such, the Planning Commission adopts a finding of a Categorical Exemption under CEQA Guidelines section 15332 (In-Fill Development Projects) for this project.

3. Findings for CUP 2021-19 and SPR 2021-39: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2021-19 and SPR 2021-39, as conditioned. With conditions, the project is consistent with the requirements of the Municipal Code, including Section 10-3.13 (Use Permits) and Section 10-3.4.01 (Site Plan Review). The Planning Commission further approves, accepts as its own, incorporates as if set forth in full herein, and makes each and every one of the findings, based on the evidence in the record, as follows:

Findings to Approve a Conditional Use Permit

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). CUP 2021-19 would allow the operation of a drive through which is conditionally allowed within the C2 zone district. CUP 2021-19 is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and does not conflict with City standards or other provisions of the Code.

Finding b: The proposed use will be compatible with the surrounding properties.

The project site is suited for commercial uses and the operation of a drive through. The project site is located within a larger commercial development area and is surrounded by other commercial uses to the north and west, as well as public facilities to the east and south. As conditioned, the operation of a drive through for the restaurant on site will be compatible with surrounding properties and is consistent with applicable requirements regulating such use.

Finding c: The establishment, maintenance, or operation of the use or building applied for 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 such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

As discussed above, the proposed use is compatible with surrounding properties and will not have a significant, adverse environmental impact. The proposed use will result in the operation of a drive through on the project site. The request will not result in a detriment to

the health, safety, peace, morals, comfort, or general welfare of people residing or working in the neighborhood.

Findings to Approve a Site Plan Review

Finding a: The proposal is consistent with the General Plan and Zoning Ordinance.

The property is zoned C2 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). Development of the restaurant use, as proposed under SPR 2021-39, is consistent with the purpose and intent of the C2 zone district and does not conflict with City standards or other provisions of the Code.

Finding b: The proposal is consistent with any applicable specific plans.

The proposed project is subject to Specific Plan No. 1 and found to be consistent with the Specific Plan intended uses for the site and the conditions of approval ensure the project will not conflict with the development standards applicable to the site or intended use of the site.

Finding c: The proposed project includes facilities and improvements; vehicular and pedestrian ingress, egress, and internal circulation; and location of structures, services, walls, landscaping, and drainage that are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, there will be no adverse effects on surrounding property, light is deflected away from adjoining properties and public streets, and environmental impacts are reduced to acceptable levels.

SPR 2021-39 has been reviewed and is consistent with surrounding uses. The project includes the construction of a 3,879 sqft building, with a 747 sqft patio structure, and a drive through lane that meets all the requirements of the Zoning Ordinance and applicable policies. Public improvements will be installed to ensure that vehicular and pedestrian circulation is provided and that utilities on-site will be accommodated consistent with City standards. Review of the site determined that the project would not result in a significant generation of noise, light, or traffic.

Finding d: The proposed project is consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality.

SPR 2021-39, as conditioned, will require repairment or replacement of all broken or damaged concrete improvements, including curb, gutter and sidewalk to current City and ADA standards. The recommendations from the FTA have been accommodated in the project design and conditions of approval. As conditioned, the project will not have a significant impact on traffic or the environment.

4. Approval of CUP 2021-19 and SPR 2021-39: Given that all findings can be made, the Planning Commission hereby approves CUP 2021-19 and SPR 2021-39 as conditioned as set forth in the Conditions of Approval attached as "Exhibit A".

5. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 8th day of February 2022, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Gary Conte, AICP
Planning Manager

Exhibit "A" – Conditions of Approval for CUP 2021-19 and SPR 2021-39

Exhibit "A"
CUP 2021-19 and SPR 2021-39 (In-N-Out)
CONDITIONS OF APPROVAL
February 8, 2022

NOTICE TO APPLICANT

Pursuant to Government Codes Section 66020(d)(1) and/or Section 66499.37, any protest related to the imposition of fees, dedications, reservations, or exactions for this project, or any proceedings undertaken regarding the City's actions taken or determinations made regarding the project, including but not limited to validity of conditions of approval must occur within ninety (90) calendar days after the date of decision. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

IMPORTANT: PLEASE READ CAREFULLY

This project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies; those determined through plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community; and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Approval of this permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this permit, the zoning ordinance, and all City standards and specifications. This permit is granted, and the conditions imposed, based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this permit. Unless the conditions of approval specifically require operation inconsistent with the application, a new or revised permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the review process or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the permit as delineated herein and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval for CUP 2021-19 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within fifteen (15) days after the decision by the Planning Commission. Approval for SPR 2021-39 will ultimately be deemed final unless appealed by the applicant to the City Council within ten (10) days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld.

These conditions are applicable to any person or entity making use of this permit, and references to "developer" or "applicant" herein also include any applicant, property owner, owner, lessee, operator, or any other person or entity making use of this permit.

GENERAL CONDITIONS

1. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specified in the conditions of approval listed herein or mandated by statutes.
2. The applicant shall submit to the City of Madera Planning Department a check in the amount necessary to file a Notice of Exemption at the Madera County Clerk. This amount shall equal the Madera County filing fee in effect at the time of filing. Such check shall be made payable to the Madera County Clerk and submitted no later than three (3) days following action on SPR 2021-39.
3. CUP 2021-19 shall expire 12 months from date of issuance, unless a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan or the required action is taken to extend the approval before the expiration date (MMC Section 10-3.1311, Termination and Revocation).
4. SPR 2021-39 shall expire one year from date of issuance, unless a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan or the required action is taken to extend the approval before the expiration date (MMC Section 10-3.4.0114, Lapse of Site Plan Approval).
5. It shall be the responsibility of the property owner, operator, and/or management to ensure that any required permits, inspections, and approvals from any regulatory agency be obtained from the applicable agency prior to issuance of a building permit and/or the issuance of a certificate of completion, as determined appropriate by the City of Madera Planning Department.
6. Development of the project shall conform to the plans designated by the City as Exhibits A through E subject to the conditions noted herein. Minor modifications to the approved SPR 2021-39 necessary to meet regulatory, engineering, or similar constraints may at the discretion of the Planning Manager without an amendment to CUP 2021-19 and SPR 2021-39. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to CUP 2021-19 and SPR 2021-39 be filed for review and approval through the applicable City process.

7. Deferrals are not permitted for any condition included herein, unless otherwise stated or unless approved by the City Council, through a separate deferral process.
8. All construction shall cease, and the Planning Manager and City Engineer shall be notified immediately if any prehistoric, archaeological, or fossil artifact or resource is uncovered during construction. All construction shall immediately stop and an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology shall be retained, at the applicant's and/or successors-in-interest's expense, to evaluate the find(s) and recommend appropriate action according to Section 15064.5 of the California Environmental Quality Act (CEQA) Guidelines. If avoidance is infeasible, other appropriate measures would be instituted. Work may proceed on other parts of the project subject to direction of the archaeologist while assessment of historic resources or unique archaeological resources is being carried out.
9. All construction shall cease if any human remains are uncovered, and the Planning Manager, City Engineer and County of Madera Coroner shall be notified in accordance to Section 7050.5 of the California Health and Safety Code. If human remains are determined to be those of a Native American or has reason to believe that they are those of a Native American, the Native American Heritage Commission shall be contacted, and the procedures outlined in CEQA Section 15064.5(e) shall be followed.
10. Approval of CUP 2021-19 and SPR 2021-39 is for the benefit of the applicant. The submittal of applications by the applicant for this project was a voluntary act on the part of the applicant not required by the City. Therefore, as a condition of approval of this project, the applicant agrees to defend, indemnify, and hold harmless the City of Madera and its agents, officers, consultants, independent contractors, and employees ("City") from any and all claims, actions, or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the project, including any challenges to associated environmental review, and for any and all costs, attorneys fees, and damages arising therefrom (collectively "claim").

The City shall promptly notify the applicant of any claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any claim, and if the City does decide to independently defend a claim, the applicant shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any claim, the applicant shall not be required to pay or perform any settlement arising from any such claim unless the applicant approves the settlement.

PLANNING DEPARTMENT

General

11. Approval of this application for site plan review shall be considered null and void in the event of failure by the applicant and/or the authorized representative to disclose and delineate all facts and information relating to the subject property and proposed uses.
12. CUP 2021-019 and SPR 2021-39 approval is not an authorization to commence construction. On- and off-site improvements, building construction, sign erection or occupancy shall not be permitted without prior approval of the City through issuance of any required grading or building permits.
13. The applicant shall comply with all federal, state and local laws. Material violations of any of those laws concerning the use(s) may be cause for revocation of CUP 2021-16 and SPR 2021-33. Such conditions that constitute such violation include, but are not limited to:
 - The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.
 - The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.
 - The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the City that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.
14. Project site shall be subject to periodic review and inspection by the City to determine compliance with the conditions of approval. If, at any time, the use is determined by staff to be in violation of the conditions, the property owner and/or operator may be subject to corrective action.
15. All on- and off-site improvements shall be completed prior to final building inspection and shall be completed in conformance with CUP 2021-19 and SPR 2021-39 Conditions of Approval to the satisfaction of the City of Madera prior to issuance of a certificate of completion, occupancy permit and/or issuance of a business license.
16. Vandalism and graffiti shall be corrected in accordance with the provisions of the Madera Municipal Code.
17. The property owner, operator and/or manager shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
18. The property owner, operator and/or manager shall keep the property clear of all trash, rubbish and debris at all times, and disposal of refuse shall be restricted to the dumpster on the site.

19. Prior to the issuance of issuance of building permits, the applicant shall identify on the site plan and/or elevations the following information for Planning Department review and approval. All equipment shall be screened from view.
 - a) The location of all-natural gas and electrical utility meter locations
 - b) The location of all HVAC (heating, ventilation or air conditioning) equipment
 - c) The location of all compressor equipment, and mechanical and electrical equipment

Lighting

20. The specifications and types of exterior lighting fixtures to be installed on the site shall be submitted to and approved by the Planning Department prior to issuance of building permits. All exterior lighting shall be directed away from adjoining properties and not interfere with the driving safety of vehicular traffic. Exposed bulbs will not be permitted.
21. All parking lot lights/lighting shall be incorporated into landscaped areas.
22. The project proponent shall contact the City Engineer when all site lighting is operational. Additional light screening may be required to ensure compliance with City standards and conditions of approval.

Landscaping

23. Trees shall be required to achieve fifty percent shading of all parking areas, inclusive of parking stalls and drive aisles, within 10 years. Carports may be used to account for shading of paved areas.
24. A landscape and irrigation plan shall be prepared by a licensed Landscape Architect and submitted as part of the submittals for a building permit. Landscape and irrigation plans shall be approved by the Planning Department prior to issuance of building permits. The plans shall:
 - a) Demonstrate compliance with the State of California's Model Water Efficient Landscape Ordinance (MWELO);
 - b) Provide permanent automatic irrigation systems for all landscaped areas;
 - c) Provide vegetative matter coverage of a minimum of 75 percent of all landscaped areas;
 - d) Locate landscape material in such a way that it does not interfere with utilities above or below ground; and
 - e) Provide detailed planting lists for all landscaping, with the number, size, spacing (where applicable) and species of all plant life and groundcover, as well as soil preparation techniques for all landscaped areas.
 - f) Integrate, to the extent feasible, low impact development practices to reduce, treat, infiltrate, and manage runoff flows caused by storms, urban runoff, and impervious surfaces.
25. The property owner, operator, and/or manager shall develop and submit to the Planning Department for review and approval, prior to issuance of a building permit, a landscape maintenance and irrigation program for the first three years to ensure that streetscapes and landscaped areas are installed and maintained as approved under CUP 2021-19 and SPR 2021-39.

26. 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 plantings.
27. Street trees shall be provided in accordance with City standards along the Cleveland Avenue frontage and shall be consistent with the City's Street Master Tree List, as determined by the City.
28. A maintenance agreement is required for all landscaping located within the public right-of-way. Such agreement shall be entered into prior to issuance of a certificate of completion.

Parking

29. As approved under CUP 2021-19 and SPR 2021-39 and shown on the Exhibit A, Site Plan, a minimum of 51 total automobile parking spaces shall be required, as well as four recreational vehicle parking spaces. The required number of ADA compliant parking spaces shall be provided in accordance with the Building Code.
30. Off-street parking areas shall be paved and maintained so as to eliminate dust or mud and shall be so graded and drained as to dispose of all surface water. In no case shall such drainage be allowed to cross sidewalks, unless approved by the City Engineer.
31. Each off-street parking space shall have a width of not less than nine feet and a length of not less than 19 feet except that up to 25% of the required parking spaces may be designated for compact car use.
32. Parking spaces shall be designed to be accessible from a public street or alley and will provide maneuverability for standard size automobiles. Designated RV parking spaces shall provide enough space for RVs to circulate through the parking lot and internal drive aisles for the site.
33. Plans of the proposed parking area shall be submitted to the Building Department at the time of an application for a building permit for any building to which the parking area is accessory. The plans shall clearly indicate the proposed development, including the location, size, shape, design, curb cuts, lighting, landscaping, and other features and appurtenances of the proposed parking lot.

Trash Enclosures

34. A trash enclosure shall be constructed in accordance with City standards and applicable requirements of the waste provider. The location of the trash enclosure shall be located consistent with Exhibit A, Site Plan.
35. All exterior trash facilities should be fully enclosed on all sides by either some type of wall or opaque structure congruent with the massing and design of the principle building.
36. All enclosures must be at least five feet-eight inches (5'8") in height and rise a minimum of six (6) inches above the height of any collector placed within structure.
37. Trash containers/enclosures should not be placed within the public right of way or driveways in such a way that they may potentially cause traffic hazards.
38. Plans for trash enclosure should be drawn to scale and submitted for review.

Signage

39. All signage shall be in compliance with the Sign Ordinance of the Madera Municipal Code Section 10-6. All permanent signage, with the exception of required signs in accordance with City standards, is required to have an approved Sign Permit issued by the Planning Department per Madera Municipal Code Section 10-6.
40. The project shall comply with all applicable master sign programs. Compliance with master sign programs will be reviewed prior to the issuance of a sign permit.
41. All proposed construction announcement signs used shall conform to the Municipal Sign Ordinance.

Building and Site Aesthetics

42. The construction of all buildings approved as part of CUP 2021-19 and SPR 2021-39 shall be in close conformance with the elevation drawings, as reviewed and approved by the Commission.
43. The construction of buildings approved as part of CUP 2021-19 and SPR 2021-39 shall be consistent with an approved color and materials board and representative color section rendering of the proposed buildings to be reviewed and approved by the Planning Commission. Any substantial alteration shall require Commission approval.
44. Prior to the issuance of building permits, the applicant shall identify on the site plan the following information for Planning Department review and approval:
 - The location of all-natural gas and electrical utility meter locations
 - The location of all HVAC (heating, ventilation or air conditioning) equipment
 - The location of all compressor equipment, and mechanical and electrical equipment
45. All electrical/mechanical equipment shall be located within an electrical/mechanical room in the interior of the structure, with exception to transformers.
46. The specifications and types of exterior lighting fixtures to be installed on the site shall be submitted to and approved by the Planning Department prior to issuance of building permits. All exterior lighting shall be directed away from adjoining properties and not interfere with the driving safety of vehicular traffic. Exposed bulbs will not be permitted.
47. All parking lot lighting shall be incorporated into landscaped areas.
48. Roof access ladders shall be located within the interior of the building.
49. Roof-mounted equipment placements should be completely screened from view and architecturally integrated into the roof using roof wells, continuous building perimeter fascia screening, etc.
50. All rooftop ducts and vents should be directed away from the public street/sidewalk to minimize their appearance, visibility, and noise pollution.

Drive Through (CUP 2021-19)

Conditions 51 through 54 apply specifically to the operation of a drive through as approved under CUP 2021-19.

51. The location of directional signs, menu board, and preview board shall be identified on the site plan prior to building permit submittal. The size and design of the directional signs, menu board, and preview board shall conform to the City's Sign Ordinance, the City of Madera Design and Development Guidelines for Commercial Development, and any other applicable master sign

program. In the event that the City of Madera Sign Ordinance and Design and Development Guidelines for Commercial Development conflict, the stricter requirement shall apply. All permanent signage, with the exception of required signs in accordance with City standards, is required to have an approved Sign Permit issued by the Planning Department per Madera Municipal Code Section 10-6.

52. A three-foot decorative masonry block wall shall be constructed along the drive-thru lane perimeter sufficient to screen headlight glare into the public right-of-way and shall be setback a minimum of two (2) feet from the back edge of the sidewalk. The decorative wall shall be reviewed and approved by the Planning Manager prior to issuance of a building permit.
53. The drive-thru stacking lanes shall be developed consistent with Exhibit A, Site Plan. Queuing of vehicles shall not result in the blocking of traffic circulation on-site, shall not impede access to or from parking areas, and shall not impede the flow of traffic within the public rights-of-way. A circulation management plan shall be submitted to the Planning Department for review and approval to ensure that the queuing of vehicles does not impede circulation or access on- or off-site.
54. The drive-thru shall be allowed one (1) preview board, one (1) menu board and one (1) digital ordering screen. No additional freestanding signage associated with operation of the drive-thru shall be allowed as a component of the In-N-Out Burger restaurant.

BUILDING DEPARTMENT

55. At time of submittal for building permit plan check, a minimum of three (3) sets of the following plans to the Building Department is required. Plans shall be prepared by an individual licensed to practice architecture and include the following required drawings drawn to an appropriate scale:
 - g) Site plan bearing City approval or a plan incorporating all site related conditions
 - h) Grading plan prepared by an individual licensed to practice land surveying, civil engineering or architecture
 - i) Floor plan - The uses of all rooms and activity areas shall be identified on the plans
 - j) All exterior elevations
 - k) Site utilities plan showing on-site sanitary sewer, water, storm sewer, water meters, backflow prevention devices, roof drains, etc., and the connections to off-site utilities
56. Current State of California and federal accessibility requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection, and shall apply to proposed and future development.

ENGINEERING DEPARTMENT

General

57. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
58. Developer shall pay all required fees for completion of project. Fees due may include but shall not be limited to the following: plan review, easement acceptance, encroachment permit processing and improvement inspection fees.

59. Improvement plans signed and sealed by an engineer shall be submitted to the Engineering Division in accordance with the Civil Improvements Submittal Checklist.
60. The improvement plans for the project shall include the most recent version of the City's General Notes.
61. The Developer is responsible to confirm whether existing and/or proposed utilities will be in conflict with the proposed improvements. Developer shall coordinate with any impacted utility to resolve the conflict(s).
62. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.

Water

63. New or existing water service connection(s), including landscape areas, shall be constructed or upgraded to current City standards including Automatic Meter Reading (AMR) water meter installed within City right-of-way and backflow prevention device installed within private property.
64. Existing water service connection(s) that will not be used for the project shall be abandoned at the mains per City standards.

Sewer

65. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards.
66. Existing sewer service connection(s) that will not be used for the project shall be abandoned at the mains per current City standards.

Streets

67. The developer shall repair or replace all broken or damaged concrete improvements including curb, gutter and sidewalk to current City and ADA standards. Limits of repairs shall be established by the City Engineering Inspector.
68. The proposed site plan illustrates the modification of the existing "pork chop" median island at the driveway immediately west of the subject site. The developer has prepared a focused traffic analysis (FTA) addressing this proposal. The FTA has concluded there are no storage or operational impacts created by the modification. Improvement plans shall reflect these modifications, consistent with the FTA.
69. The developer shall dedicate a Public Utility Easement 10-feet wide along the entire project parcel frontage on Cleveland Avenue. A \$466 fee or the fee in effect at that time for grant easement or deed acceptance shall be paid with the Engineering Department.
70. The developer shall annex into and execute such required documents that may be required to participate in Landscape Maintenance District Zone 3 for the purpose of participating in the cost of maintaining landscape improvements within said zone.

FIRE DEPARTMENT

71. Building Permits are required for the construction of all improvements. Separate permits are required for fire sprinklers, fire alarm and the kitchen hood suppression systems as applicable.

72. A Knox Box must be provided for access. The location of the Knox box shall be subject to the approval of the Fire Department prior to the issuance of building permits.
73. Fire Lanes are required at the site and must be clearly posted.
74. The landscaping may not interfere with access to the existing fire hydrant or FDC.
75. Panic hardware is required. The location of panic hardware shall be subject to the approval of the Fire Department prior to the issuance of building permits.
76. The occupant load must be posted and plainly visible.

SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (SJVAPCD)

77. The applicant shall comply with the rules and regulations of the San Joaquin Valley Air Pollution Control District.