



REGULAR MEETING OF THE MADERA PLANNING COMMISSION

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

Tuesday, January 14th, 2025
6:00 p.m.

Council Chambers
City Hall

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 comment on agenda items at the meeting or remotely through an electronic meeting via phone by dialing (669) 900-6833 enter ID: 84856778383# followed by *9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/84856778383>. Comments will also be accepted via email at planningcommissionpubliccomment@madera.gov or by regular mail at 205 W. 4th Street, Madera, CA 93637.

CALL TO ORDER:

ROLL CALL:

Chairperson Robert Gran Jr.
Vice Chair Ramon Lopez-Maciel
Commissioner Rohi Zacharia
Commissioner Khubaib Sheikh
Commissioner Balwinder Singh
Commissioner Saim Mohammad
Commissioner Jose Eduardo Chavez

INTRODUCTION OF STAFF:

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: September 10, 2024 / October 8, 2024 / November 12, 2024

PUBLIC COMMENT:

The first 15 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 that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Commission is prohibited by law from taking any action on matters discussed that are not on the agenda, and no adverse conclusions should be drawn if the Commission does not respond to public comment at this time.

PUBLIC HEARINGS:

1. SPR 2009-21 EXT 12 & CUP's 2013-04, 05, 06 & 07 EXT 12 – Foxglove Shopping Center

Subject: Consideration of a Request for a one-year extension of approvals for Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06 & 07 for the Foxglove Shopping Center Project. 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 (APNs: 013-160-005 & 013-160-016).

Recommendation:

Conduct a public hearing and adopt:

- a. A Resolution of the Planning Commission of the City of Madera approving a one-year time extension for Conditional Use Permit's 2013-04, 05, 06 & 07 and Site Plan Review 2009-21 for the Foxglove Shopping Center Project located on the southeastern corner of North Schnoor Avenue and Foxglove Way, (Extension 12).

2. CUP's 2021-12 & 13 EXT, & SPR 2021-25 EXT – Chevron Travel Center (Report by Robert Smith)

Subject: Consideration of a one-year time extension of approval for Conditional Use Permits (CUP 2022-12, CUP 2022-13) and Site Plan Review (SPR 2021-25) for the Chevron project at an existing vacant parcel totaling ±1.14 acres located on the Southwest corner of the Intersection of Avenue 17 and Airport Drive (APNs: 013-012-022).

Recommendation:

Conduct a public hearing and adopt:

- a. A Resolution of the Planning Commission of the City of Madera approving a one-year time extension for Conditional Use Permit's 2022-12 EXT, 2022-13 EXT and Site Plan Review 2021-25 EXT.

3. CUP 2024-22 & SPR 2024-32 – Massage Parlor (Report by Adi Rueda)

Subject: Consideration of an application for a Conditional Use Permit (CUP 2024-22) and Site Plan Review (SPR 2024-32) requesting authorization to establish a massage parlor at 1470 E. Yosemite Ave, suite 110, in the Crossroads Shopping Center located on the southerly corner of East Yosemite Avenue and Tozer Street (APN: 008-142-076).

Recommendation:

Conduct a public hearing and adopt:

- a. A Resolution of the Planning Commission of the City of Madera determining the project is Categorical Exempt pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2024-22 and Site Plan Review (SPR) 2024-32, subject to the findings and conditions of approval.

ELECTION OF OFFICERS:

1. Election of Planning Commission Chair and Vice Chair

ADMINISTRATIVE REPORTS:

1. Update on Status of Villages at Almond Grove Project 'Village D'
2. 2025 Planning Commissioner Calendar

COMMISSIONER REPORTS:

ADJOURNMENT:

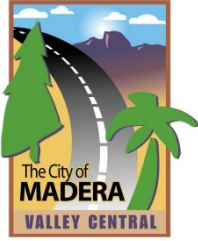
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- The meeting room is accessible to the physically disabled. Requests for accommodations for persons with disabilities such as signing services, assistive listening devices, or alternative format agendas and reports needed to assist participation in this public meeting may be made by calling the Planning Department's Office at (559) 661-5430 or emailing planninginfo@madera.gov. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service. Requests should be made as soon as practicable as additional time may be required for the City to arrange or provide the requested accommodation. Requests may also be delivered/mailed to: City of Madera, Attn: Planning Department, 205 W. 4th Street, Madera, CA 93637. At least seventy-two (72) hours' notice prior to the meeting is requested but not required. When making a request, please provide sufficient detail that the City may evaluate the nature of the request and available accommodations to support meeting participation. Please also provide appropriate contact information should the City need to engage in an interactive discussion regarding the requested accommodation.
 - The services of a translator can be made available. Please contact the Planning Department at (559) 661-5430 or emailing planninginfo@madera.gov to request translation services for this meeting. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service. Requests should be submitted in advance of the meeting to allow the City sufficient time to provide or arrange for the requested services. At least seventy-two (72) hours' notice prior to the meeting is requested but not required.

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.



REPORT TO THE PLANNING COMMISSION

Prepared by:

Will Tackett, Community Development Director

Meeting of: January 14, 2025

Agenda Item: 1

SUBJECT:

Consideration of a Request for Extension of Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06 & 07 for the Foxglove Shopping Center Project (Extension No. 12)

RECOMMENDATION:

Hold a public hearing; and

- 1) Adopt a resolution approving a one-year time extension to exercise rights granted in accordance with approval of Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06 & 07, subject to the findings and conditions of approval.

SUMMARY:

Consideration of a request for a one-year (1-year) time extension to exercise rights afforded by Site Plan Review (SPR 2009-21) and the various use permits (CUPs 2013-04, 05, 06 & 07) approved for purposes of the development and operation of a retail shopping center (the Foxglove Shopping Center Project). The request is the twelfth extension requested by the applicant for the Foxglove Shopping Center Site Plan Review and Conditional Use Permits, which were originally approved in February 2013. All previously approved project conditions of approval remain in effect.

ANALYSIS:

Site Plan Review (SPR 2009-21) and the various use permits (CUPs 2013-04, 05, 06 & 07) for the Foxglove Shopping Center were originally approved by the Planning Commission (Commission) on February 12, 2013. The Commission also adopted a resolution certifying the project's environmental impact report (EIR) and adopting the project's findings of fact, statement of overriding considerations, and mitigation monitoring and reporting program. One-year time extensions for the site plan review and related use permits, first approved in February 2013, have been granted annually by the Commission since 2014.

The project site is approximately 20.47 acres in size and located on the easterly corner of the intersection of North Schnoor Avenue and Foxglove Way. The Home Depot Shopping Center and Sonic drive-through restaurant are located north of the site. Madera Marketplace is located to the south. 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.

The City General Plan Land Use Map designates the subject site C (Commercial). The subject site is zoned C-2 (Heavy Commercial).

Table 1: Project Overview	
<i>Project Number:</i>	SPR 2009-21 and CUPs 2013-04, 05, 06 & 07
<i>Applicant:</i>	Zinkin Development
<i>Property Owner:</i>	Dewayne Zinkin Family Partnership, LP
<i>Location:</i>	Easterly Corner of the intersection of North Schnoor Avenue and Foxglove Way (APNs 013-160-005 & 016)
<i>Project Area:</i>	±20.47 acres
<i>Plan Land Use:</i>	C – Commercial
<i>Zoning District:</i>	C-2 (Heavy Commercial)
<i>Site Characteristics</i>	Vacant and undeveloped land, surrounded by urban uses and with partially completed .

The proposed project is a retail shopping center with up to 191,500 square feet (sf) of tenant space. The primary anchor space would be approximately 84,000 sf of gross floor area. Several smaller anchors, shops and freestanding pads would fill out the remaining square footage. Site Plan Review No. SPR 2009-21 establishes a site plan (Attachment 1), building design, and construction requirements for the proposed shopping center. The multiple conditional use permits (CUPs 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 within the shopping center.

SPR 2009-21 and CUPs 2013-04, 05, 06 & 07 are set to expire February 13, 2025. The City of Madera has received a letter from the applicant dated December 11, 2024 (Attachment 2), requesting a one-year extension for the Site Plan Review SPR 2009-21 and for all previously approved use permits associated with the Foxglove Shopping Center. The letter states the applicant is, “working closely with multiple tenants, including a major tenant,” and that the extensions are requested so the applicant may move forward with the project as soon as a lease with the major tenant is finalized.

If approved by the Commission, the project will have an additional year to commence construction. As there have not been substantive changes in the City’s Zoning Regulations nor have substantial changes occurred with respect to the circumstances under which the project would be undertaken 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.

APPLICABLE CODES AND PROCEDURES

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

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

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

CMC § 10-3.4.0114 provides that all site plan approvals shall be void one year following the date on which approval by the Community Development Director, 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.

CMC § 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 Commission prior to the expiration date of said permit. Upon receipt of a written request for an extension, the Commission shall review the request at its next regularly scheduled meeting.

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 use permit requests for further consideration by the Commission.

ENVIRONMENTAL REVIEW:

The project has previously been subject to an environmental review. An EIR, mitigation monitoring and reporting program, statement of overriding considerations, and related findings for all project components were completed in conjunction with the proposal. As noted above, the EIR was certified by the Planning Commission on February 12, 2013.

At this time, no substantial evidence has been revealed which would provide a basis to determine that changes to the project or its circumstances have occurred, or that new information has become available, which would require a subsequent EIR to be prepared pursuant to the provisions of California Environmental Quality Act (CEQA) Guidelines Section 15162. It is staff's opinion that no further environmental review is required to support the requested one-year extension of the site plan and related CUPs for the project.

CONCLUSION:

The Commission will be acting on a one-year extension for SPR 2009-21 and CUPs 2013-04, 05, 06 & 07, subject to the original project conditions of approval. All required findings for approval under the Municipal Code and law can be made and are described in the proposed Resolution attached to the report (Attachment 3).

ALTERNATIVES:

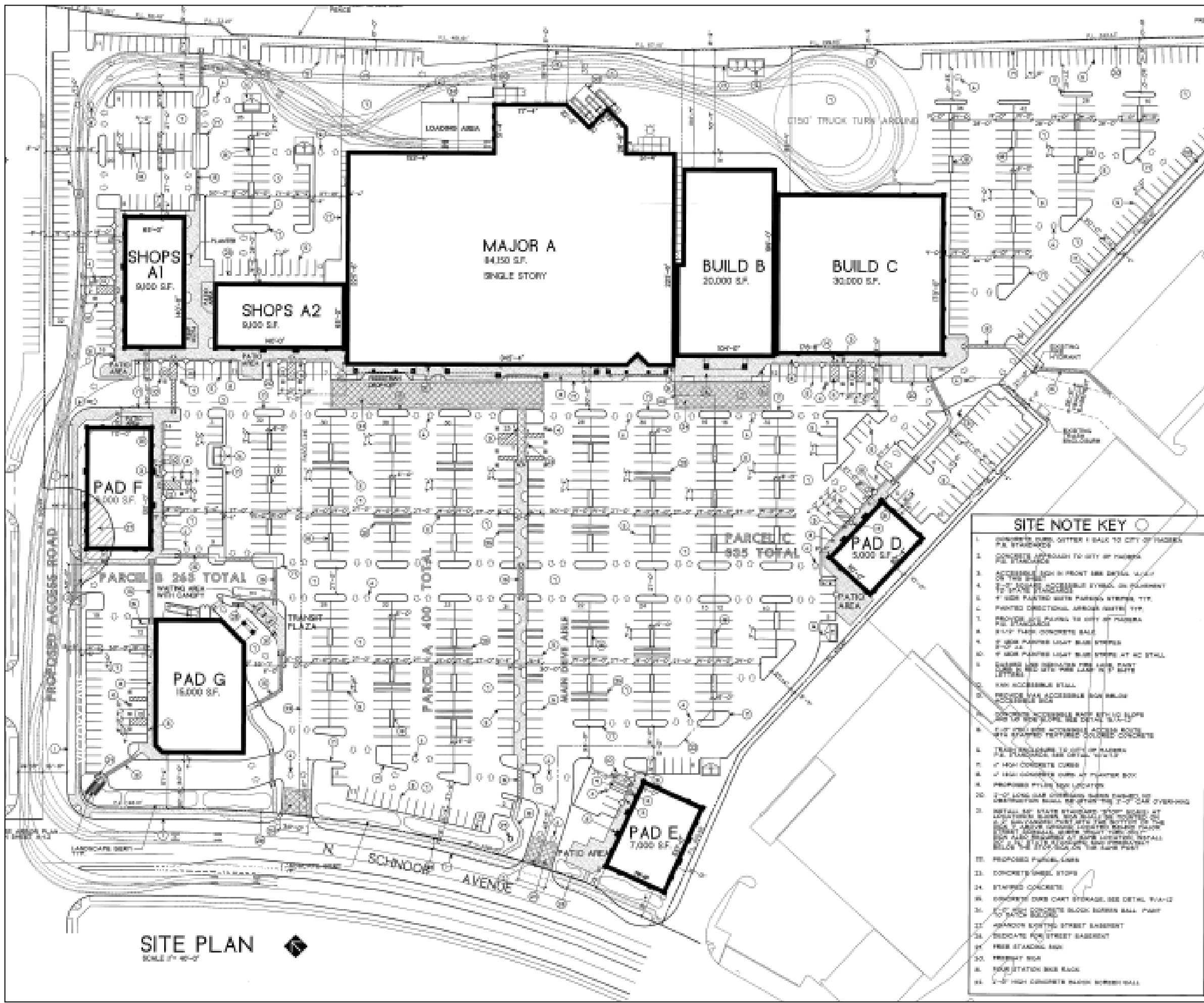
As an alternative, the Commission may:

1. Move to continue the public hearing to a date and time certain or refer the item back to staff with/without direction to staff to provide additional information for consideration.
2. Move to deny the request based on appropriate findings for denial (Commission to specify findings for denial).

ATTACHMENTS:

1. Foxglove Shopping Center Site Plan
2. Zinkin Development Letter of Request for a 1-Year Extension for SPR 2009-21 and for CUPs 2013-04, 05, 06 & 07, dated December 11, 2024
3. Planning Commission Resolution
Exhibit "A" – SPR 2009-21 and CUP 2013-04, CUP 2013-05, CUP 2013-06, and CUP 2013-07 (Foxglove Retail Center) Conditions of Approval as Amended February 12, 2013

ATTACHMENT 1
Foxglove Shopping Center Site Plan



SITE PLAN
SCALE 1" = 40'-0"

- SITE NOTE KEY**
1. EXISTING CURB CUTTER 1 BACK TO CITY OF PADERS FOR REVISIONS
 2. CONCRETE APPROACH TO CITY OF PADERS FOR REVISIONS
 3. ACCESSIBLE RAMP IN FRONT SEE DETAIL 10A-10
 4. 1'-0" HIGH CONCRETE CURB
 5. 4'-0" HIGH CONCRETE CURB AT TRUNK BOX
 6. 4'-0" HIGH CONCRETE CURB AT TRUNK BOX
 7. 4'-0" HIGH CONCRETE CURB AT TRUNK BOX
 8. 4'-0" HIGH CONCRETE CURB AT TRUNK BOX
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ATTACHMENT 2
Zinkin Development
Letter of Request for a one-year extension
for SPR 2009-21 and CUPS 2013-04, 05, 06 & 07,
dated December 11, 2024

SPR 2009-21 EXT 12



ZINKIN

DEVELOPMENT

December 11, 2024

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

Re: SPR 2009-21 / Site Plan Review

Brandi,

The purpose of this letter is to request another 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. 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, 2025. A check in the amount of \$1,650.00 for the extension filing fees is enclosed.

We would appreciate the extension of the CUP and entitlements so that we can move forward with the project as soon as we have finalized a lease with the major tenant. We are working closely with multiple tenants, including a major tenant. Thank you for your time and attention to this matter.

Sincerely,


DeWayne Zinkin

/kc

ATTACHMENT 3
Planning Commission Resolution

Including:
Exhibit "A" – Conditions of Approval

RESOLUTION NO. 2018

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
APPROVING A ONE-YEAR TIME EXTENSION TO EXERCISE RIGHTS GRANTED IN
ACCORDANCE WITH APPROVAL OF SITE PLAN REVIEW NO. SPR 2009-21 AND
CONDITONAL USE PERMIT NOS. CUP 2013-04, 05, 06 & 07**

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

WHEREAS, the Commission of the City of Madera may grant approval of Site Plan Review and Use Permit extension requests for one-year periods of time according to City of Madera Municipal Code (CMC) Sections 10-3.4.0114 and 10-3.1311; and

WHEREAS, the Commission of the City of Madera granted yearly subsequent extensions for the Project Entitlements, at regularly scheduled hearings since February 8, 2013, and most recently at a regularly scheduled hearing on January 16, 2024; and

WHEREAS, the City received written request, prior to the February 13, 2025 expiration date, from the authorized representative of the owner requesting a one-year extension to exercise rights granted by the Project Entitlements; and

WHEREAS, upon receipt of a written request for an extension, the Commission pursuant to CMC Section 10-3.1311 shall review the request at its next regularly scheduled meeting; and

WHEREAS, the City provided notice of the January 14, 2025 Commission hearing as required by law; and

WHEREAS, the Commission received and reviewed the subject extension request at the duly noticed meeting on January 14, 2025; and

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

WHEREAS, the Commission now desires to approve the extension request for the Project Entitlements subject to the original conditions of approval.

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

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA: The 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. The extension of time does not involve any physical changes in the environment and hence does not have the potential, in and of itself, to cause a significant effect on the environment. No substantial evidence has been revealed which would provide a basis to determine that changes to the project or its circumstances have occurred, or that new information has become

available, which would require a subsequent EIR to be prepared pursuant to the provisions of California Environmental Quality Act (CEQA) Guidelines Section 15162. Therefore, the adopted EIR is sufficient and no further environmental review is required.

3. Findings to approve SPR 2009-21 (One-Year 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 EIR prepared for the SPR has been certified by the City and pursuant to the provisions of Section 15162 of the CEQA Guidelines, no further environmental review is required.

4. Findings to Approve Conditional Use Permits 2013-04, 05, 06, & 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 C-2 (Heavy Commercial) zone district.

- b. *The proposed uses permissible by CUPs 2013-04, 05, 06, & 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.

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 Commission hereby approves a one-year extension to the period of time in which rights granted pursuant to the approval of Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06, & 07 must be exercised to February 13, 2026; subject to 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 14th day of January 2025, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Will Tackett
Community Development Director

Exhibit "A" - Conditions of Approval

EXHIBIT "A"

**SPR 2009-21 AND CUP 2013-04, CUP 2013-05,
CUP 2013-06, AND CUP 2013-07
(FOXGLOVE RETAIL CENTER)
CONDITIONS OF APPROVAL
AS AMENDED FEBRUARY 12, 2013**

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 of the 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 limited 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.
 - l. 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 with 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 receptables 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 a 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 the 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 the required path of travel required for the center.

Drive-thru Use (CUP 2013-05)

4. A drive-thru window is proposed for 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...)

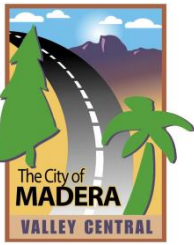
5. Alcohol sales for on-site consumption of beer, wine and spirits, within the shopping center project shall be limited to sale and consumption within restaurant/cafe tenants where alcohol is an accessory component to food service. Alcohol sale for on-site consumption shall be limited to Shops A1 and 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.



REPORT TO THE PLANNING COMMISSION

Prepared by:

Robret Smith, Senior Planner

Meeting of: January 14, 2025

Agenda Number: 2

SUBJECT:

Consideration of a request for a one-year time extension of approval for Conditional Use Permits (CUP 2021-12 & CUP 2021-13) and Site Plan Review (SPR 2021-25) for the Airport Chevron project pertaining to ±1.14 acres of land located on the southwest corner of the Intersection of Avenue 17 and Airport Drive (APN: 013-012-022).

RECOMMENDATION:

Conduct a public hearing and adopt:

1. A Resolution of the Planning Commission of the City of Madera approving a one-year time extension to exercise rights granted in accordance with approval of Conditional Use Permit Nos. CUP 2021-12 & 13 and Site Plan Review No. 2021-25, subject to the findings and conditions of approval.

SUMMARY:

The applicant Manuel Magallon and property owner RKS Properties, have filed an application requesting a one-year extension of Conditional Use Permits (CUP) 2021-12 & 13 and Site Plan Review (SPR) 2021-25 authorizing the use and construction of a new service (gas) station travel center with a convenience store and fast-food drive-through. CUP 2021-12 & 13 authorized the sale of tobacco products and the ability to obtain a California Department of Alcoholic Beverage Control (ABC) Type 20 License (Off-Sale Beer & Wine) in conjunction with the proposed convenience store. The project site is located on the southwest corner of the intersection of Avenue 17 and Airport Drive (APN: 013-012-022).

Conditional Use Permits and Site Plan Review were previously approved at the regularly scheduled Planning Commission meeting held on February 13, 2024. Pursuant to the City Municipal Code (CMC) Sections 10-3.1311(A) and 10-3.4.0114, the respective entitlements must be exercised and shall be considered void unless utilized within 12 months/one year from the effective date of approval. The CMC further provides if the Conditional Use Permit approval is not enacted, the applicant may submit, prior to expiration of the permits, a written request for a one (1) year extension to the Planning Commission. In accordance with CMC Section 10-3.0114, approval of a Site Plan Review may be extended for one-year periods of time, upon written

application to the Community Development Department Director before expiration of the approval.

The approval of the Conditional Use Permits and Site Plan Review remains consistent with the prior proposal, provisions of the CMC and the goals, objectives and policies of the Madera General Plan. Approval will extend the expiration date to February 13, 2026.

An overview of the proposed project is provided in Table 1 below.

Table 1: Project Overview	
<i>Project Number:</i>	CUP 2021-12 EXT, CUP 2021-13 EXT, SPR 2021-25 EXT
<i>Applicant:</i>	Manual Magallon, <i>Magallon Construction Co. Inc.</i>
<i>Property Owner:</i>	RKS Properties
<i>Location:</i>	Vacant 1.14-acre lot on the southwest corner of the intersection of Avenue 17 and Airport Drive.
<i>Project Area:</i>	1.14 Acres
<i>General Plan Land Use:</i>	C (Commercial)
<i>Zoning District:</i>	C-2 (Heavy Commercial)
<i>Site Characteristics</i>	A vacant, flat, rectangular graded lot. Site has exiting public sidewalks along the north (Avenue 17) and east (Airport Way) sides.

BACKGROUND:

On February 13, 2024, the Planning Commission, following a public hearing, adopted Resolution No. 1981 approving CUP 2021-12 & 13 and SPR 2021-25 for purposes of the proposed project.

CMC § 10-3.1311 provides any use permit granted by the City shall be conditioned upon the privileges granted therein being utilized within 12 months after the effective date thereof. Failure to utilize such permit within such 12-month period shall render the permit null and void unless a written request for extension is submitted to the Planning Commission prior to the expiration of the permit. The Planning Commission shall review the request and may grant or conditionally grant an extension as it deems appropriate.

CMC § 10-3.40114 provides a site plan approval shall be void one year following the date on which approval by the Community Development Director or Planning Commission became effective unless, prior to the expiration of one year, 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. Approval may be extended for one year periods of time, upon written application to the Director before expiration of approval.

The current expiration date for CUPs 2021-12 & 13 and SPR 2021-25 is February 13, 2025. No changes have been proposed to the project, or to the previously approved project conditions of approval.

ANALYSIS:

Site Characteristics:

The project site remains vacant. The project site is approximately 500 feet west of the State Route 99 (SR 99) / Avenue 17 interchange southbound ramp (Exit 157) and Avenue 17 intersection. The SR 99 / Avenue 17 interchange is a primary City gateway on the northern fringe of the City. Westbound Avenue 17 serves traffic to and from the Madera Municipal Airport, Airport Industrial Park, Madera Municipal Golf Course. Eastbound Avenue 17 serves traffic to and from the Love’s Travel Center.

Surrounding Land Uses:

Table 2 below summarizes the existing development/uses, and the General Plan land use designations and zoning districts surrounding the proposed project site.

<i>Direction</i>	<i>Existing Use</i>	<i>General Plan Designation</i>	<i>Zone District</i>
<i>North</i>	Vacant	Commercial (C)	C-2 (Heavy Commercial)
<i>Northeast</i>	Gas station & convenience store (AM/PM)	Commercial (C)	C-2 (Heavy Commercial)
<i>East</i>	Hotel (<i>Hampton Inn & Suites</i>)	Commercial (C)	C-2 (Heavy Commercial)
<i>South</i>	Vacant	Commercial (C)	C-2 (Heavy Commercial)
<i>West</i>	Vacant	Commercial (C)	C-2 (Heavy Commercial)

ENVIRONMENTAL REVIEW:

The project has been previously reviewed for compliance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. At the regularly scheduled Planning Commission Meeting on February 13, 2024, the Commission, through adoption of Resolution No. 1981, determined there was no substantial evidence that the project will have a significant effect on the environment and adopted the Negative Declaration (SCH No. 2024010279) prepared for the proposed project in accordance with the provisions of CEQA.

At this time, no substantial evidence has been revealed which would provide a basis to determine that changes to the project or its circumstances have occurred, or that new information has become available, which would require a subsequent EIR or Negative Declaration to be prepared pursuant to the provisions of California Environmental Quality Act (CEQA) Guidelines Section 15162. It is staff’s opinion that no further environmental review is required to support the requested one-year extension of the site plan and related CUPs for the project.

COMMISSION ACTION:

The Commission will be acting on the requested one-year time extensions for CUP 2021-12, CUP 2021-13; and SPR 2021-25. Staff recommends that the Commission:

1. Adopt a Resolution of the Planning Commission of the City of Madera approving a one-year time extension to exercise rights granted in accordance with approval of Conditional Use Permit Nos. 2021-12 & 13 and Site Plan Review 2021-25, subject to the findings and conditions of approval.

ALTERNATIVES:

As an alternative, the Commission may elect to:

1. Move to refer the item back to staff and/or continue the public hearing to a future Commission meeting at a date certain with direction to staff to return with an updated staff report and/or resolution (Commission to specify date and reasons for continuance).
2. Move to deny one or more request based on specified findings: (Commission to articulate reasons for denial).

ATTACHMENTS:

1. Vicinity Map
2. Zoning Map
3. General Plan Land Use Map
4. Elevation Plans
5. Planning Commission Resolution
Exhibit "A" - Conditions of Approval

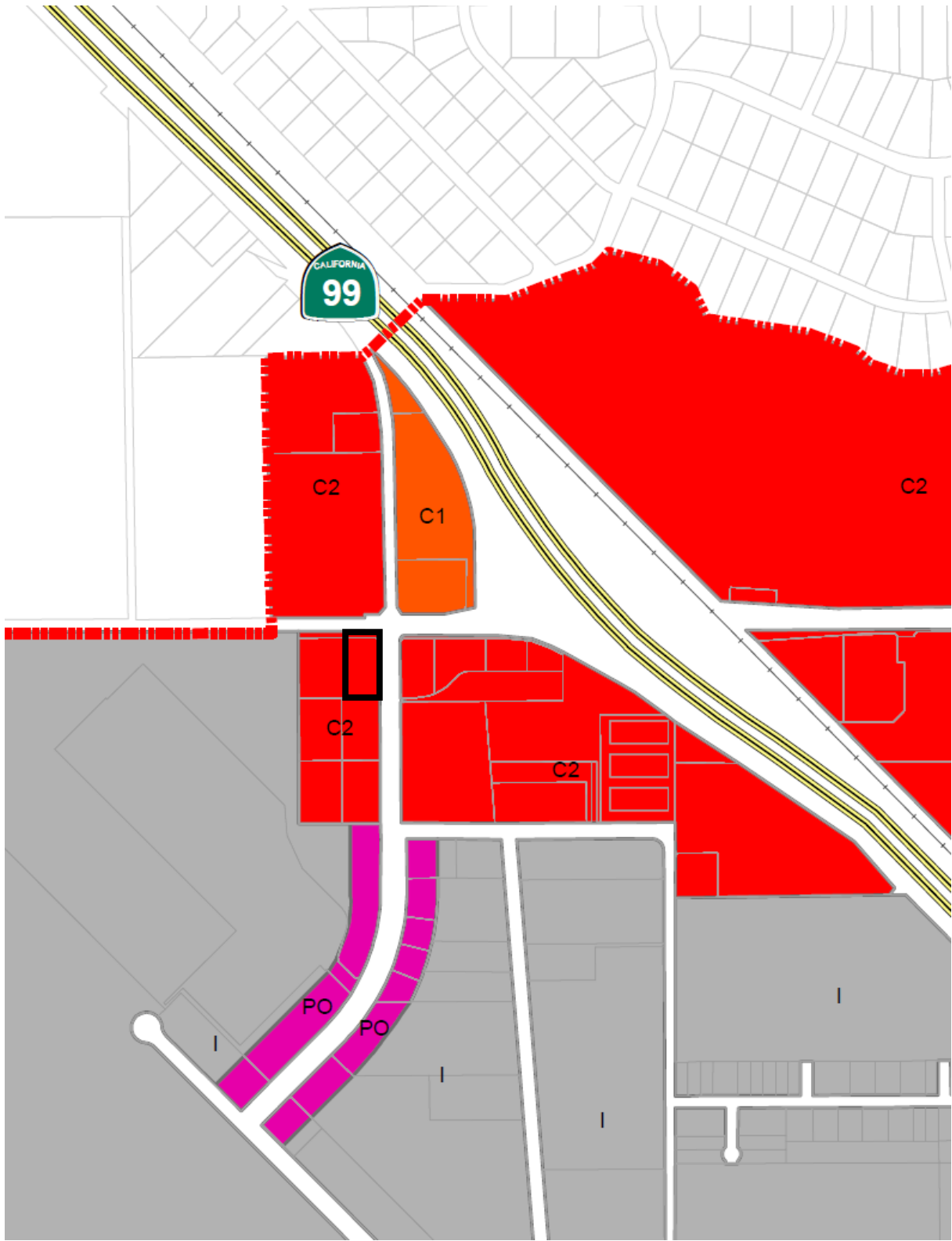
ATTACHMENT 1

Vicinity Map



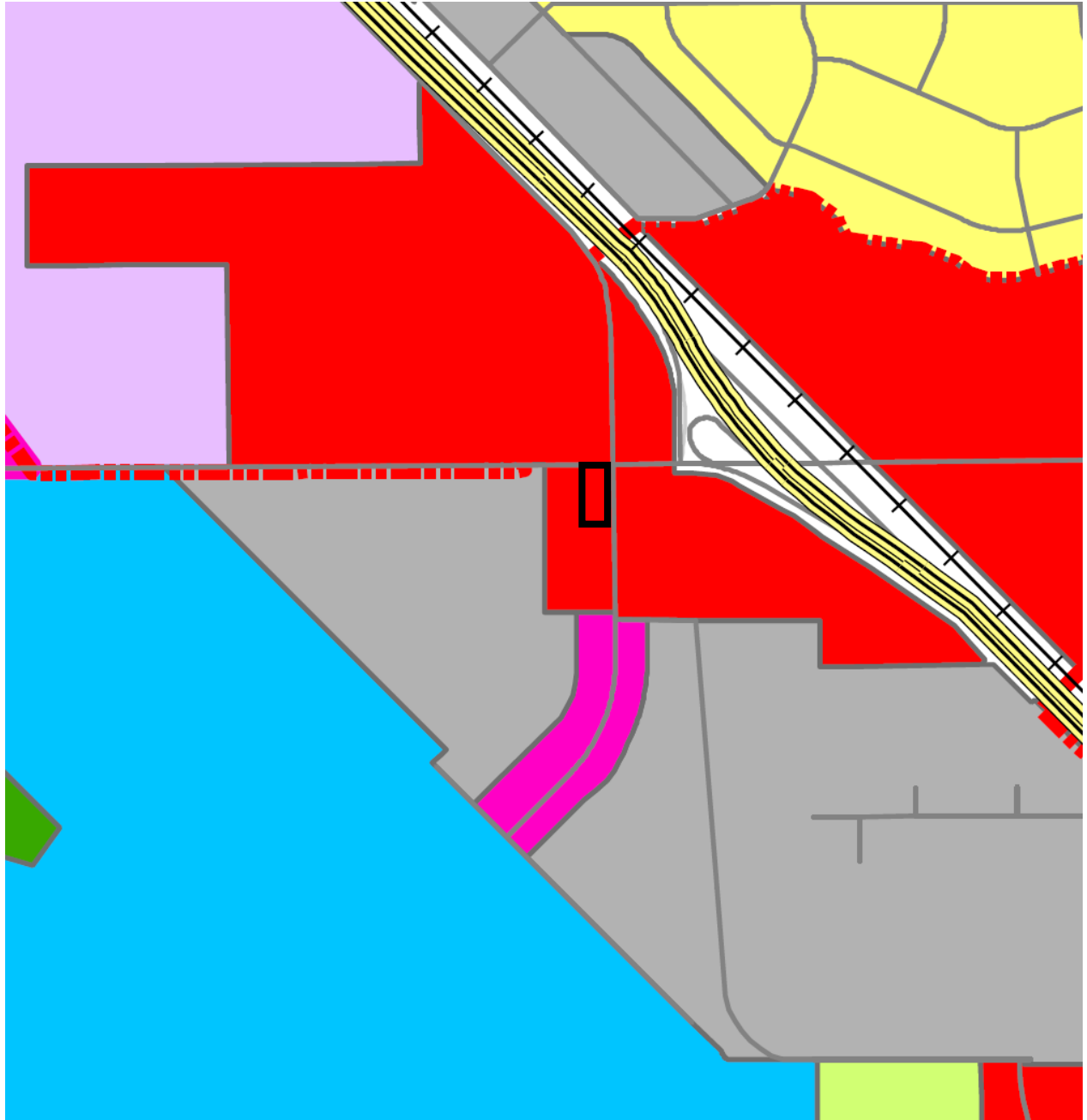
ATTACHMENT 2

City of Madera Zoning Map



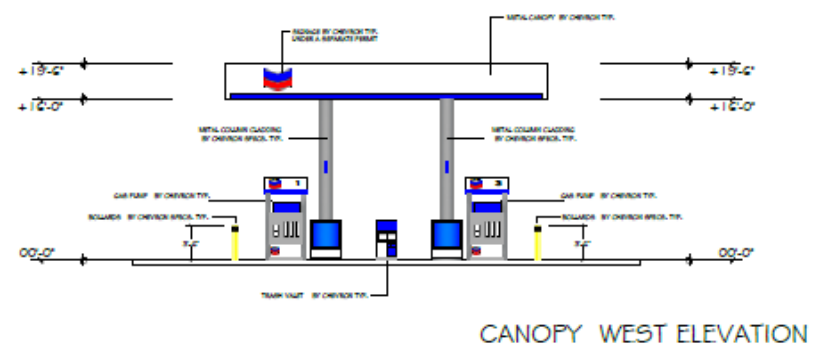
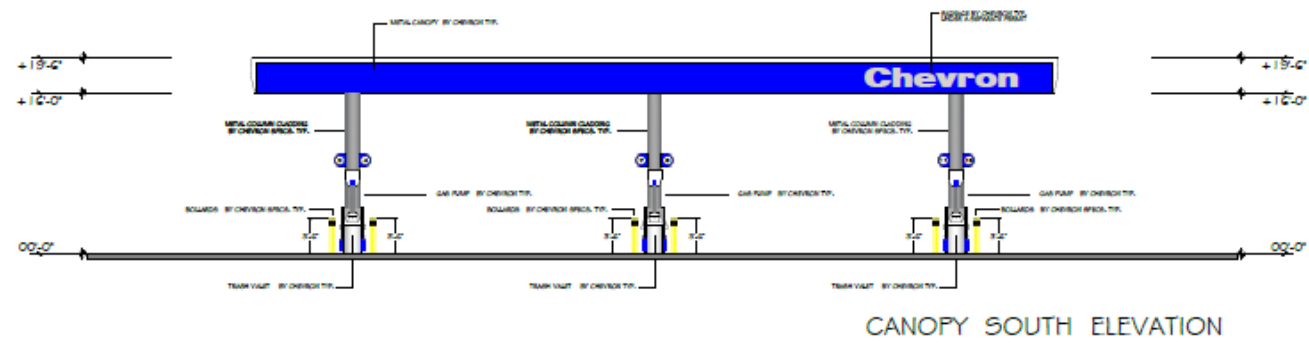
ATTACHMENT 3

City of Madera General Plan Land Use Map



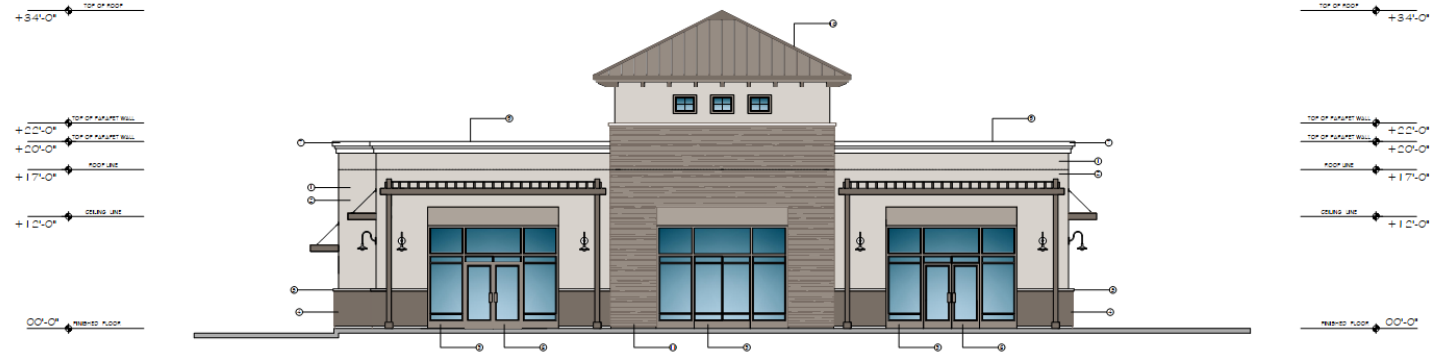
ATTACHMENT 4

Elevations



CANOPY
ELEVATIONS
1/8" = 1'-0"

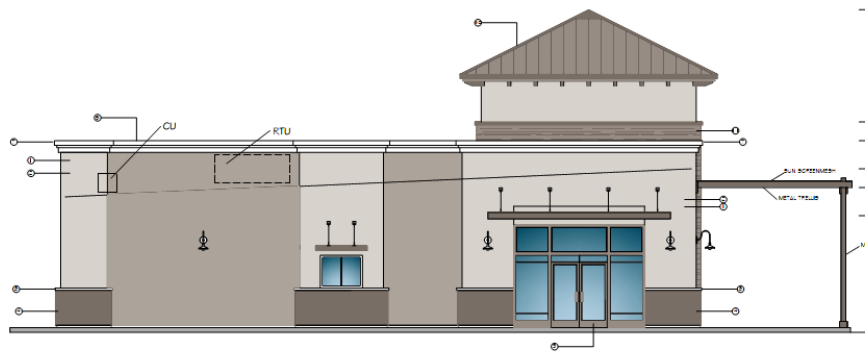
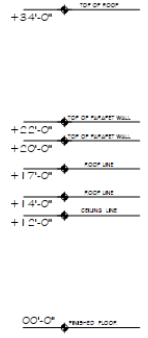
REVISIONS	BY
MAGALLON CONSTRUCTION CO., INC. GENERAL BUILDING CONTRACTORS <i>FOUR DECADES OF BUILDING EXCELLENCE</i> <small>31100 Airport Dr., Madera, CA 93637</small>	
DESIGN & DEVELOPMENT	
CANOPY ELEVATIONS	
CONVENIENCE STORE, GSR & AUTO FUELING FACILITY FOR: COMMERCIAL BUILDING DEVELOPMENT 31100 AIRPORT DR. MADERA, CA 93637	
DATE	05/11/21
SCALE	1/8" = 1'-0"
DRAWN	M. SARKETO
JOB	
SHEET	A 4.3



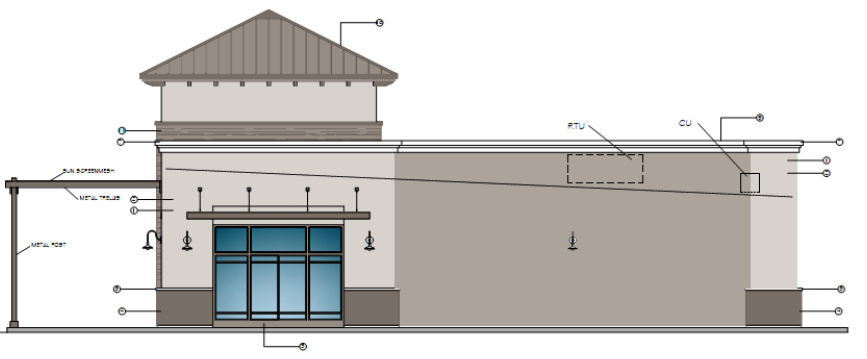
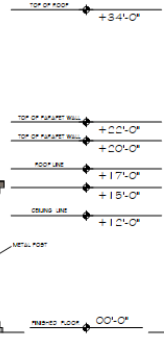
NORTH ELEVATION

EXTERIOR FINISH NOTES

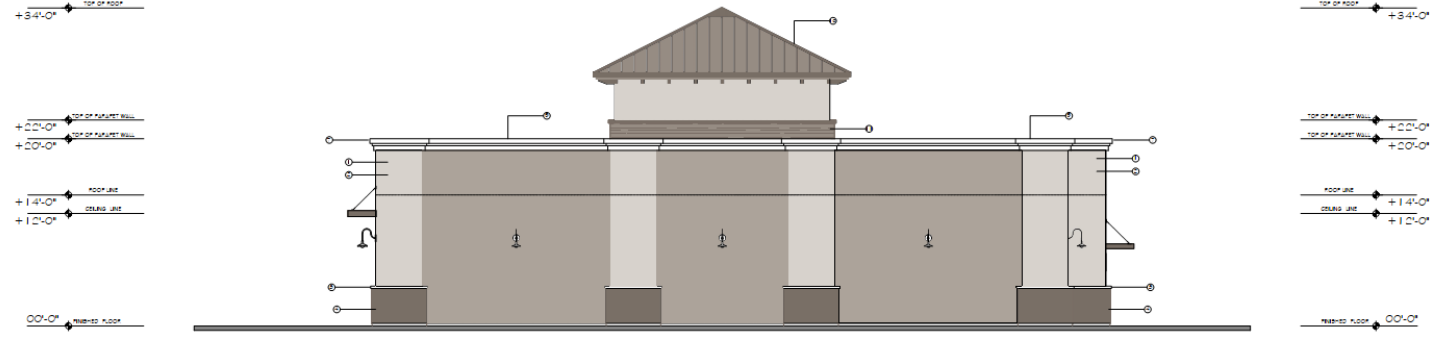
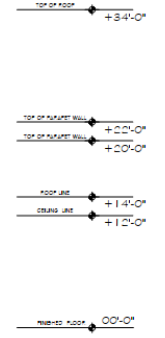
1. PROVIDE 7/8" THICK CEMENT PLASTER OVER METAL LATH OVER TWO LAYERS GRADE 5" PAPER OVER PLYWOOD SHEAR SHEATHING.
2. 3 COAT STUCCO SYSTEM TYP. WITH 2G GA MIN. WEEP SCREED AT SILL MIN. 4" ABOVE GRADE. EGGSHELL CREAM COLOR.
3. 3 COAT STUCCO SYSTEM TYP. WITH 2G GA MIN. WEEP SCREED AT SILL MIN. 4" ABOVE GRADE. FRENCH TOAST COLOR.
4. 3 COAT STUCCO SYSTEM TYP. WITH 2G GA MIN. WEEP SCREED AT SILL MIN. 4" ABOVE GRADE. COCONUT SHELL COLOR.
5. ALUM. STOREFRONT WINDOWS - DARK BRONZE WITH INSULATED DUAL GLAZING.
6. ENTRY DOOR - DARK BRONZE
7. PREFAB. CUSTOM FOAM CROWN SHAPE W/CEM. PLASTER FINISH COAT OVER.
8. CUSTOM FOAM WALL POP-OUT.
9. 2G GA. SHEET METAL CAP FOR WATERTIGHT WALL CAP.
10. METAL ROOF
11. DECOO LEDGE STONE, TO BE SELECTED BY OWNER OR CONTRACTOR.



EAST ELEVATION



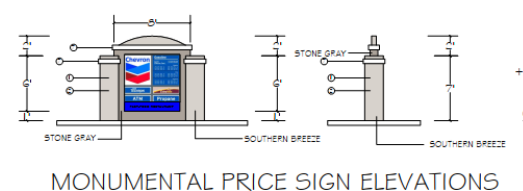
WEST ELEVATION



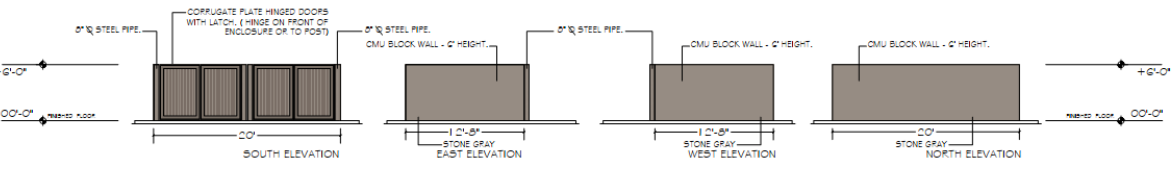
SOUTH ELEVATION

COLOR RENDERING BY CHEVRON

- DRYVIT #592 COCONUT SHELL PER EXHIBIT 'C'
- DRYVIT #108 EGGSHELL CREAM PER EXHIBIT 'C'
- DRYVIT #400 FRENCH TOAST PER EXHIBIT 'C'



MONUMENTAL PRICE SIGN ELEVATIONS



TRASH ENCLOSURE ELEVATIONS

ELEVATIONS

1/8" = 1'-0"

REVISIONS	BY



MAGALLON
CONSTRUCTION CO., INC.
GENERAL BUILDING CONTRACTORS
-FOUR DECADES OF BUILDING EXCELLENCE-
SHELBY LIGONIA, MD. 38034
DESIGN & DEVELOPMENT

C-STORE ELEVATIONS

CONVENIENCE STORE, OGR & AUTO TUNING FACILITY FOR:
COMMERCIAL BUILDING DEVELOPMENT
UNADDRESSED VACANT LOT
MADERA, CA 93637

DATE	0-11-2022
SCALE	1/8" = 1'-0"
DRAWN	M. BARRETO
JOB	
SHEET	A 5.0

ATTACHMENT 5

Planning Commission Resolution for
CUP 2021-12, CUP 2021-13
& SPR 2021-25

Includes Exhibit "A" - Conditions of Approval

RESOLUTION NO. 2019

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
APPROVING A ONE-YEAR TIME EXTENSION TO EXERCISE RIGHTS
GRANTED IN ACCORDANCE WITH APPROVAL OF CONDITIONAL USE
PERMIT NOS. CUP 2021-12 & 13 AND SITE PLAN REVIEW NO. 2021-25**

WHEREAS, RKS Properties (“Owner”) owns approximately 1.14 acres of land located on the southwest corner of the intersection of Avenue 17 and Airport Drive (APN 013-012-022) in the City of Madera, California (the “Project Site”); and

WHEREAS, CUPs 2021-12 & 13 and SPR 2021-25 were previously approved following a public hearing held during the regularly scheduled meeting of the Planning Commission on February 13, 2024 through Commission adoption of Resolution No. 1981; and

WHEREAS, City Municipal Code (CMC) § 10-3.1311(A) states any use permit granted by the city as herein provided shall be conditioned upon the privileges granted therein being utilized within 12 months after the effective date; and

WHEREAS, CMC § 10-3.4.0114 provides a site plan approval shall be void one year following the date on which it was approved unless, prior to the expiration of one year, 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; and

WHEREAS, CMC §§ 10-3.1311(A) and 10-3.4.0114 provide the approvals of a use permit and/or a site plan approval may be extended for one year (12-month) periods of time, upon written request/application to the Planning Commission or Director, respectively, before expiration of the permit and/or approval; and

WHEREAS, approvals for CUPs 2021-12 & 13 and SPR 2021-25 will expire as of February 13 2025; and

WHEREAS, Manuel Magallon of Magallon Construction & Design (“Applicant”), acting as the authorized agent on behalf of the Owner, has submitted timely requests for extensions to the approvals for Conditional Use Permit (CUP) Nos. 2021-12 & 13 and Site Plan Review (SPR) No. 2021-25 (collectively, the “Project”) in accordance with the provisions of the CMC; and

WHEREAS, upon receipt of a written request for an extension, the Commission pursuant to CMC Section 10-3.1311(A) shall review the request at its next regularly scheduled meeting and may grant or conditionally grant an extension as it deems appropriate; and

WHEREAS, this project was previously assessed in accordance with the provisions of the California Environmental Quality Act (“CEQA”) resulting in adoption of a Negative Declaration (SCH No. 2024010279), which was circulated, and made available for public review pursuant to CEQA and the CMC; and

WHEREAS, the City provided notice for the January 14, 2025 Commission hearing as required by law; and

WHEREAS, the Commission received and reviewed the subject extension requests at the duly noticed meeting on January 14, 2025; 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 Commission; and

WHEREAS, the Commission now desires to adopt this Resolution to approve a one-year (12-month) extension of time to the expiration date for the approvals of CUPs 2021-12 & 13 and SPR 2021-25.

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: This project has previously been environmentally assessed. The Planning Commission finds that pursuant to CEQA Guidelines § 15162 subsequent environmental review is not required for the extensions of CUPs 2021-12 & 13 and SPR 2021-25 based on the following:
 - a. No substantial changes are proposed in the project which will require major revisions of the previous Negative Declaration (SCH No. 2024010279) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In this case, the Planning Commission approved the Negative Declaration prior to the adoption of this Resolution. The proposed project is consistent with the same intensity, uses, operations and is exactly as contemplated by the Negative Declaration. As such, extensions of the project approvals for CUPs 2021-12 & 13 and SPR 2021-25 will have the same environmental impacts as assessed in Negative Declaration (SCH No. 2024010279).
 - b. No substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In this case, the proposed project is exactly consistent with and was specifically contemplated by the Negative Declaration (SCH No. 2024010279). Additionally, the CUPs allow for operations in conjunction with the development authorized by the site plan review and as contemplated and analyzed as part of the approval of Negative Declaration (SCH No. 2024010279). The property will continue to be used for the commercial uses as originally contemplated by the Negative Declaration, and there are no new substantial changes in the physical environment that were not anticipated in the Negative Declaration, including its analysis in light of the development contemplated.

c. There is no new information, which was not known and could not have been known at the time of the previous Negative Declaration (SCH No. 2024010279) that the project will have significant effect not discussed in the Negative Declaration. A one-year extension for the approvals for CUPs 2021-12 & 13 and SPR 2021-25 will not have any more significant effects (or potential for significant effects) than that already discussed and assessed in the adopted Negative Declaration and was specifically contemplated by the adopted Negative Declaration. Furthermore, since a Negative Declaration was previously adopted for the project, the considerations set forth in CEQA Guidelines § 15162(a)(3)(C) and (D), related to the adequacy and feasibility of previously adopted mitigation measures, are not applicable.

Based upon these findings, the Planning Commission determines that this project has already been environmentally assessed and no further environmental documentation is required for CUP 2024-18.

3. Findings for CUP 2021-12 EXT Sale of Tobacco and Tobacco Products: This request for a one-year (12-month) extension of time to the expiration date of the use permit approval. The Planning Commission previously finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2021-12, as conditioned:

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

The subject parcel is designated Commercial in the General Plan, and Heavy Commercial (C-2) zoning district. Determination of Use (DOU) 2015-01, September 8, 2015, tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses may be allowed C-2 (Heavy Commercial) Zone District. Conditions of approval control this portion of the use to the extent that it is acceptable. All previous findings remain valid.

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

At the intersection of Avenue 17 and Airport Drive/Golden State Boulevard all adjacent parcels are either within either a Heavy Commercial or Light Commercial zoning districts. The subject property is within a visitor serving commercial area and not near residential areas. The retailer must comply with all applicable federal, state and local laws, including an approved use permit CUP 2021-12, therefore the proposed use would be compatible with the surrounding properties.

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.

Sales of tobacco are governed by numerous existing federal, state, and local regulations. So long as the proposed retailer complies with existing federal, state, municipal law, and terms and conditions of conditional use permit CUP 2021-12, the proposed use permit is not anticipated to result in any detrimental impacts 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.

4. Findings for CUP 2021-13 Beer & Wine Sales to-go (Type 20 license): This request for a one-year (12-month) extension of time to the expiration date of the use permit approval. The Planning Commission previously finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2021-13, as conditioned. With conditions, the project is consistent with the requirements of the CMC. All previous findings remain valid. 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:

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

The subject parcel is designated as a Commercial land use in the General Plan, and Heavy Commercial (C-2) zoning district. CMC § 10-3.803(C)(14) requires approval of a conditional use permit to authorize alcoholic beer and wine to-go (off-premise) sales per the California Department of Alcoholic Beverage Control Type 20 license. The proposed convenience store application for a CA ABC Type 20 license to sell beer and wine to-go would be in compliance with City policy, the General Plan and Zoning Ordinance.

- b. *The proposed use will be compatible with the surrounding properties.*

The property is within a general portion of the city developed with visitor serving commercial, industrial, and aviation-related uses, and is neither located in nor near residential area. The surrounding area is without any sensitive land uses, such as schools, churches, daycare centers, nor public parks. Incidental sale of beer and wine to-go from a convenience store is not anticipated to disrupt nor negatively affect the surroundings.

Additionally, the proposed convenience store and request to support a Type 20 alcohol license (beer and wine, to-go) could be considered a benefit to

travelers staying at nearby service uses, since the convenience store would be conveniently located. City policies endorse pedestrian connectivity between businesses. The proposed convenience store would be able to apply for a CA ABC Type 20 license to sell beer and wine to-go which would be a use compatible with the surrounding properties.

- 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 described in detail above, retail sales of alcoholic beer and wine to-go (off-premise) within the City of Madera is governed by numerous existing federal, state, and local regulations.

So long as the proposed retailer complies with existing federal, state, municipal law, and terms and conditions of conditional use permit CUP 2022-13, the proposed conditional use permit is not anticipated to result in any detrimental impacts 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.

5. Findings for SPR 2021-25: This request for a one-year (12-month) extension of time to the expiration date of the use permit approval. The Planning Commission previously finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2021-25, as conditioned. With conditions, the project is consistent with the requirements of the City Municipal Code, including Section 10-3.4.0106. 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:

- a. *The proposal is consistent with the General Plan and Municipal Code.*

Gas stations, convenience stores, liquor stores (packaged), and fast-food restaurants are all permissible land uses, permitted by-right in Heavy Commercial (C-2) zoning districts. The project proposal have been vetted by Planning staff and numerous peer departments and agencies for compliance with a host of City and other regulations. As proposed and with conditions of approval, the proposal would be consistent with the General Plan and Municipal Code.

- b. *The proposal is consistent with any applicable specific plans.*

The project site is not subject to any specific plans, though the property is governed by the Bratton Properties Subdivision 06-S-09 (2007). All Bratton Properties are governed by the associated Subdivision Improvement Agreement, Reciprocal Access Agreement, Drainage Covenant, CC&Rs, and the Bratton Master Design Guidelines. The proposed project has been reviewed for compliance with originating project and as conditioned, the proposal is consistent with the Bratton Properties development requirements.

- 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 2021-25 has been reviewed and, as conditioned, is consistent with surrounding uses and with all applicable requirements for development in the Heavy Commercial (C-2) zone district including provisions for access to and from the site, drainage, and lighting. As conditioned, the project will not generate unanticipated amounts of additional noise, light, or traffic.

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

Site Plan Review 2021-25 would be developed entirely on private land with access off of a private road. Ample landscaping along the public street frontages is provided, allowing for space should future intersection improvements (roundabout, signalization) require dedication of additional street right-of-way. The proposed project has been deemed not significant under environmental review. As such, the proposal is consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality.

6. Approval of CUP 2021-12 EXT, CUP 2021-13 EXT and SPR 2021-25 EXT: Given that all findings can be made, the Planning Commission hereby approves a one-year (12 month) extension to the period of time in which rights granted pursuant to the approval of CUPs 2021-12 & 13 and SPR 2021-25 may be exercised. CUPs 2021-12 & 13 and SPR 2021-25 must be exercised prior to February 13, 2026, 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 14 day of January 2025, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Will Tackett
Community Development Director

Exhibit "A" – Conditions of Approval

Exhibit "A"
Conditional Use Permit CUP 2021-12 Sale of Tobacco and Tobacco Products,
Conditional Use Permit CUP 2021-13 Sale of Beer & Wine To-Go (Type 20 License)
and Site Plan Review SPR 2021-25, (Airport Chevron Gas Station & Convenience Store, and
Fast-Food Restaurant with Drive-Thru Service)
Conditions of Approval
January 14, 2025

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 2021-12 (Sale of Tobacco and Tobacco Products), CUP 2021-13 (Sale of Beer & Wine To-Go, Type 20 License) will ultimately be deemed mandatory unless appealed by the applicant to the City Council within Ten (10) days after the decision by the Planning Commission. Approval for SPR 2022-25 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 Planning Department a check in the amount necessary to file a Notice of Determination at the Madera County Clerk. This amount shall equal the Madera County filing fee in effect at the time of filing. The applicant must submit a check for California Fish and Wildlife CEQA filing fee. Such checks shall be made payable to the Madera County Clerk and submitted no later than three (3) days following action on CUP 2021-12 (Sale of Tobacco and Tobacco Products), CUP 2021-13 (Sale of Beer & Wine To-Go, Type 20 License), and SPR 2022-25.
- 3) The two conditional use permits CUP 2021-12 & 13 were filed, processed, and heard concurrently. As such, CUP 2021-12 (Sale of Tobacco and Tobacco Products) and CUP 2021-13 (Sale of Beer & Wine To-Go, Type 20 License) shall collectively 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 use permits, or the required action is taken to extend the approval before the expiration date (CMC Section 10-3.1311, *Termination and Revocation*).

- 4) SPR 2022-25 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 (CMC 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 approved subject to the conditions noted herein. Minor modifications to the approved SPR 2022-25 necessary to meet regulatory, engineering, or similar constraints may, at the discretion of the Planning Manager, be undertaken without an amendment to CUP 2021-12 and/or 13 and SPR 2022-25. However, should the Planning Manager determine that modifications are substantive, they may require that an amendment to CUP 2021-12-and/or 13 and SPR 2022-25 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 2021-12 & 13 and SPR 2022-25 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

- 11) Conditions within this section supersede conditions previously set for Bratton Properties Subdivision, TSM 2006-04 and CUP 2006-14, unless otherwise noted.
- 12) *Before issuance of a building permit*, the proposed project shall revise all structures' (building, fuel canopy, refuse enclosure, monument sign) architectural representation of façade details, building embellishments, colors, materials, and finishes for plan review and approval by the Planning Department for compliance with the approved Bratton Master Design Guidelines governing the subject property. Required modifications include but are not limited to:
- (1) Incorporating cornice treatments to complement those shown on the Bratton Master Design Guidelines Exhibits 'A' & 'B'.
 - (2) Revising the proposed color scheme to complement those shown on the Bratton Master Design Guidelines Exhibit 'A' and submitting a full materials and color sample board with manufacturers references for samples where relevant.

- (3) Inclusion of architectural details, window and roof forms, as well as materials, textures and colors matching those of the existing Hampton Inn & Suites.
- (4) As listed below.

The following facts and factors shall guide the architectural submittal and review response:

- a) The subject property is Lot 4 of the approved Bratton Properties Subdivision 06-S-09, and governed by the associated Subdivision Improvement Agreement, Reciprocal Access Agreement, Drainage Covenant, CC&Rs, and the Bratton Master Design Guidelines. These Design Guidelines provide a clear and cohesive design intent.
 - b) The purpose of the Bratton Master Design Guidelines is to ensure that projects within the commercial center are developed in a cohesive fashion that creates an apparent integration of facilities and features, such as circulation, pedestrian connections, landscaping, architecture, signage, and lighting. Individual uses/buildings should be allowed their own unique identity but still be identified with the other uses. Architecture and colors should be complementary and not discordant. Individual review of buildings will be considered in light of the balance of the Center.
 - c) As the existing Hampton Inn & Suites is the sole development in the 8-lot Bratton Properties, this site, building, and landscaping sets the example to meet for design consistency.
 - d) Review and approval, prior to building permit issuance, of the revised project shall include, but not be limited to, the following Bratton Master Design Guidelines excerpts.
 - i) *"Four-Sided Architecture: All facades shall be designed with architectural elements, material and massing changes, roofline variations, decorative/articulated entries, and pedestrian scale elements (benches, awnings, trellises, lighting, etc) to break-up and mitigate long, plain facades as well as provide architectural interest in accordance with attached Exhibit 'A'."*
 - ii) *"Each building shall incorporate cornice treatments to complement those shown on the attached Exhibits 'A' & 'B'."*, including materials board.
 - iii) *"The primary building colors throughout the development shall be complementary to those shown on attached Exhibit 'A'."*
 - iv) *"Buildings should relate to each other in terms of orientation, height, scale, setback mass, details, window and roof forms, as well as materials, textures and colors"*.
 - v) *"All pedestrian walkways shall be constructed of patterned concrete."*
 - vi) *"All [refuse] enclosure shall be adequately screened with landscaping, fencing, berms or other devices integral to the overall site and building design."*
- 13) Landscaping. *Before issuance of a building permit*, a detailed landscaping and irrigation plan shall be prepared by a licensed landscape architect, stamped and submitted to and approved by the Planning Department. The plan shall include:

- a) Demonstration of compliance with the State of California's Model Water Efficient Landscape Ordinance.
 - b) Landscaped areas shall be developed along all street frontages, in undeveloped areas of the property and within the parking field.
 - c) Landscaping areas throughout the project shall be landscaped so as to provide a minimum of 70% vegetative cover. Local California native draught tolerant species shall comprise a minimum of 75% of all plantings and, succulents shall not exceed 15% of all planting areas.
 - d) On-site landscaping shall comply with CA Green Building Code § 5.106 *Nonresidential Mandatory Measures*.
 - e) Shade trees shall be planted throughout the parking lot, with a minimum of one tree per three parking spaces. Trees are required to be selected on their ability to provide shade and extensive canopies. Open parking areas shall have landscaped trees wells at a minimum of 27' on center.
 - f) Three-foot-high vertical landscaping screens shall be developed between the street frontages and parking areas. The vegetation hedge shall act to screen traffic and adjacent property from potential headlight glare from these parking spaces and queuing lanes serving the commercial development.
 - g) Landscaped areas are to be provided with permanent automatic irrigation systems.
 - h) A detailed planting list for landscaping, with the number, size and species of all plantings shall be included as part of the approved plan.
 - i) Grass turf landscaped areas shall be planted with draught tolerant grasses and limited in space to the largest extent possible.
 - j) Annotations on the plans and landscaping positioning showing that all trees and brush planted within any Public Utility Easement shall maintain a minimum distance of 5-feet from existing underground facilities.
- 14) Landscaping. *As an ongoing measure*, the property and all landscaping must be maintained in a neat and healthy condition and in a manner that prevents adverse public health, safety, and welfare effects.
- a) Before the final inspection and/or occupancy, all graded & disturbed areas on the subject site shall be planted and maintained for both landscaping and erosion control purposes. In as much as possible, plantings should be of native native/drought resistant plant species indigenous to the San Joaquin watershed of the Central Valley. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize

or persist on the site. No plant species listed as a “noxious weed” by the State of California, or the U.S. Federal Government shall be utilized within the property.

- b) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- c) Tree topping, stubbing, coppicing, heading back or pollarding is prohibited per City policies and does not comply with California State Government Code § 53067.
- d) Tree pruning shall comply with the Tree Care Industry Associations’ ANSI A300 Standards. Any pruning shall refrain from removing more than 25% of the foliage of a single branch and shall refrain from removing more than 25% of the total tree foliage in a single year.
- e) Shrubs shall not be pruned into hedges.
- f) The irrigation system must be located, installed, and maintained as specified per the approved plans and operated to facilitate sound water conservation practices.
- g) Mulch applied to the site must be organic, pest, and weed free to a depth of at least 4 inches and renewed at regular intervals in preparation for “wet season(s)”. Synthetic (i.e., rubber crumb) mulch is prohibited.
- h) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

15) Outdoor Lighting. *As an ongoing measure,*

- a) 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 (excepting true neon lighting).
- b) All outdoor luminaires shall be dark-sky compliant, requiring full-cutoff lamp fixtures that shall shield any direct visibility of the luminaire and, all lamps shall be directed straight downward, without any lamp head tilt, per MMC § 10-6.03.
- c) Maximum luminaire mounting height shall be no more than 20-feet, measured from grade at the base. Poles, concrete bases, and fixtures should be appropriate in scale for the buildings and lot.
- d) Lamps shall have a color temperature of no more than 3,000 Kelvins, meet the target of 2.0 foot-candles or lower, have a uniformity ratio (max to min 4:1), and an S/P ratio < 1.2.
- e) Photocells shall prevent day burners (lamps on during daytime).
- f) Motion sensors shall dim the lamps to 10% or less during evening hours when the business is open and ramp up when motion-activated. Be sure to restrict the motion

sensor within the parking and drive aisle only. Sensors shall not be triggered by motion on nearby streets and sidewalks.

- g) All outdoor illuminated signs shall comply with the City Municipal Code, Chapter 6: *Sign Regulations*, including by not limited to, § 10-6.03 (e.g., maximum of 10 foot-candles at 10-foot distance, screening of luminaires, and elimination of light trespass).
- h) Nuisance on-site lighting shall be redirected as requested by the City within 48 hours of notification. The developer shall contact the Planning Department when all site lighting is operational. At this time, additional light screening may be required.

16) Building HVAC & Apparatuses. *As an ongoing measure:*

- a) All electrical and mechanical equipment shall be located in the interior of the proposed structure within electrical/mechanical service room(s). No electrical or mechanical equipment shall be located on or around the exterior of the structure. Transformers may be mounted on pads, per the approval and direction of the Planning Manager.
- b) When HVAC equipment is roof-mounted, all equipment placements shall be completely screened from view and architecturally integrated into the roof using roof wells or continuous building perimeter fascia screening. If ground mounted, all HVAC equipment shall be completely screened by a six-foot (6') enclosure constructed so as to match the primary color and material of the structure.
- c) Natural gas meter placement shall be screened from public view per Planning Department approval.
- d) Roof access ladders shall be located within the interior of the building.
- e) Future placement of roof-mounted equipment, which is not part of this site plan approval, may require amendment to the Site Plan Review.
- f) All ducts and vents penetrating roofs shall be directed away from the front of public entrance side(s) of the building using methods to minimize their appearance and visibility from the street. Placements preferred at rear sides of roof ridges. All roof-mounted ducts and vents to be painted matte black or with a color better suited to minimize their appearance.
- g) Fire sprinkler risers shall be located within the interior of the building or located out of public view. Locations shall be approved by the Planning Department prior to the issuance of building permits.

17) Outdoor Sound & Noise. *As an ongoing measure:*

- a) The subject site shall refrain from generating amplified sound, such as outdoor speakers broadcasting music, radio stations, etc., and any fuel pumps integrated video

screens shall be prohibited from broadcasting any amplified sounds (i.e., operate in a silent mode).

- b) Communication relays for the gas pumps attendant call button and drive-thru menu order station are allowed.

18) Alcoholic Beverage Sales. *As an ongoing measure:*

- a) Cooler doors for alcoholic beverage products will be locked during hours when alcoholic beverages may not be sold.
- b) The sale of beer shall occur in packs of six or greater. However, 24-ounce bottled imported and/or specialty craft beers not normally sold in multi-package containers may be sold individually.
- c) The sale of 32-ounce to 40-ounce beer and malt beverage products shall be prohibited.
- d) The sale of wine coolers shall occur in no less than packs of four (4).
- e) The sale of wine shall not be sold in containers less than 750 ml.
- f) No malt liquor or fortified wine products shall be sold.
- g) No display of alcohol shall be made from an ice tub, barrel or similar container.
- h) No sale or distribution of alcoholic beverages shall be made between 2:00 am and 6:00 am, or at any time from a drive-up or walk-up window.

19) Merchandise & Advertising. *As an ongoing measure:*

- a) Outdoor display of merchandise for sale is prohibited, any temporary outdoor display of merchandise for sale, including vending machines, shall not occur without the approval of a Zoning Administrator Permit.
- b) There shall be no exterior advertising or signs of any kind or type placed in the exterior windows or door of the premises promoting or indicating the availability of alcoholic beverages. Signs promoting alcoholic beverages shall not be visible from the exterior of the structure.
- c) All indoor display(s) of alcohol beverages shall be located at least five (5') feet away from the store entrance.
- d) No promotional signage and/or displays promoting alcohol, tobacco and/or tobacco related products shall be utilized in any way.
- e) No adult magazines or videos shall be sold

20) Property Maintenance. *As an ongoing measure:*

- a) 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 trash enclosure owned by the property owner.

- b) Vandalism and graffiti that is detrimental or damaging to the proposed use or visible from adjacent properties or the street shall be corrected within 24 hours of notification.
- 21) Avigation Easement. *Before issuance of a building permit*, the applicant shall submit an avigation easement in compliance with Specific Plan No. 1 as required by the Airport Master Plan to the Community Development Director for review and approval prior to recording. The approved easement shall, subsequently, be recorded in conjunction with a right to farm covenant. Notification shall be provided in the future to all brokers licensed to do business in Madera County of the existence of these documents prior to recording any final map on the property.
- 22) Public Art. Prior to issuance of building permits, the Planning Commission shall review and approve the proposed public art component of the project. *Before the issuance of a Certificate of Occupancy*, the public art component must be fully installed as determined by the Planning Commission during the entitlement hearing for this project. Note that separate building permits may be necessary for installation purposes.

Fire Marshall / Department

- 23) The subject property and structure shall adhere to and make any necessary improvements to comply with the California Building Code as determined by the Fire Marshal, including but not limited to:
 - a) 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, and the fueling system as applicable.
 - b) A Knox Box must be provided for access.
 - c) Fire Lanes are required at the site and must be clearly posted.
 - d) The landscaping may not interfere with access to the existing fire hydrants or FDCs.
 - e) Panic hardware may be required.
 - f) The occupant load must be posted and plainly visible.
 - g) Any propane sales or storage must comply with the CFC. This includes any interior "cylinder exchange" areas.
 - h) Fire extinguisher placement shall comply with the CFC.
 - i) The address shall be posted and plainly visible from the street.
 - j) Vapor recovery system is required. Its placement is not shown on the plans but must comply with the CFC.

Engineering Department

GENERAL

- 24) Deferrals are not permitted for any condition included herein, unless otherwise stated.
- 25) Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
- 26) Development Impact fees shall be paid at time of building permit issuance.
- 27) 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.
- 28) Improvement plans signed and sealed by an engineer shall be submitted to the Engineering Division in accordance with the Civil Improvements Submittal Checklist.
- 29) The improvement plans for the project shall include the most recent version of the City's General Notes.
- 30) The Developer is responsible to confirm whether existing and/or proposed utilities will be in conflict with the proposed improvements. The developer shall coordinate with any impacted utility to resolve the conflict(s).
- 31) In the event archeological resources are unearthed or discovered during any construction activities on site, construction activities shall cease, and the Community Development Director or City Engineer shall be notified so that procedures required by state law can be implemented.
- 32) Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.
- 33) All off-site improvements shall be completed prior to issuance of final occupancy.

WATER

- 34) Conditions within this section supersede conditions previously set for Bratton Properties Subdivision, TSM 2006-04 and CUP 2006-14, unless otherwise noted.
- 35) 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.

- 36) A separate water meter and backflow prevention device will be required for landscape area.
- 37) In the event water meters are not installed within City right of way, an easement shall be dedicated for on-site water meter(s) with an access easement providing for full vehicular access and parking during City inspection or maintenance of said water meters. Easement shall note that all facilities other than said water meters will be privately owned and maintained.
- 38) Existing water service connections that will not be used for the project shall be abandoned at the mains per City of Madera standards.
- 39) 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

- 40) Conditions within this section supersede conditions previously set for Bratton Properties Subdivision, TSM 2006-04 and CUP 2006-14, unless otherwise noted.
- 41) New or existing sewer service connection(s) shall be constructed or upgraded to current City standards.
- 42) Existing sewer service connections that will not be used for the project shall be abandoned at the mains per current City of Madera standards.
- 43) Sewer main connections six (6) inches and larger in diameter shall require manhole installation.
- 44) Existing septic tanks, if found, shall be removed, permitted, and inspected by City of Madera Building Department.

STORM DRAIN

- 45) Conditions within this section supersede conditions previously set for Bratton Properties Subdivision, TSM 2006-04 and CUP 2006-14, unless otherwise noted.
- 46) Storm runoff from this project site is planned to go to the Airport 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.

- 47) In lieu of the previous condition, the developer shall be permitted to retain the existing temporary basin located on Parcel 6 of the Bratton Properties Subdivision No. 06-S-09. Calculations shall be provided documenting the ability of the basin to accommodate runoff from this project in addition to the existing hotel or the areas it is intended to serve. Regardless of direction chosen, the permanent basin shall be excavated. All material shall be placed in a location chosen by the Madera Irrigation District.
- 48) The existing temporary basin shall either be relocated to the parcel included on the original Avenue 17 and Airport Drive plans dated July 5, 2007, and referenced in the State of Covenants Affecting Land Development – Temporary Drainage Facilities (Covenant) or the Covenant shall be revised to address its current location.
- 49) 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

- 50) Conditions within this section supersede conditions previously set for Bratton Properties Subdivision, TSM 2006-04 and CUP 2006-14, unless otherwise indicated.
- 51) 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.
- 52) Curb access ramps shall be constructed at all curb returns in accordance with current City and ADA standards.
- 53) All existing curb access ramps abutting the project parcel shall be removed and reconstructed or modified, as necessary, to current City and ADA standards.
- 54) Access to site along Airport Drive shall be limited to the existing driveway approach immediately south of the project parcel to adhere to minimum spacing requirements from the intersection of Avenue 17 and Airport Drive.
- 55) The developer shall provide an updated traffic study from that dated February 3, 2006, which addresses and mitigates impacts of the development and any comments resulting from a review thereof.

56) Based on the revised traffic study conducted by Peters Engineering Group. dated October 17, 2023, the developer shall construct a minimum two-lane roundabout at the intersection of Avenue 17, Airport Drive and Golden State Boulevard/Airport Drive in accordance with the conceptual roundabout design approved by Caltrans in the Intersection Control Evaluation (ICE) report prepared by Peters Engineering Group for the North Fork Casino. As the General Plan and the Vision 2025 Plan encourage pedestrian and bicycling activities, the roundabout shall incorporate enough pavement width to accommodate bicycles while Avenue 17 and Golden State shall provide sufficient pavement width for two twelve-foot travel lanes and a bike lane. The roundabout shall transition into existing improvements on all approaches to the roundabout and/or should anticipate the ultimate design width of 80-feet on the north-south approaches or 100-feet on the east-west approaches.

Roundabout improvements shall be reimbursed as follows if construction occurs as part of this project's off-site improvements:

- For those improvements within Avenue 17, any roundabout associated improvements within the equivalent arterial street cross section width of the three center travel lanes (one westbound lane, one center turn lane and one eastbound lane) totaling 40-feet total) are reimbursable through the arterial street and arterial median impact fees.
- For those improvements within Golden State or Airport Drive, any roundabout associated improvement within the equivalent arterial street cross section width of the three center travel lanes (one northbound lane, one center turn lane and one southbound lane totaling 36-feet total) are reimbursable through the arterial street and arterial median impact fees.
- Roundabout (Improvements central to the intersection itself and splitter islands on all approaches) are reimbursable through the traffic signal impact fees.
- Roundabout (Equivalent frontage improvements on northeast, southeast and southwest quadrants to the intersection) are reimbursable through the traffic signal impact fees.
- Subject to impact fees not being available or eligible, property owners on the southeast and southwest quadrants of Avenue 17 and Golden State will be responsible for reimbursement of improvement costs for those items that are constructed along their project frontage.
- Reimbursement by the City using impact fees would also be adjusted to account for any contribution received from property owners on the southeast and northwest quadrants of Avenue 17 and Golden State with the maximum reimbursement not exceeding the actual cost minus the total of all amounts provided by other sources.
- A minimum of three bids shall be secured for off-site reimbursements that are subject to reimbursement.

- Developer may assign its rights to reimbursement from the City to third parties as further defined and required in a reimbursement agreement.

At present, it is anticipated that another project will construct the subject roundabout at Avenue 17 and Airport/Golden State in advance of this project. As such, should this occur as anticipated, the preceding discussion would be nullified in lieu of the requirement that this project shall participate in 50% of the cost of constructing said roundabout. The actual percentage may be adjusted subject to other developments that may be required to participate in the cost. Representatives from this project would cooperatively work together with representatives of the other project to ensure construction of said roundabout.

The developer may enter into a reimbursement/ deferral agreement with the City which allows the developer to complete an operational roundabout following occupancy of the project within six months of gaining occupancy rather than at time of occupancy. Said agreement may provide for extensions by the City Engineer, with the developer able to appeal the decision of the City Engineer to the City Council if the extension is denied. Additionally, if certain improvements are not capable of being improved solely due to the developer being unable to acquire right-of-way from a third party, the agreement may also provide for a process for the City to acquire said right of-way (including by eminent domain), and if the City chooses not to do so, a process by which the developer may deposit the estimated cost of said acquisition and improvements with the City to satisfy the condition to install the affected improvement.

- 57) The Developer shall pay its Project Fair Share amount for roundabout improvements at the Caltrans ramp locations based on the higher of the AM or PM if both peak hours are projected to operate at a deficient Level of Service (LOS) or the lower if it corresponds to only one peak hour being considered to have a deficient LOS. The dollar value is based on the estimated cost of constructing roundabouts at the locations shown in the draft Intersection Control Evaluation – State Route 99/Avenue 17 Interchange study dated April 8, 2022. At present, said amounts (subject to change based on final study) are:
- a) Avenue 17 and SB Offramp – 3.57% (based on PM peak hour) of the estimated construction cost of \$1,837,936 for a total of \$65,614.
 - b) Avenue 17 and Northbound Ramp – 1.95% (based on PM peak hour) of the estimated construction cost of \$2,289,721 for a total of \$44,650.

Note – The above amounts are based on the corrected percentages from Table 13 of the traffic study and the latest cost information that City is aware of. Caltrans reserves the privilege of adjusting the roundabout costs and therefore the participation amounts.

- 58) The Developer shall address and comply with Caltrans comments in the most up to date Caltrans review, or as may be agreed upon between the developer or the developer's traffic engineer and Caltrans for the purpose of confirming the mitigation measures

recommended in the traffic study remain valid. At present, this letter may still result in the need to provide revised Sidra analysis.

- 59) The developer shall annex into and execute such required documents that may be required to participate in Landscape Maintenance District Zone 51 for the purpose of participating in the cost of maintaining landscape improvements within said zone.

DRY UTILITIES

- 60) 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.

Madera County Environmental Health Division

- 61) The project shall be served by a public water system. Water services for any structure(s), within this development must be connected to an approved public water system and approved by MCEHD and/or State Division of Drinking Water (DDW).
- 62) Any structure, regardless of use, that produces wastewater shall have adequate wastewater treatment and disposal as required by the California Plumbing Code Appendix H and Madera County Code Title 13. Wastewater dispersal shall either be accomplished by means of an approved advanced onsite wastewater treatment system or connection to a public/community sewer. If the project is located within 200 feet of a public sanitary sewer it shall connect to the sewer system [CMC 13.54.070].
- 63) MCEHD food facility plan check will be required for review and approval prior to construction.
- 64) MCEHD Underground Storage Tank (UST) plan check will be required for review and approval prior to construction.
- 65) The facility will be regulated under the Hazardous Material Business Plan (Article I, Chapter 6.95, of the California Health & Safety Code). As of January 2013 all CUPA regulated businesses must submit their Hazardous Material Business Plan electronically into the California Environmental Reporting System (CERS) at: www.cers.calepa.ca.gov
- 66) The owners/operators of this facility must complete a Business Activities Declaration with the CUPA Program within this Division and may be required to obtain other related permit(s) due to the possible storage/handling of reportable quantities of hazardous materials onsite or for ANY amounts of hazardous waste onsite at any time. Contact a

CUPA program specialist within this Division for any questions that you may have during this process.

- 67) The construction and then ongoing operation must be done in a manner that shall not allow any type of public nuisance(s) to occur including but not limited to the following nuisance(s); Dust, Odor(s), Noise(s), Lighting, Vector(s) or Litter. This must be accomplished under accepted and approved Best Management Practices (BMP) and as required by the County General Plan, County Ordinances and any other related State and/or Federal jurisdiction.
- 68) During the application process for required County permits, a more detailed review of the proposed project's compliance with all current local, state & federal requirements will be reviewed by this Division. The owner/operator of this property must submit all applicable permit applications to be reviewed and approved by this Division prior to commencement of any work activities.

California Department of Transportation – District 6 Office

- 69) *Before the issuance of a certificate of occupancy*, the applicant must pay in full to Caltrans the total project fair share cost in effect at time of payment, as described below. Evidence of payment in full must be validated by City of Madera Engineering Division.
 - a) It is expected that the proposed project could potentially impact nearby SR 99 facilities and local roads. Data provided in the Institute of Transportation Engineers (ITE) Trip Generation, 11th Edition, were used to estimate the number of trips generated by the project. It is estimated that the project (convenience store with 6 fueling position and fast-food restaurant with drive-thru service) could potentially generate 217 PM peak hour trips.
 - b) It is further estimated that 77 trips of the project trips would impact SR 99 / Avenue 17 interchange. The trip distribution was estimated based on the Traffic Impact Study (TIS) for the Love Travel Center located on the southeast quadrant of SR 99 / Avenue 17 interchange. Internal trips and pass-by trips reduction and 50% distribution trips at the interchange was estimated.
 - c) To address future traffic demands from surrounding developments, an interchange improvement for SR 99 / Avenue 17 has been estimated by Caltrans. The interchange improvement would include widening Avenue 17, widening ramps, adding turn-lanes, installing a traffic signal at northbound off-ramp / Avenue 17, and installing roundabouts at southbound off-ramp / Avenue 17 and Airport Drive / Avenue 17. The fair share cost per trip was estimated to be \$3,415.⁰⁸ per trip as of April 2022. The total project fair share cost as of April 2022 is \$262,705.⁰³.
 - d) If the project proponent disagrees with the fair share estimate, it is recommended that the project proponent retain a traffic consultant to prepare the project fair share estimate.

ADVISORY

California Department of Transportation – District 6 Office

- 70) Caltrans provides the following comments to better support the State’s smart mobility goals that support a vibrant economy and sustainable communities:
- a) It is expected that the proposed project could potentially impact nearby SR 99 facilities and local roads.
 - b) Caltrans recommends that a traffic study be conducted to properly assess the potential impacts of the project, a Scope of Work should be prepared and submitted to Caltrans for review and approval.
 - c) The project proponent should pay its fair share toward the SR 99 / Avenue 17 interchange improvement as noted above. 4. It is commended that the City of Madera is preserving the right of way along the project frontage on Avenue 17 for the future widening on Avenue 17 and the construction of a roundabout at Avenue 17 / Airport Drive. It is recommended to prepare a roundabout performance check in relation to the proposed roundabout at SR 99 southbound off-ramp / Avenue 17. It may be possible that a larger roundabout footprint and additional lanes on 4-legs may be needed, and it may require additional right of way. The revised Intersection Control Evaluation (ICE) study prepared by Peters Engineering Consultant is still pending. Caltrans has not finalized its review of the revised ICE study.
 - d) An ICE study at both Avenue 17 ramp intersections and Avenue 17 / Airport Drive, which is the opening day mitigation for the North Fork Casino project has been prepared by Peters Engineering Consultant.
 - e) Given that the project site is not located in an infill location, the project would induce VMT. A Vehicle Miles Traveled (VMT) analysis should also be prepared for the project. According to the 2018 Madera County Transportation Commission’s Active Transportation Plan, Avenue 17 is proposed as a Class II bike lane (Figure 8). The project site is also located about 1.5 miles west of residential land uses. These provide opportunities to reduce VMT for the project.
 - f) Caltrans recommends the City consider creating a VMT Mitigation Impact Fee to help reduce potential impacts on the State Highway System.

Planning Department

- 71) Refuse Enclosure & Organics. The applicant has been alerted that the proposed business will likely have to accommodate a trio of solid waste types: refuse, recyclables, and (new) organics. Compliance with the state’s organic waste stream handling and processing may induce changes in the refuse enclosure design or waste stream processing and pick-up frequency.
- a) Effective September 15, 2020, the State’s [Mandatory Organic Waste Recycling Law \(AB 1826 or Chapter 727, Statutes of 2014\)](#) decreased the threshold requiring all businesses and multi-dwelling facilities of 5 units or more generating two (2) cubic

yards or more of solid waste per week to recycle their organic waste including landscape waste, wood waste, and food waste. Organic waste broadly refers to food scraps, yard waste, non-hazardous wood waste, and food-soiled paper.

- b) In September 2016, [Senate Bill \(SB\) 1383 \(Lara, Chapter 395, Statutes of 2016\)](#) set methane emissions reduction targets for California in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP). Refer to the [SB 1383 Education and Outreach](#). This requires jurisdictions to implement mandatory organic waste collection and recycling in a statewide effort to divert organic waste from landfills with goals to:

- (1) Reduce organic waste disposal by 50% by 2020 and 75% by 2025
- (2) Recover at least 20% of currently disposed surplus edible food by 2025

- (3) Madera County information: <
<https://www.maderacounty.com/home/showpublisheddocument/25975/637520187465300000> >

San Joaquin Valley Air Pollution District

72) Project Scope and Air Quality Assessment

- a) The Project consists of a request to construct a new 4,992 square foot building apportioned into a 2,992 square foot convenience store and a 2,000 square foot fast food restaurant with a drive-thru. Additionally, a new 6-pump vehicle fueling station with a 2,560 square foot canopy, two underground fuel tanks, and a two-bin refuse enclosure will be constructed.
- b) Based on information provided to the District, Project specific annual emissions from construction and operation emissions of criteria pollutants are not expected to exceed any of the following District significance thresholds: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SOx), 15 tons per year of particulate matter of 10 microns or less in size (PM10), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM2.5).

73) Operational Related Emissions – Under-fired Charbroilers

- a) Projects for restaurants with under-fired charbroilers may pose the potential for immediate health risk, particularly when located in densely developed locations near sensitive receptors. Since the cooking of meat can release carcinogenic PM2.5 species like polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health.
- b) Charbroiling emissions often occur in populated areas, near schools and residential neighborhoods, resulting in high exposure levels for sensitive Valley residents. The air quality impacts on neighborhoods near restaurants with under-fired charbroilers can be significant on days when meteorological conditions are stable, when dispersion is limited, and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises environmental concerns.

- c) Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM2.5 standards and associated health benefits in the Valley. Therefore, the District recommends that the environmental document/assessment include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants operating under-fired charbroilers. The District is available to assist the City and project proponents with this assessment. Additionally, to ease the financial burden for Valley businesses, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system for up to two years. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information.

74) District Rules 2010 and 2201 - *Air Quality Permitting for Stationary Sources*

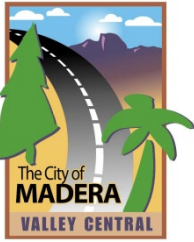
- a) Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT).
- b) This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits.
- c) Prior to commencing construction on any permit-required equipment or process, a finalized Authority to Construct (ATC) must be issued to the Project proponent by the District. For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

75) District Rule 9510 (Indirect Source Review)

- a) The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NOx and PM10 emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.
- b) The proposed Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 2,000 square feet of commercial space. When subject to the rule, an Air Impact Assessment (AIA) application is required no later than applying for project-level approval from a public agency. In this case, if not already done, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

- c) An AIA application is required and the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.
 - d) Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>.
 - e) The AIA application form can be found online at: <http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.
- 76) District Regulation VIII (Fugitive PM10 Prohibitions)
- a) The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities.
 - b) The application for both the Construction Notification and Dust Control Plan can be found online at: <https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>
 - c) Information about District Regulation VIII can be found online at: http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm
- 77) Other District Rules and Regulations
- a) The Project may also be subject to the following District rules: Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).
 - b) The list of rules above is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

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REPORT TO THE PLANNING COMMISSION

Prepared by: Adileni Rueda, Assistant Planner

Meeting of: January 14, 2025

Agenda Number: 3

SUBJECT:

Consideration of an application for a Conditional Use Permit (CUP 2024-22) and Site Plan Review (SPR 2024-32) requesting authorization to establish a massage parlor at 1470 E. Yosemite Ave, suite 110, in the Crossroads Shopping Center located on the southerly corner of East Yosemite Avenue and Tozer Street (APN: 008-142-076).

RECOMMENDATION:

Conduct a public hearing and adopt:

1. A Resolution of the Planning Commission of the City of Madera determining the project is Categorically Exempt pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2024-22 and Site Plan Review (SPR) 2024-32, subject to the findings and conditions of approval.

SUMMARY:

The applicant, Chunhai Luo, has filed an application for a Conditional Use Permit (CUP) 2024-22 and Site Plan Review (SPR) 2024-32 requesting authorization to establish a massage parlor use to be established within an existing tenant space at 1470 E. Yosemite Ave, Suite 110, within the Crossroads Shopping Center commercial center located on the southerly corner of East Yosemite Avenue and Tozer Street (APN: 008-142-076).

The subject applications propose no physical changes to the subject property. Any future site modifications would be subject to additional site plan review; any tenant improvements are subject to acquisition of building permits as may be required in accordance with the California Building Code. The tenant space is currently vacant but has been previously leased to a tax preparation business.

The site is zoned C1 (Light commercial) and is designated for Commercial land uses by the Madera General Plan. The Crossroads shopping center includes tenant uses such as restaurants, beauty services, retail, and laundromats.

Table 1 below provides a brief overview of the entitlement request, project applicant, project location and site characteristics.

Table 1: Project Overview	
<i>Project Number:</i>	CUP 2024-22 and SPR 2024-32
<i>Applicant:</i>	Chunhai Luo
<i>Property Owner:</i>	Crossroads Madera LBI, LLC
<i>Location:</i>	1470 E. Yosemite Ave, suite 110 (APN: 008-142-076)
<i>Project Area:</i>	Approximately 1,296 square feet within a 1.08-acre lot
<i>Land Use:</i>	C (Commercial)
<i>Zoning District:</i>	C1 (Light Commercial)
<i>Site Characteristics</i>	The site is within the existing The Crossroads shopping center on the southeast corner of Tozer Street and East Yosemite Ave intersection.

BACKGROUND:

A Determination of Use (DOU) is necessary whenever the use schedule of the Zoning Ordinance does not provide either an exact classification within the schedule of a proposed use as permitted or a similar classification sufficient to allow for a proposed use based on close similarities and/or compatibility with uses that are specifically identified within the schedule.

No specific use classification or combination of uses listed in the CMC closely resemble body massage or sculpting as a permitted use, with only medical and dental offices being similar. Accordingly, on March 14, 2024, the City of Madera Planning Commission adopted a resolution approving a Determination of Use (DOU 2023-01) for the establishment of body massage and sculpting businesses, allowing for various forms of related services, in the C1 (Light Commercial) and C2 (Heavy Commercial) zone districts subject to obtaining a Conditional Use Permit. Services may include, but not be limited to, body massage, massage therapy, manual lymphatic treatment, body sculpting, and other similar types of services.

ANALYSIS:

Use Permit

City Municipal Code (CMC) Section 10.3.802 (C)(20) requires a use permit for all establishments which, in the opinion of the Planning Commission, are of a similar nature to those listed as permitted with a use permit. Pursuant to the Commission’s prior Determination of Use (DOU 2023-01) and the provisions of the CMC, the use of a massage parlor business is required to obtain a CUP prior to the issuance of a business tax license. The business has been conditionally approved to meet the requirements of a massage parlor and to meet commercial standards.

The use permit will authorize the establishment of a massage business and services within the interior of the tenant suite and will define requirements and regulations for operations. Body massage businesses are otherwise subject to the provisions and requirements of CMC § 6-1.67, Physical Therapy. These provisions require payment of an annual licensing fee or tax; as well as the filing of licensing application to substantiate the good character and business responsibility of the licensee, including disclosure of criminal convictions and presentation of valid State

licensing as may be required. License applications shall be referred to the Chief of Police, who shall determine the granting of the permit or the conduct or activity will be contrary to the public peace, health, safety, morals, or welfare of the City or its inhabitants.

Site Plan Review

While the applicant is not proposing alterations to the site at this time, pursuant to Section 10.3.4.0102 of the CMC, a site plan review is required for all projects which require a use permit, including a change in use where no on-site construction is proposed. Site Plan Review verifies site conformance with City standards, affirms internal arrangement of the massage parlor and how the use would function in conjunction with the existing integrated commercial center. Staff has identified conditions associated with this type of use.

As provided herein above, the business will be located within an existing commercial shopping center, The Crossroads. The existing commercial center provides the required parking needed for the proposed business as well as other commercial required facilities such as solid waste enclosures.

The business, Happy Massage, proposes to operate between the hours of 10:00 am through 9:00 pm, seven days a week. The business application indicates that at least a total of five (5) employees will be employed at the time of the opening or near future. At this time, Happy Massage proposes no construction to the tenant space, improvements are proposed to be limited to only cosmetic interior work (painting, like-for-like changes, flooring).

ENVIRONMENTAL REVIEW:

Staff performed a preliminary environmental assessment and determined that the project is exempt pursuant to Section 15301/Class 1 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines because the project would result in the licensing of a use within an existing structure and does not propose any physical changes to the project site or environs and will therefore 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.

ALTERNATIVES:

As an alternative, the Commission may elect to:

1. Move to refer the item back to staff and/or continue the public hearing to a future Commission meeting at a date certain with direction to staff to return with an updated staff report and/or resolution(s): (Commission to specify date and reasons for continuance).
2. Move to deny one more request based on specified findings: (Commission to articulate reasons for denial).
3. Provide staff with other alternative directives.

ATTACHMENTS:

1. Vicinity Map
2. General Plan Land Use Map
3. Existing Zoning Map
4. Planning Commission Resolution
 Exhibit "A" - Conditions of Approval

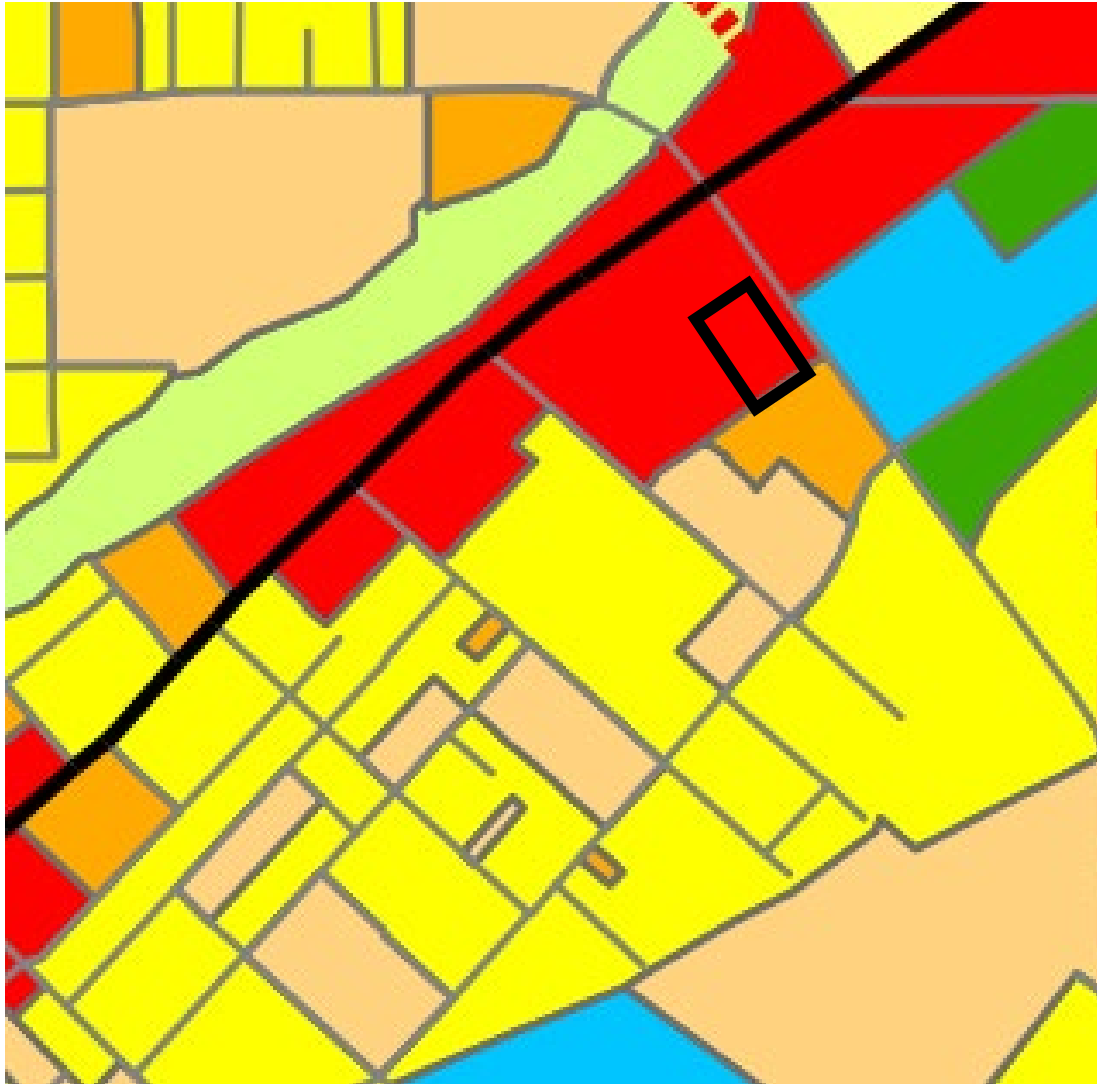
ATTACHMENT 1

Vicinity Map










ATTACHMENT 2

General Plan Map

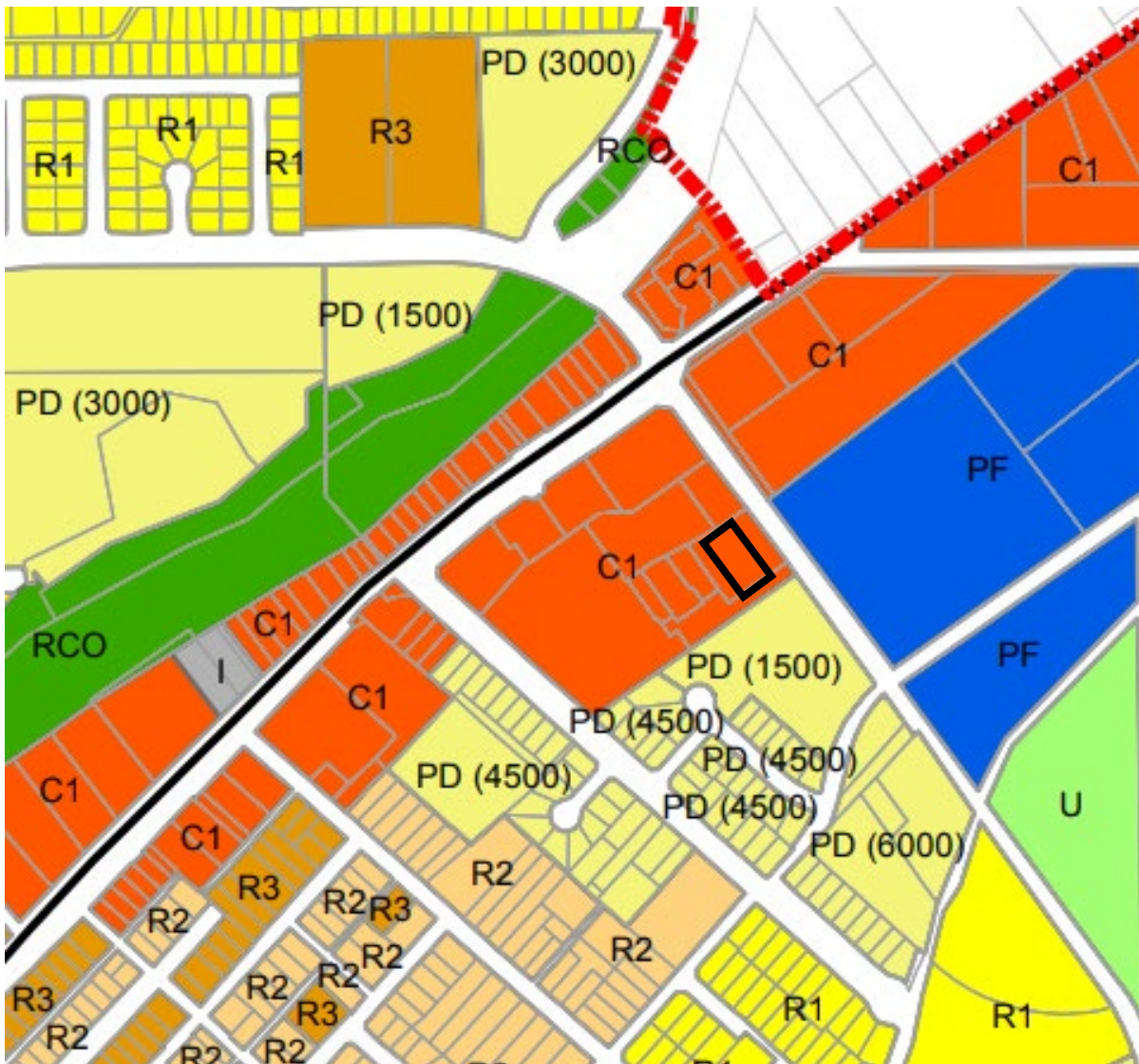


**General Plan
Land Use Designations**

-  C - Commercial
-  O - Office
-  I - Industrial
-  VLD - Very Low Density Residential
-  LD - Low Density Residential
-  MD - Medium Density Residential
-  HD - High Density Residential

ATTACHMENT 3

Zoning Map



Commercial Districts

-  C1 - Light Commercial
-  C2 - Heavy Commercial
-  CH - Highway Commercial
-  CN - Neighborhood Commercial
-  CR - Restricted Commercial
-  PO - Professional Office
-  POWYO - Professional Office
West Yosemite Avenue Overlap

ATTACHMENT 4

Planning Commission Resolution for
CUP 2024-22 & SPR 2024-32
Includes Exhibit "A" – Conditions of Approval

RESOLUTION NO. 2020

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT PURSUANT TO SECTION 15301 (EXISTING FACILITIES) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND APPROVING CONDITIONAL USE PERMIT (CUP) 2024-22 AND SITE PLAN REVIEW (SPR) 2024-32

WHEREAS, Chunhai Luo (“Applicant”) has filed CUP 2024-22 and SPR 2024-32 to request authorization to establish a massage business (Happy Massage) use within the existing Crossroads shopping center located at 1470 East Yosemite Avenue, Suite 110 (APN: 008-142-076); and

WHEREAS, the site is designated for Commercial planned land uses on the General Plan Land Use Map and is zoned C1 (Light Commercial) by the Zoning Ordinance; and

WHEREAS, in accordance with Determination of Use (DOU) 2023-01, the Planning Commission determined body massage and sculpting businesses are uses permissible subject to a conditional use permit in the C1 (Light Commercial) zone districts; and

WHEREAS, operations proposed in accordance with CUP 2024-22 and SPR 2024-32 have been determined to be able to occur on the site in a manner that is not detrimental to the welfare and well-being of the surrounding uses and the City at large; and

WHEREAS, a preliminary environmental assessment was performed and the proposed project was found to be Categorically Exempt pursuant to the provisions of the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (Existing Facilities); and

WHEREAS, pursuant to the provisions of the City Municipal Code (CMC), the Planning Commission is authorized to review and approve conditional use permits, site plan reviews and environmental assessments for associated projects on behalf of the City; and

WHEREAS, the City provided notice of the Planning Commission hearing on January 14, 2025 as required by law; and

WHEREAS, the Planning Commission received and independently reviewed and considered CUP 2024-22 and SPR 2024-32 at the duly noticed meeting on January 14, 2025; 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, after due consideration of the items before it, the Planning Commission now desires to adopt a Categorical Exemption for the project pursuant to CEQA and approve CUP 2024-22 and SPR 2024-32.

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 determines that the project is exempt under Section 15301/Class I (Existing Facilities) of the State CEQA Guidelines because the project is operational only proposing a new use (massage business), within an existing tenant space within an existing building on an existing improved lot with existing services and utilities. The existing tenant space proposed for use was previously utilized for commercial and office uses. The applicant does not propose any interior improvements or expansions of the site. The proposed project is consistent with applicable general plan designations and policies and is served by all required services and utilities. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project and the project does not present any unusual circumstances.
3. Findings to Approve CUP 2024-22: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of the use permit and site plan, as conditioned. 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:

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

The General Plan designates the subject site for commercial uses and the site is zoned C1 (Light Commercial), which is consistent with the Commercial land use category pursuant to Table LU-A: General Plan/Zoning Consistency of the Madera General Plan.

The massage business use is considered permissible in the C1 zone district subject to obtaining a conditional use permit. The proposed use supports Madera General Plan Goal SUS-1, and Policy SUS-11 by encouraging diverse economic opportunities, and contributes to fulfilling the Vision 2025 statements through the provision of facilities which serve all ages and cultures, promoting community and personal wellness.

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

The project site is an existing integrated commercial shopping center suited for commercial uses. The proposal is for an existing tenant space within an existing building on commercially zoned property and is surrounded by like uses to the north and west side of the property. As conditioned, the use 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.

The proposed use will not result in a detriment to the health, safety, peace, morals, comfort, or general welfare of persons or property in the surrounding area. The operations of this proposal have been conditioned by staff. Subject to operational compliance with the project conditions of approval, the general welfare and safety of the surrounding uses and the City at large will not be negatively impacted.

4. Findings to Approve SPR 2024-32: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of the Site Plan Review, as conditioned. With conditions, the project is consistent with the requirements of the Municipal Code, including Section 10-3.4.0106. 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:

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

In allowing this establishment of a new business (massage parlor) use, these entitlements support Vision Madera 2025 and encourage, “economic opportunities and underscores the need to attract commercial and retail businesses and to encourage residents to buy locally” (City of Madera General Plan, p. 1-2).

Finding 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.

The project has been reviewed and is consistent with the surrounding uses and with all applicable requirements for development in a C1 (Light Commercial) zone district. There are no public improvements required and on-site improvements are consistent with City standards. Review of the site determined that the project would not result in a significant generation of noise, light, and traffic.

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

The Site Plan Review will not have a significant impact on traffic or the environment. With the conditions imposed, the project will not be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

- 5. Approval of CUP 2024-22 and SPR 2024-32: Given that all findings can be made, the Planning Commission hereby approves the use permit and site plan review as conditioned and 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 14th day of January 2025, by the following vote:

- AYES:
- NOES:
- ABSTENTIONS:
- ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Will Tackett
Community Development Director

EXHIBIT "A"
CUP 2024-22 & SPR 2024-32
MASSAGE PARLOR
CONDITIONS OF APPROVAL
January 14, 2025

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 2024-22 and SPR 2024-32 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within 15 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.

CONDITIONS OF APPROVAL

General

1. Approval of this conditional use permit and site plan review shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or the designer to disclose and delineate all facts and information relating to the subject property and the proposed development.
2. Approval of CUP 2024-22 and Site Plan Review 2024-32 will expire one year (12 months) from date of issuance unless rights and privileges granted by the use permit are exercised/utilized or required action is taken to extend the approval before the expiration date as provided in City Municipal Code (CMC).
 - NOTE: Pursuant to the provisions of § 10-3.1311 the City Municipal Code (CMC), any use permit granted by the city as herein provided shall be conditioned upon the privileges granted therein being utilized within 12 months after the effective date thereof. Failure to utilize such permit within such 12-month period shall render the permit null and void unless a written request for extension is submitted to the Planning Commission prior to the expiration of the permit.
3. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specifically noted in the conditions or mandated by statutes.
4. 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 to the City of Madera Planning Department no later than three (3) days following action on CUP 2024-22 and SPR 2024-32.

5. Approval of CUP 2024-22 and SPR 2024-32 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

6. Approval of CUP 2024-22 and SPR 2024-32 shall be for a 1,296 square foot leasing space located at 1470 East Yosemite Ave, suite 110.
7. Alterations to the site, business use, or leasing space shall require a modification to the conditional use permit.
8. All employees shall undergo a background check with the Police Department prior to issuance of a business tax license.

Conditional Use Permit

9. Business hours shall be limited to between 10:00am and 9:00pm daily.
10. Clients of the Massage Business shall be limited to adults 18 years of age and older and minors only when accompanied by a parent or legal guardian.
11. The body massage business is subject to the provisions and requirements of CMC § 6-1.67, Physical Therapy. These provisions require payment of an annual licensing fee or tax; as well as the filing of licensing application to substantiate the good character and

business responsibility of the licensee, including disclosure of criminal convictions and presentation of valid State licensing as may be required. License applications shall be referred to the Chief of Police, who shall determine the granting of the permit or the conduct or activity will be contrary to the public peace, health, safety, morals, or welfare of the City or its inhabitants.

12. Massage services shall only be performed by Certified Massage Practitioners, which shall mean any individual certified by the California Massage Therapy Council (CAMTC) as a massage therapist or massage practitioner pursuant to California Business and Professions Code Section 4600 et seq.

- a. It shall be unlawful for any Certified Massage Practitioner to be present on the premises of a Massage Business or perform Massage on a Client without having prominently displayed his or her CAMTC certification card issued by CAMTC. The identification card shall be in good and readable condition. At minimum, a copy of the CAMTC certificate of each Certified Massage Practitioner employed by the Massage Business shall be displayed in the reception area or similar open public space on the premises.
- b. A Certified Massage Practitioner shall operate only under the name specified in his or her CAMTC certificate.

13. The Massage Business and practitioners shall at all times comply with the following sanitary operational conditions:

- a. The Massage Business shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Towels and linens shall not be used on more than one Client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one Client. Soiled linens and paper towels shall be deposited in separate receptacles.
- b. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bathrooms, tanning booths, or whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the Massage Business is open, with disinfectant. Bathtubs shall be thoroughly cleaned after each use with disinfectant. All walls, ceilings, floors, and other physical facilities for the Massage Business must be in good repair, and maintained in a clean and sanitary condition.
- c. Instruments utilized in performing Massage shall not be used on more than one Client unless they have been sterilized using approved sterilization methods.
- d. All Massage Business Operators and their Employees, including Certified Massage Practitioners, shall wear clean, nontransparent outer garments. Garments shall not expose their genitals, pubic areas, buttocks, or chest.
- e. Patrons must be fully draped while an employee is in the massage room.
- f. A minimum of one wash basin for Employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to

performing of Massage Services. Sanitary towels shall also be provided at each basin.

14. Minimum lighting consisting of at least one artificial light of not less than forty watts shall be provided and shall be operating in each room or enclosure where Massage Services are being performed on Clients, and in all areas where Clients are present.
15. No Massage shall be given unless the Client's genitals are, at all times, fully covered. A Certified Massage Practitioner shall not, in the course of administering any Massage, make physical contact with the genitals of any other person, nor shall a Certified Massage Practitioner expose to a Client or allow physical contact with his or her genitals. No sexual aids, including but not limited to condoms, may be kept on site.
16. The property owner, operator, and/or manager shall operate the site in a manner that does not generate noise, odor, blight, or vibration that adversely affects adjacent properties.
17. On-site vandalism and graffiti shall be corrected per the Municipal Code.
18. This conditional use permit shall be subject to periodic reviews and inspections by the City to determine compliance with the conditions of approval and applicable codes. If, at any time, the uses permitted by the use permit are determined by staff to be in violation of the conditions of approval or applicable codes and regulations the City reserves the right to corrective action and enforcement through all legal means available, including but not limited to revocation of the use permit.
 - a. It shall be the responsibility of the business owner who employs or allows any person to provide Massage Services, to ensure such person complies with the requirements of this Article and all laws. The Owner shall be held responsible for the conduct of all Employees and all persons on the premises who engage in providing Massage Services. Any act or omission of any person providing Massage Services shall be deemed the act or omission of the owner for the purpose of determining whether the City license or use permit may be revoked, suspended, or denied. Proof of knowledge of any violation of this section shall not be required for purposes of suspension, revocation, or denial of a City license.

Signage:

19. No signs are approved as part of this site plan review. Signs shall be reviewed and approved under a separate permit in accordance with the Madera Municipal Code.
20. No window signs shall be permitted, and windows shall not contain any covering, obstruction or treatment to prevent a clear view into the property from the exterior.
21. The property/applicant and/or benefactors of the site plan review shall post a “No Smoking” signage to the extent required by law.

END OF CONDITIONS