REGULAR MEETING OF THE MADERA PLANNING COMMISSION

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

Tuesday, December 10, 2024
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: 84214698765# followed by *9 on your phone when prompted to signal you would like to speak, or by computer at https://www.zoom.us/j/84214698765. 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:

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. **OTA 2024-02 – Ordinance Text Amendment (Title X: Planning and Zoning of the City Municipal Code)**

   Subject: Consideration of an update to Chapter 3 of Title X: Planning and Zoning of the City Municipal Code (CMC). The proposed update includes amendments and additions to the definitions, modifications to the allowed uses within the City's zone districts, as well as revisions to the application review and approval procedures to implement the City's Housing Element of the General Plan and to comply with recent State requirements.

   Recommendation:

   Conduct a public hearing and adopt:

   a. A Resolution of the Planning Commission of the City of Madera recommending the City Council of the City of Madera adopt an ordinance amending Chapter 3 of Title X: Planning and Zoning of the City Municipal Code regarding housing-related definitions, procedures, and regulated uses in zone districts that allow housing.

2. **CUP 2024-17 & SPR 2024-27 – Taco Bulls Mobile Food Vendor (Report by Rudy Luquin)**

   Subject: Consideration of an application for a Conditional Use Permit and Site Plan Review to permit the operation of a mobile food preparation unit on private commercial property generally located at the northwest corner of the intersection of W. Cleveland Ave. and Highway 99 at 1801 W. Cleveland Ave (APN: 013-110-010). The site is zoned C2 (Heavy Commercial) and is designated for Commercial uses on the General Plan Land Use Map.

   Recommendation:

   Conduct a public hearing and adopt:

   a. A Resolution of the Planning Commission of the City of Madera determining the project is Categorically Exempt pursuant to Section 15311/Class 11 (Accessory Structures) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2024-17 and Site Plan Review (SPR) 2024-27, subject to the findings and conditions of approval.

3. **CUP 2024-16 & SPR 2024-26 – Country Club Commercial Uses (Report by Adi Rueda)**

   Subject: Consideration of applications for a Conditional Use Permit (CUP 2024-16) and Site Plan Review (SPR 2024-26) to permit commercial uses on residentially zoned parcels located on the east side of Country Club Drive (Rd. 26) between Martin and Ellis Streets (APN[s]: 038-070-003 and 038-070-024). The site was previously developed in the Madera County jurisdiction and was rezoned to residential when annexed into the City of Madera. The site is currently zoned R1 (Residential, one unit for each 6,000 sq. ft. of site area) and is designated for Low Density Residential uses on the General Plan Land Use Map.

Recommendation:

Conduct a public hearing and adopt:

a. A Resolution of the City of Madera Planning Commission determining the project is Categorically Exempt pursuant to Sections 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2024-16 and Site Plan Review (SPR) 2024-26, subject to the findings and conditions of approval.

4. CUP 2022-23 & SPR 2022-35 – Convenience Store and Alcoholic Beverage Control (ABC) License (Report by Rudy Luquin)

Subject: Consideration of an application for a Conditional Use Permit (CUP 2022-23) and Site Plan Review (SPR 2022-35) requesting authorization to convert an existing service station building for use as a convenience store and authorization to obtain a California Department of Alcoholic Beverage Control (ABC) Type 20 License (Off-Sale Beer & Wine) for property located on the north side of West Yosemite Avenue between North R and North Q Streets at 1221 West Yosemite Avenue (APN: 010-062-013). The Type 20 ABC license is issued to retail stores and authorizes the sale of beer and wine for consumption off the premises where sold. The project site is designated for Commercial land uses by the General Plan and is zoned C1 (Light Commercial).

Recommendation:

Conduct a public hearing and adopt:

a. A Resolution of the City of Madera Planning Commission determining the project is Categorically Exempt pursuant to Sections 15301/Class 1 (Existing Facilities), 15303/Class 3 (New Construction or Conversion of Small Structures) and 15332/Class 32 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2022-23 and Site Plan Review (SPR) 2022-35, subject to the findings and conditions of approval.

5. GPA 2024-01, ANX 2024-01, REZ 2024-02, TSM 2024-01 & Mitigated Negative Declaration (SCH 2024110144) – Ellis & Fairview Residential Subdivision (Report by Adi Rueda)

Subject: Consideration of an application for a General Plan Amendment (GPA 2024-01), Annexation (ANX 2024-01), Prezone (REZ 2024-02), Tentative Subdivision Map (TSM 2024-01) and associated Mitigated Negative Declaration (SCH 2024110144). ANX 2024-01 and REZ 2024-02 pertain to the project area comprised of eleven parcels totaling ± 19.90 acres in area bound by Adell and Fairview Streets on the south and west and the Madera Irrigation District Canal (Lat. 24.2) on the north and east in the County of Madera. GPA 2024-01 and TSM 2024-01 pertain to the project site comprised of a ±6.93-acre parcel located on the northeast corner of Ellis and Fairview Streets (APN: 038-060-017). These applications have been filed to facilitate annexation of the project area to the City of Madara and the subdivision of the project site into 61 single family lots in accordance with TSM 2024-01.

Recommendation:

Conduct a public hearing and adopt:

a. A Resolution of the Planning Commission of the City of Madera adopting the Mitigated Negative Declaration (SCH 2024110144) and the Mitigation Monitoring and Reporting Program prepared for purposes of the proposed project in accordance with the California Environmental Quality Act (CEQA) Guidelines and contingently approving TSM 2024-01, subject to the findings and conditions of approval; and

b. A Resolution of the Planning Commission of the City of Madera recommending the Council of the City of Madera approve GPA 2024-01 and REZ 2024-02 to facilitate annexation to the City of Madera (ANX 2024-01).

ADMINISTRATIVE REPORTS:

1. **2025 Planning Commission Meeting Dates**

COMMISSIONER REPORTS:

ADJOURNMENT:

- 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:
Wyatt Czeshinski, Contract Staff Planner

Meeting of: December 10, 2024
Agenda Number: 1

SUBJECT:

Ordinance Text Amendment (OTA) 2024-02, for the amendment of Chapter 3 of Title X: Planning and Zoning of the City Municipal Code.

RECOMMENDATION:

Conduct a public hearing and adopt:

1. A Resolution of the Planning Commission of the City of Madera recommending the City Council of the City of Madera adopt an ordinance amending Chapter 3 of Title X: Planning and Zoning of the City Municipal Code regarding housing-related definitions, procedures, and regulated uses in zone districts that allow housing.

SUMMARY:

On December 2, 2015, the City adopted the 2016-2024 Housing Element (5th Cycle), which included an evaluation of the City's regulations and practices, and recommended programs (referred to as action items in this version of the Housing Element) to demonstrate compliance with State-mandated requirements related to housing. Of these action items, Action Item H-1.1.3, H-1.1.4, H-1.3.1, and H-4.6.1 were developed and adopted with the intention of modifying the zoning ordinance to not only come into compliance with State law but to minimize governmental constraints for a variety of housing options, especially housing for special needs groups. The City is now in the process of updating its 6th Cycle Housing Element for the 2024-2032 planning period, which includes similar programs requiring amendments to the City's zoning ordinance for compliance with recent State legislation.

As a result, the City has initiated an Ordinance Text Amendment (OTA) 2024-02 to Chapter 3 of Title X of the City's Municipal Code. OTA 2024-02 proposes to make the necessary modifications to implement the Housing Element, in addition to accommodating other housing-related regulations that have taken effect over the last several years.

City Municipal Code (CMC) Section 10-3.1500 et seq. provides that a public hearing shall be held before the Commission for proposed amendments the Zoning Regulations of the CMC (Chapter 3, Title X); and, after the conclusion of the public hearing, the Commission shall render a recommendation to the City Council (Council). Accordingly, the Madera Planning Commission (Commission) is asked to review the proposed changes to Chapter 3 of Title X of the Madera Municipal Code and make a recommendation to the Council.

The item was originally scheduled to be heard by the Planning Commission at its regularly scheduled meeting on November 12, 2024, but was continued to the regularly scheduled meeting on December 10, 2024, for the public hearing.

BACKGROUND:

Under California law, all cities and counties are required to adopt and maintain a general plan (Government Code [GC] Section 63500, et seq.). The general plan must contain eight mandatory elements (topical areas): land use, circulation, housing, conservation, open space, noise, safety, and environmental justice. The housing element is the only element that must be updated on a specified schedule. Each city or county is required to update its housing element every eight years. Each eight-year planning period is referred to as a "cycle." The current cycle is the 6th Cycle, which runs from 2024-2032. The County of Madera, as well as all of the other San Joaquin Valley counties, are each making updates to their housing elements within the 2024-2032 cycle. GC Sections 65580-65589.11 specify the contents for housing elements along with the update schedule. A housing element must identify and analyze the jurisdictions existing and projected housing needs to ensure adequate housing exists for all economic segments of the community.

As discussed above, the housing element is required to have programs which implement the housing element. Some of these programs have specific timelines that are required to be met in order for the City to be in compliance with State Housing Element Law. In the case of Madera, the housing element states that the City will review and revise the City's zoning ordinance within one year of the adoption deadline for the City's 6th cycle housing element (or by December 31, 2024). The intent of these zoning ordinance changes are to affirmatively further fair housing practices that reduce barriers for special needs groups and low-income individuals to find housing within the City. While the zoning ordinance changes do not in themselves create housing products, they would streamline housing production for many housing types by making them by-right uses. Additionally, definitions relating to housing are updated within the zoning ordinance, accessory dwelling unit regulations are revised to encourage housing that would help the City meet its Regional Housing Needs Allocation, and housing developments are streamlined in general to encourage "Missing Middle Housing".

On December 6, 2023, the Council adopted Resolution No. 23-204 approving a master agreement between the Madera County Transportation Commission (MCTC) and the City to apply, received, perform and utilize suballocated Regional Early Action Plan (REAP) funds to review and assess local ordinances and regulations and to amend zoning regulations which demonstrate a nexus to increasing housing, accelerating production and/or facilitating compliance to implement the 6th Cycle Housing Element Update. The proposed amendments to the Zoning Regulations are a result of this agreement and subsequent efforts.

ANALYSIS:

OTA 2024-02 would add or clarify procedures, definitions, and use regulations for housing-related uses in zones that allow for residential uses within the City. The amendments proposed under OTA 2024-02 comply with State housing laws designed to reduce the amount of subjectivity and discretion that agencies, including the City, can impose on certain housing developments. Following is a summary of the amendments reflected in OTA 2024-02, included as Exhibit "A" to the attached Resolution (Attachment 1).

Procedures

The following procedures for the items listed below have been updated or added to the zoning ordinance. Each of these procedures are required for compliance with specific State legislation.

- Reasonable Accommodations (City Municipal Code [CMC] Section 10-3-5.201 et. seq.)
    - The existing Reasonable Accommodations language in the zoning ordinance has been updated to reflect the latest requirements of State law.
- Administrative Plan Review (CMC Section 10-3-4.201 et. seq.)
    - State law requires that certain uses be ministerially approved, so long as they meet the required standards. The Administrative Plan Review process has been added in order to establish an approval process for ministerial projects.

Accessory Dwelling Unit Provisions (CMC Section 10-3.513)

The zoning ordinance amendments now reflect the most recent requirements for accessory dwelling units, including the number and type of accessory dwelling units allowed and the objective standards applicable to accessory dwelling units. Review of accessory dwelling units is required to be ministerial, which is also reflected in the amendments. The number and type of accessory dwelling units allowed, as proposed in the zoning ordinance amendments, are described in further detail below. The proposed amendments are consistent with State law and in some cases allow for additional flexibility in the allowance of accessory dwelling units.

Multifamily Residential

Senate Bill 1211, which takes effect January 1, 2025, allows for existing multifamily developments to have up to eight total detached accessory dwelling units, with the stipulation that the development may have one detached accessory dwelling unit for every primary unit in the existing development up to a maximum of eight. Proposed multifamily development projects may have up to two detached accessory dwelling units. As proposed, the amended zoning ordinance would allow both existing and proposed multifamily developments to allow one detached accessory dwelling unit for every primary unit, up to a maximum of eight accessory dwelling units on a site.

Single Family Residential

As proposed, the amended zoning ordinance would allow single-family residential lots to provide one junior accessory dwelling unit, one attached accessory dwelling unit, and one detached accessory dwelling unit, which is consistent with State law. Additionally, the amended zoning ordinance would allow for "bonus" accessory dwelling units in excess of the maximum allowed on a single-family lot pursuant to State law. Bonus accessory dwelling units would apply specifically to single family residential zoned lots. Bonus accessory dwelling units would be granted based on affordability. Should a single-family lot deed restrict an accessory dwelling unit, it would qualify for one bonus accessory dwelling unit, which would be in addition to the number of accessory dwelling units allowed under State law. If a single-family lot provides two deed restricted accessory dwelling units, they would be granted another bonus accessory dwelling unit for a total of two bonus accessory dwelling units so long as the second bonus accessory dwelling unit meets certain accessibility requirements consistent with the American Disability Act (ADA). Single family residential lots would be allowed to provide a combination of units, including the primary unit, a junior accessory dwelling unit, and accessory dwelling units, not to exceed eight total units on a given lot. These provisions would provide an innovative way to encourage housing across the City,

promote senior housing, and seek to lower housing costs with a large housing stock available to City residents. All units would still be required to meet applicable development standards for the property.

State Density Bonus Law Provisions (CMC Section 10-3-5.101 et. seq.)

The affordable housing density bonus provisions in the existing zoning ordinance have been updated to meet the most recent version of these regulations, consistent with State law.

Definitions (CMC Section 10-3.201)

The following definitions have been added to or amended in the zoning ordinance for consistency with State mandated requirements.

- Accessory Dwelling Units
- Emergency Shelters
- Employee Housing
- Family
- Farmworker Housing
- Group Residential Facility, Small and Large
- Low Barrier Navigation Centers
- Manufactured Home
- Mobile Home Park
- Residential Care Facilities
- Single Room Occupancy
- Supportive Housing
- Transit Corridor
- Transit Stop

Allowed Uses

The following uses have been added as permitted or conditionally permitted uses within the noted zone districts.

- Permitted uses with Administrative Plan Review approval in Residential Districts (R-1, R-2, R-3)
    - Accessory Dwelling Units
    - Mobilehomes
    - Multifamily housing types (duplexes, triplexes, fourplexes, etc.)
    - Transitional Housing
    - Supportive Housing
- Permitted uses Commercial and Industrial Districts (PO, C-1, C-2, C-R, C-N, I)
    - Low Barrier Navigation Centers
    - Supportive Housing
    - Transitional Housing
- Conditionally permitted uses in Commercial Districts (PO, C-1, C-2, C-N)
    - Single Room Occupancy Units

Other Changes

Changes made outside of those required by State Law include what is listed below.

- Removal of the Zoning Administrator role and assignment of the Zoning Administrator duties to the Planning (Community Development) Director.
    - The Zoning Administrator role is found not to be a necessary piece of the zoning ordinance and contrary to efforts to streamline processes, including housing production in some zone districts. As a result, the duties of the Zoning Administrator and uses subject to Zoning Administrator approval have been alternatively assigned. This will decrease any potential for confusion in processual requirements and contribute to the streamlining of application processing.
- Procedures for amendments to previously approved permits
    - Processes for revisions to previously approved permits have been added, allowing changes that meet certain thresholds to be approved at staff level. Changes that exceed the set thresholds must be considered by the original approval authority for the permit. This will streamline approvals for changes to permits that are minor or routine in nature.
- Expansion of language regarding interpretation
    - The existing zoning ordinance contains language regarding where interpretation of the ordinance applies, however it does not provide the authority to interpret. The interpretation language has therefore been expanded to allow the Planning Director to make interpretations of the zoning ordinance. An interpretation made by the Planning Director may be appealed to the Planning Commission.
- Codification of a General Plan Amendment process
    - The City processes General Plan Amendments via recommendation by the Planning Commission and approval by the City Council, but the process and level of authority is not outlined in the existing ordinance. Language has been added to outline the process.
- Other changes which were made on the basis of clarifying existing language or processes and to eliminate redundancies in the existing zoning ordinance

ENVIRONMENTAL REVIEW:

The first step in complying with the California Environmental Quality Act (CEQA) is to determine whether the activity in question constitutes a "project" as defined by CEQA (Public Resources Code Section 21000, et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Section 15000, et seq.). A "project" consists of the whole of an action (i.e., not the individual pieces or components) that may have a direct or reasonably foreseeable indirect effect on the environment. The second step is to determine whether the project is subject to or exempt from the statute. This proposal qualifies as a project under CEQA because it involves an amendment to the zoning ordinance as described in CEQA Guidelines Section 15378(a)(1).

OTA 2024-02 does not authorize any particular activity, and is primarily being updated to address and implement changes to State law and to and add refinements to local policies that are within the scope of the State law. Any proposed future development would be subject to CEQA analysis if subject to discretionary approvals. Therefore, staff supports a finding consistent with CEQA Guidelines Section 15061(b)(3). Under this "common sense" rule, it can be shown with certainty that the project does not have the potential to have a significant effect on the environment, and therefore it is not subject to further environmental review.

COMMISSION ACTION:

The Commission will be acting on OTA 2024-02. Staff recommends that the Commission:

1. Adopt a Resolution of the Planning Commission of the City of Madera recommending the City Council of the City of Madera adopt an ordinance amending Chapter 3 of Title X: Planning and Zoning of the City Municipal Code regarding housing-related definitions, procedures, and regulated uses in zone districts that allow housing.

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 Planning Commission meeting at a date and time certain with direction to staff to return with an updated staff report and/or resolution (Commission to specify and articulate reasons for referral/continuance).
2. Move to recommend the Council deny the request based on specified findings: (Planning Commission to articulate reasons for recommended denial).
3. Provide staff with other alternative directives.

ATTACHMENTS:

1. Planning Commission Resolution
   Exhibit "A" – OTA 2024-02 Draft Ordinance

ATTACHMENT 1

Planning Commission Resolution

Including:

Exhibit “A”: OTA 2024-02 Draft Ordinance

RESOLUTION NO. 2012

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECCOMENDING THE CITY COUNCIL OF THE CITY OF MADERA ADOPT AN ORDINANCE AMENDING CHAPTER 3 OF TITLE X: PLANNING AND ZONING OF THE CITY MUNICIPAL CODE REGARDING HOUSING-RELATED DEFINITIONS, PROCEDURES, AND REGULATED USES IN ZONE DISTRICTS THAT ALLOW HOUSING

WHEREAS, pursuant to the authority granted to the City of Madera ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote public health, public morals, or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property within the City lie within the City's police power; and

WHEREAS, the City is in the process of preparing its 6th Cycle Housing Element, which would contain implementation programs requiring the City to make updates to its Zoning Ordinance that would affirmatively further fair housing practices and streamline housing processes within the city in order to comply with State law; and

WHEREAS, on December 6, 2023, the Council adopted Resolution No. 23-204 approving a master agreement between the Madera County Transportation Commission (MCTC) and the City to apply, received, perform and utilize suballocated Regional Early Action Plan (REAP) funds to review and assess local ordinances and regulations and to amend zoning regulations which demonstrate a nexus to increasing housing, accelerating production and/or facilitating compliance to implement the 6th Cycle Housing Element Update; and

WHEREAS, Ordinance Text Amendment (OTA) 2024-02 that would amend Chapter 3 of Title X of the Madera Municipal Code (Planning and Zoning) in order to comply with State Housing Element Law and implement the Madera General Plan and implement procedures consistent with refinements to State law; and

WHEREAS, State law requires that OTA 2024-02 be adopted on or prior to December 31, 2024; and

WHEREAS, OTA 2024-02 will have a positive impact on the City and its citizens by providing opportunities for additional housing options at a variety of income levels and will bring the City into compliance with recent State legislation; and

WHEREAS, the City has determined that the project is exempt under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3) and that no additional environmental analysis is required; and

WHEREAS, under the City's Municipal Code, the Planning Commission (Commission) is a recommending body for Ordinance Text Amendments and will forward a recommendation to the Madera City Council (Council) on OTA 2024-02; and

WHEREAS, the City provided notice of the Commission hearing as required by law on October 30, 2024; and

WHEREAS, at the November 12, 2024, Planning Commission hearing, the Commission continued the item to the December 10, 2024, Planning Commission hearing; and

WHEREAS, the Commission received and independently reviewed OTA 2024-02 at a duly noticed meeting on December 10, 2024; and

WHEREAS, at the December 10, 2024, Commission meeting, 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 has independently completed its review of the staff report and documents submitted for OTA 2024-02, evaluated the information contained within the report and documents submitted, and considered testimony received as part of the public hearing process; and

WHEREAS, after due consideration of the items before it, the Commission now desires to adopt Resolution recommending that the Council adopt OTA 2024-02.

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 recommends the City Council determine the project is exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines. The activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, OTA 2024-02 does not authorize any particular activity, and is primarily being updated to address and implement changes to State law and to and add refinements to local policies that are within the scope of the State law. Any proposed future development would be subject to CEQA analysis if subject to discretionary approvals. No further environmental analysis is required.

3. Recommendation: The Commission hereby recommends that the Council approve OTA 2024-02, amending the sections of Chapter 3 of Title X of the City Municipal Code enumerated herein and in substantially the form contained in Exhibit "A" attached hereto with deletions shown in ~~strikethrough~~ and additions shown in underline.

The following sections have been proposed for amendment:

- 10-3.201 DEFINITIONS.
- 10-3.301 ESTABLISHMENT.
- 10-3.302 ZONING MAPS.
    - Subsection(s): (B)

- 10-3.304 ZONE BOUNDARIES.
- 10-3.401 INTERPRETATION.
- 10-3.405 USES.
    - Subsection(s): (I), (J), (L)
- 10-3.406 NONCONFORMING BUILDINGS AND USES.
    - Subsection(s): (H)
- 10-3.412 FENCES, WALLS, AND HEDGES.
    - Subsection(s): (C)
- 10-3.415 DWELLING ON FRONT OF LOTS
- 10-3.416 OUTDOOR RETAIL SALES.
    - Subsection(s): (B)
- 10-3.4.0101 PURPOSES.
- 10-3.4.0105 REVIEW AND ACTION.
    - Subsection(s): (A), (B), (C)
- 10-3.40106 APPROVAL DETERMINATIONS.
- 10-3.4.017 CONDITIONS OF APPROVAL.
- 10-3.4.0108 STREET DEDICATIONS AND IMPROVEMENTS.
    - Subsection(s): (A), (B), (D), (E)
- 10-3.4.0110 RELATIONSHIP TO ENVIRONMENTAL ASSESSMENT PROCEDURES.
- 10-3.4.0113 BUILDING PERMIT.
- 10-3.4.0114 LAPSE OF SITE PLAN APPROVAL.
- 10-3.4.0115. OCCUPANCY.
    - Subsection(s): (A)
- 10-3.4.0116 APPEAL TO THE PLANNING COMMISSION.
- 10-3.4.0117 APPEAL TO THE CITY COUNCIL.
    - Subsection(s): (B), (D), (E)
- 10-3.501 R ZONES; PURPOSE AND APPLICATION.
- 10-3.504 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3.505 CONDITIONAL USES; COMMISSION APPROVAL.
- 10-3.506 FENCES, WALLS, AND HEDGES.
- 10-3.507 MINIMUM SITE AREA AND DIMENSIONS.
- 10-3.508 YARD REQUIREMENTS.
- 10-3.509 MINIMUM OPEN SPACE.

- 10-3.510 BUILDING HEIGHT.
- 10-3.512 MULTIPLE SINGLE-FAMILY DWELLING UNITS.
- 10-3.513 ACCESSORY DWELLING UNITS.
- 10-3-5.101 PURPOSE.
- 10-3-5.201 PURPOSE.
- 10-3-5.202 APPLICABILITY.
    - Subsection(s): (A)
- 10-3-5.203 PROCEDURE.
    - Subsection(s): (A), (C), (D), (E)
- 10-3-5.204 APPROVAL FINDINGS.
- 10-3-5.205 CONDITIONS OF APPROVAL.
- 10-3-5.206 APPEALS.
    - Subsection(s): (A), (B), (F)
- 10-3.752 USES PERMITTED.
    - Subsection(s): (A), (B), (C)
- 10-3.802 USES PERMITTED.
    - Subsection(s): (A), (B), (C)
- 10-3.902 USES PERMITTED.
    - Subsection(s): (A), (B), (C)
- 10-3-9.102 PERMITTED USES.
    - Subsection(s): (A), (C)
- 10-3-9.102.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3-9.202 PERMITTED USES.
- 10-3-9.202.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3-9.203 CONDITIONAL USES.
- 10-3-9.302.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3.1002 USES PERMITTED.
    - Subsection: (A), (B), (D)
- 10-3.11.503.1 USES REQUIRING AN ADMINISTRATIVE APPROVAL
- 10-3.1202 PARKING SPACES REQUIRED.
- 10-3.1306 PUBLIC HEARINGS.
    - Subsection(s): (A)
- 10-3.1307 ACTION BY COMMISSION.

    - Subsection(s): (B)
- 10-3.1309 APPEALS.
- 10-3.1310 ACTION ON APPEALS BY COUNCIL.
    - Subsection(s): (D)
- 10-3.1502 INITIATION OF PROCEDURE.
    - Subsection(s): (B)
- 10-3.1506 NOTICES.
    - Subsection(s): (A), (B)
- 10-3.1508 FINDINGS OF THE COMMISSION.
- 10-3.1601 INTERPRETATION
    - Subsection(s): (B) and (E) [for deletion]
- 10-3.1605 COMMENCEMENT OF PROCEEDINGS.

The following section would be added:

- 10-3.402 APPLICABILITY.
- 10-3.417 AMENDMENTS TO PREVIOUSLY APPROVED PERMITS
- 10-3.423 SINGLE ROOM OCCUPANCY
- 10-3.4.0111 AMENDMENT OF APPROVED PLANS.
- 10-3-4.201 PURPOSE
- 10-3-4.202 APPLICABILITY
- 10-3-4.203 APPLICATION REQUIREMENTS
- 10-3-4.204 REVIEW AND ACTION
- 10-3-4.205 APPROVAL FINDINGS
- 10-3-4.206 NOTICE OF DECISION
- 10-3-4.207 APPEALS
- 10-3-4.208 LAPSE OF APPROVAL & EXTENSIONS
- 10-3-4.209 AMENDMENTS
- 10-3.502 DENSITY.
- 10-3.503 PERMITTED USES.
- 10-3-5.102 APPLICABILITY
- 10-3-5.103 ELIGIBILITY FOR BONUS, INCENTIVES, OR CONCESSIONS.
- 10-3-5.104 APPLICATION
- 10-3-5.105 DENSITY BONUS ALLOWANCES FOR QUALIFIED HOUSING DEVELOPMENTS
- 10-3-5.106 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSING

- 10-3-5.107 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS
- 10-3-5.108 INCENTIVES AND CONCESSIONS
- 10-3-5.109 WAIVERS OR REDUCTIONS OF DEVELOPMENT STANDARDS
- 10-3-5.110 PARKING STANDARD MODIFICATIONS
- 10-3-5.111 AFFORDABLE HOUSING AGREEMENT
- 10-3-5.207 AMENDMENTS
- 10-3-5.208 CONSIDERATION FACTORS
- 10-3.603 (RESERVED).
- 10-3.604 (RESERVED).
- 10-3.1801 NECESSITY
- 10-3.1802 APPLICABILITY
- 10-3.1803 APPLICATION AND FEES
- 10-3.1804 APPROVAL AUTHORITY
- 10-3.1805 PUBLIC HEARING AND NOTICING
- 10-3.1806 CONDITIONS OF APPROVAL
- 10-3.1807 FINDINGS FOR APPROVAL
- 10-3.1808 APPEALS
- 10-3.1809 AMENDMENTS
- 10-3.1901 NECESSITY
- 10-3.1903 APPLICATION AND FEES
- 10-3.1904 APPROVING AUTHORITY
- 10-3.1905 PUBLIC HEARING AND NOTICE
- 10-3.1906 FINDINGS OF APPROVAL
- 10-3.1907 NOTICE OF DECISION
- 10-3.1908 APPEALS
- 10-3.1909 EXPIRATION AND TIME EXTENSION
- 10-3.1910 AMENDMENTS
- 10-3.1911 FREQUENCY OF AMENDMENTS
- 10-3.1912 ADDITIONAL NOTICE REQUIRED

The following sections would be deleted (and reserved as appropriate):

- 10-3.402 LESS RESTRICTIVE LESS PROHIBITED.
- 10-3.415.1 (Reserved).

- 10-3.417 ZONING ADMINISTRATOR
- 10-3.419 TELECOMMUNICATION TOWERS, ANTENNAS AND STRUCTURES (REPEALED)
- 10-3.4.0111 REVISIONS OF APPROVED PLANS.
- 10-3-4.301 ENVIRONMENTAL REVIEW
- 10-3.502 R; PERMITTED USES
- 10-3.503 R; DENSITY
- 10-3.504.1 R; USES ALLOWED WITH ZONING ADMINISTRATOR'S PERMIT.
- 10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS.
- 10-3-5.1056 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSING
- 10-3-5.106 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS
- 10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS.
- 10-3-5.106 PARKING REQUIREMENTS IN DENSITY BONUS PROJECTS.
- 10-3-5.106 BONUS AND INCENTIVES FOR DEVELOPMENTS WITH CHILD CARE FACILITIES.
- 10-3-5.107 CONTINUED AVAILABILITY.
- 10-3-5.108 LOCATION AND TYPE OF DESIGNATED UNITS.
- 10-3-5.109 DENSITY BONUS AGREEMENT.
- 10-3-5.110 CONTROL OF RESALE.
- 10-3-5.111 JUDICIAL RELIEF, WAIVER OF STANDARDS.
- 10-3.603 RCO PERMITTED USES; ADMINISTRATIVE APPROVAL (REPEALED)
- 10-3.604 RCO CONDITIONAL USES; COMMISSION APPROVAL (REPEALED)

4. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 10th day of December 2024, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

_____
Robert Gran Jr.
Planning Commission Chairperson

Attest:

_____
Will Tackett
Community Development Director

Exhibit "A" – OTA 2024-02 Draft Ordinance.

CHAPTER 3: ZONING

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PURPOSE AND TITLE

§ 10-3.101 PURPOSE.

An official land use plan for the city is adopted and established to promote the growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort, and general welfare, and to provide the economic and social advantages resulting from an orderly planned use of land resources.

§ 10-3.102 SHORT TITLE.

This chapter shall be known as the "Zoning Regulations."

DEFINITIONS

§ 10-3.201 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. Part of the main building or a detached subordinate building located on the same lot or building site, the use of which is customarily incidental to that of the main building or to the main use of the land. Where a substantial part of the wall of an accessory building is a part of the main building, or where an accessory building is attached to the main building in a substantial manner by a roof, such accessory building shall be counted as part of the main building.

ACCESSORY DWELLING UNIT. An attached or a detached dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the primary dwelling unit is situated. An accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code Section 17958.1, and a manufactured home, as defined in California Health and Safety Code Section 18007.

ACCESSORY USE. A use naturally and normally incidental to, subordinate to, and devoted exclusively to the principal use of the premises.

ALLEY. A public thoroughfare or way not less than ten feet nor more than 20 feet in width, serving as a secondary means of access to abutting property, and which has been deeded or dedicated to the city.

APARTMENT. A room or suite of two or more rooms in a multiple dwelling occupied or suitable for occupancy as a residence for one family.

APARTMENT HOUSE. See definition in this subchapter, DWELLING, MULTIPLE.

AUTOMOBILE COURT. A group of two or more attached, detached, or semi-detached buildings containing individual sleeping or living units designed for or used primarily for the accommodation of transient automobile travelers, with garage attached or parking space conveniently located to each unit, including tourist courts, motels, or motor lodges.

BOARDING HOUSE. A dwelling other than a hotel where lodging and/or meals for three or more persons are provided for compensation. COMPENSATION shall include compensation in money, services, or other things of value.

BILLBOARD. Any sign containing advertising, not appurtenant to any permitted use, over six square feet in area.

BUILDING. Any structure having a roof supported by columns or by walls and designed for the housing or enclosure of any person, animal, or chattel.

BUILDING, HEIGHT OF. The vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof.

BUILDING, MAIN. A building in which is conducted the principal use of the lot on which it is situated. In any R zone, any dwelling shall be deemed to be a main building on the lot on which the same is situated.

BUILDING SITE. See definition in this subchapter, LOT.

CAMP, TRAILER. Any area or tract of land used or designed to accommodate ten or more automobile trailers or ten or more camping parties, including cabins, tents, or other camping outfits.

COMMISSION. The Planning Commission of the city.

DUPLEX. A building containing not more than two kitchens, designed and/or used to house not more than two families, living independently of each other, including all necessary employees of each family.

DWELLING. A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, but not including hotels, clubs, or boarding houses or any institution such as an asylum, hospital, or jail where human beings are housed by reason of illness or under legal restraint.

DWELLING GROUPS. One or more buildings containing dwelling units occupying a parcel of land, in one ownership, and arranged around a yard or court, including one-family, two-family, and multiple dwellings, but not including automobile courts.

DWELLING, MULTIPLE. A building, or portion thereof, used, designed, or intended as a residence for three or more families living independently of each other, and doing their own cooking in the building, including apartment houses, apartment hotels and flats, but not including automobile courts.

DWELLING, ONE-FAMILY. A building designed and/or used exclusively for occupancy by one family, living independently of any other family.

DWELLING, TWO-FAMILY. A building designed and/or used exclusively for occupancy by two families, living independently of each other (see definition in this subchapter, DUPLEX).

DWELLING UNIT. Two or more rooms in a dwelling or an apartment hotel designed for occupancy by one family for living and sleeping purposes and having only one kitchen.

EMERGENCY SHELTER. Housing, as defined in California Health and Safety Code Section 50801, with minimal supportive services for families or individuals experiencing homelessness, where occupancy is limited to sixth months or less. Medical assistance, counseling, and meals may be provided~~Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay~~.

EMPLOYEE HOUSING. Living quarters including dwellings, railroad maintenance cars, trailer coaches, or other housing accommodations maintained in connection with any work or place where work is being performed and the site on which they are located, excepting farm employee housing as defined in this section.

ERECTED. Shall include built, built upon, added to, altered, constructed, reconstructed, moved upon, or any physical operation upon the land required for a building.

FAMILY. One or more persons living ~~as a single housekeeping unit~~ in a dwelling unit.~~, including necessary domestic servants. FAMILY shall not include such groups as customarily occupy a hotel, club, fraternity, or sorority house.~~

FARMWORKER HOUSING. Living accommodations for employees and their immediate families employed for the exclusive purpose of agricultural pursuits either on the premises or off-site. It includes single- or multi-unit dwellings, including mobile homes.

GARAGE, PUBLIC. A building used for the care, repair, or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire, or sale.

GARAGE, PRIVATE. A detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the premises.

GARAGE SPACE. Permanently maintained space of not less than 8½ × 19 feet for the parking of automobiles off the street. Such space shall be located and arranged for an accessory building and with adequate ingress and egress.

GROUP RESIDENTIAL FACILITY. Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. Facilities are typically licensed by the State of California. This classification includes clean and sober living facilities, other types of organizational housing, private residential clubs, and farmworker housing, but excludes bed and breakfasts, dormitories, fraternity and sorority houses, boarding homes, rest homes, hotels, motels, and residential care facilities.

Small. A facility that houses six or fewer persons.

Large. A facility that houses seven or more persons

HOME OCCUPATION. The conduct of an art or profession, the offering of a service, or the conduct of a business, or the handcraft manufacture of products within a house or garage in a residential district, which use is clearly incidental and secondary to the use of a structure for dwelling purposes and which use does not change the character thereof.

HOTEL. Any building, or portion thereof, containing six or more guest rooms used, designed, or intended to be used, let, or hired out to be occupied or which are occupied as the more or less temporary abiding place of six or more individuals who are lodged with or without meals for compensation, whether the compensation for hire is paid directly or indirectly, and in which no provision is made for cooking in any individual room or suite.

HOUSING FIRST. Unconditional housing provided as quickly as possible to homeless people, with supportive services offered.

JUNK YARD. The use of more than 200 square feet of the area of any lot or the use of any portion of that half of any lot, which half adjoins any street for the storage of junk, including scrap metals or other scrap materials, or for the dismantling or wrecking of automobiles, other vehicles, or machinery, whether for sale or storage.

LOADING SPACE. A permanently maintained space of not less than 8 × 18 feet located off the street with access for the parking of vehicles. Whenever the provisions of this chapter shall require loading space, such space shall be in addition to any required parking space and/or garage space.

LOT. Any area or parcel of land held under separate ownership and occupied, or to be occupied, by a main building or by a dwelling group, together with such yards, open spaces, lot width, and lot area as are required by this chapter and having its principal frontage on a public street, road, or highway.

LOT, CORNER. A lot situated at the intersection of two or more intersecting streets.

LOT DEPTH. The horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

LOT LINE, FRONT. The property line dividing a lot from a street. On a corner lot the shorter street frontage shall be considered the front lot line.

LOT, INTERIOR. A lot other than a corner lot.

LOT, KEY. The first lot to the rear of a reversed corner lot, whether or not separated by an alley.

LOT LINE. The lines bounding a lot.

LOT LINE, REAR. The line opposite the front lot line.

LOT, REVERSED CORNER. A corner lot which rears upon the side of another lot, whether separated by an alley or not.

LOT LINE, SIDE. Lot lines other than front lot lines or rear lot lines.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH. The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LOW BARRIER NAVIGATION CENTER. A Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

MANUFACTURED HOME. A factory-built structure that is manufactured or constructed under authority of 42 U.S.C. Sec. 5403, National Manufactured Housing Construction and Safety Standards Act of 1974, and/or California law and is to be used as a place for human habitation. The structure is manufactured either in whole or in substantial part at an off-site location, transported to the site, assembled on-site, and placed on a permanent foundation. For the purpose of this Development Code, a manufactured home shall be considered the same as any site-built, single-family detached dwelling. Manufactured home is not inclusive of a mobile home unless the mobile home has been converted to real property and is taxed as a site-built dwelling.

MOBILEHOME. A structure, transportable in one or more sections, designed to be used with or without a permanent foundation, which contains not more than one dwelling unit, and which is not a recreational vehicle, commercial coach or factory-built house.

MOBILE HOME PARK. Any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate mobile homes used for human habitation.

NONCONFORMING BUILDING. A building or structure or portion thereof lawfully existing on September 15, 1954, which was designed, erected, or structurally altered for a use that does not conform to the use regulations of the zone in which it is located, or a building or structure that does not conform to all the height or area regulations of the zone in which it is located.

NONCONFORMING USE. A use which lawfully occupied a building or land on September 15, 1954, and which does not conform with the use regulations of the zone in which it is located.

OPEN SPACE. As required in the R and PD zones shall mean area available and accessible to residents for active and passive recreation including landscaped areas, walkways, patios, yards, and recreation facilities. To qualify as open space, an area must have a minimum dimension of 10 feet except that balconies may qualify as open space when the minimum dimension is five feet. Parking areas (spaces and driveways) may not be included in open space calculations.

PARKING SPACE. Permanently maintained space at least 8½ × 19 feet located off the street with access for the parking of automobiles.

PROFESSIONAL OFFICES. An office for the conduct of any one of the following uses: accountant, architect, attorney, chiropractor, civil engineer or surveyor's drafting office, collection agency, cosmetologist, dentist, doctor, funeral parlor, insurance, private detective, real estate, social worker or similar use; but shall not include the following uses: advertiser, barber shop, contractor, pest control, pharmacy, or veterinary.

ROOMING HOUSE. See definition subsection in this subchapter, BOARDING HOUSE.

RESIDENTIAL CARE FACILITY. Facilities that are licensed by the State of California to provide permanent living accommodations and 24-hour primarily nonmedical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, assisted living facilities, and group homes for minors, persons with disabilities and people in recovery from alcohol or drug addictions. This use classification excludes transitional housing and social service facilities. Residential Care Facilities are further divided into three class types as follows:

Small. A facility providing care for six or fewer persons.

Large. A facility providing care for more than six persons.

Elderly. A housing arrangement chosen voluntarily by the resident or by the resident's guardian, conservator, or other responsible person; where residents are 60 years of age or older; and where varying levels of care and supervision are provided as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal. This classification includes continuing care retirement communities and life care communities licensed for residential care by the State of California."

SINGLE ROOM OCCUPANCY. A residential facility containing housing units that may have individual or shared kitchen and/or bathroom facilities and are guest rooms or efficiency units as defined by the California Health and Safety Code. Each housing unit is offered on a monthly rental basis or longer.

STREET. A public thoroughfare or road easement not less than 20 feet in width, which affords principal means of access to abutting property, but not including an alley.

STREET LINE. The boundary between a street and property.

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on or in the ground or attachment to something having a permanent location on or in the ground, including site built swimming pools. This definition does not include walls and fences less than three feet in height when located in front yards, or less than six feet in height when located in side or rear yards, nor other improvements of a minor character.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor joists, or roof joists, for which a building permit is required.

SUPPORTIVE HOUSING. Housing with no limit on length of stay that is occupied by the target population and that is linked to onsite or offsite services that assist residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. ~~Housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone~~.

TARGET POPULATION. Persons with low incomes who have one or more disabilities, including mental illness, HIV and AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Development Disabilities Services Act (Division 4.5 (commencing with ~~§~~ Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

TRANSIT CORRIDOR. An area within one-quarter mile of a route on which the level of service is at or above the average for the transit system as a whole, according to the transit operator serving the area, and on which regularly scheduled public mass transit service stops are located, or within one-quarter mile of an existing or planned public mass transit guideway or busway station, or within one-quarter mile of a multimodal transportation terminal serving public mass transit operations. "Level of service," unless otherwise defined by the transit operator, means the frequency of headways and the number of vehicles per day.

TRANSIT STOP. A site containing an existing rail or fixed route bus station, a rail terminal, or an intersection of two or more fixed route bus routes.

TRANSITIONAL HOUSING. Buildings configured as rental housing, but operating under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from the beginning of the assistance. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

USE. The purpose for which land or premises or a building thereon is designed, arranged, or intended, or for which it is or may be occupied or maintained.

YARD. An open space, other than a court, on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward, except as otherwise permitted in this chapter.

YARD, FRONT. A yard extending across the front of the lot between the inner side yard lines and measured between the front lot line and the nearest line of the main building.

YARD, REAR. A yard extending across the full width of the lot and measured between the rear line of the lot and the nearest line or point of the main building nearest the rear line of the lot.

YARD, SIDE. A yard on each side of a building between the building and the side line of the lot and extending from the front line to the rear yard.

ZONE. A portion of the city within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limited are established for buildings, all as set forth and specified in this chapter. ~~ZONE~~ Zone shall mean and include a "zone district," "zoning district," "land use district," or "district," any of which may be used interchangeably in this chapter as warranted by the context. ~~the word DISTRICT.~~

ZONES

§ 10-3.301 ESTABLISHMENT.

(A) In order to classify, regulate, restrict, and segregate the uses of land and buildings, to regulate and restrict the height and bulk of buildings, and to regulate the area of yards and other open spaces about buildings, and to promote the public health, safety, peace, comfort and general welfare, 16~~3~~ classes of land use zones are established to be known as follows:

(1) PD. Planned Development Zones
(2) R. Residential Zones
(3) RCO. Resource Conservation and Open Space Zone
(4) PF. Public Facilities Zone
(5) PO. Public Office Zone
(6) C-1. Light Commercial Zone
(7) C-2 Heavy Commercial Zone
(8) C-R. Restricted Commercial Zone
(9) WY. West Yosemite Avenue Overlay Zone
(10) I. Industrial Zone
(11) UR. Urban Reserve Zone
(12) U. Unclassified Zone
(13) IP. Industrial Park Zone
(14) N-C. Neighborhood Commercial Zones
(15) H-C. Highway Commercial Zones
(16) SP. Specific Plan Zone

(B) An "S" subdesignation may be added to a zone classification applied to a parcel or parcels of land when deemed appropriate by the City Council, upon recommendation of the Planning Commission, for the purpose of setting forth special provisions for the use of such land on an interim or transitional basis. Such use may be one that would otherwise not be permitted by the regular zoning classification. The "S" subdesignation shall be established by ordinance, after due public hearing processes, and the ordinance shall set forth the circumstances of the subdesignation, including but not limited to the purpose and time period for the special provisions. Upon the termination of the specified time period the special provisions shall automatically become null and void and the subdesignation shall be duly deleted from the zoning map of the city without further hearing.

§ 10-3.302 ZONING MAPS.

(A) Adoption. The boundaries of the various land use districts within the City of Madera are shown upon the map designated as the "City of Madera Zoning Map", sometimes referred to in this chapter as

"zoning map," signed and on file in the office of the City Clerk, which map is hereby adopted and made a part of this chapter, and said map and all of the notations, references, and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by said map were all duly described in this chapter.

(B) Amendments. If amendments are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the City Council. The revised zoning map, reflecting all amendments and changes, shall then be refiled with the City Clerk within ~~ten~~ 10 days after City Council approval. No amendment to this title which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on the zoning map.

(C) Format. The official zoning map shall be the printed and signed copy on file in the office of the City Clerk, including any adopted amendments. Electronic files used to create the map are not the official map. The official zoning map shall be printed for viewing and interpretation at a scale of at least one to twenty thousand (1:20,000).

§ 10-3.303 ANNEXATION POLICY.

(A) All territory to be annexed to the city shall, prior to being considered by the Madera Local Agency Formation Commission, be prezoned by amendment of the official zoning map and shall be automatically in effect upon the certificate of completion for annexation of the area into the city being recorded by the County Clerk.

(B) Prezoned land shall carry a "PZ" prefix before the zone classification(s) and shall be so designated on the official zoning map. The zone(s) established by prezoning shall become effective and the "PZ" prefix shall be automatically removed when the property is annexed. Failure to complete the annexation process for any reason shall render any prezoning zone classification(s) on the official zoning map to be null and void, and the zoning designation(s) shall be removed for the official zoning map. The subject property will be considered to be not prezoned, not within the city limits of the City of Madera, and instead subject to the zoning ordinance of the County of Madera.

§ 10-3.304 ZONE BOUNDARIES.

The designations, locations, and boundaries of the land use zones established by Section~~§~~ 10-3.301 of this subchapter are as set forth and indicated on City of Madera Zoning Map which is on file in the office of the City Clerk. The zoning map designations are intended to generally follow parcel lines. Interpretation may be needed to determine the exact boundaries of a land use classification where parcel lines are unclear, have been moved, have been deleted, or do not correspond with a zone district boundary.

Where uncertainty exists as to the boundaries of any zone shown on the zoning map, the following rules shall apply:

(A) Street, alley, or lot lines. Where zone boundaries are indicated as approximately following street lines, alley lines, or lot lines, such lines shall be construed to be such boundaries.

(B) Unsubdivided land. In unsubdivided property or where the zone boundary line divides a lot, the location of such boundary, unless the same is indicated by specific dimensions, shall be determined by use of the scale appearing on the zoning map.

(C) Vacated street or alley. Where any public street or alley or other public right-of-way is officially vacated or abandoned, the land formerly in such street, alley, or right-of-way shall be included within the zone of adjoining property on either side thereof. In the event such street, alley, or right-of-way was a zone boundary line between two or more different zones, the new zone boundary line shall be the former center line of such vacated or abandoned street, alley, or right-of-way.

(D) Determination. When a determination is requested due to an uncertainty as to the location of a zone district boundary, the Planning Director shall utilize the official zoning map to make a determination. Where a determination of the Planning Director is contested, the contestant may make application for a determination by the Planning Commission.

§ 10-3.305 CONFORMANCE TO ZONE REGULATIONS.

(A) Except as provided in this chapter:

(1) Use. No building shall be erected, reconstructed, or structurally altered in any manner, nor shall any land, building, or premises be used, designed, or intended to be used for any purpose or in any manner other than a use listed in this chapter as permitted in the specific zone in which such land, building, or premises are located, and then only after applying for, and securing, all permits and licenses required by law.

(2) Height. No building shall be erected, reconstructed, or structurally altered in any manner to exceed in height the limit established by this chapter for the zone in which such building is located.

(3) Area. No building shall be erected, reconstructed, or structurally altered in any manner, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner except in conformity with the building site requirements and the area and yard regulations established by this chapter for the zone in which such building is located.

(B) No required yard or other open space provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building or structure; nor shall any required yard or other open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected.

GENERAL PROVISIONS

§ 10-3.401 INTERPRETATION.

(A) —When interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except as specifically herein provided, it is not intended by the adoption of this chapter to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of any law or ordinance, or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the erection, construction, establishment, moving, alteration, or enlargement of any building or improvement; nor is it intended by this chapter to interfere with, abrogate, or annul any easement, covenant, or other agreement between parties; provided, however, that in cases in which this chapter imposes more stringent requirements, regulations, restrictions, or limitations on the erection, construction, establishment, moving, alteration, or enlargement of buildings or the use of any such buildings or premises in the several zones or any of them than is imposed by or required by existing provisions of law or ordinance or by such rules, regulations, or permits or by such easements, covenants, or agreements, the provisions of this chapter shall control.

(B) Authority to Interpret. Where uncertainty exists regarding the interpretation of any provision of this chapter or its application to a specific site, the Planning Director shall have the authority and responsibility to interpret such terms, provisions, and requirements.

(C) Record of Interpretation. Code interpretations shall be made in writing and shall state the facts upon which the Planning Director relied to make the determination. The Planning Department shall keep a record of interpretations made pursuant to this section on file for future reference.

(D) Applicability of Interpretation. Code interpretations shall be applied in all future cases, provided that any interpretation may be superseded by a later interpretation when the Planning Director determines that the earlier interpretation was in error or no longer applicable under the current circumstances.

~~(A)~~(E) Right to Appeal. A Code interpretation by the Planning Director may be appealed to the Planning Commission as provided in Section § 10-3.1601 (Interpretation).

§ 10-3.402 APPLICABILITY.

Should any standard or provision of this title conflict with the allowances or requirements of State law, such allowances or requirements shall prevail.

~~**§ 10-3.402 LESS RESTRICTIVE USES PROHIBITED.**~~

~~The express enumeration and authorization in this chapter of a particular class of building, structure, premises, or use in a designated zone shall be deemed a prohibition of such building, structure, premises, or use in all zones of a more restrictive classification~~

§ 10-3.403 ADDITIONAL PERMITTED USES.

Uses other than those specifically mentioned in this chapter as uses permitted in each of the zones also may be allowed therein, provided such additional uses are similar to those mentioned and are, in the opinion of the Commission as evidenced by resolution of record, not more obnoxious or detrimental to the welfare of the community than the permitted uses specifically mentioned for the respective zones.

§ 10-3.404 ADDITIONAL EXCLUDED USES.

Uses other than those specifically mentioned in this chapter as uses excluded from any zone also may be excluded therefrom, provided such additional uses are, in the opinion of the Commission as evidenced by resolution of record, equally or more obnoxious or detrimental to the welfare of the community than the excluded uses specifically mentioned for the respective zones.

§ 10-3.405 USES.

(A) No circus, carnival, amusement park, open air theater, race track, private recreation center, or similar establishment shall be established in any zone unless and until a use permit is first secured for the establishment, maintenance, and operation of such use.

(B) No dance hall, road house, nightclub, commercial club, or establishment where liquor is served or sold for consumption on or off the premises, or commercial place of amusement or recreation, or any such place or any other place where entertainers are provided, whether as social companions or otherwise, shall be established in any zone where such uses may be otherwise allowed unless a use permit shall first have been secured for the establishment, maintenance, and operation of such use.

(C) Accessory uses and buildings in any C or I zone may be permitted where such uses or buildings are incidental to, and do not alter the character of, the premises in respect to their use for purposes permitted in the zone. Such accessory buildings shall be allowed only when constructed concurrent with or subsequent to the main building.

(D) Public or private parking lots for automobiles may be permitted in any R zone adjacent to any C or I zone provided a use permit shall first be obtained in each case.

(E) Churches, schools, hospitals, parks, playgrounds, and public utility and public and quasi-public buildings, except cemeteries and their appurtenant uses, may be permitted in any R zone provided a use permit shall first be obtained in each case.

(F) The removal of minerals, earth, and other natural materials may be permitted in any zone provided a use permit shall first be obtained in each case.

(G) The provisions of this chapter shall not be construed to limit or interfere with the installation, maintenance, and operation of public utility pipelines and electric or telephone transmission lines or railroads when located in accordance with the applicable rules and regulations of the Public Utilities Commission of the state within rights-of-way, easements, franchises, or ownerships of such public utilities.

(H) Home occupations shall be permitted in all R zones subject to the determination by the Commission of what activities are within the definition of home occupations as set forth in § 10-3.201 of this chapter. The determination of the Commission of what conduct may be allowed under the definition of home occupation shall be set forth in a resolution of the Commission on file in the office of the Planning Director. In the event of a dispute regarding the issue of whether or not the use of any property is or is not a home occupation, the Planning Director shall set the matter for hearing by the Commission, and the Commission's determination of such issue shall be final and conclusive. In conjunction with any such hearing, the Commission may attach such conditions to the use of the property which may be necessary to insure that the limitations set forth in this chapter and any resolutions adopted by the Commission concerning the conduct of home occupations are met. All home occupations shall be registered with the Planning Director.

(I) Recycling facilities.

(1) Recycling facilities as hereinafter described are permitted as set forth in this subsection. Recycling facilities are either collection facilities or processing facilities. A COLLECTION FACILITY shall not complete any processing except limited bailing, batching, and the sorting of materials and shall be classified as either SMALL, which occupies an area of not more than 100 square feet and includes bins, boxes, cans, kiosk-type units, bulk reverse vending machines, and/or other containers or receptacles, or LARGE, which occupies an area of more than 100 square feet and includes bins, boxes, cans, kiosktype units, bulk reverse vending machines, and/or other containers or receptacles. Any and all motorized vehicles and trailers except those used to transfer recyclable materials to a collection or processing facility are deemed to be large collection facilities. A processing facility is a building or space used for the collection and processing of recyclable materials and processed by such means as flattening, sorting, settling, compacting, bailing, shredding, grinding, and crushing. Recyclable materials are reusable material including aluminum, glass, plastic, paper, and used motor oil.

(2) Recycling facilities are permitted as follows:

(a) A small collection facility may be permitted in any C, I, IP, or RCO zone and in an R zone when the site is the location of an appropriate non-profit agency. In each case, approval must first be secured from the Planning Director.

(b) A large collection facility may be permitted in any zone after first securing a use permit.

(c) A processing facility may be permitted in a C-2, I, or IP use zone after first securing a use permit.

(3) Applications for recycling facilities shall be evaluated for propriety of location and consideration shall be given to the need for facility screening, landscaping, circulation/parking, noise, odor, and sanitation control to assure compatibility with surrounding land uses.

(J) Cardrooms.

(1) Cardrooms as hereinafter described and regulated are permitted as set forth in this subsection. A cardroom is any room open to the public for the lawful playing of cards, regardless of whether the tables, chairs and other furniture and fixtures are temporary or permanent or at times used for other purposes.

(a) It is the stated purpose of this division (J) to regulate cardrooms in the city concurrently with the state, and to impose local controls and regulations upon cardrooms as permitted in the "Gambling Control Act".

(b) Cardrooms, subject to the licensing requirements and limitation in number cited at § 6-~~140~~ 301 et. seq. of this code are permitted in any C-1, C-2, CH, or I zone except as otherwise prohibited. In each case, a Use Permit must be approved by the Planning Commission. Application for a Use Permit shall be made in accordance with §§ 10-3.1301 et seq. of this code.

(c) Applications for establishment of cardrooms shall be evaluated for propriety of location and consideration shall be given to the need for landscaping, circulation/parking, noise, intrusive lighting and health and safety considerations to ensure compatibility with surrounding land uses.

(d) The exterior wall structure of each business or premises lawfully occupied by a cardroom shall be located not less than:

1. 1,000 feet from the exterior property limits of any public or private elementary school, junior high school or high school; and
2. 1,000 feet from the exterior property limits of any church or place of worship; and
3. 1,000 feet from the exterior property limits of any zoning district where residential use is the principal permitted use; and
4. 1,000 feet from the exterior wall structure of each business or premises lawfully occupied by another cardroom, a massage establishment, adult entertainment establishment, or any other adult oriented business establishment.
5. All distances referred to in division (J)(1)(d) of this section shall be measured in a straight line without regard to intervening structures, from the closest exterior structural wall of the cardroom. Said distance standards shall be applied regardless of jurisdictional boundaries.

(e) Exempt organizations.

1. Exempt organizations may provide card tables and card games for the exclusive use of their members and shall be exempted from obtaining a cardroom license pursuant to this section, whether or not a fee or any other charge is made to the players, as long as the exempt organization is not required to register under the Gaming Registration Act, and providing that such exempt organization complies with all of the subsections of this section.
2. An authorized representative of the exempt organization shall file a Declaration of Exemption executed under penalty of perjury with the Chief of Police that sets forth the name and address of the exempt organization, the number of tables to be operated, and a declaration that the exempt organization and its members qualify for exemption from the Gaming Registration Act and from licensing hereunder; the Declaration of Exemption shall be accompanied by proof of the valid and unrevoked tax exempt status of the exempt organization granted by the Franchise Tax Board and/or the Internal Revenue Service. No registration fees shall be required.
3. No exempt organization shall operate, conduct, or carry on legal gaming as defined in this chapter more than one day of any calendar week.
4. No exempt organization shall operate, conduct, or carry on legal gaming as defined in § 6-~~140~~ 301 et. seq. of this code within any building, structure, lot, or premises within any calendar week, if any other exempt organization has conducted, carried on, or operated legal gaming within such building, structure, lot or premises during the same calendar week.

(K) Garage and yard sales.

(1) Purpose and intent. The purpose of this subsection is to establish land use standards that will protect the character of single-family residential neighborhoods in order to preserve public safety and welfare. The intent is to regulate those activities which in the most technical sense have business or commercial characteristics, but which, because of the manner in which they are conducted or the purposes for which they are being operated, are truly non-commercial in nature. These regulations are intended to prevent the expansion of such non-commercial operations into truly commercial operations and to regulate the method of conducting the activity so that it will be confined to a non-commercial type of operation. It is the purpose of this subsection to prevent such activities from unfairly competing with

permitted revenue-producing commercial and business enterprises; to prevent the conduct of commercial enterprises upon other than commercially zoned property; and to curb the evasion of business permit fees and sales taxes.

(2) Definitions. For the purpose of this subsection, a GARAGE SALE or YARD SALE is a sale conducted by an individual homeowner or occupant of a home, or apartment owner, occupant of an apartment unit, or owner or occupant of any other residential or dwelling unit. These sales are for the purpose of selling, trading, bargaining, exchanging or otherwise disposing of unwanted or surplus household furnishings or goods, or other tangible items. They are usually conducted in a garage, on a patio or porch, upon a driveway or in a yard, and are sales for which no inventory or permanent or detailed records are kept on the transactions thus carried out. They may at times be conducted by a combination of residential dwellers at a single location. All sales designated "lawn sale", "attic sale", "rummage sale ", "moving sale", "estate sale" or other terms of similar or like intent and having the foregoing characteristics and purposes are hereby declared GARAGE or YARD SALES for the purpose of regulation by this subsection.

(3) Time limits of sales. Sales events conducted at any residential dwelling unit, apartment complex, or residentially zoned property may only be held on the first Saturday and/or Sunday of each month. No event may be held for more than two consecutive days. The time limit for conducting the sale shall be between the hours of 8:00 a.m. and 4:00 p.m., including the time for set-up and takedown. The driveway, yard area, or other space used for the purposes of the sale shall be restored to its normal residential character at the conclusion of the sale.

(4) Limitations on items for sale. Goods offered for sale shall be the personal property of the person conducting the sale, as well as persons participating in the sale. All of the goods must be used or secondhand. Selling goods which have been acquired specifically for the purpose of resale is prohibited. The sale of the goods shall not violate any federal, state, or local laws.

(5) Display of property. Except where a special events or encroachment permit has been issued, the display of personal property offered for sale shall not be displayed on any public right-of- way, including, but not limited to, sidewalks, parkways, streets and/or alleys, or on any other residentially zoned property other than that owned or rented by the person conducting the sale.

(6) Sign displays. A sign no larger than six square feet in area may be displayed on the premises announcing the sale during the time period allowed for such events. No sign shall be displayed at any location outside of, or off the premises without the expressed written permission of the owner. Placing signs in the public right-of-way is prohibited. No sign shall be placed any earlier than 12:00 p.m. on the day before the sale starts and shall be removed by 4:00 p.m. on the termination day of the sale.

(7) Violation - penalty. Violations of any provisions of this subsection shall subject the violator to suit for civil remedy, criminal penalty, administrative enforcement, or any combination thereof. The criminal penalty for a first or second offense shall be punishable as an infraction. The criminal penalty for a third offense or more shall be punishable as a misdemeanor.

(8) Non-profit organizations shall be permitted to hold no more than two garage or yard sales on non-residential property within a 12 month period. Non-profits holding such garage or yard sales must obtain a permit from the Neighborhood Revitalization Department prior to holding the event.

(L) No treatment center, counseling center, psychiatric facility, or other clinic or business which primarily serves or treats sex offenders, including those persons who are required to register pursuant to California~~.~~ Penal Code § 290, or any similar establishment shall be established in any zone unless and until a use permit is first secured for the establishment, maintenance, and operation of such use. Under no circumstances shall a permit issue or, any such facility shall be permitted to locate or operate within 2,000 feet of any public or private school or park, or any facility where children gather.

§ 10-3.406 NONCONFORMING BUILDINGS AND USES.

The following regulations shall apply to all nonconforming buildings and structures, or parts thereof, and uses existing on September 15, 1954:

(A) Land only. The lawful use of land only, existing on September 15, 1954, although such does not conform to the regulations specified in this chapter for the zone in which such land is located, may be continued provided no such use shall be enlarged or increased nor be extended to occupy a greater area than that occupied by such use on September 15, 1954, and if any use ceases, the subsequent use of such land shall be in conformity to the regulations specified by this chapter for the zone in which such land is located.

(B) Buildings or structures. A building or structure in existence, or a use lawfully occupying a building or structure on September 15, 1954, or on the effective date of an applicable amendment to this chapter, which building or use does not conform to the regulations for the district in which the building or use is located, shall be deemed to be a nonconforming building or use, and may be continued as provided in this section:

(1) The lawful use of buildings or structures may be continued although such building or use does not conform to the regulations specified for the zone in which such building or structure is located.

(2) The nonconforming use of a portion of a building or structure may be extended throughout the building provided in each case a use permit shall be first approved by the Planning Commission.

(3) The nonconforming use of a building or structure may be changed to a use of the same or more restricted nature provided in each case a use permit shall first be approved by the Planning Commission.

(4) If the nonconforming use of a building or structure ceases for a continuous period of six months, it shall be considered abandoned and shall thereafter be used only in accordance with the regulations for the zone in which such building or structure is located and the nonconforming right shall be lost. Provided, however, that if a use permit is approved by the Planning Commission within an additional six months from the date of termination, the use may be reestablished.

(C) Maintenance or repairs. Ordinary maintenance and repairs may be made to any non- conforming building providing no structural alterations are made and providing such work does not exceed 15% of the appraised value of the building or structure in any one-year period. Other repairs or alterations may be permitted provided a use permit shall first be secured in each case.

(D) Reconstruction of damaged nonconforming building. Nothing in this chapter shall prevent the reconstruction, repair, or rebuilding and continued use of any nonconforming building or structure partially damaged by fire, collapse, explosion, or act of God, wherein the expense of such reconstruction, repair, or rebuilding does not exceed 75% of the appraised value of the building or structure according to an independent appraisal completed by an appraiser certified by the state at the time such damage occurred. All such reconstruction shall be performed under one building permit and started within a period of one year from the date of damage and be diligently prosecuted to completion. In the event the aforementioned damage is in excess of 75% of the appraised value, the building or structure may be restored only if made to conform to all the regulations of the zone in which it is located, or through approval of a use permit by the Planning Commission.

(E) Changes to conforming use to be permanent. Any part of a building, structure, or land occupied by such a nonconforming use which is changed to, or replaced by, a use conforming to the provisions of this chapter, as they apply to the particular zone, shall not thereafter be used or occupied by a nonconforming use.

(F) Nonconforming uses resulting from amendments. The foregoing provisions of this section shall apply also to buildings, structures, land, or uses which hereafter become nonconforming by reason of any reclassifications of zones or any subsequent changes to the provisions of this chapter as of the effective date of such amendment.

(G) Exceptions; powers of eminent domain. No parcel of land in single ownership on September 15, 1954, shall be considered non-conforming solely as the result of the taking of a part of such land for street widening or public utility purposes under the power of eminent domain.

(H) Billboards. All ~~BILLBOARDS~~ billboards defined in § 10-3.201 of this chapter are declared to be non- conforming uses in any zone and shall be prohibited, and such billboards shall be removed from the premises where located on or before January 15, 1975, or within three calendar years after the effective date of any ordinance annexing the territory upon which any such sign is located, whichever is the latter; provided, however, the provisions of this section shall not apply to official notices issued by any court, public body, or officer in the performance of a public duty, or by any person in giving any legal notice, or to any directional, warning, or informational sign required by or authorized by law or by federal, state, or local authority.

§ 10-3.407 LOCATION OF DWELLINGS.

Except in multiple dwelling developments or where otherwise provided for in this chapter, every dwelling shall face or front upon a street or permanent means of access to a street.

§ 10-3.408 HEIGHT OF BUILDINGS.

Chimneys, cupolas, water tanks, ventilating fans, towers, steeples, smokestacks, and similar structures and mechanical appurtenances may be permitted in excess of height limits specified in the individual zones provided a use permit is first obtained in each case. In order to encourage shared use of telecommunication towers and the use of alternative tower structures or stealth antennas, the Community Development Director/City Engineer and may approve an exception to the height restrictions specified in the individual zones by an amount not to exceed 20 feet.

§ 10-3.409 BUILDING SITE AREA.

Any lot or parcel of land under one ownership and of record on September 15, 1954, where no adjoining land is owned by the same person may be used as a building site even when of less area or width than that required by the regulations for the zone in which it is located.

§ 10-3.410 THROUGH LOTS.

On through lots, either lot line separating such lot from a public thoroughfare may be designated by the owner as the front line. In such cases, the minimum rear yard shall be the average of the yards on lots next adjoining. If such lots next adjoining are undeveloped, the minimum rear yard shall conform to the front yard setback for the zone in which the property is located.

§ 10-3.411 YARD ENCROACHMENTS.

Where yards are required by this chapter, they shall be not less in depth or width than the minimum dimension specified for any yard, and they shall be at every point open and unobstructed from the ground upward, except as follows:

(A) Architectural features. Fireplaces, bay windows, balconies, cornices, canopies, and eaves, not providing additional floor space within the building, may extend into a required front, side, or rear yards not to exceed two feet.

(B) Porches.

(1) Covered porches, landing spaces, or outside stairways, which do not extend above the level of the entrance floor of the building may project into any required side yard not more than three feet and not

exceeding six feet into any required front yard. An open work railing, not more than 30 inches in height, may be installed or constructed on any such porch or landing space.

(2) Open porches, landing spaces, or outside stairways, if unroofed and unenclosed, which do not extend above the level of the entrance floor of the building to a maximum of 30 inches, is not limited as to its projection into front and side yards, provided it is not more than 120 square feet in area. Projections into a required rear yard are subject to the same limitations as a deck.

(C) Decks. When larger than 120 square feet or when the deck is constructed higher than 30 inches above finish grade, a wood deck may occupy up to 30% of a required rear yard area, but may not extend any closer than three feet to the rear or side property lines. Except as provided under open porches above, such a deck may not be located in the front setback area.

(D) Accessory buildings and structures. Except as provided elsewhere in this title, the following regulations shall apply to the location of accessory buildings:

(1) Attached accessory building. Where an accessory building is attached to and made a part of the main building, it shall be made structurally an integral part of, and have a common wall with, the main building and shall comply in all respects with the requirements of this chapter applicable to the main building.

(2) Detached accessory buildings. A detached accessory building or structure to be constructed in an R-1, R-2, R-3, or PD zone (unless otherwise provided by an approved precise plan) shall be subject to the following standards:

(a) Buildings designed for residential occupancy, or detached accessory structures larger than 1,000 square feet in size or higher than 12 feet shall be located at least ten feet from any dwelling building existing or under construction on the same lot or any adjacent lot. Such accessory building shall conform to the setback requirements for the primary dwelling unit on the lot.

(b) Structures not designed for residential occupancy, such as patio covers, gazebos, cabanas, and pool shelters, less than 1,000 square feet in area and less than 12 feet in height, shall be located as follows:

1. For structures with walls, at least a three-foot separation from the walled side to any building on the same lot is required. A three-foot separation from any side or rear lot line must be maintained.

2. For structures with wall surfaces of less than 10%, no separation is required from other buildings on the same lot, except at windows where three feet must be maintained. A three-foot separation from any side or rear lot line must also be maintained.

3. In the case of a corner lot, such structure shall meet the street side yard setback requirements for the primary dwelling unit on the lot.

§ 10-3.412 FENCES, WALLS, AND HEDGES.

(A) No fence, wall, or screen planting of any kind shall be constructed or grown to exceed a maximum of six feet in height between the rear property line of a lot and the front line of the main building or along any rear property line, nor to exceed three feet in height in any required front or street side yard or within 25 feet of any street corner except as may otherwise be permitted under this chapter.

(B) In R-1, R-2, and R-3 zones, or any Planned Development zone, no barbed wire shall be used or maintained in or about the construction of a fence, wall, hedge, or screen planting along the front, side or rear lines of any lot, or within three feet of the lines, and no sharp wire or point shall project at the top of any fence or wall.

(C) A fence may only be constructed of permanent building materials, such as wood, chain link, stone, rock, concrete block, masonry brick, brick, decorative wrought iron or other similar building materials approved by the Planning Department. A fence may not be constructed of cast-off, secondhand, or other material not originally intended to be used for constructing or maintaining a fence, including, but not limited to plywood less than five-eighths inches thick, particle board, cardboard, paper, visqueen plastic, plastic tarp, scrap wood, scrap metal, or similar material.

(D) All fences shall be properly maintained so as not to create a hazard, public nuisance or blight in the surrounding neighborhood.

(E) Any fence that is constructed, replaced or repaired in a manner that is inconsistent with the provisions of this section as of the effective date of Ordinance No. 809 C.S. shall constitute a violation of this section.

§ 10-3.413 STORAGE OF COMMERCIAL VEHICLES.

The storage or parking of commercial vehicles in the R-1, R-2, and R-3 zones, except for loading and unloading purposes, or the storage of materials, supplies, or equipment used for commercial purposes is prohibited.

§ 10-3.414 AUTOMOTIVE STORAGE OR PARKING SPACE.

For each main building erected or structurally altered in any R-1, R-2 or R-3 zone there shall be provided and maintained minimum off-street parking accommodations with adequate provisions for ingress and egress by standard size automobiles as provided in the Off-Street Parking Regulations subchapter of this chapter.

§ 10-3.415 DWELLING ON FRONTS OF LOTS.

Except as may otherwise be permitted within the applicable base zone district, ~~Any~~ any lot upon which a legal non-conforming dwelling has been constructed ~~on the rear half thereof prior to September 15, 1954~~, may have a second dwelling constructed ~~on the front half of the lot~~ upon the issuance of a use permit.

~~§ 10-3.415.1 (RESERVED).~~

§ 10-3.416 OUTDOOR RETAIL SALES.

This section sets standards for the conduct of outdoor retail sales activities, including but not limited to: farmer's market, home sales, pushcarts or peddle carts, sales from vehicles, seasonal sales, and sidewalk sales. The regulations provide for the pleasure and convenience of the community while protecting the public health and safety. A needed service is allowed through these provisions, as well as ensuring land use compatibility and attractive facilities.

(A) Definitions. The following definitions shall apply to this section:

LUNCH WAGON. A motor vehicle from which beverages and/or ready-to-eat food items are sold.

MOBILE FOOD PREPARATION UNIT. Any vehicle or portable food service unit upon which food is prepared for service, sale and distribution at retail, other than a lunch wagon or unprepared food vending vehicle, bakery truck, or ice cream product truck.

MOBILE VENDOR. Any person not having an established location who is engaged in transient business for the purpose of selling any type of merchandise or for the purpose of taking orders, or providing a service.

OPERATOR'S PERMIT. The permit issued to a mobile vendor, under the provisions of § 6-1.53 of the Municipal Code, who sells products, provides services, operates a lunch wagon, mobile food preparation unit, or pushcart on any sidewalk, street, alley, or highway, or on public or private property for the purpose of vending a product to the public.

OUTDOOR RETAIL. The conducting of activities including but not limited to sales, merchandising, display, exhibition, vending, demonstration or distribution of any product or service outside of a fully enclosed structure built in accordance with the provisions of the Madera Municipal Code.

PUSHCART. Any wagon, cart, or similar wheeled container, which is not a vehicle as defined in the State Vehicle Code, from which a product is offered for sale to the public.

SEMI-PERMANENT. The selling, giving away, displaying or offering for sale any product or service from any location for a period of time in excess of 30 minutes.

STAND. Any newsstand, table, bench, booth, rack or any other fixture or device which is used for the display or storage of articles offered for sale by a vendor.

TEMPORARY USE PERMIT. The land use permit issued by the Planning Director to a vendor authorizing the holder to engage in the business of vending a product from a lunch wagon, stand, mobile food preparation unit, pushcart, or any other business at a fixed location on any sidewalk, street, alley, or highway, or on public or private property, on a seasonal or temporary basis.

USE PERMIT. The land use permit issued to a vendor by the Planning Commission authorizing the holder to engage in the business of vending a product from a lunch wagon, stand, mobile food preparation unit, pushcart, or any other business at a fixed location on any sidewalk, street, alley, or highway, or on public or private property, on a long term or permanent basis.

VENDOR. A person who sells any type of merchandise at any fixed location other than within a permanent building or structure.

(B) Exceptions. All merchandise or displays and all storage or sales areas shall be within a permanent and completely enclosed building or structure, except that the following may be conducted outdoors:

(1) Newspaper vending from coin operated machines.

(2) Flower stands, plants and floral displays, subject to the requirements for a temporary use permit specified at division (F) (5) below and the standards specified in division (C) (6) below.

(3) Those outdoor land uses and activities specifically allowed by other sections of this code.

(4) Vehicular fuel sales in conjunction with approved service stations and mini-market operations.

(5) Vending machines, subject to the standards specified in division (F) (6) (a) below.

(6) Sales of Christmas trees and fireworks as further regulated by division (C) (6) below.

(7) Garage or yard sales at single or multiple family residences.

(8) Special events and sales activities conducted at city-owned facilities as may be authorized by the appropriate city department director.

(9) Outdoor fund-raising sales and activities conducted by schools, charitable or non-profit organizations if the sale is carried on wholly by the organization and it will derive, both directly and indirectly, any and all profits from the sale, except that events held on private property shall be subject to ~~administrative approval by the~~ Planning Director Approval.

(10) Mobile vendors as authorized in this section.

(C) General provisions. The following regulations shall apply generally to all outdoor retail sales activities authorized in this section.

(1) The sale of raw or processed foodstuffs is subject to applicable regulations of the County Health Department, State Health Codes, and California Food and Agriculture Codes, including but not limited to obtaining and displaying a current proof of health inspection sticker.

(2) All food preparation and vending units shall be inspected at least annually by the County Health Officer or designated representative and shall display a current sticker issued by and as directed by that agency.

(3) Sale of food products or beverages from any portable box, bag or similar container, other than a County Health Department approved container shall be prohibited, except that food previously inspected by a duly appointed government inspector, prepackaged in sealed containers may be displayed or offered for sale if otherwise in compliance with all applicable health and safety regulations.

(4) No vendor shall operate within 300 feet of any school ground prior to 4:00 p.m. on any day school is in session.

(5) No more than two vendors shall assemble, gather, collect or otherwise join for any purpose at any location except as otherwise authorized by approved conditional use permit.

(6) In no case shall a vendor operate in the following described areas except as permitted in writing by the City Council or it's authorized representative:

(a) Within 15 feet of any crosswalk or fire hydrant:

(b) In marked diagonal parking spaces:

(c) On any sidewalk or street adjacent to a curb which has been designated as a white, yellow, blue, green or red zone:

(d) Within 12 feet of the outer edge of any entrance way to any building or facility used by the public measured in each direction parallel to the building;

(e) At a location where pedestrian passage will be reduced to less than six feet:

(f) At any location where such operation may create a traffic hazard. For the purpose of this section, the judgment of a Madera police officer shall be deemed conclusive as to whether the operation is creating a hazard.

(g) Vendors shall not be permitted to operate at any publicly-owned off-street location in the Downtown Business District, including but not limited to parking lots and pocket parks. This section shall not be construed to prohibit vendors from operating on privately-owned property in the Downtown Business District pursuant to a valid use permit.

(7) Vendors shall be restricted from parking and or conducting business at any location within the public right-of-way designated by the City Engineer that represents a public peace, safety, health or welfare concern.

(D) The following additional regulations shall apply to pushcart, lunch wagon and mobile food preparation units.

(1) Each unit shall have affixed to it in plain view or available for immediate inspection a Madera City Business License, Health Certificate and any other permit required by this or any other applicable code.

(2) The maximum dimensions of any pushcart shall be six feet in length and four feet in width.

(3) The only signs used in conjunction with any unit shall be signs affixed to or painted on the unit or its canopy, with a maximum area of eight square feet.

(4) The operator of any unit, if such a person is an employee, contractee, or lessee of an owner, shall carry his operator's permit upon his person.

(5) No artificial lighting of any pushcart is permitted except as required by the California Vehicle Code.

(6) A refuse bin of at least one cubic foot shall be provided in or on the unit and shall be accessible by customers.

(7) No shouts, calls, horns or other noise nor amplified sound which can be heard 50 or more feet from the unit shall be permitted.

(8) No person shall stop, park or cause any lunchwagon or mobile food preparation unit or motor vehicle from which is offered food beverages, goods or merchandise to remain stopped in any public right-of-way within 75 feet of any street intersection.

(9) No person shall stop, park or cause any unit from which is offered food, beverages, goods or merchandise to remain stopped in any public right-of-way for more than 30 minutes except pursuant to the order of a lawful authority or for the purpose of making emergency repairs to the vehicle. In no event shall any person sell or give away any food or beverage product from a lunchwagon, pushcart or mobile food preparation unit vehicle while on any other public property including parking lots or pocket parks except as otherwise allowed in this code.

(10) No person shall stop, park or cause a lunchwagon, pushcart or mobile food preparation unit to remain on any private property for the purpose of selling, giving away, displaying or offering for sale any food or beverage product to any person other than the owner, his agents or employees without first securing a use permit for such activity. Permission for sales only to the owner, his agents or employees

must be granted by the owner of such property and must be in writing and shall be carried by the vendor and/or exhibited in the unit and shall not exceed the time limits established by § 10-3.416(D)(17).

(11) All mobile food preparation units, lunchwagons or pushcarts shall comply with all applicable regulations set forth in Articles 10 and 10.1 of Title 17 of the California Administrative Code.

(12) Each mobile food preparation unit shall be equipped with a fully charged fire extinguisher in good operating condition and with a current inspection tag. The driver shall be advised of the location of the type of extinguisher used and instructed in its operation.

(13) No cooking or food preparation shall be done while the mobile food preparation unit is in motion.

(14) Waste water shall not be discharged from a unit except at an approved disposal site.

(15) All units shall clearly exhibit the name of the owner of the unit, business address and business phone number of the person, firm, association, organization, company or corporation.

(16) Removal of trash. The operator of each unit shall be responsible for collection and proper disposal of all trash and debris accumulated by reason of any vending operation.

(17) Units may stop at sites or businesses (on-site) for no more than 30 minutes without moving to a new business location or site and may not return to that location for a period of one hour.

(E) The following requirements and standards shall apply only to mobile food preparation units, catering trucks and lunchwagons seeking to apply for a conditional use permit to operate on private property on a semi-permanent basis.

(1) Units proposing to operate on private property on a semi-permanent basis in the city shall not be allowed in the Residential or Professional Office Zones.

(2) No unit will be authorized to operate on private property on a semi-permanent basis in any established shopping center in the city.

(3) A unit may be authorized to operate on a property occupied by another land use, with the authorization of both the land-owner and the operator of the primary business, and as accessory to the primary land use.

(4) Except for restroom facilities, a unit on private property must operate as a separate and independent land use. The primary land use must continue to function without infringement on its access, circulation and parking requirements.

(5) The unit must comply with standard yard area and open space requirements as required by the zone for the primary business operation.

(6) Minimum site area for a unit shall be based on the setback requirements and on-site parking requirements for the operation and in no case shall be less than 1,000 square feet.

(7) A minimum of three standard on-site parking spaces in conformance with city standards shall be required in conjunction with the location of a unit on private property on a semi-permanent basis.

(8) The site on which the unit shall be located must be paved with asphalt concrete in accordance with city standards.

(9) A unit operating on private property on a semi-permanent basis shall be limited in its operation to daylight hours only, except as otherwise allowed by approved use permit.

(F) Permit requirements. The following permit procedures shall apply generally to outdoor retail sales activities as specified:

(1) Business license. Every vendor shall obtain a business license in accordance with the provisions of Title 6 of this Code.

(2) Use permit. No vendor may stop, stand or park at a fixed location for the purpose of vending or exhibiting merchandise at or on any publicly or privately-owned property or conduct sales activity outside a building or structure without first securing a use permit in accordance with Article 13 of this Code.

(3) Operators permit. No itinerant vendor shall operate without first obtaining a license under the provisions of § 6-1.53 of this Code.

(4) No person except the holder of a business license pursuant to § 6-1.53 of this code may be issued a use permit. No person may be issued such use permit unless he or she has obtained any required approvals from the County Health Department.

(5) Temporary use permits. The temporary use of land for those activities permitted in this section may be authorized for a limited and specified period of time not to exceed one year in duration as set by the Planning Director within the terms and conditions of each particular temporary use of land permit. The Planning Director may consider and take appropriate action on a request for extension of a temporary use of land permit for one additional one-year period upon review of a written request to be submitted no later than 30 days prior to the expiration of the approved temporary use of land permit. Outside sales of seasonal merchandise (Christmas trees, fireworks, pumpkins, produce stands, flower stands and the like) in one location may be permitted up to a maximum cumulative total of 90 days within a calendar year on a single property, with a limitation of no more than three non-consecutive separate events of a maximum of 30 days per each event.

(6) For applications for temporary use of land permits which allow for a vendor, the following minimum provisions and conditions shall also be applicable:

(a) A vendor sales stand and/or use shall not be located upon the paved or any unpaved portion of a public right-of-way nor impede the free and unobstructed use of any sidewalk or right-of-way. Push carts may use the public sidewalk as long as the cart does not impede the movement of pedestrians.

(b) The vendor sales activity, including the display of all related merchandise or products for sale, shall be limited to the immediate confines of the temporary street side stand, trailer, vehicle or other enclosure approved as part of the permit.

(c) All uses shall be located in such a manner that will not impede the normal use of driveways serving the property where the use is proposed nor in such a manner that encourages customers to stop in the street or driveway to obtain vendor service.

(d) Uses providing for temporary street side stands, trailers, or vehicles shall comply with the setback/yard provisions of the specific commercial or industrial zone the use is proposed to be located in. Temporary outdoor promotional/sales event for a commercial business may be allowed by conditional use permit.

(7) In authorizing an application for a temporary use of land permit, the Planning Director shall include as conditions of approval the following minimum provisions:

(a) The use will be limited to the dates and times (or period of time), nature and extent prescribed by the Planning Director.

(b) All works including building, electrical, and plumbing will conform to all requirements of applicable codes and regulations:

(c) Provisions for fire protection and fire vehicle access will be made as prescribed by the Fire Chief:

(d) Signage will be limited to that approved by the Planning Director;

(e) The site will be continuously maintained free of weeds, litter and debris:

(f) Within three days after removal of the temporary use the site will be completely cleaned: all trash debris signs and sign supports, and temporary electrical service and other equipment will be removed:

(g) Any additional limitations or conditions as required by the Planning Director as conditions of approval.

(G) Enforcement. Any person or business operating contrary to the provisions of this section shall be, and the same is hereby declared to be, unlawful and a public nuisance, and the city attorney may, in addition to or in lieu of prosecuting a criminal action thereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinment thereof in the manner provided by law, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from selling products, providing services or operating a lunch wagon, mobile food preparation unit or pushcart contrary to the provisions of this article.

(H) Application fees. Application fees for any permit required by any provision of this section shall be as established by separate City Council Resolution.

§ 10-3.417 ~~ZONING ADMINISTRATOR~~AMENDMENTS TO PREVIOUSLY APPROVED PERMITS

(A) **Applicability.** Any person holding a permit granted under this chapter may request an amendment to that permit. For the purpose of this section, the amendment of a previously approved permit may include amendment of the terms of the permit itself, amendment to project design, or the waiver or alteration of conditions imposed in the granting of the permit.

(B) **Request for Amendment.** An applicant may request an amendment to a permit after the effective date of the permit. An application shall be made on forms provided by the City and shall be accompanied by the applicable fee.

(C) **Review Process.** An amendment to a permit may be granted only when the designated approving authority makes all findings required for the original approval. The designated approving authority for an amendment to a previously approved permit shall be determined as follows:

(1) Minor amendment.

(a) **Applicability.** A minor amendment is a non-substantive change of a previously approved permit, including:

1. Structural additions to non-residential projects of more than 200 square feet and less than 2,500 square feet or 10 percent of existing square footage, whichever is less. Square footage shall be the aggregate of all proposed structures. Successive projects of the same type in the same place over time may be referred to the Major Amendment process, as determined by the Director.

2. Structural additions or alterations to existing residential projects that add no more than four units or 10% of the existing units, whichever is less.

3. Expansion of existing parking lots that add fewer than 25 parking spaces on an existing site.

4. Changes to parking areas or circulation patterns or reduction of the number of parking spaces.

5. Landscape modifications which do not alter the general concept or reduce the effective amount of landscaping.

6. Architectural, exterior material, or color changes which do not alter or conflict with the basic architectural form and theme of an existing building or change the location of windows or doors.

7. Other requests like the above-listed minor amendments, as determined by the Director.

(b) **Review process.** The Director is the designated approval authority for minor amendments. No public hearing shall be required. A written notice of decision shall be issued to the applicant in the same manner as the original permit. Minor amendments to discretionary permits may be appealed.

(2) **Major amendments.** Major amendments to a previously approved permit shall be processed as follows:

(a) **Applicability.** A major amendment is a substantive change of a previously approved permit, including:

1. Structural additions to non-residential projects of equal to or greater than 2,500 square feet or 10 percent of existing square footage, whichever is less. Square footage shall be the aggregate of all proposed structures.

2. Structural additions or alterations to existing residential projects that add more than four units or 10% of the existing units, whichever is less.

3. Expansion of existing parking lots that add 25 parking spaces or more on any existing site.

4. A modification in the approved access to the project site.

5. Changes in the allowed uses established for an approved Planned Development.

6. Expansion of use over 50 percent of square footage.

7. Other requests that cannot be classified as a minor amendment.

(b) Review process. The original approving authority shall be the designated approving authority for major amendments. A major amendment shall be processed in the same manner and subject to the same standards, as either may be updated by these zoning regulations, as the original application. Major amendments of discretionary permits may be appealed as authorized by this chapter for the specific permit type.

(3) Substantial Conformance. The Director may approve minor changes to a previously approved permit at the administrative level if the proposed changes are in substantial conformance with the existing permit and would not require any additional environmental analysis. Such proposed changes shall not significantly affect the design, intensity, or intent of the approved project or reduce any requirement intended to mitigate an environmental effect; alter any public improvement or facility or conditions for which other properties or developments may rely; nor have an adverse effect upon public health, safety, or welfare.

(a) A substantial conformance determination may include:

1. Structural additions to non-residential projects of less than 200 square feet. Square footage shall be the aggregate of all proposed structures.

2. Structural additions or alterations to existing residential projects that add no additional units.

3. Changes to off-street parking and circulation configurations which do not reduce the number of required parking spaces.

4. Landscape modifications which do not reduce the number of trees or reduce the amount of plantings.

5. Architectural or exterior material or color changes which do not change the basic form and theme of an existing building, do not change the location of windows or doors, or conflict with the original approved architectural form and theme of an existing building.

6. Other requests similar to the above-listed changes, as determined by the Director.

7. No notice of decision is required for determinations of substantial conformance.

(D) **Permit Expiration.** Granting of an amendment to a previously approved permit does not extend the permit expiration date. A permit extension must be reviewed and approved by the corresponding approval authority prior to expiration of the previously approved permit.

~~(A) Zoning Administrator created; authority.~~

~~(1) There is hereby created a Zoning Administrator for the city.~~

~~(2) The Zoning Administrator shall be the Community Development Director/City Engineer or his~~

designated appointee.

(3) Any matter considered by the Zoning Administrator shall be subject to such conditions as will assure that the adjustments or modifications thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and Zone District in which subject property is situated, and such other conditions as deemed necessary to carry out the purposes of this section.

(B) Matters considered by Zoning Administrator.

(1) The Zoning Administrator shall have and decide the following matters:

(a) Applications for modifications pursuant to the provisions of this section;

(b) Land use approvals as specified by this section and the provisions of this Code pertaining to the various zoning districts;

(c) Minor modifications of lawfully issued and effective Use Permits when no change in development conditions are necessary, i.e., adequate parking, loading zone and landscaping conditions exist per this chapter;

(d) Appeal from administrative acts of Planning Division personnel where it is alleged by the appellant that there is error in any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this chapter, in which matters the Zoning Administrator shall have the authority.

(2) The Zoning Administrator may grant modifications to certain requirements specified in this chapter to the following extent, if the Zoning Administrator's findings are as provided in this section.

(a) Front and rear yard setback modifications not exceeding five feet.

(b) Side yard setback modifications not exceeding two feet.

(c) Building site coverage modifications not exceeding 10% of the minimum open space requirements specified by the Municipal Code.

(d) Open space modifications not exceeding 10% of the minimum open space requirements specified by the Municipal Code.

(e) Excessive building height adjustments not exceeding two feet.

(3) The Zoning Administrator may grant land use approvals as specified by the provisions of this Code pertaining to various zoning districts.

(C) Appeals from the Zoning Administrator's decision.

(1) The Zoning Administrator shall render the decision in writing on any matter properly presented, within 30 days following the date of application. The granting of any matter when conforming to the provisions of this division (C) is hereby declared to be an administrative function, the authority and responsibility for performing such is imposed upon the Zoning Administrator and the action thereon by the Administrator shall be deemed to be final and conclusive except in the event of appeal that is herein provided.

(2) In case the applicant, or other interested parties are not satisfied with the action of the Zoning Administrator, they may within ten days appeal in writing to the Planning Commission for further action.

(3) The Planning Commission shall consider such appeal at the next regular meeting for which proper notification may be provided in accordance with the provisions of this section.

(4) In case the applicant, or other interested parties are not satisfied with the action of the Planning Commission, they may within ten days, appeal in writing to the City Clerk for further action.

(5) The City Council shall consider such appeal at the next regular meeting for which proper notification may be provided in accordance with the provisions of this section.

(D) Rules and procedures.

(1) The general rules and procedures necessary or convenient for the conduct of business of said Zoning Administrator shall be adopted by the City Council.

(E) Application for and initiation of hearings.

(1) Hearings on minor Use Permit modifications or adjustments shall be initiated in any of the following manners:

~~(a) By verified application of any interested person or persons;~~

~~(b) By resolution of the City Council or Planning Commission requesting the Zoning Administrator to hear the same.~~

~~(2) Hearings on minor Use Permit modifications or adjustments shall be noticed in the following manner:~~

~~(a) Not less than ten days before such public hearing, one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the hearing.~~

~~(b) Direct mailing to the owners and occupants of the property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.~~

~~(c) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.~~

~~(d) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this section.~~

~~(F) Term of permit; expiration.~~

~~(1) The Zoning Administrator may in the granting of any permit modification or adjustment impose upon the permit a term of such period of time as is found to be consistent with the proposed use and necessary to safeguard the public safety, health and welfare.~~

~~(2) The Zoning Administrator may in the granting of any permit modification or adjustment specify the time within which the proposed use must be undertaken and actively and continuously pursued.~~

~~(3) Any permit modification or adjustment shall become null and void at the expiration of the term thereof, or if not undertaken and actively and continuously pursued within the time specified in the permit or within one year if no time be specified therein.~~

~~(G) When Zoning Administrator action is final.~~

~~(1) Upon expiration of the time within which an appeal therefrom may be filed, and no appeal being filed within such time, the decision of the Zoning Administrator shall be deemed final; but if an appeal is filed within such time, the decision of the Zoning Administrator shall be stayed pending determination of the appeal or its withdrawal by the appellant.~~

~~(2) Until the decision of the Zoning Administrator, Planning Commission, or City Council has become final, as herein provided, no permit or license shall be issued for any city dependent upon the granting of adjustment.~~

~~(Ord. 689 C.S., passed 8-5-98)~~

§ 10-3.418 RIGHT TO FARM.

(A) The City Council hereby finds that where nonagricultural land uses extend into agricultural areas or exist side-by-side, agricultural operations often become the subject of nuisance complaints. As a result, some agricultural operations are forced to cease or curtail operations, others are discouraged from making investments in farm improvements, and efficient agricultural production is generally discouraged due to burdensome litigation against farmers.

(B) It is the intent of the city to conserve, protect and encourage the development, improvement and continued viability of its agricultural land and industries for the long-term production of food and other agricultural products, and for the economic well-being of the city's and county's residents. It is also the intent of the city to balance the rights of farmers to produce food and other agricultural products with the rights of non-farmers who own, occupy or use land within or adjacent to agricultural areas. It is the intent of this chapter to reduce the loss to the city's and county's agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance. Nothing in this chapter shall be construed to limit the right of any owner of real property to request that the city

consider a change in the zoning classification of his property in accordance with the procedures set forth in the Municipal Code.

(C) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL ACTIVITY, OPERATION OR FACILITY, OR APPURTENANCES THERETO. Includes, but is not limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of an agricultural commodity, including timber, viticulture, apiculture or horticulture, the raising of livestock, fur-bearing animals, fish or poultry, and dairy practices performed by a farmer or on a farm as incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

(D) Consistent with Cal. Civ. Code § 3482.5 (agricultural activity not a nuisance), no agricultural activity, operation or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and allowed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than one year if it was not a nuisance at the time it began.

(E) This section shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code of the State of California, if the agricultural activity, operation or facility, or appurtenances thereof, constitutes a nuisance, public or private, as specifically defined or described in any such provision.

(F) This section is not to be construed so as to modify or abridge the state law set out in the California Civil Code relative to nuisances, but rather it is only to be utilized in the interpretation, enforcement, and implementation of the provisions of the Municipal Code.

(G) The Planning Director shall cause the following notice to be recorded in the Office of the County Recorder for any prezoning application process under § 10-3.1501 of this code, and may require such notice to be recorded for any subdivision proposed under § 10-2.101 of this code for land within 300 feet of land zoned for agricultural uses or in agricultural operation:

"The undersigned in consideration of the approval of a land use development application by the City of Madera, do hereby covenant and agree with the City of Madera's declared policy to preserve, protect, and encourage development and continued operation of its agricultural lands consistent with California Civil Code Section 3482.5 (agricultural activity not a nuisance). Said policy provides that no agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes in the City or the unincorporated area of the County, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than one (1) year, if it was not a nuisance at the time it began. The term "agricultural activity, operation, or facility, or appurtenance thereof" includes, but is not limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity, including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur-bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market. Residents of property in or near agricultural districts should be prepared to accept the inconveniences and discomfort associated with normal farm activities. This covenant shall run with the land and be binding upon all future owners, heirs, successors, and assigns to such property."

(H) The city may cause to be mailed to all property owners of real property within the city with the annual tax bill the following notice: "The City of Madera has declared it a policy to protect and encourage agricultural operations. If your property is located near an agricultural operation, you may at some times be subject to inconvenience or discomfort arising from agricultural operations. If conducted in a manner consistent with proper and accepted standards, said inconveniences and discomforts are hereby deemed not to constitute a nuisance for purposes of the Municipal Code."

(I) If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared severable.

~~§~~ 10-3.419 ~~TELECOMMUNICATION TOWERS, ANTENNAS AND STRUCTURES. (REPEALED)~~

~~(Ord. 698 C.S., passed 3-17-99)~~
~~Editor's note:~~

~~§ This section, containing provisions regarding telecommunication towers, antennas and structures, was repealed by Ord. 998 C.S., passed 4-19-23~~**(RESERVED).**

§ 10-3.420 DESIGN AND DEVELOPMENT GUIDELINES.

The city shall adopt, and amend as needed, by resolution of the Planning Commission, Design and Development Guidelines consistent with the General Plan and the stated purpose of this chapter.

§ 10-3.421 INTERIM AGRICULTURAL.

(A) In all residential, commercial, and industrial zone districts in the city, when various factors combine to make the development of a property infeasible for a period of time anticipated to be in excess of five years, a use permit may be granted by the Planning Commission to allow for agricultural activities on an interim basis, until such time as development consistent with the underlying zone district becomes viable.

(B) INTERIM AGRICULTURE shall be defined as the tilling of the soil for the raising of grains, crops, orchards, horticulture and/or viticulture. Interim agriculture shall not include small livestock farming, dairying and/or animal husbandry, nor any other uses customarily incidental thereto such as slaughter houses, fertilizer yards, or rendering plants.

(C) In order to approve a conditional use permit for interim agricultural activities, the Planning Commission must make the following findings:

(1) The establishment, maintenance, or operation of the interim agricultural use 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.

(2) The interim agricultural use will not be detrimental or injurious to the infrastructure of the city. Interim agriculture shall use techniques to maximize water efficiency and minimize erosion. All grading and/or excavation shall be compatible with the city's Storm Drain Master Plan.

(D) Applications for a conditional use permit for interim agricultural uses of land shall include the following information:

(1) A justification of necessity for interim agricultural use;
(2) A total acreage calculation;
(3) A description of what crops will be grown and what their water usage will be;
(4) A description of irrigation technique(s) to be implemented on the subject property; and
(5) A plan for eventual conversion of the property to its planned use.

(E) The Planning Commission may apply conditions of approval whenever necessary to ensure compatibility with surrounding land uses and compliance with § 10-3.421(C).

(F) Approval of a conditional use permit for interim agricultural uses of land shall be approved for an initial period of no more than five years. Extension of interim agricultural uses after the initial approval period shall require the approval of an application for amendment to the conditional use permit from the Planning Commission. Each approved extension shall not exceed a period of five years.

§ 10-3.422 EMERGENCY SHELTERS

~~§ 10-3.422 STANDARDS.~~

~~—~~In additional to the development standards in the underlying zoning district, the following standards apply to emergency shelters and each emergency shelter shall comply with the standards set forth in this section. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this section shall apply. Nothing in this section modifies the requirements for approval of a religious facility as otherwise provided in this Code.

(A) Facility compliance with applicable state and local standards and requirements.

(1) Federal, state and local licensing as required for any program incidental to the emergency shelter.

(B) ~~–~~Physical characteristics.

(1) Compliance with applicable state and local uniform housing and building code requirements.

(2) The facility shall have on-site security during all hours when the shelter is open.

(3) Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall reflect away from residential areas and public streets.

(4) Facilities shall provide secure areas for personal property.

(C) Limited number of beds per facility. Emergency shelters shall not exceed 50 beds.

(D) Limited terms of stay. The maximum term of staying at an emergency shelter is six months in a consecutive 12-month period.

(E) Parking. The emergency shelter shall provide on-site parking at a rate of two spaces per facility for staff plus one space per six occupants allowed at the maximum capacity.

(F) Emergency shelter management. A management plan is required for all emergency shelters to address management experience, good neighbor issues, transportation, client supervision, client services, and food services. Such plan shall be submitted to and approval by the planning, inspections, and permitting department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrate compliance with the physical standards of this chapter. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review of the required management plan. The City Council may establish a fee by resolution, to cover the administrative cost of review of the required management plan.

§ 10-3.423 SINGLE ROOM OCCUPANCY

Single Room Occupancy (SRO) facilities shall be developed and operated in compliance with the following standards:

(A) Living Unit Standards

(1) **Maximum Occupancy.** Each SRO living unit shall be designed to accommodate a maximum of two (2) persons.

(2) **Unit Floor Area.** An SRO living unit shall have at least one hundred fifty (150) square feet of floor area, excluding closet and bathroom. No individual unit may exceed four hundred (400) square feet.

(3) **Minimum Width.** An SRO of one (1) room shall not be less than twelve (12) feet in width.

(4) **Bathrooms.** SRO units shall have individual bathrooms containing a sink, a toilet, and a shower or bath per Housing and Building Code requirements. Units may have only one (1) sink by the cooking area and may omit the bathroom sink. Each unit shall provide a minimum of one sink within the unit.

(B) Community Facility Standards

(1) **Entrances.** All SRO units shall be independently accessible from a single main entry, excluding emergency and other service support exits.

(2) **Lobby/Meeting Area.** Each SRO facility shall provide ample ground floor entry area that provides a central focus for tenant social interaction and meetings. The lobby/meeting area shall be designed to accommodate at least twenty-five (25) percent of the tenants at one (1) time using an average of fifteen (15) square feet per person and a minimum four hundred (400) square feet for up to fifty (50) SRO units, excluding janitorial storage, laundry facilities, and hallways.

(3) **Ground Floor Use.** Ground floor area next to public rights-of-way shall be dedicated for public use such as lobby/meeting areas or resident-serving commercial uses. No SRO units shall be on the street level adjacent to public rights-of-way. If any SRO units are at ground level, they shall face into a private open area such as an interior courtyard.

(C) **Cooking Facilities.** Cooking facilities shall be provided either in individual units or in a community kitchen. Where cooking is in individual SRO units, SRO units shall have a sink with hot and cold water; a counter with dedicated electrical outlets and a microwave oven or properly engineered cook top unit pursuant to Building Code requirements; a refrigerator; and cabinets for storage. Where cooking facilities are in a community kitchen, the community kitchen shall be a minimum of one hundred fifty (150) square feet and designed to provide a minimum of two (2) linear feet of counter space for fifty (50) percent of the maximum number of tenants.

(D) **Management Plan.** A management plan shall be submitted with the permit application for all SRO projects. At minimum, the management plan shall include the following:

(1) **Security/Safety.** Proposed security and safety features such as lighting, security cameras, defensible space, central access, and user surveillance;

(2) **Management Policies.** Management policies including desk service, visitation rights, occupancy restrictions, and use of cooking appliance;

(3) Rental Procedures.

(4) **Staffing and Services.** Information regarding all support services, such as job referral and social programs;

(5) **Maintenance.** Maintenance provisions, including sidewalk cleaning and litter control, recycling programs, general upkeep, and the use of durable materials; and

(6) Facility Management.

(a) **Ten or More Guests.** The facility shall provide on-site management. The manager shall live on-site however the manager's unit shall not count as one of the 10 guests.

(b) **Less Than ten Guests.** There shall be an on-site manager's office. The office shall be staffed for a minimum of six hours per day between the hours of 7 a.m. and 8 p.m., six days a week. The manager's hours shall be posted in a conspicuous location.

SITE PLAN REVIEW

§ 10-3.4.0101 PURPOSES.

The City Council declares that in order to insure that use and development of property in the city is in conformity with the intent and provisions of the zoning regulations of the city and other applicable provisions of the City Municipal Code and ordinances codified therein, review of proposed site plan developments by the Community Development Director or, as may be applicable, the Planning Commission, is necessary and desirable. More specifically, site plan review is necessary to insure that new, expanded, or changed uses of property are regulated to insure that structures, parking areas, walks, landscaping, street improvements, and other forms of development are properly related to the proposed sites and surrounding sites and structures, to prevent excessive grading of land and creation of drainage hazards, to prevent indiscriminate clearing of property and destruction of trees and shrubs of ornamental value, to avoid unsightly or hazardous site development and to encourage originality in site design and development in a manner which will enhance the physical appearance and attractiveness of the community. ~~The site plan review process is intended to provide for expeditious review of environmental impact assessments as may be required by official policy of the city.~~ The Community Development Director will be responsible for the coordination of the site plan review process with input from city department heads. It is the intent that the site plan review process be implemented with a cooperative spirit between project proponents and the city. Further, it is recognized that the size or nature of a project may necessitate a meeting of the project proponent, affected city department heads, and applicable review agencies to review the proposal. Where such a meeting would aid in the implementation of the process, the Community Development Director shall schedule the meeting and inform the affected parties at the earliest possible time. A project proponent may request such a meeting when it can be shown to benefit the expeditious processing of the project.

§ 10-3.4.0102 APPLICABILITY.

~~—~~The provisions of this subchapter shall apply to all new, expanded, or changed uses of property which involve the construction or placement of new structures or buildings on the site, new uses which necessitate on-site improvements to comply with the provisions of the City Municipal Code, uses subject to a use permit, precise plans, variance, or any other particular zoning permits applicable to the proposed development.

§ 10-3.4.0103 APPLICATION REQUIREMENTS.

~~—~~Site plan review shall be required of all new, expanded, or changed uses of property which involve construction or placement of new structures or building additions on the site or new uses which

necessitate on-site improvements, including uses subject to a use permit, precise plan, or application for variances. Single-family and duplex structures and additions thereto not exceeding two units per parcel in R zones, minor accessory additions and structures and other uses for which administrative approval is authorized under the provisions of the City Municipal Code, provided the structures and uses meet all of the requirements of the City Municipal Code, are specifically exempt from site plan review. However, issuance of a building permit for single-family and duplex structures in residential and planned development zones, including, but not limited to additions which expand or intensify the residential use, such as secondary or second dwelling units, shall be subject to the standard street dedication and improvement requirements specified herein.

§ 10-3.4.0104 DRAWINGS TO BE SUBMITTED.

(A) The applicant shall submit sets of prints to the Planning Division of the Community Development Department as prescribed below. The applicant is encouraged to submit two sets of preliminary site plans for Planning Division review for completeness and accuracy prior to making formal application. For purposes of this chapter, site plan shall mean all plans pertinent to the development as prescribed below including but not limited to site plan, generalized landscape plan, and building elevations. Applicants will be notified of the status of the application at the earliest possible time to facilitate timely processing.

(B) A submittal shall consist of the application form, filing fee, and eight complete sets of plans. Two additional sets of plans are required for projects which require review by the Planning Commission. A complete application shall consist of plans with all information required in this section, a completed application form and the filing fee. Incomplete applications will be returned to the applicant and will not be acted upon.

(C) Plans shall be drawn to scale and shall indicate clearly and with full dimensions, the following information:

(1) Project information.

(a) Project name; street address; Assessor's parcel number;

(b) Name, address, phone number of applicant, property owner, and contact person;

(c) Vicinity map;

(d) North arrow and scale;

(2) Lot or site dimensions;

(3) All existing and proposed buildings and structures, including location, size, lot coverage, height, proposed use;

(4) Location of all existing facilities, including pavement, curbs, gutters, sidewalks, utility lines, and existing street lights and fire hydrants within 100 feet of site;

(5) Yards and space between buildings;

(6) Walls and fences, including location, height, and materials;

(7) Trash receptacles and enclosures, including location, height, and materials;

(8) Off-street parking and off-street loading, including location, dimensions of parking and loading areas, internal circulation pattern, plus a notation of the number of required and proposed spaces, including compact and handicapped parking spaces;

(9) Pedestrian, vehicular, and service ingress and egress to site and structures;

(10) Generalized indication of size, height, and location of all signs;

(11) Location and general nature and hooding devices of on-site lighting;

(12) Street dedications and improvements on adjacent streets and alleys (detailed improvement plans shall be required at the building permit stage);

(13) Proposed on-site fire protection requirements, including stand pipes, hydrants, turnarounds, and the like;

(14) Location and size of landscaping areas with notations on use of mounds, berms, retention walls, and general type of plant materials to be used (a detailed landscape and irrigation plan shall be required at the building permit stage of the project);

(15) General indication of grades, direction of drainage flow, and drainage facilities (a detailed site grading and drainage plan shall be required at the building permit safe of the project);

(16) Elevations of all sides of structure(s), notation of building and roofing materials, building heights;

(17) Such other data pertaining to site development as may be required by the Community Development Director to make the required findings.

§ 10-3.4.0105 REVIEW AND ACTION.

(A) Applications for site plan review which do not require action by the Planning Commission will be processed on a weekly basis. Complete applications received by 10:00 a.m. on Mondays will be processed and acted upon within eight working days. When the Monday is a holiday, submittals received by 10:00 a.m. on the preceding Friday will be processed in the stated time frame. The Community Development Director shall disperse plans to affected city departments and review agencies and coordinate the review process. On the eighth working day the Community Development Director shall notify the applicant in writing of approval, conditional approval, or disapproval of the application. The action of the Community Development Director ~~Director~~ shall be final unless appealed to the Planning Commission. The approved site plan, with any conditions shown thereon, or attached thereto, shall be dated and signed by the Community Development Director~~Director~~, with one copy mailed to the applicant and one copy filed with the Buildings Official.

(B) Applications for which Planning Commission approval is required ~~or for which a negative declaration is mandatory,~~ shall be submitted no later than 10:00 a.m. 29 calendar days prior to a regularly scheduled meeting. Applicants must be present at the Planning Commission meeting unless other arrangements are made. Written notification of the action of the Planning Commission will be mailed to the applicant within three working days following the meeting.

(C) Whenever required by the provisions of this chapter, or whenever deemed advisable by the Planning Commission or Community Development Director, a public hearing shall be held on an application. Public notice procedures shall be as follows:

(1) By one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(2) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(3) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during, the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

~~(4) The public review period for the environmental determination (negative declaration) shall not be less than 21 calendar days (30 days if State Clearinghouse review is required).~~

(~~5~~4) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

(D) While coordination of the review process is the responsibility of the Community Development Director, there may be circumstances, in the interest of expeditious review, where another department head may be requested to contact the project proponent regarding details of the site plan.

§ 10-3.4.0106 APPROVAL DETERMINATIONS.

Before approving a proposed site plan, ~~the Director~~the Community Development Director shall determine that the proposed action is in compliance with all applicable provisions of the City Municipal Code, City General Plan, any applicable specific plans, all rules and regulations applicable to the proposed development, that facilities and improvements, vehicular and pedestrian ingress, egress, and internal circulation, location of structures, services, walls, landscaping, and drainage of the site are so arranged that traffic congestion is avoided, that pedestrian and vehicular safety and welfare are protected, that there will not be adverse effects on surrounding property, that proposed lighting is so arranged as to deflect the light away from adjoining properties or public streets and that adequate provision is made to reduce adverse or potentially adverse environmental impacts to acceptable levels. In making such determination the Community Development Director ~~Director~~ shall establish that approvals are consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality. In situations where a project could have adverse impacts on traffic or circulation outside the immediate project area, the Community Development Director ~~Director~~, with input from City Department Heads, may find that additional improvements are required.

§ 10-3.4.0107 CONDITIONS OF APPROVAL.

In approving a site plan, the Community Development Director ~~Director~~ or Planning Commission shall state those conditions of approval necessary to protect the public health, safety, and general welfare. Such conditions may include, but are not limited to, consideration of the following:

(A) Special yards, spaces, and buffers;

(B) Fences and walls;

(C) Surfacing of parking areas and provisions for water drainage subject to city specifications;

(D) Street dedications and improvements, subject to the provisions of § 10-3.4.0108 including service roads or alleys where applicable;

(E) Regulation of points of vehicular ingress and egress;

(F) Regulation of signs, in accordance with the standards prescribed under Chapter 6 of this title;

(G) Maintenance of grounds;

(H) Landscaping and maintenance thereof;

(I) Regulation of noise, vibration, odors, and other similar characteristics;

(J) Measures necessary to eliminate or to effect mitigation to acceptable levels of adverse environmental impacts;

(K) Regulation of time for certain activities to be conducted on the site;

(L) Time period within which the proposed use and/or improvement shall be completed;

(M) A bond, deposit of money, recorded lien secured by deed of trust, or letter of credit for the completion of street improvements and other facilities, or for the removal of such use within a specified period of time, to assure conformance with the intent and purposes set forth in this title;

(N) Periodic formal review of the project.

§ 10-3.4.0108 STREET DEDICATIONS AND IMPROVEMENTS.

Because of changes which may occur in the local neighborhood as the result of development requiring a site plan review and/or issuance of a building permit for single-family and duplex structures and additions not exceeding two units per parcel in residential and planned development zones, including, but not limited to additions which expand or intensify the residential use, such secondary or second dwelling units authorized under the provisions of the municipal code, including but not necessarily limited to increases in vehicular or pedestrian traffic generated by the development, changes in drainage conditions, utility service requirements, and other impacts that are determined by the Community Development Director ~~Director~~ to be the result of the project under consideration, the following dedications and

improvements may be deemed necessary by the Community Development Director ~~Director~~ and may be required as a condition to the approval of any site plan and the issuance of any building permit for any building projects subject to site plan review and/or issuance of a building permit for single-family and duplex structures and additions not exceeding two units per parcel in residential and planned development zones, including, but not limited to additions which expand or intensify the residential use, such as secondary or second dwelling units authorized under the provisions of the municipal code.

(A) No building permit shall be issued for any building or structure to be erected, altered, expanded, or enlarged on any lot to the extent that the cost of such work exceeds 50% of the estimated current cost as determined by the Community Development Director ~~Director~~ to replace the present building or structure in kind, unless half of any right-of-way contiguous thereto has been dedicated and improvements to city standard specifications thereon have been provided for as provided in subsection § 10-3.4.0108(D) below.

(B) Plan lines.

(1) Right-of-way dedications shall be made of all land necessary to widen an existing street or alley or create a new street made necessary by a development and shall be granted in accordance with adopted general, specific, or precise plans, plan lines, and the city's standard specifications for rights- of-way. If a conflict exists among plans, the adopted specific plan or plan line shall take precedence.

(2) In the event official plan lines have not been established, the Community Development Director ~~Director~~ shall determine all street widths for dedication to protect the public interest, safety, and general welfare, provided, however, the applicant for the permit may appeal the determination of the Community Development Director ~~Director~~ in the manner provided in this subchapter.

(C) Improvements.

(1) Street and alley right-of-way improvements adjacent to, or traversing, a development shall be improved to city standards including but not limited to pavement, curb, gutter, parkstrip, street trees and landscaping, sidewalk, street lights, fire hydrants, street signs, water, sewer, storm drainage and other utility lines and related appurtenances, driveway approaches, and handicap ramps. Such improvements are required on the principle that they are necessary because of the traffic, utility and other demands generated by the proposed development and the orderly development of the area.

(2) Where it is found to be essential to the accommodation of storm drainage runoff and/or traffic generated by the project, improvement of all or part of rights-of-way abutting adjacent properties may be required in conjunction with the subject project with reimbursement provisions incorporated in conditions imposed.

(D) Improvement criteria.

(1) Projects which abut on an existing or new street where development is anticipated to occur on both sides of the street shall be required to provide all improvements for a ½ right-of-way width on the project's respective frontages. In the event that it is found by the Community Development Director ~~Director~~ or Planning Commission that the standard improvements do not provide sufficient pavement width for two travel lanes and a parking lane, the review body may require additional pavement width or posting for no on-street parking. This determination shall be based on the adequacy of on-site parking and adjacent land uses both existing and planned.

(2) Projects which encompass an existing or new street shall be required to provide all right- of-way improvements.

(3) Projects abutting a frontage street shall be required to provide all right-of-way improvements provided that some adjustment from standard improvements may be permitted when such improvements will compliment the overall development of the area and provide for safe vehicular and pedestrian circulation. Where median or parkstrips are required, the property owner shall be responsible for the maintenance thereof subject to provisions of a maintenance agreement.

(4) Projects which abut upon or encompass major arterial streets shall be required to provide pavement improvements equivalent to a collector street as specified in subsections § 10-3.4.0108(D)(1), (D)(2), and (D)(3) above.

(5) Projects which abut upon or encompass an alley shall be required to provide all alley improvements to full width adjacent to the project site.

(E) All improvements shall be constructed to city standards existing at the time of the approval of the development plan and shall be installed at the time of the proposed development based upon improvement plans approved and encroachments permits obtained in connection with the issuance of a building permit. Where it is determined by the Community Development Director ~~Director~~ that it is impractical to put in any or all improvements at the time of the development, an agreement to defer such improvements may be entered into in lieu thereof where it is found that the improvements are not immediately essential to the circulation pattern of the area, safe movement of vehicular and pedestrian traffic, drainage area runoff or other factors. When the deferral is granted the applicant shall enter into an agreement with the city which shall become a matter of record in a form approved by the City Attorney and which agreement shall constitute a lien on the property for the cost of the improvements. A deposit in the form of cash or letter of credit or performance bond in an amount equal to 100% of the estimated cost of improvements, as determined by the City Engineer may be required as a guarantee to the making of such improvements when necessary.

§ 10-3.4.0109 REIMBURSEMENT PROVISIONS.

(A) Each developer of property has the responsibility for improvement of not less than ½ of the right-of-way including city utility lines that abut a parcel. In the event the development necessitates extension of service lines or other right-of-way improvements beyond those immediately abutting the developing parcel, the cost of such improvements shall be reimbursable at the time of development of benefitting parcels which abut such improvements. An agreement for reimbursement must have been entered into with the city prior to occupancy of the structure(s) or use of the property unless written exception is given by the City Engineer.

(B) Property owners whose properties benefit from extension of city utility lines and other right-of-way improvements by other developers will be required to reimburse the cost of the improvements that have been installed along their right-of-way frontages at time of development of their property as determined by the City Engineer.

§ 10-3.4.0110 RELATIONSHIP TO ENVIRONMENTAL ASSESSMENT PROCEDURES.

(A) A site plan approved pursuant to the provisions of this chapter shall be considered in relation to requirements of city policy governing the preparation of environmental impact assessments. It is the intent of this subchapter that an Environmental Impact Assessment (EIA) be made concurrently with, and as part of, the site plan review process, and that a site plan may be approved with conditions that will permit the applicable review body to find that the proposed project will not have a significant effect on the environment and that a negative declaration should be prepared.

(B) Where it is determined that an Environmental Impact Report (EIR), if required by law, is required for a proposed project, action on a proposed site plan shall be deferred until such time as the EIR has been prepared and reviewed pursuant to provisions of the city's guidelines and state law. The Planning Commission and City Council shall, at the completion of the EIR review, attach such conditions to the approval of the site plan as in their judgment will mitigate or reduce to acceptable levels any of the environmental impacts identified during review of the EIR. The Planning Commission or City Council may deny a plan if it is found that such mitigation or reduction of environmental impacts is not feasible.

§ 10-3.4.0111 ~~REVISIONS~~ AMENDMENT OF APPROVED PLANS.

An applicant may request an amendment to an approved Site Plan Review after the final written decision is issued and the permit becomes effective. Amendments to an approved Site Plan Review shall be processed in accordance with section 10-3.417 (Amendments to Previously Approved Permits)
~~Revisions by the applicant of an approved plan shall be presented to the Director in the manner required for drawings first submitted. Resubmittals shall be accompanied by the prescribed filing fee unless the revisions are determined by the Director to be of a minor nature.~~
~~('61 Code, § 10-3.4.0111) (Ord. 507 C.S., passed 10-19-88)~~

§ 10-3.4.0112 ACKNOWLEDGMENT AND ACCEPTANCE OF CONDITIONS.

Upon receipt of the approved copy of a site plan and prior to applications for a building permit, the applicant/owner shall execute an acknowledgment and acceptance of the terms and conditions of the site plan and an agreement with the city certifying such acceptance and agreement to be bound thereby.

§ 10-3.4.0113 BUILDING PERMIT.

In addition to such other matters required by law, applications for a building permit shall include three sets of plans including building, site, landscaping, irrigation, right-of-way improvements, grading, and drainage, as applicable, along with other information as may be required by the Building Official. Plans must reflect the conditions of site plan approval. Before a building permit shall be issued for any building, structure, or sign proposed as part of an approved site plan, the Community Development Director ~~Director~~ shall determine that the proposed building location, facilities, and improvements are in conformity with the approved site plan and all required dedications and agreements have been recorded.

§ 10-3.4.0114 LAPSE OF SITE PLAN APPROVAL.

A site plan approval shall be void one year following the date on which approval by the Community Development Director, Planning Commission, or City Council became effective unless, prior to the expiration of one 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 Community Development Director ~~Director~~ before expiration of the approval.

§ 10-3.4.0115. OCCUPANCY.

Before any building, structure, or use that is subject to site plan review may be occupied, both the Building Official (for on-site improvements) and the City Engineer (for off-site improvements) shall have certified that all required improvements have been completed. Under special circumstances of hardship or conditions beyond the control of the applicant/developer, additional time may be granted by the applicable official for completion of required improvements provided that the following provisions are met:

(A) The total time extension does not exceed six months.

(B) The site, use, and circulation system, both on and off-site are functional, and the temporary lack of such improvements is not detrimental to the health and safety of occupants, the general public, or the surrounding area.

(C) An agreement is entered into with the city and if deemed necessary, recorded.

(D) The agreement is secured by either cash deposited with the city, cash deposited in irrevocable escrow approved by the City Attorney, or other financial security approved by the City Attorney as the

equivalent thereof. Such security shall be in the amount of 100% of the estimated cost of completion as determined by the Building Official in the case of on-site improvements and the City Engineer in the case of off-site improvements. In the event such work is not completed within the period provided, the city shall be authorized to take all necessary action to enforce the agreement, including the use of the security to cause the completion of all required improvements. Monies deposited with the city or in escrow may be partially released to the depositor by the Building Official in the case of on-site improvements and the City Engineer in the case of off-site improvements during the progress of the work, so long as the same ratio of security is maintained on the deposit to secure all uncompleted work.

§ 10-3.4.0116 APPEAL TO THE PLANNING COMMISSION.

(A) Within ten calendar days following the date of a decision by the Community Development Director, the decision may be appealed in writing to the Planning Commission by the applicant or any other interested party. Such an appeal shall be filed with the Community Development Director ~~Director~~ and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Community Development Director ~~Director~~ or wherein the decision is not supported by evidence in the record. Appeals shall be accompanied by an appeal fee as prescribed by Resolution of the City Council. The appeal fee shall be refunded if the appeal is granted by the Planning Commission. Additional copies of the plans may be required by the Community Development Director ~~Director~~.

(B) The Community Development Director shall give notice to the applicant and to the appellant (if the appellant is not the applicant) of the date, time, and place the appeal will be considered by the Planning Commission.

(C) The Planning Commission shall hear the appeal at its next regular meeting to be held not earlier than 14 calendar days after the filing of the appeal. The Commission may affirm, modify, or reverse a decision of the Community Development Director ~~Director~~, provided that if the decision is modified or reversed, the Commission shall, on the basis of the record and such additional evidence as may be submitted, make the applicable findings prerequisite to the approval of a site plan as prescribed in § 10-3.4.0106 of this subchapter. The decision of the Commission shall be final unless appealed to the City Council.

§ 10-3.4.0117 APPEAL TO THE CITY COUNCIL.

(A) Within ten calendar days following the date of a decision of the Planning Commission on a site plan application, the decision may be appealed to the City Council by the applicant or any other interested party. Such an appeal shall be filed with the City Clerk and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Commission or wherein its decision is not supported by evidence in the record and shall be accompanied by the appeal fee as prescribed by Resolution of the City Council.

(B) Within five days of the filing of an appeal, the Community Development Director ~~Director~~ shall transmit to the City Clerk the drawings of the site plan and all other data filed therewith, the findings of the Planning Commission, and its decision on the application for review and action. The Community Development Director ~~Director~~ may require submittal of additional copies of the plans by the applicant.

(C) The City Clerk shall give notice to the applicant and to the appellant (if the applicant is not the appellant) of the time, date, and place when the appeal will be considered by the City Council.

(D The City Council shall hear the appeal and consider the matter de novo based on the requirements for a site plan prescribed in § 10-3.4.0106 of this subchapter~~) The City Council shall hear the appeal at its next regular meeting held not less than seven calendar days after the filing of the appeal. The City Council may affirm, reverse, or modify a decision of the Planning Commission, provided that if a decision is modified or reversed, the City Council shall, on the basis of the record transmitted and such~~

~~additional evidence as may be submitted, make the applicable findings prerequisite to the approval of a site plan as prescribed in § 10-3.4.0106 of this subchapter~~.

(E) The decision of the City Council on the site plan shall become effective immediately and shall be final~~A site plan which has been the subject of an appeal to the City Council shall become effective immediately following the date on which the site plan is affirmed or modified by the City Council~~.

PLANNED DEVELOPMENT ZONES

§ 10-3-4.101 P-D ZONES.

(A) The purpose of the P-D zones is to authorize and regulate density of condominiums, cooperatives, planned developments, and other residential subdivisions. The district is intended to allow use of special design criteria for maximum utility of the site and to allow maximum design flexibility within the density limitations provided in § 10-3-4.102 of the subchapter.

(B) Special residential developments such as clustering and density transfers are encouraged, and variations from normal zoning standards may be considered, such as zero side yard and common wall developments. Through the Planned Development process, special residential design standards may be established which regulate the subdivision rather than the typical residential standards of the Municipal Code.

(C) All developments in P-D zones are subject to the provisions of Chapters 2 and 3 of Title 10 of the City Municipal Code. As such, any subdivision in the P-D zone requiring public maintenance shall also be subject to the City's Standard Specifications, with modifications to be approved only by action of the City Council.

§ 10-3-4.102 DENSITY.

The maximum density shall be determined by a sub-designation permitting one residential unit per square footage of site area exclusive of streets and public and private rights-of-way as determined by the Planning Director as follows:

Density
Density
P-D (1500)
One unit for each 1,500 square feet of site area.
P-D (2000)
One unit for each 2,000 square feet of site area.
P-D (3000)
One unit for each 3,000 square feet of site area.
P-D (4500)
One unit for each 4,500 square feet of site area.
P-D (6000)
One unit for each 6,000 square feet of site area.
P-D (8000)
One unit for each 8,000 square feet of site area.
P-D(12000)
One unit for each 12,000 square feet of site area.

§ 10-3-4.103 PLANNING COMMISSION APPROVAL.

(A) No construction, grading, or new development activity shall commence in any P-D Zone prior to the approval of a precise plan of the development by the Planning Commission. The precise plan shall be processed under the provisions for use permits as set forth in MMC § 10-3.13.

(B) Any precise plan approved in conjunction with a residential subdivision shall remain valid only while the approved tentative map remains valid. Once the subdivision map is recorded, the precise plan shall remain valid until such time that it is amended or repealed.

(C) All other precise plans approved by the Planning Commission as provided herein shall be utilized within 12 months after the effective date of its approval. Failure to utilize such approval 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.

§ 10-3-4.104 PRECISE PLAN APPLICATION.

A precise plan application for development in a P-D district shall include:

(A) A boundary map and complete legal description of the property.

(B) The gross land area of the development and the location of all existing easements, structures, and improvements on the property.

(C) A plot plan showing to scale the following details:

(1) Location and use proposed for each existing and proposed structure in the development, the number of stories, gross building area, and approximate location of entrances.

(2) All existing and proposed driveway approaches, driving lanes, parking areas, and loading and service areas.

(3) All pedestrian walks and open areas for the use of the occupants of the proposed development.

(4) A detailed plan for the landscaping of the development including the location and height of all proposed walls, fences, and screen planting and a statement setting forth the method by which they will be preserved and maintained.

(5) The location of hydrants, utilities, drainage facilities, and recreation facilities.

(6) All existing and proposed easements.

(7) Elevations or architectural renderings of the project to indicate architecture and materials of construction.

(D) Such additional data as may be required by the Director of Planning.

§ 10-3-4.105 (RESERVED)

§ 10-3-4.106 OPEN SPACE.

For each residential unit in a planned residential development there shall be provided a minimum 750 square feet of open space exclusive of drives and off-street parking areas.

§ 10-3-4.107 YARD ENCROACHMENTS.

Unless special standards are established through approval of the Precise Plan, the provision of § 10-3.411, Yard Encroachments, shall apply to all residential projects containing single family dwellings on individual lots.

ADMINISTRATIVE PLAN REVIEW

§ 10-3-4.201 PURPOSE

The purpose of this section is to define the procedures for review and approval of permitted uses and associated site development. This section establishes a ministerial review process to facilitate permitted uses considered minor in nature and those uses required to be approved through a ministerial permit process while allowing the City to ensure conformance with all applicable local standards, ordinances, and other applicable plans and policies.

§ 10-3-4.202 APPLICABILITY

An Administrative Plan Review is required prior to establishment of any permitted use indicated as approved under an Administrative Plan Review within the zone districts established in this chapter.

§ 10-3-4.203 APPLICATION REQUIREMENTS

(A) Application Filing and Processing. Applications for a Administrative Plan Review shall be filed and processed in accordance with the applicable procedures:

(1) Applications for Administrative Plan Review must be submitted in writing to the Planning Director along with any applicable fees**.**

§ 10-3-4.204 REVIEW AND ACTION

(A) Applications for a Administrative Plan Review shall be reviewed and approved by the Planning Director. As the approving authority, the Director is authorized to approve, alter, or deny an application for a Administrative Plan Review.

(B) In approving an application for a Administrative Plan Review, the approving authority may impose reasonable and appropriate standards to achieve the purposes of this title, ensure consistency with the goals and policies of the adopted General Plan and any applicable specific plan, and justify making the necessary findings.

§ 10-3-4.205 APPROVAL FINDINGS

Prior to approving an application for a Administrative Plan Review, the Director shall make all the following findings:

(A) The proposed project is consistent with the adopted General Plan and any applicable specific plan.

(B) The proposed project meets all applicable standards for development and provisions of this t~~T~~itle.

§ 10-3-4.206 NOTICE OF DECISION

A written notice of decision on the Administrative Plan Review shall be provided within three business days of the date of decision to the applicant and any interested party having specifically requested such

notices of the specific action in writing. The notice of decision shall include:

(A) The application request as acted upon by the approving authority.

(B) The action taken by the approving authority.

(C) Findings for the permit

§ 10-3-4.207 APPEALS

The Director's decision on Administrative Plan Reviews are not subject to appeal and shall immediately be final.

§ 10-3-4.208 LAPSE OF APPROVAL & EXTENSIONS

Approval of an Administrative Plan Review shall be void within two years following the date on which approval by the Planning Director became effective unless, prior to the expiration, 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 the approval.

§ 10-3-4.209 AMENDMENTS

An applicant may request an amendment to an approved Administrative Plan Review after the final written decision is issued and the permit becomes effective. Amendments to an approved Administrative Plan Review shall be processed in accordance with section 10-3.417 (Amendments to Previously Approved Permits)~~ENVIRONMENTAL REVIEW~~
~~§ 10-3-4.301~~

RESIDENTIAL ZONES

§ **10-3.501 R ZONES; PURPOSE AND APPLICATION.**

To provide specific areas in the city where residential developments of varying densities may be developed as specified in the land use element of the General Plan. To promote and encourage a suitable living environment; to provide space for community facilities needed to complement urban residential areas and for institutions compatible with a residential environment; to promote the orderly flow of residential traffic and restrict commercial and industrial traffic in residential areas; to provide the opportunity for suitable housing at affordable prices for all segments of the community. The standards contained within this article shall apply except as otherwise explicitly required by State law.

§ **10-3.502 ~~R; PERMITTED USES~~DENSITY.**

The maximum density shall be fixed by a sub-designation as follows:
(A) R(A). One unit for each 12,000 square feet of site area.
(B) R(1). One unit for each 6,000 square feet of site area.

(C) R(2). One unit for each 2,178square feet of site area.
(D) R(3). One unit for each 871 square feet of site area.

§ 10-3.503 ~~R; DENSITY~~PERMITTED USES.

(A) The following uses shall be permitted in the Residential Zone.
(1) Residential uses together with the accessory buildings customary to such use, including garages, carports, and storage sheds, except that single family dwellings shall not be allowed in the R-3 zone district.
(2) Flower and vegetable gardens, orchards, the raising of tree crops, berry, or bush crops for the purpose of prolongation and culture, including wholesaling crops raised on the premises; provided, no signs, displays, or stands are used in conjunction therewith.
(3) Swimming pools for either individual, family, or communal use on an exclusive non- commercial basis.
~~The maximum density shall be fixed by a sub-designation as follows:~~

~~(A) R(A). One unit for each 12,000 square feet of site area.~~
~~(B) R(1). One unit for each 6,000 square feet of site area.~~
~~(C) R(2). One unit for each 3,000 square feet of site area.~~
~~(D) R(3). One unit for each 1,800 square feet of site area.~~
~~('61 Code, § 10-3.503) (Ord. 380 C.S., passed 9-21-81; Am. Ord. 607 C.S., passed 12-15-93)~~

§ 10-3.504 ~~R; PERMITTED USES;~~USES ALLOWED WITH ADMINISTRATIVE APPROVAL.

(A) Subject to obtaining ~~an administrative~~an Administrative Plan Review approval thereof, the following uses shall also be permitted:
(1) Enclosed, temporary construction materials storage yards required in connection with the development of a subdivision, and temporary subdivision sales offices and signs and model home display areas.
(2) Accessory dwelling units and junior accessory dwelling units subject to the standards contained in § 10-3.513.

(3) Manufactured housing.
(4) Multiple single family dwelling units on the same R-1 zoned lot subject to the standards contained in § 10-3.512.
(5) One level Duplexes, triplexes, townhomes not exceeding four units, cottage housing not exceeding four units, fourplexes, and sixplexes.
(6) Stacked duplexes (4 units), stacked triplexes (6 units), stacked townhomes not exceeding 8 units, and stacked fourplexes (8 units).
(7) Home occupations.
(8) Foster homes, rehabilitation facilities, day care centers, and other related facilities which provide housing for six or fewer unrelated persons.
(9) Accessory uses and buildings normally incidental to any of the permitted or conditionally permitted uses. This provision shall not be construed as permitting any commercial use or occupation other than those specifically listed.
(10) Supportive Housing.
(11) Transitional Housing.
(12) Mobile homes.

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

~~(A) The following uses shall be permitted subject to the approval by the Zoning Administrator:~~
~~(1) Accessory dwelling units and junior accessory dwelling units subject to the standards contained in § 10-3.513.~~
~~(2) Manufactured housing.~~
~~(3) Home occupations (appealed).~~
~~(4) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.~~
~~(B) Other approvals as per Zoning Administrative Code Section.~~
~~(Ord. 690 C.S., passed 8-5-98; Am. Ord. 949 C.S., passed 12-6-17)~~

§ 10-3.505 ~~R;~~ CONDITIONAL USES; COMMISSION APPROVAL.

(A) The following uses are allowed subject to obtaining approval of a Use Permit from the Planning Commission:

(1) Private non-profit schools and colleges; churches, parsonages, and other religious institutions.

(2) Foster homes, rehabilitation facilities, and other related facilities which provide housing for more than six unrelated persons.

(3) Private clubs and lodges.

(4) On-site parking for commercial vehicles exceeding two-ton capacity.~~.~~

~~(5) Multiple single family dwelling units on the same R-1 zoned lot subject to the standards contained in § 10-3.512.~~

(5~~6~~) Large family day care homes as defined in and subject to the standards contained in § 10-3.1312.

(B) The following uses are permitted only in the R-3 zone and are subject to first securing a use permit in each case:

(1) Hotels, motels, rooming or boarding houses, bungalow courts, and dwelling groups.

(2) Professional offices.

(3) Community centers, social halls, lodges, clubs, cemeteries, and their appurtenant uses.

(4) Rest homes and convalescent hospitals.

§ 10-3.506 ~~R;~~ FENCES, WALLS, AND HEDGES.

Fences, walls, and continuous hedges will be limited as follows:

(A) A maximum height of six (6') feet in any rear or interior side yard exclusive of the front setback area.

(B) A maximum height of three (3') feet in any front or street side yard setback area, except that, subject to the approval of the Community Development Director/City Engineer, a six (6') foot fence may be erected on the street side yard property line of any fifty (50') foot wide corner lot located in the R. Residential Zone, which is situated adjacent to an eighty (80') foot City right-of-way designated as a Local Street on the General Plan. These approvals shall take into consideration site distance requirements adjacent to alleys and where driveways cross the street side yard property line.

(C) A maximum height of six (6') feet to within ten (10') feet of any exterior side property line, exclusive of the front setback. The Community Development Director/City Engineer may grant approval of an encroachment permit for construction of a fence higher than three (3') feet within the required street side yard setback area subject to the following standards:

(1) The maximum height shall not exceed six (6') feet in any street side yard area to within twenty-five (25) feet of the front property line, or projection thereof.

(2) No encroachment permit shall be approved for corner lots with an alley along the rear property line (ten (10') foot setback required).

(3) No encroachment permit shall be approved for corner lots adjacent to a street along the rear property line (ten (10') foot setback required).

(4) Encroachment permits shall take into account sight distance requirements in reverse corner lot situations, where driveway approaches on adjacent lots may be near the rear property line.

(5) Fences along a residential access street (fifty (50') foot right-of-way) shall be set back a minimum of five (5') feet from the exterior side property line.

(6) Design criteria for fences constructed along street side yard property lines shall be as follows (not applicable for fences constructed in accordance with building setback standards except as required in § 10-3.506(C)(5)(d)):

(a) All fences shall be masonry, wrought iron, solid wood, or a combination thereof.

(b) Wood shall be of cedar quality or better and all wood surfaces are to be treated with waterproofing. All posts shall be set in concrete.

(c) Unless the standard setback of ten (10') feet is utilized, all fences along collector streets shall be masonry.

(d) All fences constructed along arterial streets, regardless of setbacks, shall be masonry.

(e) Fence construction along any rear property line adjacent to a Collector or Arterial Street shall be masonry.

(f) Construction of fencing along all designated Collector and Arterial Streets is mandatory. Installation shall be required in conjunction with building permits issued for adjoining lots, and completion required prior to the granting of final occupancy on the permit.

(g) The design criteria for construction of fences along Collector and Arterial Streets shall not apply to any subdivision recorded prior to December 18, 1991, the effective date of Ordinance 580 C.S.

(h) The Planning Commission may grant exceptions on a subdivision-wide basis to the masonry wall requirements along Collector and Arterial Streets specified in this section.

(D) The Planning Commission may approve encroachments into the ten foot (10') street side yard setback not authorized by the Community Development Director/City Engineer, subject to the provisions of the Building Code and City Standards. The Planning Commission may permit a greater height not to exceed a maximum height of eight feet (8') for that portion of a yard to the rear of the front forty feet (40') upon a determination that a greater height will not be detrimental to the public welfare or to abutting property. The Planning Commission may also require the installation of masonry block walls higher than eight feet (8') for the purpose of mitigating noise impacts in conjunction with new residential development. The requirements shall be established as a condition of approval for Tentative Subdivision Maps in conjunction with an acoustical analysis prepared by a qualified independent consultant.

§ 10-3.507 ~~R;~~ MINIMUM SITE AREA AND DIMENSIONS.

Each lot shall be no less than 80 feet in depth. Each interior lot shall have a minimum width of 50 feet. Each corner lot shall have a minimum width of 60 feet. The width of any lot fronting on a cul-de-sac on the radius of a curve shall be measured at the building setback line. The minimum site area for creation of new lots in a Residential Zone shall be ~~6~~5,000 square feet for interior lots, and 5~~6~~,500 square feet for corner lots.

§ 10-3.508 ~~R;~~ YARD REQUIREMENTS.

Except as provided for in subsection § 10-3.508(E) below, the following yard requirements shall be met:

(A) Front yards. No building shall be constructed nearer than 15 feet to the front property line, however in no case shall garages with doors facing the street or carports be set back less than 20 feet.

(B) Interior side yards. The minimum setback for any required interior side yard shall be not less than five feet provided the Planning Commission may approve encroachment into the five foot setback subject to the provisions of the Building Code.

(C) Exterior side yards. The required exterior side yard shall be not less than ten feet. Garages or carports facing an exterior side yard shall be not less than 20 feet from the property line.

(D) Rear yards. Rear yards shall be provided as follows:

(1) Fifteen feet where windows face the rear property line plus five feet per story for each story over two stories.

(2) Ten feet where no windows face the rear property line.

(3) In R-3 zones, the rear yard need not exceed ten feet except where the rear property line abuts an R or PD zone, in which case subsections § 10-3.508(D)(1) and (2) above shall apply.

(4) Where the rear property line abuts an alley, the setback shall be measured to the centerline of the alley. Parking spaces which utilize the alley for access must be set back seven feet to provide a 27-foot backup distance.

(E) Within multiple family projects of three or more units, the setback for any two-story building or structure from any property line immediately adjacent to an existing or planned single-family dwelling or low density project or any R-1 zone shall be 15 feet. The setback for any three-story structure shall be 25 feet plus five feet for each additional story over three. The Site Plan Review process shall also take the following factors into consideration:

(1) The relationship of second-story windows, doors, exterior stairways, exterior balconies, sun decks, and the like, with the privacy of the adjoining property.

(2) The relationship of building mass with the neighbors use and enjoyment of their yard areas.

(3) The relationship of building mass with the neighbor's accessories such as solar collectors and satellite antennas.

(F) Units on the same lot.

(1) Distances between dwelling units on the same lot shall be as follows:

(a) Units side to side shall be 10 feet.

(b) Units front to back shall be 25 feet.

(c) Units back to back shall be 20 feet.

(d) Units front to side shall be 20 feet.

(2) Exceptions to this setback requirement may be granted through a use permit approved by the Planning Commission.

§ 10-3.509 ~~R;~~ MINIMUM OPEN SPACE.

(A) R; minimum open space.

(1) Minimum useable open space for each individual unit shall be provided for each dwelling unit as follows:

R-Minimum Open Space
R(A)
2,000 square feet
R(1)
1,000 square feet
R(2)
750 square feet
R(3)
500 square feet

(2) To qualify as useable private open space the minimum dimension must be ten feet, provided, however, that balconies can qualify when the minimum dimension is five feet. Required off- street parking areas (spaces and driveways) may not be used in calculating required open space, and only a maximum of 50% of required yard areas under § 10-3.508 (A), (B), (C), and (D) may be used in calculating required open space.

(B) Projects of 50 or more units shall provide one or more amenities as a part of the main recreation area, including, but not limited to, the following: swimming pool, tennis court, putting green, lawn bowling, tot lot, or outdoor cooking facilities or barbecues.

(C) All outdoor common recreational areas, except community gardens, shall be landscaped with lawn, trees, shrubs, or other plant materials and shall be permanently maintained in a neat and orderly manner.

(D) Floor area.

(1) In addition to the minimum open space requirements above, buildings located on a lot in an R-1 Zone shall not exceed a cumulative floor area of 1,400 square feet plus 20% of the site area on which those building are located.

(2) For the purpose of the section, ~~FLOOR AREA~~floor area shall mean the area of all floors and levels enclosed by exterior walls by more than 50% and that part of any upper level separated from the lower level by a floor/ceiling assemble, but shall not include basements, and up to 400 square feet of garage area.

§ 10-3.510 ~~R;~~ BUILDING HEIGHT.

(A) Maximum height of buildings shall be as follows:

R(A), R(1), R(2)	35 feet
R(3)	50 feet
Accessory buildings	15 feet

(B) To conform zoning with General Plan policies a zoning designation a (HL) may be placed on any R designated district indicating a height limitation of 20 feet.

§ 10-3.511 PARKING ON UNPAVED SURFACES PROHIBITED.

(A) No person shall keep, store or park any trailer, boat, motorcycle or motor vehicle on any portion of a front yard or corner lot side yard of a property designed or used as a residence, except on an area that is paved with either asphalt, concrete, gravel or similar substance.

(B) No owner, tenant, manager, or occupant of property designed or used as a residence shall allow or suffer another person to keep, store or park any trailer, boat or motor vehicle on any portion of a front yard or corner lot side yard of a property, except on an area that is paved with either asphalt, concrete, gravel, or similar substance.

(C) Parking upon the lawn area or area intended for landscaping is prohibited.

(D) The first violation of any provision of this section is an infraction and is punishable by a fine not exceeding $75. A second violation within one calendar year of the first shall be punishable by a fine not exceeding $200. A third and each subsequent violation within one calendar year of the first, shall be punishable by a fine not to exceed $500.

§ 10-3.512 MULTIPLE SINGLE-FAMILY DWELLING UNITS.

Multiple single family dwelling units on the same R-1 zoned lot may be allowed through approval of a ~~use permit~~Administrative Plan Review subject to the following standards:

(A) All dwelling units shall conform to the parking, height, open space, lot coverage, and setback requirements of the R-1 zone, along with other requirements of the zoning code and other applicable city codes.

~~(B) In addition to the 6,000 square foot minimum site area for the primary residence, an extra 8,000 square feet shall be required for each subsequent single-family residence.~~

~~(C) Multiple single-family dwelling units shall be subject to the additional setback/height restriction of five extra feet of rear and side yard area for each story over one.~~

(~~D~~B) The remaining single-family unit(s) may be for rental purposes, but no unit may be sold separately.

(C~~E~~) The single-family dwelling units shall provide separate, independent living quarters for only one family.

(D~~F~~) Utilities.

(1) All units shall have completely separate utilities, such as sewer, water, gas, and garbage.

(2) All utilities shall be adequate to serve all residential units.

(3) No unit shall be located over underground utilities serving any other unit.

§ 10-3.513 ACCESSORY DWELLING UNITS.

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

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

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

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

(B) ~~(B)~~ Purpose

~~.~~The provisions of this section are intended to set standards, in compliance with Cal. Gov't Code §§ 66310-66342~~65582.1, 65852.2, and 65852.22~~, for the development of accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that such housing remains compatible with the existing neighborhood. It is not the intent of this chapter to override lawful use restrictions as set forth in Conditions, Covenants and Restrictions.

(C) ~~(C)~~ Applicability

Any construction, establishment, alteration, enlargement, or modification of an accessory dwelling unit shall comply with the requirements of this chapter and the City's Building and Fire Codes. For purposes of this chapter, accessory dwelling units include detached, attached, conversion, and junior accessory dwelling units.

(D) General ~~requirements. An accessory dwelling unit~~Development and Operational Standards:

The following standards shall apply to detached accessory dwelling units, attached accessory dwelling units, conversion accessory dwelling units, and junior accessory dwelling units

(1) ~~(1) May be located on any R (Residential) Zone District lot that allows single-family or multifamily dwellings and that contains only one single-family detached dwelling~~Development standards~~;~~

(a) **Foundation.** A permanent foundation shall be required for all accessory dwelling units.

(b) **Passageway.** No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(c) **Access.** Every accessory dwelling unit shall have direct exterior access independent of the exterior access of the primary dwelling.

(d) **Design.** Accessory dwelling units shall be compatible with the architectural style of the primary dwelling. No bare metal, unpainted or unfinished structures are allowed. To determine architectural compatibility, the accessory dwelling unit structure must possess at least three of the following traits in common with the primary dwelling on-site:

1. Wall covering materials.
2. Roofing material.
3. Roofing pitch.
4. Structural eaves.
5. Mass and scale of structure relative to structural height.
6. Window characteristics.
7. Decorative treatments.

(e) **Manufactured and Tiny Homes.** A manufactured home or a structure licensed and registered with the California Department of Motor Vehicles, meeting ANSI 119.2 or 119.5 requirements, is towable by a bumper hitch, frame-towing hitch, or fifth-wheel connection and which is a detached self-contained unit which includes basic functional areas that support normal daily routines such as cooking, sleeping, and toiletry; and is designed and built to look like a conventional building structure may be used as an accessory dwelling unit provided it meets the standards for new detached accessory dwelling units in this section.

(f) **Fire Sprinklers.** Fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary dwelling(s). The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in an existing single-family or multifamily dwelling.

(g) **Utility Connection.** All accessory dwelling units shall be connected to public utilities or their equivalent, including water, electric, and sewer services.

1. Except as noted in subsection (g)(ii) below, the City may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Government Code Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

2. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-family dwelling, unless the accessory dwelling unit is being constructed in connection with a new single-family dwelling

(2) Occupancy and Conveyance Requirements

(a) **Long-Term Rentals Only.** Rental of the accessory dwelling unit created pursuant to this section shall be for a term longer than 30 days.

(b) **Sale and Conveyance.** An accessory dwelling unit may be sold or conveyed separately from the primary residence to a qualified buyer if all the requirements of Government Code Section 66341 are met.

~~(2) May be located on any PD (Planned Development) Zone District lot wherein a Precise Plan allowing for the construction of accessory dwelling units has been approved. In all cases, the Precise Plan shall provide that only one accessory dwelling unit shall be permitted per parcel;~~

~~(3) Is not subject to the density requirements of the General Plan, but shall otherwise be consistent with the General Plan's principles, goals and policies.~~

~~(4) Shall not be allowed on, or adjacent to, real property that is listed in the California Register of Historic Places.~~

~~(5) Shall not be used for rentals with terms of less than 30 days.~~

~~(6) Shall not be sold separate from the primary residence.~~

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

(E) ~~(E)~~ DETACHED ACCESSORY DWELLING UNITS

(1) **Location.** Detached accessory dwelling units must be accompanied by a proposed or existing single-family or multifamily dwelling. Detached accessory dwelling units may be located in an existing accessory structure.

(2) Maximum Number of Detached Accessory Dwelling Units

(a) When accompanied by a proposed or existing single-family dwelling, the maximum number of detached accessory dwelling units shall be one. The detached accessory dwelling unit may be in addition to an existing or proposed attached accessory dwelling unit and an existing or proposed junior accessory dwelling unit.

(b) Multi-family developments may have one detached accessory dwelling unit for each primary dwelling unit provided within an existing or proposed multifamily development, up to a maximum of eight detached accessory dwelling units. Primary dwelling units within an existing multifamily development shall exclude any unit created as a conversion accessory dwelling unit.

(c) Bonus accessory dwelling units may be allowed for lots zoned for single family residential uses pursuant to the requirements of Section 10-3.513(I).

(3) Floor Area

(a) The minimum floor area shall be 150 square feet, or the equivalent of an efficiency unit, whichever is greater.

(b) When accompanied by an existing or proposed single-family dwelling, the maximum floor area shall be no more than 1,200 square feet.

(c) When an existing accessory structure is converted to a detached accessory dwelling unit, the maximum square feet may exceed 1,200 square feet to an amount equal to the square footage of the existing accessory structure to be converted.

(4) **Minimum Setbacks.** The minimum side, street side, and rear yard setback shall be 4 feet, except when converting or replacing an existing accessory structure that is less than 4 feet from the side, street side, or rear yard.

(5) **Maximum Height.** The maximum height of detached accessory dwelling units shall be as follows:

(a) For one story detached accessory dwelling units, the maximum height shall be 16 feet. Where the detached accessory dwelling unit is located within one-half mile walking distance of a transit stop or a transit corridor or with an existing or proposed multifamily dwelling of more than one story, the maximum height shall be 18 feet.

(b) For two story detached accessory dwelling units, the maximum height shall be 25 feet.

(c) Height Exceptions.

1. An additional two feet in height shall be allowed to accommodate a roof pitch on an accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

2. When an existing accessory structure is converted to a detached accessory dwelling unit, the maximum height may exceed the limits of Section 10-3.513(E)(5) to an amount equal to the height of the existing accessory structure to be converted.

(6) **Parking.** One parking space shall be required for use by the detached accessory dwelling unit in addition to the minimum parking required for the primary single-family or multifamily dwelling(s). The surface of the parking space shall be improved and may be covered or uncovered. No parking shall be required in any of the following circumstances:

(a) The detached accessory dwelling unit is located within one-half mile walking distance of public transit.

(b) The detached accessory dwelling unit is located within an architecturally and historically significant historic district.

(c) The detached accessory dwelling unit is converting an existing accessory structure.

(d) On-street parking permits are required but not offered to the occupant of the detached accessory dwelling unit.

(e) There is a car share vehicle located within one quarter mile of the detached accessory dwelling unit.

(7) **Development Standards.** Detached accessory dwelling units shall comply with all applicable base zone district development standards, including lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, unless application of any one or more of these standards precludes construction of at least an 800 square foot detached accessory dwelling unit.

(F) ATTACHED ACCESSORY DWELLING UNITS

(1) **Location.** Attached accessory dwelling units must be accompanied by a proposed or existing single-family or multifamily dwelling.

(2) Maximum Number of Attached Accessory Dwelling Units

(a) When accompanied by a proposed or existing single-family dwelling, the maximum number of attached accessory dwelling units shall be one. The attached accessory dwelling unit may be in addition to an existing or proposed detached accessory dwelling unit and an existing or proposed junior accessory dwelling unit.

(b) Bonus accessory dwelling units may be allowed for lots zoned for single family residential uses pursuant to the requirements of Section 10-3.513(I).

(3) Floor Area

(a) The minimum floor area shall be 150 square feet, or the equivalent of an efficiency unit, whichever is greater.

(b) The maximum floor area shall be 50% of the primary dwelling unit floor area, or 1,200 square feet, whichever is greater.

(4) **Minimum Setbacks.** The minimum side, street side, and rear yard setback shall be 4 feet, except when converting or replacing an existing accessory structure that is less than 4 feet from the side, street side, or rear yard.

(5) **Maximum Height.** The maximum height of attached accessory dwelling units shall be two stories and 25 feet or the maximum height specified by the base zone district, whichever is lower.

(6) **Parking.** No parking shall be required for the attached accessory dwelling unit.

(7) **Development Standards.** Attached accessory dwelling units shall comply with all applicable base zone district development standards, including lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, unless application of any one or more of these standards precludes construction of at least an 800 square foot attached accessory dwelling unit.

(G) CONVERSION ACCESSORY DWELLING UNITS

(1) **Location.** Conversion accessory dwelling units are permitted within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

~~(1)~~ **Maximum Number of Conversion Accessory Dwelling Units.** The maximum number of conversion accessory dwelling units allowed shall be no more than 25% of the number of existing or proposed multifamily units. However, in no case shall less than one conversion accessory dwelling unit be allowed.

(2) Floor Area

(a) The minimum floor area shall be 150 square feet, or the equivalent of an efficiency unit, whichever is greater.

(b) The maximum floor area shall be 50% of the primary dwelling unit floor area, or 1,200 square feet, whichever is greater.

(3) **Minimum Setbacks**. The minimum side, street side, and rear yard setback shall be 4 feet, except when converting or replacing an existing accessory structure that is less than 4 feet from the side, street side, or rear yard.

(4) **Parking**. No additional parking shall be required.

(H) JUNIOR ACCESSORY DWELLING UNITS

(1) **Location.** Junior accessory dwelling units must be accompanied by a proposed or existing single-family dwelling on a lot zoned for single-family use. A junior accessory dwelling unit must be located within the walls of the primary single-family dwelling, including but not limited to, an attached garage.

(2) Maximum Number of Junior Accessory Dwelling Units

(a) When accompanied by a proposed or existing single-family dwelling, the maximum number of junior accessory dwelling units shall be one. The junior accessory dwelling unit may be in addition to an existing or proposed detached accessory dwelling unit and an existing or proposed attached accessory dwelling unit.

(b) Bonus accessory dwelling units may be allowed for lots zoned for single family residential uses pursuant to the requirements of Section 10-3.513(I).

(3) Floor Area

(a) The minimum floor area shall be 150 square feet, or the equivalent of an efficiency unit, whichever is greater.

(b) The maximum floor area shall be 500 square feet.

(4) **Parking.** No parking shall be required for the junior accessory dwelling unit.

(5) **Exterior Access.** Access shall be provided to the junior accessory dwelling unit independent from the primary dwelling.

(6) **Sanitation Facilities.** Sanitation facilities may be separate or shared with the primary dwelling. If shared with the primary dwelling, the junior accessory dwelling unit shall provide an interior entry to the living area of the primary dwelling, separate from the exterior access required to the junior accessory dwelling unit.

(7) **Kitchen Features.** An efficiency kitchen shall be provided, including the following minimum features:

(a) A cooktop, refrigerator, and compact sink. A removable hot plate may be considered a cooktop for purposes of this requirement. Appliances shall require no more than a 120-volt electrical connection.

(b) Food preparation counter space of a minimum 24 inches in width and a minimum of one food storage cabinet of a minimum 24 inches in width.

(8) **Occupancy.** Owner-occupancy shall be required in either the remaining portion of the primary dwelling or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(9) **Deed Restriction.** A deed restriction shall be recorded on the property which shall run with the land, and a copy of which shall be provided to the planning department. The deed restriction shall include both of the following:

(a) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family dwelling, including a statement that the deed restriction may be enforced against future purchasers.

(b) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(I) BONUS ACCESSORY DWELLING UNITS

(1) Accessory Dwelling Unit Bonus for Affordable Accessory Dwelling Units.

(a) One additional accessory dwelling unit shall be permitted for every accessory dwelling unit on a lot zoned for single family residential that is set aside as affordable to

very low income and low income households for a period of not less than 10 years, or as affordable to moderate income households for a period of not less than 15 years, guaranteed through a written agreement and a deed of trust securing the agreement, entered into by the applicant and the Director.

1. In no case shall the total number of primary dwelling and accessory dwelling units (including attached, detached, and junior accessory dwelling units) exceed eight on any given lot zoned for single-family residential uses.

2. Very low income shall mean 30 percent to 50 percent of the Area Median Income.

3. Low income shall mean 50 percent to 80 percent of the Area Median Income.

4. Moderate income shall mean 80 percent to 120 percent of the Area Median Income.

(2) Accessory Dwelling Unit Bonus for Accessible Accessory Dwelling Units.

(a) For development utilizing the accessory dwelling unit bonus for affordable accessory dwelling units in accordance with section 10-3.513(I), a maximum of one additional accessible accessory dwelling unit shall be permitted if the development includes:

1. At least two accessory dwelling units are deed restricted in accordance with section 10-3.513(I).

2. The accessible accessory dwelling unit shall comply with the following:

a. Accessibility requirements in Chapter 11A of the California Building Code, including at least one accessible bathroom, one accessible kitchen, and one accessible bedroom; and

b. The accessible accessory dwelling unit shall be located on an accessible route, as defined by the California Building Code.

~~(C)~~(J) APPLICATION AND PROCESSING REQUIREMENTS~~.~~

~~(1) (1) Step one~~ Applications for accessory dwelling units shall be processed in accordance with section 10-3-4.201 et. seq. ~~Application~~ ~~submittal. An application for a Ministerial Review Approval Zoning Administrator Permit to allow for an accessory dwelling unit shall be submitted to the Planning Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for a Zoning Administrator~~Ministerial Review ~~Permit~~ Approval ~~to allow for an accessory dwelling unit shall include all of the following: (except as noted in subsection (1)(i) below):~~

~~a. (a) Plot~~ plan. ~~A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the accessory dwelling unit; the location and dimensioned setbacks of all existing and proposed structures on the site and structures located within 50 feet of the site; all easements, building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.~~

~~b. (b) Floor plan. A floor plan, drawn to scale, showing the dimensions of each room, and the resulting floor area. The use of each room shall be identified, and the size and location of all windows and doors shall be clearly shown.~~

c. (c) Elevations. Architectural elevations of each side of the proposed structure showing all openings, exterior finishes, original and finish grades, stepped footing outline, and roof pitch.

d. (d) Materials and color board. A materials and color board for the existing residence and the proposed second dwelling unit.

e. (e) Cross sections. Building cross sections including structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.

f. (f) Photographs. Color photographs of the site and adjacent properties, taken from each property line of the site, to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of each photograph.

g. (g) Deed restrictions. When required, dDeed restrictions completed, signed and ready for recordation.

h. (h) Fee. A fee corresponding to the fee for a Zoning Administrator PermitMinisterial Review shall be paid at time of submittal.

(i) Applications for accessory dwelling units which do not modify a building's exterior are not required to submit (c), (d), or (f) above.

(2) Step two-Ministerial decision. The Department shall act on the application for Zoning Administrator Permitapproval to allow for an accessory dwelling unit within 120 60 days of submittal of a complete application. The Zoning Administrator Permitapproval shall be issued only if the proposed accessory dwelling unit complies with all applicable standards in this section.

(3) Utility connection fees.

(a) Except as provided in subsection (3)(b), a separate new utility connection and payment of a connection fee or capacity charge pursuant to state law and city fee schedule will be required for any new accessory dwelling unit.

(b) No new or separate utility connection or related connection fee or capacity charge will be required for accessory dwelling units that are internal conversions of existing space within a single family residence or permitted accessory structure constructed as habitable space.

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

(1) Setbacks.

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

1. A new detached single-story accessory dwelling unit shall observe a front setback of 20 feet, a rear setback of five feet, an interior side setback of five feet, and a corner side setback of 15 feet.

2. A new detached two-story accessory dwelling unit shall observe a front setback of 20 feet, a rear setback of 15 feet, an interior side yard setback of five feet for a one-story portion, and ten feet for a two-story portion, and a corner side yard setback of 15 feet.

3. An accessory dwelling unit that is fully contained within the existing space of a single-family residence or within an approved accessory structure and has independent exterior access from the existing residence or structure shall adhere to the setback requirements of the residential zone it is

~~located within.~~

~~4. No portion of an attached or detached accessory dwelling unit shall be closer than ten feet to a primary dwelling on an adjacent lot.~~

~~5. A setback of no less than five feet from the side and rear property lines is required for any accessory dwelling unit. No existing nonconforming structures built within less than five feet of any property line may be converted to an accessory dwelling unit.~~

~~6. A detached accessory dwelling unit shall always be located within 100 feet of the primary dwelling, but never closer to the primary dwelling than permitted by the California Building Code.~~

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

~~*(2) Maximum floor area.*~~

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

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

~~*(c) Internal conversion. An accessory dwelling unit created entirely by the internal conversion of an existing single family dwelling shall not occupy more than 45% of the existing floor area of the residence, excluding the garage, nor shall it exceed 1,200 square feet, or a maximum of 1,200 square feet for detached accessory structures.*~~

~~*(3) Height limit. A one-story accessory dwelling unit shall not exceed a maximum height of 16 feet. A two-story accessory dwelling unit shall not exceed a maximum height of 27 feet.*~~

~~*(4) Open space. An accessory dwelling unit shall provide an additional 500 square feet of open space, in addition to the open space requirements of the primary residential dwelling on the parcel.*~~

~~*(5) Architectural compatibility. If visible from a public street, an accessory dwelling unit shall incorporate the same or substantially similar architectural features, building materials and colors as the main dwelling unit and/or compatible dwellings located on adjacent properties.*~~

~~*(6) Privacy. A balcony, window or door of a second story accessory dwelling unit shall be designed to lessen privacy impacts to adjacent properties. Appropriate design techniques may include obscured glazing, window placement above eye level, screening treatments, or locating balconies, windows and doors toward the existing on-site residence.*~~

~~*(7) Existing development. A single-family dwelling must already exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.*~~

~~*(8) Number per lot. A maximum of one accessory dwelling unit and one junior accessory dwelling unit shall be permitted on any lot.*~~

~~*(9) Parking. One off-street parking space is required for an accessory dwelling unit, except as set forth below. The off-street parking shall be permitted uncovered, compact, tandem and in setback areas, unless the review authority determines that tandem parking or parking within a setback is not feasible due to specific site or topographical or fire and life safety conditions. No off-street parking shall be required if one or more of the following circumstances exist:*~~

~~*(a) The accessory dwelling unit is 750 square feet or less in area.*~~

~~*(b) The accessory dwelling unit is located within one-half mile of public transit.*~~

~~*(c) The accessory dwelling unit is located within a historic preservation district.*~~

~~*(d) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.*~~

~~*(e) When on-street parking permits are required but not offered to the occupant of an accessory dwelling unit.*~~

~~*(f) When there is a car share vehicle located within one block of the accessory dwelling unit.*~~

~~*(g) To qualify for an exception, the applicant must provide supporting evidence, such as a map illustrating the location of the accessory dwelling unit and its proximity to a public transit stop or car*~~

~~*share vehicle or its location within a historic preservation district, or proof of local parking permit requirements.*~~

~~*(h) If a garage, carport, or covered parking is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking spaces must be provided in any configuration on the lot, including as uncovered, compact, tandem parking and within a setback area.*~~

~~*(10) Deed restrictions. Prior to occupancy of an accessory dwelling unit, the property owner shall file with the County Recorder a deed restriction containing a reference to the deed under which the property was acquired by the owner and stating that:*~~

~~*(a) The accessory dwelling unit shall not be sold separately from the single family residence;*~~

~~*(b) The accessory dwelling unit shall not exceed 1200 square feet and shall comply with the development standards in subsection (E);*~~

~~*(c) The accessory dwelling unit shall be considered legal only so long as either the primary residence or the accessory dwelling unit is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or non-profit housing organization; and*~~

~~*(d) The restrictions shall run with the land and be binding upon any successor in ownership of the property. Lack of compliance shall void the approval of the accessory dwelling unit and may result in legal action against the property owner.*~~

~~*(e) The developer of a subdivision that includes accessory dwelling units shall record the deed restrictions required by this subsection prior to the recordation of the Final Map or Parcel Map. Each lot with an accessory dwelling unit shall remain unoccupied until the property transfers ownership, allowing for compliance with the recorded owner-occupancy restriction.*~~

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

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

~~*(a) May be located on any R (Residential) Zone District lot that allows single-family or multi-family dwellings and that contains only one single-family detached dwelling. Only one junior accessory dwelling unit and one standard accessory dwelling unit shall be permitted per parcel;*~~

~~*(b) May be located on any PD (Planned Development) Zone District lot wherein a Precise Plan allowing for the construction of junior accessory dwelling units has been approved. In all cases, the Precise Plan shall provide that only one junior accessory dwelling unit shall be permitted per parcel;*~~

~~*(c) Is not subject to the density requirements of the General Plan, but shall otherwise be consistent with the General Plan's principles, goals and policies.*~~

~~*(d) Shall not be allowed on, or adjacent to, real property that is listed in the California Register of Historic Places.*~~

~~*(e) Shall not be used for rentals with terms of less than 30 days.*~~

~~*(f) Shall not be sold separate from the primary residence.*~~

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

~~*(3) Application and processing requirements.*~~

~~*(a) Step one submittal. The application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be submitted to the Planning Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit shall include all of the following:*~~

~~*1. Plot plan. A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the junior accessory dwelling unit; the location and dimensioned setbacks of all*~~

~~*existing and proposed structures on the site and structures located within 50 feet of the site; all easements, building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.*~~

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

~~*3. Deed restrictions. Deed restrictions completed, signed and ready for recordation.*~~

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

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

~~*(c) Utility connection fees. No new or separate utility connection and no connection fee for water, sewer, or power is required for a junior accessory dwelling unit.*~~

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

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

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

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

~~*—*~~

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

~~*2. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.*~~

~~*3. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.*~~

~~*(d) Sanitation. Bathroom facilities may be separate from or shared with the single-family dwelling.*~~

~~*(e) Entrance. The junior accessory dwelling unit shall include an exterior entrance separate from the main entrance to the single-family dwelling, and an interior entry into the main living area. The junior accessory dwelling unit may include a second interior doorway for sound attenuation.*~~

~~*(f) Parking. Off-street parking shall not be required for junior accessory dwelling units that meet the development standards.*~~

~~*(5) Deed restrictions. Prior to occupancy of a junior accessory dwelling unit, the property owner shall file with the County Recorder a deed restriction containing a reference to the deed under which the property was acquired by the owner and stating that:*~~

~~*(a) The junior accessory dwelling unit shall not be sold separately from the single-family residence;*~~

~~*(b) The junior accessory dwelling unit shall not exceed 500 square feet and shall comply with the development standards in subsection (F);*~~

~~*(c) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence or the junior accessory dwelling unit is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or non-profit housing organization; and*~~

~~*(d) The restrictions shall run with the land and be binding upon any successor in ownership of the property. Lack of compliance shall void the approval of the junior accessory dwelling unit and may result in legal action against the property owner.*~~

~~*(e) The developer of a subdivision that includes junior accessory dwelling units shall record the deed restrictions required by this subsection prior to the recordation of the Final Map or Parcel Map. Each lot with a junior accessory dwelling unit shall remain unoccupied until the property transfers ownership, allowing for compliance with the recorded owner-occupancy restriction.*~~

~~*(Ord. 607 C.S., passed 12-15-93; Am. Ord. 752 C.S., passed 5-21-03; Am. Ord. 949, C.S., passed 12-6-17)*~~

AFFORDABLE HOUSING DENSITY BONUS

§ 10-3-5.101 PURPOSE.

As required by Cal. Gov't Code § 65915-65918, this subchapter offers density bonuses, and incentives or concessions for the development of housing that is affordable to the types of households and qualifying residents identified in § 10-3-5.102 below. This chapter is intended to implement the requirements of Cal. Gov't Code § 65915 et seq., and the Housing Element of the General Plan.

§ 10-3-5.102 APPLICABILITY

The provisions of this chapter shall apply to all housing developments, including mixed-use developments, providing a minimum of 5 residential units. If any provision of this chapter conflicts with State Density Bonus Law, the latter shall govern.

§ 10-3-5.103 ELIGIBILITY FOR BONUS, INCENTIVES, OR CONCESSIONS.

(A) **Eligibility.** Eligibility for density bonus allowances and incentives are determined based on the provision of a minimum number of affordable units within the projects as specified by project type and income level, as specified in Section 10-3-5.104 (Density Bonus Allowances for Housing Developments), Section 10-3-5.105 (Density Bonus Allowances for Target Population Housing), and Section 10-3-5.106 (Density Bonus Allowances for Qualified Land Donations).

(B) **Ineligibility.** An applicant shall be ineligible for density bonus allowances or incentives if the housing development meets any of the following, unless the proposed housing development replaces those units, and also meets either of the criteria specified in Government Code 65915(c)(3)(A):

(1) The housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are located or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low-income or very low-income.

(2) The housing development is subject to any other form of rent or price control through a public entity's valid exercise of its police power.

(3) The housing development is occupied by lower or very low-income households.

~~In order to be eligible for a density bonus and other incentives or concessions as provided by this subchapter, a proposed housing development shall comply with the following requirements and shall satisfy all other applicable provisions of this Zoning Ordinance, except as provided by § 10-3-5.104.~~

~~(A) Resident requirements. A housing development proposed to qualify for a density bonus shall be designed and constructed so that it includes at least any one of the following:~~

~~(1) Ten percent (10%) of the total number of proposed units are for lower income households, as defined in Cal. Health and Safety Code § 50079.5;~~

~~(2) Five percent (5%) of the total number of proposed units are for very low income households, as defined in Cal. Health and Safety Code § 50105;~~

~~(3) The project is a senior citizen housing development as defined in Cal. Civil Code §§ 51.3 and 51.12, or is a mobile home park that limits residency based on age requirements for housing older persons in compliance with Cal. Civil Code §§ 798.76 or 799.5; or~~

~~(4) Ten percent (10%) of the total dwelling units in a common interest development as defined in Cal. Civil Code § 1351 are for persons and families of moderate income, as defined in Cal. Health and Safety Code § 50093, provided that all units in the development are offered to the public for purchase.~~

~~(B) Applicant selection of basis for bonus. For purposes of calculating the amount of the density bonus in compliance with § 10-3-5.103, below, the applicant who requests a density bonus shall elect whether the bonus shall be awarded on the basis of subsections (A)(1), (2), (3), or (4), above.~~

~~(C) Bonus units shall not qualify a project. A density bonus granted in compliance with § 10-3-5.103, below, shall not be included when determining the number of housing units that is equal to the percentages required by subsection (A), above.~~

~~(D) Minimum project size to qualify for density bonus. The density bonus provided by this subchapter shall be available only to a housing development of five or more dwelling units.~~

~~(E) Condominium conversion projects. A condominium conversion project for which a density bonus is requested shall comply with the eligibility and other requirements specified in Cal. Gov't Code § 65915.5.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ **10-3-5.104~~3~~ APPLICATION**

(A) **Application Filing.** When an applicant seeks a density bonus for a housing development that provides at least the minimum number of affordable units required, the affordable housing developer shall comply with all the following:

(1) File an application for a density bonus on a form provided by the City. Such application shall be submitted in conjunction with the project application and shall be processed concurrently with all other applications required for the project.

(2) State in the application the specific minimum affordable housing units, income levels, and/or target populations, as applicable, proposed for the housing development.

(3) If an applicant is requesting an incentive or concession in accordance with Section 10-3-5.107 (Incentives and Concessions), the application shall:

(a) Include a specific written proposal for the requested incentive or concession.

(b) Establish that each requested incentive or concession would result in identifiable, financially sufficient, and actual cost reductions for the qualified housing development.

(4) If the applicant is requesting a waiver or reduction in accordance with Section 10-3-5.108 (Waivers or Reductions of Development Standards), the application shall:

(a) Include a specific written proposal for the requested waiver or reduction.

(b) Demonstrate how the waiver or reduction is necessary for construction of the housing development at the densities or with the concessions or incentives permitted in accordance with this c~~C~~hapter.

(5) If the applicant is requesting a parking standard in accordance with Section 10-3-5.109 (Parking Standard Modifications), the application shall include a specific written statement noting the request.

(B) **Completeness Review.** The City shall review the submitted application for completeness in accordance with Government Code Section 65943. Upon review, the City shall provide the applicant with a determination as to the following matters:

(1) The amount of density bonus for which the applicant is eligible.

(2) Whether the applicant has provided adequate information for the City to make a determination as to the incentives, concessions, or waiver or reduction of development standards, if requested.

(3) The parking ratio for which the applicant is eligible, if requested.

(C) **Meeting with City Upon Request.** An applicant for a density bonus, incentive and concession, waiver or reduction of development standards, or parking standard request pursuant to this c~~C~~hapter may request a meeting with the Community ~~and Economic~~ Development Director, or designee, to review the proposal.

§ 10-3-5.105 DENSITY BONUS ALLOWENCES FOR QUALIFIED HOUSING DEVELOPMENTS

~~ALLOWED DENSITY BONUSES.~~

~~The review authority shall determine the amount of a density bonus allowed in a housing development in compliance with this section. For the purposes of this subchapter, DENSITY BONUS means a density increase over the otherwise maximum allowable residential density under the applicable General Plan Land Use designation and zone as of the date of application by the applicant to the city.~~

~~(A) Density bonus. A housing development that complies with the eligibility requirements specified in § 10-3-5.102(A) above, shall be entitled to density bonuses as follows, unless a lesser percentage is proposed by the applicant.~~

~~(1) Bonus for units for lower income households. A housing development that is eligible for a bonus in compliance with the criteria specified in § 10-3-5.102(A)(1), (10% of units for lower income households) shall be entitled to a density bonus calculated as follows:~~

~~TABLE 103.1 – BONUS FOR LOWER INCOME HOUSEHOLDS~~

~~Percentage of Low-Income Units Proposed~~	~~Percentage of Density Bonus~~
~~Percentage of Low-Income Units Proposed~~	~~Percentage of Density Bonus~~
~~10~~	~~20~~
~~11~~	~~21.5~~
~~12~~	~~23~~
~~13~~	~~24.5~~
~~14~~	~~26~~
~~15~~	~~27.5~~
~~16~~	~~29~~
~~17~~	~~30.5~~
~~18~~	~~32~~
~~19~~	~~33.5~~
~~20~~	~~35~~

(2) Bonus for units for very low-income households. A housing development that is eligible for a bonus in compliance with the criteria specified in § 10-3-5.102(A)(2), 5% of units for very low-income households) shall be entitled to a density bonus calculated as follows:

TABLE 103.2 - BONUS FOR VERY LOW-INCOME HOUSEHOLDS

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) Bonus for senior citizen development. A housing development that is eligible for a bonus in compliance with the criteria in § 10-3-5.102(A)(3), (senior citizen development or mobile home park) shall be entitled to a density bonus of 20%.

(4) Bonus for moderate income units in common interest development. A housing development that is eligible for a bonus in compliance with the criteria specified in § 10-3-5.102(A)(4), (10% of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows:

TABLE 103.3 - BONUS FOR MODERATE INCOME HOUSEHOLDS

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18

24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) Density bonus for land donation. When an applicant for a tentative map, parcel map, or other residential development approval donates land to the city in compliance with this subsection, the applicant shall be entitled to a density bonus for the entire development as follows; provided, that nothing in this subsection shall be construed to affect the authority of the city to require a developer to donate land as a condition of development.

(a) Basic bonus. The applicant shall be entitled to a 15% increase above the otherwise maximum allowable residential density under the applicable Land Use Plan designation and zone for the entire development, and an additional increase as follows.

TABLE 103.4 - BASIC BONUSES

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25

~~21~~
~~22~~
~~23~~
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~~**(b) Increased bonus. The increase identified in Table 103.4 above shall be in addition to any increase in density required by subsections (A)(1) through (A)(4), up to a maximum combined mandated density increase of 35% if an applicant seeks both the increase required in compliance with this subsection (A)(5), as well as the bonuses provided by subsections (A)(1) through (A)(4).**~~

~~**(c) Eligibility for increased bonus. An applicant shall be eligible for the increased density bonus provided by this subsection if all of the following conditions are met:**~~

~~**1. The applicant donates and transfers the land no later than the date of approval of the final map, parcel map, or residential development application.**~~

~~**2. The developable acreage and zoning classification of the land being transferred are sufficient to allow construction of units affordable to very low income households in an amount not less than 10% of the number of residential units of the proposed development.**~~

~~**3. The transferred land is at least one acre in size, or of sufficient size to allow development of at least 40 units; has the appropriate Land Use Plan designation; is appropriately zoned for development as affordable housing; and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.**~~

~~**4. No later than the date of approval of the final map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than Building Permits, necessary for the development of the very low income housing units on the transferred**~~

~~**land, except that the city may subject the proposed development to subsequent design review to the extent authorized by Cal. Gov't Code § 65583.2(i) if the design is not reviewed by the city before the time of transfer.**~~

~~**5. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with § 10-3.5.107, which shall be recorded on the property at the time of dedication.**~~

~~6. The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to the approved housing developer.~~

~~7. The transferred land shall be within the boundary of the proposed development or, if the city agrees, within one-quarter mile of the boundary of the proposed development.~~

~~(B) Greater or lesser bonuses. The city may choose to grant a density bonus greater than provided by this section for a development that meets the requirements of this section, or grant a proportionately lower density bonus than required by this section for a development that does not fully comply with the requirements of this section.~~

~~(C) Density bonus calculations. The calculation of a density bonus in compliance with this section that results in fractional units shall be rounded up to the next whole number, as required by state law. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels.~~

~~(D) Requirements for amendments or discretionary approval. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.~~

~~(E) Location of bonus units. The developer may locate density bonus units in the housing project in areas other than where the units for the lower income households are located.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

(A) ~~10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS.~~ **Density Bonus Allowance.** Density bonus allowances are determined based on the percent and type of affordable housing units provided within a housing development, as identified in Table 10-3-5.105~~4~~-1: Density Bonus Allowance by Affordability. The applicant may also elect to accept a lesser percentage of density bonus.

(B) Calculations.

(1) For the purpose of calculating a density bonus, residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels.

(2) All density calculations resulting in fractional units shall be rounded up to the next whole number.

Table 10-3-5.105-1: Density Bonus Allowance by Affordability

Affordability Level of Units Provided[1]	Percentage of Affordable Units Provided		Density Bonus Allowance[4]		Incremental Increase in Density Bonus Allowance[7]
	Minimum[2]	Maximum[3]	Minimum Density Bonus[5]	Maximum Density Bonus[6]	
Very Low Income	5%	15%	20%	50%	2.50%
Low Income	10%	24%	20%	50%	1.50%

Moderate Income, For-Sale	10%	44%	5%	50%	1%

[1] Income category of affordable housing units provided within the housing development.
[2] Minimum percentage of affordable housing units required within the housing development to qualify for a density bonus.
[3] Maximum percentage of affordable housing units required within the housing development to qualify for the maximum density bonus.
[4] Density bonus allowances are determined based on the percentage and income category of the affordable units provided. Density bonuses are percent increases beyond the maximum residential density allowed.
[5] Minimum density bonus allowance to be provided. The minimum density bonus is provided only once the minimum percentage of affordable housing units is provided within the related income category.
[6] Maximum density bonus allowance to be required. The maximum density bonus is provided only once the maximum percentage of affordable housing units is provided within the related income category.
[7] For every 1 percent increase in the affordable housing units provided within the housing development beyond the minimum percentage of affordable units specified within the applicable income category, the minimum density bonus allowance shall increase by the stated increment to the maximum density bonus allowed.

(C) **Additional Density Bonus Allowance for 100 Percent Affordable Housing.** Notwithstanding the maximum density bonus allowance specified in Table 10-3-5.105-1: Density Bonus Allowance by Affordability, housing developments providing 100 percent affordable housing units at either the very low-income, low-income, or moderate-income category, or any combination thereof, shall be eligible for a density bonus of 80 percent.

(D) Additional Density Bonus Allowance for Provision of Childcare Facilities.

(1) **Eligibility.** Housing developments providing a childcare facility located on the premises, as a part of, or adjacent to the housing development and meeting, or are conditioned to meet, both of the following requirements shall be eligible for an additional density bonus allowance as specified in Section 10-3-5.105(D)(3), Childcare Facility Density Bonus Allowance.

(a) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable pursuant to Government Code Section 65915(c).

(b) Of the children who attend the childcare facility, the children of very low-income households, low-income households, or moderate-income households shall constitute a percentage that is equal to or greater than the percentage of dwelling units that are required under the respective minimum affordable housing component income category for which the density bonus is sought.

(2) **Adequate Facilities.** The City is authorized to not provide a density bonus as provided in this section upon substantial evidence that the community has adequate childcare facilities.

(3) **Childcare Facility Density Bonus Allowance.** A density bonus allowance shall be granted in the amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility. This density bonus allowance is in addition to the density bonus allowance provided under Section 10-3-5.1054(A), Density Bonus Allowance.

(E) Additional Density Bonus Allowance for Mixed-Income Housing.

(1) **Eligibility.** Housing developments providing the following percent and type of affordable housing units are eligible for an additional density bonus allowance as specified in Section 10-3-5.1054(E)(2), Mixed-Income Density Bonus Allowance.

(a) Housing developments providing at least 15 percent affordable housing units at the very low-income category and providing additional affordable units at the income category and percentages specified in Table 10-3-5.1054-2: Mixed-Income Density Bonus Allowance by Affordability.

(b) Housing developments providing at least 24 percent affordable housing units at the low-income category and providing additional affordable units at the income category and percentages specified in Table 10-3-5.1054-2: Mixed-Income Density Bonus Allowance by Affordability.

(c) Housing developments providing at least 44 percent affordable housing units at the moderate-income category and providing additional affordable units at the income category and percentages specified in Table 10-3-5.1045-2: Mixed-Income Density Bonus Allowance by Affordability.

(2) **Additional Mixed-Income Density Bonus Allowance.** Additional density bonus allowances are determined based on the percent and type of additional affordable housing units provided within a housing development, as identified in Table 10-3-5.1054-2: Mixed-Income Density Bonus Allowance by Affordability.

(3) **Maximum on Affordable Units.** No more than 50 percent of the resulting housing development, inclusive of the units awarded through a density bonus, shall be income restricted to the very low-income, low-income, or moderate-income category.

Table 10-3-5.105-2: Mixed-Income Density Bonus Allowance by Affordability

Affordability Level of Additional Units Provided[1]	Percentage of Additional Affordable Units Provided		Density Bonus Allowance[4]		Incremental Increase in Density Bonus Allowance[7]
	Minimum[2]	Maximum[3]	Minimum Density Bonus[5]	Maximum Density Bonus[6]	
Very Low Income	5%	10%	20%	38.75%	3.75%
Moderate Income, For-Sale or For-Rent	5%	15%	20%	50%	2.5%

[1] Income category of affordable housing units provided within the housing development in addition to the percent of affordable housing units provided to qualify for a density bonus allowance in accordance with Section 10-3-5.105(A) (Density Bonus Allowance) ("additional affordable units").

[2] Minimum percentage of additional affordable housing units required within the housing development to qualify for the mixed-income density bonus.

[3] Maximum percentage of additional affordable housing units required within the housing development to qualify for the maximum mixed-income density bonus.

[4] Density bonus allowances are determined based on the percentage and income category of the additional affordable units provided. Density bonuses are percent increases beyond the number of housing units excluding any density bonus awarded by this Chapter.

[5] Minimum density bonus allowance to be provided. The minimum density bonus is provided only once the minimum percentage of additional affordable housing units is provided within the related income category.

[6] Maximum density bonus allowance to be required. The maximum density bonus is provided only once the maximum percentage of additional affordable housing units is provided within the related income category.

[7] For every 1 percent increase in the additional affordable housing units provided within the housing development beyond the minimum percentage of additional affordable units specified within the applicable income category, the minimum density bonus allowance shall increase by the stated increment to the maximum density bonus allowed.

~~(A) Applicant request and city approval.~~

~~(1) An applicant for a density bonus in compliance with this subchapter may submit to the city a proposal for the specific incentives or concessions listed in subsection (C), below, that the applicant requests in compliance with this section, and may request a meeting with the Director. The applicant may file a request either before filing an application for city approval of a proposed project or concurrently with an application for project approval. The review authority shall grant an incentive or concession request that complies with this section unless the review authority makes either of the following findings in writing, based upon substantial evidence:~~

~~(a) The incentive or concession is not required to provide for affordable housing costs, as defined in Cal. Health and Safety Code § 50052.5, or for rents for the targeted units to be set as specified in § 10-3-5.107(B); or~~

~~(b) The incentive or concession would have a specific adverse impact, as defined in Cal. Gov't Code § 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.~~

~~(2) The applicant shall show that a waiver or modification of development standards is necessary to make the housing units economically feasible.~~

~~(B) Number of incentives. The applicant shall receive the following number of incentives or concessions.~~

~~(1) One incentive or concession. One incentive or concession for a project that includes at least 10% of the total units for lower income households, at least 5% for very low income households, or at least 10% for persons and families of moderate income in a common interest development.~~

~~(2) Two incentives or concessions. Two incentives or concessions for a project that includes at least 20% of the total units for lower income households, at least 10% for very low income households, or at least 20% for persons and families of moderate income in a common interest development.~~

~~(3) Three incentives or concessions. Three incentives or concessions for a project that includes at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons and families of moderate income in a common interest development.~~

~~(C) Type of incentives. For the purposes of this chapter, concession or incentive means any of the following:~~

~~(1) A reduction in the site development standards of this Zoning Ordinance (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements) (see also § 10-3-5.105), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Cal. Health and Safety Code § 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;~~

~~(2) Approval of mixed-use land uses not otherwise allowed by this Zoning Ordinance in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;~~

~~(3) Other regulatory incentives proposed by the applicant or the city that will result in identifiable,~~

financially sufficient, and actual cost reductions; and/or

(4) In its sole and absolute discretion, a direct financial contribution granted by the review authority, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.

(D) Effect of incentive or concession. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

(Ord. 920 C.S., passed 5-20-15)

10-3-5.1056 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSING

Senior Housing. Senior citizen housing developments or mobile home parks that limit residency based on age requirements for housing for older persons pursuant to Civil Code Section 798.76 or 799.5, are eligible for a 20 percent density bonus allowance. The density bonus shall be calculated based on the number of senior housing units provided.

Transitional Foster Youth, Disabled Veterans, or Homeless Persons. Housing developments providing a minimum of 10 percent of units for individuals qualifying as transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541 of the Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), are eligible for a 20 percent density bonus allowance beyond the maximum density allowed. Housing units provided for transitional foster youth, disabled veterans, and homeless persons shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

Student Housing. Housing developments providing a minimum of 20 percent of units for lower income students as defined by Government Code Section 65915(b)(1)(F)(I) and meeting all the following criteria shall be eligible for a 35 percent density bonus allowance. The density bonus shall be calculated based on the number of student housing units provided.

The rent provided in the lower income student housing units equals 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

The housing development gives priority to lower income students experiencing homelessness.

For purposes of calculating a density bonus pursuant to this Section, the term "unit" means one rental bed and its pro rata share of associated common area facilities.

(A) Applicability. This section applies to a development that meets the requirements of § 10-3-5.102, above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section in compliance with § 10-3-5.104, above.

(B) Number of parking spaces required.

(1) At the request of the applicant, the city shall require the following vehicular parking ratios for a project that complies with the requirements of § 10-3-5.102, above, inclusive of handicapped and guest parking.

(a) Zero to one bedroom: One on-site parking space.

(b) Two to three bedrooms: Two on-site parking spaces.

(c) Four and more bedrooms: Two and one half on-site parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

(C) Location of parking. For purposes of this section, a development may provide on-site parking through uncovered parking, but not through on-street parking.

(Ord. 920 C.S., passed 5-20-15)

10-3-5.106 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS
10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS. (A) Applicant request and city approval.

(1) An applicant for a density bonus in compliance with this subchapter may submit to the city a proposal for the specific incentives or concessions listed in subsection (C), below, that the applicant requests in compliance with this section, and may request a meeting with the Director. The applicant may file a request either before filing an application for city approval of a proposed project or concurrently with an application for project approval. The review authority shall grant an incentive or concession request that complies with this section unless the review authority makes either of the following findings in writing, based upon substantial evidence:

(a) The incentive or concession is not required to provide for affordable housing costs, as defined in Cal. Health and Safety Code § 50052.5, or for rents for the targeted units to be set as specified in § 10-3-5.107(B); or

(b) The incentive or concession would have a specific adverse impact, as defined in Cal. Gov't Code § 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(2) The applicant shall show that a waiver or modification of development standards is necessary to make the housing units economically feasible.

(B) Number of incentives. The applicant shall receive the following number of incentives or concessions.

(1) One incentive or concession. One incentive or concession for a project that includes at least 10% of the total units for lower income households, at least 5% for very low income households, or at least 10% for persons and families of moderate income in a common interest development.

(2) Two incentives or concessions. Two incentives or concessions for a project that includes at least 20% of the total units for lower income households, at least 10% for very low income households, or at least 20% for persons and families of moderate income in a common interest development.

(3) Three incentives or concessions. Three incentives or concessions for a project that includes at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons and families of moderate income in a common interest development.

(C) Type of incentives. For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in the site development standards of this Zoning Ordinance (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements) (see also § 10-3-5.105), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Cal. Health and Safety Code § 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;

(2) Approval of mixed-use land uses not otherwise allowed by this Zoning Ordinance in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;

(3) Other regulatory incentives proposed by the applicant or the city that will result in identifiable, financially sufficient, and actual cost reductions; and/or

(4) In its sole and absolute discretion, a direct financial contribution granted by the review authority, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.

(D) Effect of incentive or concession. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

(Ord. 920 C.S., passed 5-20-15)

§ 10-3-5.1056 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSINGPARKING REQUIREMENTS IN DENSITY BONUS PROJECTS.

(A) Senior Housing. Senior citizen housing developments or mobile home parks that limit residency based on age requirements for housing for older persons pursuant to Civil Code Section 798.76 or 799.5, are eligible for a 20 percent density bonus allowance. The density bonus shall be calculated based on the number of senior housing units provided.

(B) Transitional Foster Youth, Disabled Veterans, or Homeless Persons. Housing developments providing a minimum of 10 percent of units for individuals qualifying as transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541 of the Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), are eligible for a 20 percent density bonus allowance beyond the maximum density allowed. Housing units provided for transitional foster youth, disabled veterans, and homeless persons shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

(C) Student Housing. Housing developments providing a minimum of 20 percent of units for lower income students as defined by Government Code Section 65915(b)(1)(F)(I) and meeting all the following criteria shall be eligible for a 35 percent density bonus allowance. The density bonus shall be calculated based on the number of student housing units provided.

(1) The rent provided in the lower income student housing units equals 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(2) The housing development gives priority to lower income students experiencing homelessness.

(3) For purposes of calculating a density bonus pursuant to this section, the term "unit" means one rental bed and its pro rata share of associated common area facilities.

~~(A) Applicability. This section applies to a development that meets the requirements of § 10-3-5.102, above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section in compliance with § 10-3-5.104, above.~~

~~(B) Number of parking spaces required.~~

~~(1) At the request of the applicant, the city shall require the following vehicular parking ratios for a project that complies with the requirements of § 10-3-5.102, above, inclusive of handicapped and guest parking.~~

~~(a) Zero to one bedroom: One on-site parking space.~~

~~(b) Two to three bedrooms: Two on-site parking spaces.~~

~~(c) Four and more bedrooms: Two and one half on-site parking spaces.~~

~~(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.~~

~~(C) Location of parking. For purposes of this section, a development may provide on-site parking through uncovered parking, but not through on-street parking.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.1076 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS ~~BONUS AND INCENTIVES FOR DEVELOPMENTS WITH CHILD CARE FACILITIES.~~

(A) Eligibility. For a density bonus for a qualified land donation to be granted, all the following requirements shall be met.

(1) The applicant is applying for a tentative subdivision map, tentative parcel map, or other residential development approval.

(2) The applicant agrees to donate and transfer qualified land, which is land that meets both the following criteria:

(a) The developable acreage and zoning classification of the land being transferred must be sufficient to permit construction of units affordable to very low-income households in an amount equal to not less than 10 percent of the number of residential units of the proposed development.

(b) The transferred land shall be at least 1 acre in size or of sufficient size to permit development of at least 40 units, have the appropriate General Plan land use designation, be appropriately zoned with development standards for development at a minimum density of 20 dwelling units per acre, in accordance with Government Code Section 65583.2(c)(3), and be or will be served by adequate public facilities and infrastructure.

(3) The qualified land shall be transferred to the City or to a housing developer approved by the City no later than the date of approval of the final subdivision map, parcel map, or residential development application. The City may require the applicant to identify and transfer the land to an approved housing developer.

(4) The qualified land has all of the permits and approvals, other than building permits, necessary for the development of the very low-income affordable housing units on the qualified land, not later than the date of approval of the final subdivision map, parcel map, or residential development application filed. However, the City may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the City prior to the time of transfer.

(5) The qualified land and the affordable units are subject to a deed restriction ensuring continued affordability of the units for 55 years, which must be recorded against the qualified land at the time of the transfer.

(6) The qualified land is within the boundary of the proposed development or, if approved by the City, within one-quarter mile of the boundary of the proposed development.

(7) A proposed source of funding for the very low-income affordable housing units shall be identified no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) Qualified Land Donation Density Bonus Allowance. If all requirements of Section 10-3-5.106(A), Eligibility, are met, the applicant shall be entitled to a density bonus allowance, as specified in Table 10-3-5.106–1: Qualified Land Donation Density Bonus Allowance.

Table 10-3-5.106–1: Qualified Land Donation Density Bonus Allowance

Percent of Units for Very Low-Income	Density Bonus Allowance
10%	15%
11%	16%
12%	17%
13%	18%
14%	19%

Percent of Units for Very Low-Income	Density Bonus Allowance
15%	20%
16%	21%
17%	22%
18%	23%
19%	24%
20%	25%
21%	26%
22%	27%
23%	28%
24%	29%
25%	30%
26%	31%
27%	32%
28%	33%
29%	34%
30% - 100%	35%

~~(A) Housing developments. A housing development that complies with the resident and project size requirements of § 10-3-5.102(A) and (B), above, and also includes as part of that development a child care facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to the development, shall be subject to the following additional bonus, incentives, and requirements.~~

~~(1) Additional bonus and incentives. The city shall grant a housing development that includes a child care facility in compliance with this section either of the following:~~

~~(a) An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or~~

~~(b) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.~~

~~(2) Requirements to qualify for additional bonus and incentives.~~

~~(a) The city shall require, as a condition of approving the housing development, that:~~

~~1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with § 10-3-5.107, below; and~~

~~2. Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with § 10-3-5.102(A), above.~~

~~(b) The city shall not be required to provide a density bonus for a child care facility in compliance with this section if it finds, based upon substantial evidence, that the community has adequate child care facilities.~~

~~(B) Commercial and industrial developments. A developer of a commercial or industrial development project, containing at least 50,000 square feet of floor area, may be granted a density bonus when that developer agrees to set aside at least 2,000 square feet of interior floor area and 3,000 outdoor square footage to be used for a child care facility, other than a large or small family day care home, in compliance with Cal. Gov't Code § 65917.5.~~

~~(1) Allowable density bonuses. The allowable density bonus may be one of the following:~~

~~(a) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility located in an existing child care facility; or~~

~~(b) A maximum of ten square feet of floor area for each one square foot of floor area contained in the~~

~~child care facility located in a new child care facility.~~

~~(2) Requirements. Requirements to qualify for the additional density bonus shall include all of the following:~~

~~(a) For purposes of calculating the allowable density bonus under this subsection, both the total area contained within the exterior walls of the child care facility and all outdoor areas devoted to the use of the facility in compliance with applicable state child care licensing requirements shall be considered.~~

~~(b) The child care facility shall be of a sufficient size to comply with all applicable state licensing requirements in order to accommodate at least 40 children.~~

~~(c) This facility may be located either on the project site or may be located off-site as agreed upon by the developer and the city.~~

~~(d) If the child care facility is not located on the site of the development project, the city shall determine whether the location of the child care facility is appropriate and whether it complies with the purpose and intent of this section.~~

~~(e) The granting of a density bonus shall not preclude the city from imposing necessary conditions on the development project or on the additional square footage in compliance with Cal. Gov't Code § 65917.5.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

10-3-5.108~~7~~ INCENTIVES AND CONCESSIONS~~CONTINUED AVAILABILITY.~~

(A) Qualifications for Incentives and Concessions. An applicant for a density bonus pursuant to this chapter may request incentives or concessions in association with the housing development or land donation qualifying for such density bonus.

(B) Number of Incentives or Concessions. The following number of incentives or concessions may be granted, based on the number and income level of affordable housing units of the housing development.

(1) One incentive for qualified housing development projects that include at least 5 percent of the total units for very low-income households, at least 10 percent for low-income households, or at least 10 percent for persons and families of moderate-income households in a common interest development.

(2) Two incentives for qualified housing development projects that include at least 10 percent of the total units for very low-income households, at least 17 percent for low-income households, or at least 20 percent for persons and families of moderate-income households in a common interest development.

(3) Three incentives for qualified housing development projects that include at least 15 percent of the total units for very low-income households, at least 24 percent for low-income households, or at least 30 percent for persons and families of moderate-income households in a common interest development.

(4) Four incentives for qualified housing developments that include 100 percent of total units, exclusive of a manager's unit or units, for lower income households, except that up to 20 percent of the total units in the development may be for moderate-income households.

(5) Additional incentives or concessions. Projects meeting either of the following criteria shall receive incentives and concessions in addition to the number specified above.

(a) If the project is within 1/2 mile of a major transit stop, the project shall also receive a height increase of up to three additional stories, or 33 feet.

(b) A qualified housing development proposal that includes a childcare facility shall be granted an additional incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(C) Types of Incentives or Concessions. Incentive or concession means any of the following:

(1) A reduction in site development standards or a modification of development code requirements or design guidelines that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code that would result in identifiable and actual cost reductions to provide for affordable housing costs.

(2) Approval of mixed-use zoning in conjunction with the qualified housing development if commercial, office, industrial, or other land uses will reduce the cost of the qualified housing development and if the commercial, office, industrial, or other land uses are compatible with the qualified housing development and the existing or planned development in the area where the proposed qualified housing development will be located.

(3) Other regulatory incentives proposed by the affordable housing developer or the City that result in identifiable, financially sufficient, and actual cost reductions to provide for affordable housing costs.

(4) Nothing in this section limits or requires the provision of direct financial incentives by the City for the qualified housing development, including the provision of publicly owned land, or the waiver of fees or dedication requirements.

(D) Criteria for Denial of Incentives and Concessions. Except as otherwise provided in this chapter or by State law, the City shall grant the incentive(s) or concession(s) requested unless a written finding, based upon substantial evidence, is made with respect to any of the following, in which case the City may refuse to grant the incentive(s) or concession(s):

(1) The incentive or concession is not required in order to provide affordable housing costs or affordable rents for the affordable units subject to the qualified housing development application.

(2) The incentive or concession would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health and safety and, if such a specific, adverse impact exists, there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(3) The incentive or concession would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(4) The incentive or concession would be contrary to State or federal law.

~~The units that qualified the housing development for a density bonus and other incentives and concessions shall continue to be available as affordable units in compliance with the following requirements, as required by Cal. Gov't Code § 65915(c). See also § 10-3-5.110.~~

~~(A) Duration of affordability. The applicant shall agree to, and the city shall ensure, the continued availability of the units that qualified the housing development for a density bonus and other incentives and concessions, as follows.~~

~~(1) Low- and very low-income units. The continued affordability of all low- and very low-income qualifying units shall be maintained for 30 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or by city policy or ordinance.~~

~~(2) Moderate income units in common interest development. The continued availability of moderate-income units in a common interest development shall be maintained for a minimum of 10 years, or a~~

~~longer time if required by city policy or ordinance.~~

~~(B) Unit cost requirements. The rents and owner-occupied costs charged for the housing units in the development that qualify the project for a density bonus and other incentives and concessions, shall not exceed the following amounts during the period of continued availability required by this section:~~

~~(1) Lower income units. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Cal. Health and Safety Code § 50053; and~~

~~(2) Owner-occupied units. Owner-occupied units shall be available at an affordable housing cost as defined in Cal. Health and Safety Code § 50052.5.~~

~~(C) Occupancy and resale of moderate-income common interest development units. An applicant shall agree to, and the city shall ensure that the initial occupant of moderate income units that are directly related to the receipt of the density bonus in a common interest development as defined in Cal. Civil Code § 1351, are persons and families of moderate income, as defined in Cal. Health and Safety Code § 50093, and that the units are offered at an affordable housing cost, as defined in Cal. Health and Safety Code § 50052.5. The city shall enforce an equity sharing agreement unless it is in conflict with the requirements of another public funding source or law. The following requirements apply to the equity sharing agreement.~~

~~(1) Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.~~

~~(2) The city shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Cal. Health and Safety Code § 33334.2(e) that promote home ownership. For the purposes of this section:~~

~~(a) The city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale, minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value; and~~

~~(b) The city's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.108~~9~~ WAIVERS OR REDUCTIONS OF DEVELOPMENT STANDARDS ~~LOCATION AND TYPE OF DESIGNATED UNITS.~~

(A) Qualifications for Waivers or Reductions. An applicant for a density bonus pursuant to this chapter may request a waiver or reduction in development standards in association with the housing development or land donation qualifying for such density bonus.

(B) Effect of Proposal for Waiver or Reduction of Development Standards. A proposal for the waiver or reduction of development standards shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled to pursuant to Section 10-3-5.107 (Incentives or Concessions).

(C) Findings for Approval of Waiver or Reduction of Development Standards. All of the following findings shall be made to approve the requested waiver or reduction of development standard.

(1) The development standard for which a waiver or reduction is requested will have the effect of physically precluding the construction of the proposed qualified housing development at the densities or with the incentives permitted under this chapter.

(2) The requested waiver or reduction of a development standard will not have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health and safety or, if such a specific, adverse impact exists, there is a feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(3) The requested waiver or reduction of a development standard will not have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(4) The requested waiver or reduction of a development standard is not contrary to State or federal law.

~~(A) Location/dispersal of units. Designated units shall be reasonably dispersed throughout the project where feasible, shall contain on average the same number of bedrooms as the non-designated units in the project, and shall be compatible with the design or use of remaining units in terms of appearance, materials, and finish quality.~~

~~(B) Phasing. If a project is to be phased, the density bonus units shall be phased in the same proportion as the non-density bonus units, or phased in another sequence acceptable to the city.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.11~~09~~ PARKING STANDARD MODIFICATIONS ~~DENSITY BONUS AGREEMENT.~~

(A) Maximum Parking Standard Upon Request. In addition to any incentives or concessions pursuant to Section 10-3-5.107 (Incentives and Concessions) or any waivers or reductions pursuant to Section 10-3-5.108 (Waivers or Reductions), an applicant for a density bonus pursuant to this c~~C~~hapter may request the following maximum parking rates, inclusive of handicap and guest parking, for a qualified housing development or land donation:

(1) Zero to one bedroom: 1 on-site parking space

(2) Two to three bedrooms: 1.5 on-site parking spaces

(3) Four and more bedrooms: 2.5 on-site parking spaces

(B) Exceptions. The maximum parking standards shall be as follows for projects meeting the specified criteria. Such parking standards shall apply, inclusive of handicap and guest parking, to the entire housing development, unless a citywide parking study has been prepared in accordance with Government Code Section 65915(p)(7).

(1) A maximum of 0.5 parking spaces per unit shall apply for projects meeting all the following criteria:

(a) The development includes at least 20 percent low-income units or at least 11 percent very low-income units.

(b) The development is located within 0.5 miles of a major transit stop, as defined in subdivision (b) of Section 21155 of the California Public Resources Code.

(c) There is unobstructed access to the major transit stop from the development. A development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(2) A maximum of 0.5 spaces per bedroom shall apply for projects meeting all the following criteria:

(a) The development includes at least 40 percent moderate-income for-sale units.

(b) The development is located within 0.5 miles of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(c) There is unobstructed access to the major transit stop from the development. A development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) No vehicular parking requirement shall be imposed on any projects providing 100 percent affordable units and meeting all applicable criteria as specified in Government Code Section 65915(p)(3).

(C) If the total number of parking spaces required for the qualified housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this Section, "on-site parking" may be provided through tandem parking or uncovered parking, but not through on-street parking.

(D) Except as otherwise provided in this Section, all other provisions of this Title, including the standards of Chapter 10-3.12 (Off-Street Parking Regulations) applicable to residential development, shall apply.

~~(A) Agreement required. An applicant requesting a density bonus shall agree to enter into a density bonus agreement (referred to as the "agreement") with the city in the city's standard form of agreement. The applicant shall prepare the draft agreement for submission to the city for review.~~

~~(B) Agreement provisions.~~

~~(1) Project information. The agreement shall include at least the following information about the project:~~

~~(a) The total number of units approved for the housing development, including the number of designated dwelling units;~~

~~(b) A description of the household income group to be accommodated by the housing development, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with the California Department of Housing and Urban Development (HUD) Guidelines;~~

~~(c) The marketing plan for the affordable units;~~

~~(d) The location, unit sizes (square feet), and number of bedrooms of the designated dwelling units;~~

~~(e) Tenure of the use restrictions for designated dwelling units of the time periods required by § 10-3-5.107;~~

~~(f) A schedule for completion and occupancy of the designated dwelling units;~~

~~(g) A description of the additional incentives and concessions being provided by the city;~~

~~(h) A description of the remedies for breach of the agreement by the owners, developers, and/or successors-in-interest of the project; and~~

~~(i) Other provisions to ensure successful implementation and compliance with this chapter.~~

~~(2) Minimum requirements. The agreement shall provide, at minimum, that:~~

~~(a) The developer shall give the city the continuing right-of-first-refusal to lease or purchase any or all of the designated dwelling units at the appraised value;~~

~~(b) The deeds to the designated dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for designated units without the written approval of the city;~~

~~(c) When providing the written approval, the city shall confirm that the price (rent or sale) of the designated dwelling unit is consistent with the limits established for low and very low-income households, as published by HUD;~~

~~(d) The city shall have the authority to enter into other agreements with the developer, or purchasers of the designated dwelling units, to ensure that the required dwelling units are continuously occupied by eligible households;~~

~~(e) Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance. Any default or failure to comply may result in foreclosure, specific performance, or withdrawal of the Certificate of Occupancy;~~

~~(f) In any action taken to enforce compliance with the deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the city's costs of action including legal services; and~~

~~(g) Compliance with the agreement will be monitored and enforced in compliance with the measures included in the agreement.~~

~~(3) For-sale housing conditions. In the case of a for-sale housing development, the agreement shall provide for the following conditions governing the initial sale and use of designated dwelling units during the applicable restriction period:~~

~~(a) Designated dwelling units shall be owner-occupied by eligible households, or by qualified residents in the case of senior housing; and~~

~~(b) The initial purchaser of each designated dwelling unit shall execute an instrument or agreement approved by the city which:~~

~~1. Restricts the sale of the unit in compliance with this chapter, or other applicable city policy or ordinance, during the applicable use restriction period;~~

~~2. Contains provisions as the city may require to ensure continued compliance with this chapter and state law; and~~

~~3. Shall be recorded against the parcel containing the designated dwelling unit.~~

~~(4) Rental housing conditions. In the case of a rental housing development, the agreement shall provide for the following conditions governing the use of designated dwelling units during the applicable restriction period:~~

~~(a) The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the designated dwelling units for qualified tenants;~~

~~(b) Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this chapter;~~

~~(c) Provisions requiring owners to submit an annual report to the city, which includes the name, address, and income of each person occupying the designated dwelling units, and which identifies the bedroom size and monthly rent or cost of each unit; and~~

~~(d) The applicable use restriction period shall comply with the time limits for continued availability in § 10-3-5.107, above.~~

~~(C) Execution of agreement.~~

~~(1) Following approval of the agreement, and execution of the agreement by all parties, the city shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the County Recorder's Office.~~

~~(2) The approval and recordation shall take place at the same time as the final map or, where a map is not being processed, before issuance of Building Permits for the designated dwelling units.~~

~~(3) The agreement shall be binding on all future owners, developers, and/or successors-in-interest.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.111~~0~~ AFFORDABLE HOUSING AGREEMENT ~~CONTROL OF RESALE.~~

No density bonus pursuant to this chapter shall be granted unless and until the applicant and the City enters into an affordable housing agreement and, if applicable, an equity sharing agreement, in compliance with Government Code Section 65915(c)(1) or (2), as applicable. The affordable housing agreement shall be recorded prior to, or concurrently with, final map recordation or, where the qualified housing development does not include a map, prior to issuance of a building permit for any structure on the site.

~~In order to maintain the availability of for-sale affordable housing units constructed in compliance with this chapter, the following resale conditions shall apply.~~

~~(A) Limits on resale price. The price received by the seller of an affordable unit shall be limited to the purchase price plus an increase based on the local consumer price index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less. Before offering an affordable housing unit for sale, the seller shall provide written notice to the city of~~

their intent to sell. The notice shall be provided by certified mail to the Community Development Director, or his or her designee.

(B) Units to be offered to the city. Home ownership affordable units constructed, offered for sale, or sold under the requirements of this section shall be offered to the city or its assignee for a period of at least 90 days from the date of the notice of intent to sell is delivered to the city by the first purchaser or subsequent purchasers. Home ownership affordable units shall be sold and resold from the date of the original sale only to households as determined to be eligible for affordable units by the city in compliance with this section. The seller shall not levy or charge any additional fees nor shall any "finder's fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

(C) Declaration of restrictions. The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions provided by the city, stating the restrictions imposed in compliance with this section. The grant deed shall afford the grantor and the city the right to enforce the declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this section.

(D) City to monitor resale of units. The city shall monitor the resale of ownership affordable units. The city or its designee shall have a 90-day option to commence purchase of ownership affordable units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the city for appropriate action.

(Ord. 920 C.S., passed 5-20-15)

§ 10-3-5.111 JUDICIAL RELIEF, WAIVER OF STANDARDS.

(A) Judicial relief. As provided by Cal. Gov't Code § 65915(d)(3), the applicant may initiate judicial proceedings if the city refuses to grant a requested density bonus, incentive, or concession.

(B) Waiver of standards preventing the use of bonuses, incentives, or concessions.

(1) As required by Cal. Gov't Code § 65915(e), the city shall not apply a development standard that will have the effect of precluding the construction of a development meeting the criteria of § 10-3-5.102(A), above, at the densities or with the concessions or incentives allowed by this chapter.

(2) An applicant may submit to the city a proposal for the waiver or reduction of development and zoning standards that would otherwise inhibit the utilization of a density bonus on a specific site, including minimum parcel size, side setbacks, and placement of public works improvements.

(3) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(C) City exemption. Notwithstanding the provisions of subsections (A) and (B), above, nothing in this section shall be interpreted to require the city to:

(1) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have a specific, adverse impact, as defined in Cal. Gov't Code § 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or

(2) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(Ord. 920 C.S., passed 5-20-15)

REASONABLE ACCOMMODATION

§ 10-3-5.201 PURPOSE.

It is the policy of the City, pursuant to the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (hereafter "fair housing laws"), to provide individuals with disabilities reasonable accommodation in rules, policies, practices, and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This chapter establishes a procedure for making requests for reasonable accommodation in land use, zoning, and building regulations, policies, practices, and procedures of the City to comply fully with the intent and purpose of fair housing laws.

~~This purpose of this chapter is to provide a procedure for individuals with disabilities to request reasonable accommodation in seeking equal access to housing under the federal Fair Housing Act and the California Fair Employment and Housing Act (hereafter "Acts") in the application of zoning laws and other land use regulations, policies, and procedures.~~

§ 10-3-5.202 APPLICABILITY.

(A) A request for reasonable accommodation may be made by any person with a disability or their representative, when the application of a requirement of this zoning code or other city requirement, policy, or practice acts as a barrier to fair housing opportunities. For the purposes of this chapter, a "person with a disability" is any person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the ~~Acts~~fair housing laws.

(B) A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

(C) A reasonable accommodation is granted only to the household that needs the accommodation and does not apply to successors in interest to the site.

(D) A reasonable accommodation may be granted in compliance with this chapter without the need for the approval of a variance.

§ 10-3-5.203 PROCEDURE.

(A) A request for reasonable accommodation shall be submitted ~~on an application form provided by~~to the Community Development Department or in the form of a letter to the Director of Community Development Department, and shall contain the following information:

(1) The applicant's name, address, and telephone number;

(2) Address of the property for which the request is being made;

(3) The current use of the property;

(4) The basis for the claim that the individual is considered disabled under the Acts, including verification of such claim;

(5) The zoning code provision, regulation, or policy from which reasonable accommodation is being requested; and

(6) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

(B) If the project for which the request for reasonable accommodation is being made requires some other discretionary approval (including use permit, design review, etc.), then the applicant shall file the information required by subsection (A) of this section for concurrent review with the application for discretionary approval.

(C) A request for reasonable accommodation shall be reviewed by the Director of Community Development Department or his or her designee, if no approval is sought other than the request for reasonable accommodation. The Community Development Director or his or her designee shall make a determination on the application for Reasonable Accommodation within 30 days from receipt of the application. Should additional information, consistent with fair housing laws, be requested from the applicant, the 30-day time period for making a determination on the application shall be suspended until the additional information is provided. If the Community Development Director fails to make a determination within the effective 30 days, the application shall be deemed approved. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.~~written determination within 45 days of the application being deemed complete and either grant, grant with modifications, or deny a request for reasonable accommodation.~~

(D) Written notice of decision shall be provided within three business days of the date of decision to the applicant and interested parties who have requested notices in writing. The notice shall include:

1. The application request as acted upon by the Community Development Director.
2. The action taken by the Community Development Director.
3. Findings as listed for the permit.
4. The deadlines, criteria, and fees for filing an appeal.

(E) A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the Planning Commission. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the Planning Commission in compliance with the applicable review procedure for the discretionary review.

§ 10-3-5.204 APPROVAL FINDINGS.

The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

(A) The housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws. ~~Whether the housing in the request will be used by a person with a disability under the Acts;~~

(B) ~~Whether t~~The request for reasonable accommodation is necessary to make specific housing available to a person with a disability protected under the fair housing laws~~under the Acts.;~~

(C) ~~Whether the requested reasonable accommodation would impose an undue financial, administrative or enforcement burden on the city~~The requested accommodation would not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in fair housing laws.~~;~~

(D) The requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in fair housing laws and interpretive case law.~~Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a city program or law, including but not limited to land use and zoning;~~

(E) The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.~~Potential impact on surrounding uses;~~

~~(F) Physical attributes of the property and structures; and~~

~~(G) Other reasonable accommodations that may provide an equivalent level of benefit.~~
~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.205 CONDITIONS OF APPROVAL.

~~–~~In granting a request for reasonable accommodation, the Director of Community Development Department or his or her designee, or the Planning Commission as the case might be, may impose any conditions of approval in order to achieve the purposes of this title, ensure consistency with the goals and policies of the adopted General Plan, and justify making the necessary findings ~~deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings~~. The conditions shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site.
(Ord. 920 C.S., passed 5-20-15)

§ 10-3-5.206 APPEALS.

(A) Any person dissatisfied with any action of the Director of the Community Development Department pertaining to this chapter may appeal to the Planning Commission within ~~ten~~ 30 days ~~after written notice of the Director's decision is sent to the applicant~~from the day of decision. The appeal is taken by filing a written notice of appeal with the Director of Community Development Department and shall specify the reasons for the appeal and the grounds asserted for relief.

(B) Any person dissatisfied with any action of the Planning Commission pertaining to this chapter may appeal to the City Council within ~~ten~~ 30 days after the rendition of the decision of the Planning Commission. The appeal is taken by filing a written notice of appeal with the Director of Community Development Department and shall specify the reasons for the appeal and the grounds asserted for relief.

(C) The City Council shall, by resolution, adopt and from time to time amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed has been paid.

(D) If an appeal is not filed within the time or in the manner prescribed in this section, the right to review of the action against which the complaint is made shall be deemed to have been waived.

(E) After filing an appeal, the appropriate hearing body shall conduct a public hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of hearing shall be given to the appellant, and to any other persons who have filed a written request for notice. Such notices shall be mailed to the appellant and the applicant at least ten days prior to the hearing.

(F) The appropriate hearing body ~~Planning Commission or City Council~~ shall review de novo the entire proceeding or proceedings relating to the decision, and may make any order it deems just and equitable, including the approval of the application. Any hearing may be continued from time to time.

(G) At the conclusion of the hearing, the hearing body shall prepare a written decision which either grants or denies the appeal and contains findings of fact and conclusions. The written decision, including a copy thereof shall be provided to the appellant and the project applicant.

§ 10-3-5.207 AMENDMENTS

Any amendments affecting an approved Reasonable Accommodation shall be handled as a new application.

§ 10-3-5.208 CONSIDERATION FACTORS

(A) Necessity of Accommodation. The City may consider, but is not limited to, the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling:

(1) Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability;

(2) Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation;

(3) In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants; and

(4) In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.

(B) Fundamental Alteration to Zoning Program. The City may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

(1) Whether the requested accommodation would fundamentally alter the character of the neighborhood;

(2) Whether the requested accommodation would result in a substantial increase in traffic or insufficient parking;

(3) Whether the requested accommodation would substantially undermine any express purpose of either the City's general plan or an applicable specific plan; and

(4) In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

RCO; RESOURCE CONSERVATION AND OPEN SPACE ZONING

§ 10-3.601 RCO; PURPOSES AND APPLICATION.

This zoning is intended to provide for permanent open spaces in areas of the community which exhibit significant vegetation, scenic qualities, wildlife, or recreational potential, including areas designated as open space on the General Plan, drainage ponds for recreational use, and areas reserved to reduce conflicts between land uses.

§ 10-3.602 RCO; PERMITTED USES.

The land uses permitted within the RCO zone are herein defined and delineated by location within the RCO zone and the required permit approval procedure.

(A) P. Permitted use.
(B) CUP. Conditional use permit required.
(C) AA. Administrative approval required.
(D) NP. Not permitted.

LOCATION WITHIN RCO ZONE

	Airport Clear Zone	***Airport Approach Zone***	***Other RCO Areas***
Raising of field crops	P	P	P
Orchard and vineyards	NP	CUP	P
Raising of livestock and rangeland	NP	CUP	P
Flood control channels, water pumping station, ditches, and canals	CUP	CUP	P

LOCATION WITHIN RCO ZONE

	Airport Clear Zone	Airport Approach Zone	Other RCO Areas
Reservoirs, settling, and water conservation recharge basins	NP	CUP	P
Streets and roads	CUP	CUP	P
Off-street parking and landscaping	NP	CUP	AA
Bikeways and pedestrian trails	NP	CUP	AA
Drainage ponds	NP	CUP	AA
Recreation areas, parks, playgrounds, wildlife preserves, and related buildings, structures, and facilities	NP	CUP	CUP
One-family dwelling related to agricultural and recreational uses	NP	CUP	CUP
Incidental and accessory structures and uses on site of a conditional use	NP	CUP	CUP
Cemeteries	NP	CUP	CUP
Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communication equipment and facilities, public service pumping stations, and elevated pressure tanks	NP	CUP	CUP

§ **10-3.603 ~~RCO-PERMITTED USES; ADMINISTRATIVE APPROVAL~~ (~~REPEALED~~RESERVED).**

§ **10-3.604 ~~RCO-CONDITIONAL USES; COMMISSION APPROVAL~~ (~~REPEALED~~RESERVED).**

§ **10-3.605 RCO; DISTANCES BETWEEN STRUCTURES.**

The minimum distance between a one-family dwelling and another structure shall be ten feet, provided, however, that no structure housing animals shall be closer than 25 feet to any dwelling on the site or to any side yard property line.

§ **10-3.606 RCO; BUILDING HEIGHT.**

No building or structure shall have a height greater than 65 feet, provided that additional height may be permitted if a use permit is first secured.

PF; PUBLIC FACILITIES ZONE

§ **10-3-6.501 PF; PURPOSE AND APPLICATION.**

This zone is designed to retain and provide land areas for public use and to place the public and all elected officials and public agencies on notice of proposed changes in the use of such land.

§ **10-3-6.502 PF; PERMITTED USES.**

(A) All city, county, state, and federal offices or facilities, including, but not limited to civic centers, fire and police stations, libraries, and post offices.

(B) All city, county, state, and federal offices or facilities leased from private individuals or other government agencies for a period of more than five years.

(C) All city, county, state, or federally owned or operated parks, playgrounds, recreation areas, open spaces, sumps, and landfills.

(D) All offices and facilities owned or operated by public school districts including state colleges and junior colleges.

(E) The offices and facilities owned or operated by any public governmental agency, or any body of persons charged with the responsibility of administering publicly owned or operated property including, but not limited to redevelopment agencies, water districts, school districts, and recreation districts.

§ **10-3-6.503 PF; CONDITIONAL USES; COMMISSION APPROVAL.**

Property located in the PF zone may be used for private purposes when a conditional use permit has been granted in accordance with the provisions of the Interpretation, Enforcement, Violations, and Penalty subchapter. In no case shall a conditional use permit be issued for a period exceeding five years from the date of issuance.

Property located in the PF, Public Facility Zone, may also be used for gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communication equipment and facilities, public service pumping stations, and elevated pressure tanks provided a use permit is first secured.

§ 10-3-6.504 PF; REQUIRED CONDITIONS.

A conditional use permit shall not be granted unless the Planning Commission makes the following determinations:

(A) The use is compatible with, and will not adversely affect, the adjacent uses.

(B) That no permanent structure shall be provided with such use.

(C) That adequate landscaping, fencing, paving, and other improvements be provided to protect and/or enhance the overall appearance of the area in which such uses are situated.

§ 10-3-6.505 PF; BUILDING HEIGHT.

No building or structure shall have a height greater than 65 feet, provided that additional height may be permitted if a use permit is first secured.

PROFESSIONAL OFFICE ZONES

§ 10-3.751 PROFESSIONAL OFFICE ZONES.

The Professional Office zone is intended to provide opportunities for the location of professional and commercial offices and their related uses in close relationship to one another outside of commercial districts; to provide adequate space to meet the needs of such offices for off-street parking and loading space; and to protect such offices from noise, disturbances, traffic hazards, and other objectionable influences incidental to commercial and industrial uses. The Professional Office zone is also intended for application to those areas of the city where it is necessary and desirable to encourage the full development of properties which lie between residential and nonresidential districts and which, because of neighborhood conditions, amount of vehicular traffic, and location factors, cannot be practically included within residential districts as provided by this chapter.

§ 10-3.752 USES PERMITTED.

(A) The following uses shall be permitted in the Professional Office zone:

(1) Offices which deal primarily in professional services in which goods, wares, and merchandise are not commercially created, sold, or exchanged;

(2) Administrative and business offices;

(3) Medical and dental buildings;

(4) Existing residential buildings;

(5) Accessory structures and uses, not including warehouses, on the same site as a permitted use; and

(6) Signs subject to the provisions of Chapter 6 of this title.

(7) Low Barrier Navigation Centers

(8) Supportive Housing.

(9) Transitional Housing.

(B) The following uses shall be allowed with ~~approval by the~~an Administrative Approval ~~Zoning Administrator~~;

(1) The office use of buildings once used for residential purposes.

(2) Mortuaries.

(3) Art galleries.

(4) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(C) A use permit shall be secured for each of the following:

(1) New residential uses, except single family dwellings, and the expansion of existing residential uses, if such expansion results in new family dwelling units or increases the capacity in a boardinghouse or similar quarters;

(2) Public and private charitable institutions, general hospitals, sanitariums, and nursing and convalescent homes;

(3) Public parks, playgrounds, and other public recreation facilities;

(4) Private clubs and lodges;

(5) Churches and other religious institutions;

(6) Public and private libraries and museums; and

(7) Accessory structures and uses located on the same site as a conditional use, including, but not limited to:

(a) Enclosed restaurants (no drive-through restaurants);

(b) Tobacco, candy, newspaper, and magazine counters; and

(c) Prescription pharmacies;

(8) Dance studios;

(9) Banks, savings and loans, credit unions, and other financial institutions; and

(10) Beauty shops and barbershops, including a minor amount of retail sales activity associated with the operation of the shop, and which is accessory and incidental to, and does not alter the nature or character of the primary use. Accessory retail sales shall not exceed 30% of the total revenues for the business in any period.

(11) Single Room Occupancy Units

§ 10-3.753 SITE AREA.

The minimum lot area for interior lots shall be 5,000 square feet for each building or group of buildings with a minimum lot width of 50 feet. The minimum lot area for corner lots shall be 6,000 square feet.

§ 10-3.754 HEIGHT OF STRUCTURES.

Structures shall be limited to a single story not to exceed 35 feet, unless otherwise authorized by the Commission. The maximum height for accessory buildings shall be 15 feet.

§ 10-3.755 LOT COVERAGE.

A maximum of 75% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings.

§ 10-3.756 YARD REQUIREMENTS.

(A) Front yard. Where all the frontage between two intersecting streets is located in a Professional Office zone, there shall be a front yard of not less than ten feet. Where the frontage is located partially in any R zone block, the front yard requirement of the R zone shall apply to the Professional Office zone; provided, however, where two or more lots in a block have been improved with buildings, the minimum required front yard setback shall be the average of all improved lots.

(B) Side yards. The minimum interior side yard setback shall be five feet except that a zero setback shall be permitted along the common interior lot line of structures which are developed as a unit. The minimum street side yard on corner lots shall be ten feet except that the street side yard on the rear ½ of a corner lot shall not be less than the front yard required on the adjacent lot where such lot fronts onto the adjacent street.

(C) Rear yard. The minimum rear yard space required shall be five feet except that the Community Development Director may approve an encroachment into the setback with such conditions as the Director may deem appropriate when the adjacent property is located in any PO, C, or I zone.

LIGHT COMMERCIAL ZONES

§ 10-3.801 C-1 ZONES.

The regulations set forth in this subchapter shall apply in the C-1 Light Commercial zone, unless otherwise provided in this chapter.

§ 10-3.802 USES PERMITTED.

(A) The following retail stores selling new merchandise exclusively and personal service establishments within a building, including:

(1) Appliance stores, sales and repair;
(2) Bakeries, limited to retail sales on the same premises;
(3) Banks;
(4) Barber shops;
(5) Beauty parlors;
(6) Bicycle repair and sales;
(7) Book stores;
(8) Candy stores;
(9) Department stores;
(10) Dressmaking or millinery shops;
(11) Drug stores;
(12) Dry goods or notions stores;
(13) Florist shops;
(14) Food stores (groceries, fruits, and vegetables);
(15) Hardware stores;
(16) Insurance offices;
(17) Jewelry stores;
(18) Meat markets or delicatessens;
(19) Nurseries (plant material and supplies);
(20) Offices, business or professional;

(21) Service stations, but not including auto engine and transmission overhauling, tire rebuilding, or battery manufacture;
(22) Restaurants and cafes;
(23) Shoe shops, sales and repair;
(24) Stationery stores;
(25) Studios, photographic;
(26) Tailor shops;
(27) Single bay, fully automatic car wash accessory to a permitted use; and
(28) Apparel stores and boutiques;
(29) Art galleries;
(30) Arts and craft studios;
(31) Automobile parts and supply stores;
(32) Clinics (medical and dental);
(33) Electrical appliance repair shop (small appliances only);
(34) Hobby supplies and craft sales;
(35) Laundries;
(36) Laundromat, self serve;
(37) Locksmith and key shops;
(38) Newspaper and magazine stands;
(39) Pet shops;
(40) Pharmacies;
(41) Video arcades of five or fewer games;
(42) Cannabis and cannabis product retail sales as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.
(43) Other retail businesses or retail commercial enterprises which are similar in character or rendering neighborhood commercial services and are not more detrimental to the welfare of the neighborhood in which located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.
(44) Low Barrier Navigation Centers
(45) Supportive Housing.
(46) Transitional Housing.
(B) The following uses shall be permitted subject to ~~approval by the Zoning Administrator~~an Administrative Approval:
(1) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.
(2) Mortuaries;
(3) Secondhand sales;
(4) Temporary outdoor display of merchandise and sales activities.
(C) A use permit shall be secured for each of the following:
(1) Animal hospitals;
(2) Automobile repair shops;
(3) Bakeries, wholesale;
(4) Drive-thru restaurants;
(5) Drive-thru banks;
(6) Major cleaning and dyeing centers (does not include local drop-off establishments);
(7) Creameries;
(8) Outdoor markets;
(9) Outdoor sales establishments;
(10) Public garages;
(11) Theaters;

(12) Used car sales lots;
(13) Full-service car washes as independent and primary land uses; ~~and~~
(14) Billiard parlors;
(15) Bowling lanes;
(16) Liquor stores (packaged);
(17) Martial arts studios;
(18) New car sales;
(19) Video arcades of more than five games; ~~and~~
(20) Other uses which, in the opinion of the Commission, are of a similar nature;
(21) Any use permitted in any R zone, except single family dwellings;~~.~~
(22) Single Room Occupancy Units.

(D) The stores, shops, and businesses specified in this section shall be retail establishments selling merchandise exclusively and shall be permitted only under the following conditions:

(1) Products made incidental to a permitted use shall be sold at retail on the premises; and

(2) All public entrances to such stores, shops, or businesses shall be from the principal street upon which the property abuts or within 50 feet thereof, except that a rear or side entrance from the building to a public parking area may be provided; and

(E) Signs appurtenant to any permitted use may be erected in the C-1 zone subject to all the laws, rules, and regulations of the city pertaining to signs.

§ 10-3.803 SITE AREA.

The minimum lot area for each main building shall be 2,000 square feet.

§ 10-3.804 HEIGHT OF STRUCTURES.

The maximum height of any building shall be 50 feet.

§ 10-3.805 YARD REQUIREMENTS.

(A) Front yards. There shall be no requirements for front yards, except where the frontage in a block is partially in an zone, in which case the front yard shall be the same as required in such R zone.

(B) Side yards. There shall be no requirements for side yards, except where the side of a lot abuts upon the side of a lot in a R zone, in which case the side yard shall be not less than ten feet.

(C) Rear yards. There shall be no requirements for rear yards, except where the rear of a lot abuts on a R zone, in which case the rear yard shall be not less than ten feet.

HEAVY COMMERCIAL ZONES

§ 10-3.901 C-2 ZONES.

The regulations set forth in this subchapter shall apply in the C-2 Heavy Commercial zone, unless otherwise provided in this chapter.

§ 10-3.902 USES PERMITTED.

(A) The following uses shall be permitted in the C-2 zone:

(1) Any use permitted in the C-1 zone.

(2) Wholesale stores and storage within buildings.

(3) Building material yards.

(4) Lumber yards.

(5) Used secondhand merchandise within enclosed buildings.

(6) Emergency shelter as provided in § 10-3.422.

(7) Cannabis and Cannabis Product Retail Sales as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(8) Low Barrier Navigation Centers.

(9) Supportive Housing.

(10) Transitional Housing.

(B) The following uses shall be permitted subject to ~~approval by the~~ an Administrative Approval ~~Zoning Administrator~~:

(1) Temporary outdoor display of merchandise and sales activities.

(2) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(C) The following uses subject to first securing a Use Permit in each case:

(1) Auto wrecking;

(2) Bottling works;

(3) Contractor's yards;

(4) Farm supply store;

(5) Junk yards;

(6) Machine shops;

(7) Planing mills;

(8) Outdoor storage of goods and materials;

(9) Trailer coach camps;

(10) Auction facilities;

(11) Self-service car washes as either a primary or accessory use;

(12) Any use permitted in any R zone;

(13) Adult oriented businesses as provided in § 10-7.01 of this title; and

(14) Other uses, which in the opinion of the Commission are of a similar nature;~~.~~

(15) Single Room Occupancy Units.

(D) Light manufacturing, including the manufacture of clothing, novelties, and toys, and uses which in the opinion of the Commission are of a similar nature, and all subject to first securing a use permit in each case; and

(E) Signs appurtenant to any permitted use may be erected in the C-2 zone subject to all the laws, rules, and regulations of the city pertaining to signs.

§ 10-3.903 SITE AREA.

The minimum lot area for each main building shall be 2,000 square feet.

§ 10-3.904 HEIGHT OF STRUCTURES.

The maximum height of any building shall be 65 feet, provided that additional height may be permitted if a use permit is first secured.

§ 10-3.905 YARD REQUIREMENTS.

The requirements for front, side, and rear yards shall be the same as apply in C-1 zones.

§ 10-3.906 TRAILER CAMP SITE REQUIREMENTS.

No trailer coach shall be used as a place of habitation upon any premises other than a site capable of serving at least ten trailer coaches. The site shall provide for each of the trailer coaches an unoccupied rectangular space of not less than 25 × 25 feet, or its equivalent of 500 square feet when arranged in rows abutting or facing upon a driveway or clear unoccupied space of not less than 20 feet in width, which driveway or space shall have an unobstructed access to a public street or alley. When so arranged, no trailer coach shall be within 25 feet of any public street, alley, or exterior boundary of any campground area.

RESTRICTED COMMERCIAL ZONE

§ 10-3-9.101 C-R ZONE; PURPOSE AND APPLICATION.

This zone is designed to provide limited commercial development complimentary to, and compatible with, residential neighborhoods. Uses are limited and standards are provided to encourage commercial uses beneficial to the immediate neighborhood. It is generally intended that this zone be applied to properties along collector streets on a limited basis.

§ 10-3-9.102 PERMITTED USES.

(A) Residential structures as provided for in the R-1 zone, other than single family dwellings, along with customary accessory buildings;

(B) Professional offices;

(C) Retail sales of new merchandise exclusively and personal service establishments within a building, wherein the floor area of an individual business does not exceed 3,000 square feet and the total floor area of a structure(s) does not exceed 8,000 square feet per parcel and including the following uses:

(1) Bakeries, limited to retail sales on the same premises;
(2) Barber shops;
(3) Beauty salons;
(4) Bicycle repair and sales;
(5) Book and video rental stores;
(6) Clothing stores and boutiques;
(7) Candy stores;
(8) Dressmaking, tailor, and millinery shops;
(9) Dry cleaners and laundries, non-industrial;
(10) Florist shops;
(11) Food stores;
(12) Home occupations pursuant to § 10-3.405(H);
(13) Laundromats;
(14) Locksmiths;
(15) Pharmacies;
(16) Small appliance repair;
(17) Art galleries;

(18) Hobby, craft, and ceramic shops in which items are sold on the premises;
(19) Shoe sale and repair shops; ~~and~~
(20) Other retail businesses or retail commercial enterprises which are similar in character or render neighborhood commercial services, and are not more detrimental to the welfare of the neighborhood in which located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.
(21) Low Barrier Navigation Centers;
(22) Supportive Housing; and
(23) Transitional Housing.

§ 10-3-9.102.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL~~ZONING ADMINISTRATOR'S PERMIT~~.

(A) The following uses shall be permitted subject to an Aadministrative Aapproval~~approval by the Zoning Administrator~~:
(1) Commercial use of buildings once used for residential purposes.
(2) Gas and electric transmission lines, electrical transmission and distribution substations, gas regular stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.
(3) Temporary outdoor display of merchandise and outdoor sales activities.

§ 10-3-9.103 CONDITIONAL USES.

(A) The following uses shall be permitted in the Restricted Commercial Zone with a Use Permit:
(1) Residential structures as provided for in the R-2 zone along with customary accessory buildings;
(2) Day care and child care centers;
(3) Liquor stores;
(4) Restaurants and cafes; sales of alcoholic beverages permitted only with the service of food;
(5) Sale of fuel, only in conjunction with food stores;
(6) Structure(s) in excess of 8,000 square feet of floor area but no greater than 12,000 square feet per parcel;
(7) Businesses with floor area in excess of 3,000 square feet.

§ 10-3-9.104 SITE AREA.

The minimum lot area for interior lots shall be 5,000 square feet for each building or group of buildings with a minimum lot width of 50 feet. The minimum lot area of corner lots shall be 6,000 square feet.

§ 10-3-9.105 BUILDING HEIGHT.

No building or structure shall have a height greater than 24 feet.

§ 10-3-9.106 YARD REQUIREMENTS.

(A) Front yard. Ten feet;
(B) Street side yard. Ten feet;
(C) Interior side yard. None except when adjacent to an R or PD zone or adjacent to a residential use in which case the setback shall be five feet;

(D) Rear yard. There shall be no minimum rear yard provided, however, that when a C-R zone abuts an R or PD zone, a rear yard shall be provided as specified in § 10-3.508.

§ 10-3-9.107 OUTSIDE EQUIPMENT.

All roof and wall appurtenances, such as ducts and vents, all mechanical equipment, electrical boxes, meters, pipes, transformers, air conditioners, and all other equipment on the roof or walls of any building shall be completely screened from view with materials compatible with the main buildings on the subject property. Such equipment shall be constructed in such a manner that noise emanating from them shall not be discernible beyond the property lines of the subject property.

§ 10-3-9.108 ENCLOSURE OF TRASH AND STORAGE AREAS.

All trash and storage areas shall be screened from view by a decorative masonry block wall or other materials architecturally compatible with the main buildings of the development. Access to such areas shall be closed at all times except during loading and unloading.

§ 10-3-9.109 TIME FOR PICK-UP AND DELIVERY.

Pick-ups, deliveries, and parking lot sweeping shall be allowed only between 7:00 a.m. and 10:00 p.m. where residential uses abut the property.

§ 10-3-9.110 LANDSCAPING.

(A) In addition to parkstrips in the public right-of-way, perimeter landscaping shall be provided in front and street-side yards at an average width of eight feet along street frontages, exclusive of driveways and walkways, but in no case may the landscape area width be less than four feet.

(B) In addition to perimeter landscape areas, 5% of all parking areas shall be landscaped.

(C) The provisions of the City's Approved Street Tree List for tree types and spacing shall be followed for tree planting in parkstrips and perimeter landscape areas unless an alternate plan, consistent with the intent of this provision, is approved by the Community Development Director.

(D) All landscape areas shall be planted so as to have at least 75% vegetative coverage within three years of planting.

(E) All landscape areas shall be fitted with an automatic irrigation system.

(F) All landscape areas shall be maintained.

NEIGHBORHOOD COMMERCIAL ZONES

§ 10-3-9.201 C-N ZONES; PURPOSE AND APPLICATION.

The regulations set forth in this subchapter shall apply in the C-N, Neighborhood Commercial zone, unless otherwise provided in the chapter. Neighborhood commercial centers are intended primarily to meet the everyday convenience needs of people residing within surrounding residential neighborhoods for

retail convenience goods and personal services. A NEIGHBORHOOD CENTER would typically be anchored by a supermarket, with other stores and shops for drugs, liquor, deli, bakery goods, ice cream shop, gift shop, coffee shop, café, fast food, sandwich shop, or hardware. Services might include small appliance repair, barber, beauty salon, self-service laundry, dry cleaning, shoe repair, and exercise and diet centers. Office services might include medical, dental, accounting, insurance, and a variety of other business and professional services oriented toward household needs. Public and semi-public uses might include a branch library, senior center, day care, lodges, churches, and small education and training centers.

§ **10-3-9.202 PERMITTED USES.**

(A) The following retail stores of less than 10,000 square feet gross floor area, offices, and services:

(1) Apparel stores and boutiques;
(2) Art galleries;
(3) Arts and crafts studios;
(4) Automobile parts and supply stores;
(5) Bakeries (retail sales on premises);
(6) Barber shops and beauty salons;
(7) Bicycle sales and repair shops;
(8) Book stores;
(9) Candy stores;
(10) Clothes cleaning establishments (pickup and delivery only);
(11) Clinics (medical and dental);
(12) Electrical appliance repair shops (small appliances only);
(13) Florists;
(14) Food stores and delicatessens;
(15) Garden supplies and plant nurseries;
(16) Hardware stores;
(17) Hobby supplies and crafts stores;
(18) Locksmith and key shops;
(19) Newspaper and magazine stands;
(20) Pharmacies;
(21) Photography studios;
(22) Professional offices;
(23) Restaurants and cafes;
(24) Self-service laundry establishments;
(25) Shoe sales and repair shops;
(26) Tailoring and dressmaking shops;
(27) Video tape rentals and sales stores;
(28) Variety stores;
(29) Video arcades of five or fewer games.
(30) Residential uses on the same site as a permitted commercial use, consisting of a ~~one-family~~two residential dwelling units above the first floor or on the rear half of the same lot;
(31) Other retail businesses or retail commercial enterprises or services which are similar in character or meet the intent of the zone, and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.
(32) Low Barrier Navigation Centers.
(33) Supportive Housing.

(34) Transitional Housing.

§ 10-3-9.202.1 USES ALLOWED WITH ~~A~~ ADMINISTRATIVE APPROVAL~~ZONING ADMINISTRATOR'S PERMIT~~.

(A) The following uses shall be permitted subject to ~~approval by the~~an Administrative Approval ~~Zoning Administrator~~.

(1) ~~Detached S~~single-family dwelling in conjunction with a principle permitted use.

(2) Gas and electric transmission lines, electrical transmission and distribution substations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(3) ~~(3)~~ Temporary outdoor display of merchandise and outdoor sales activities.

(4) Residential uses on the same site as a permitted commercial use, consisting of up to six residential dwelling units above the first floor or on the rear half of the same lot.

§ 10-3-9.203 CONDITIONAL USES.

(A) The following uses shall be permitted in the Neighborhood Commercial Zone with a Use Permit:

(1) Retail stores listed above containing more than 10,000 square feet of gross floor area;

(2) Local governmental offices;

~~(3) One single-family dwelling not in conjunction with a principal permitted use;~~

(~~4~~3) Service stations (no engine repair);

(~~5~~4) Parks, playgrounds, schools;

(~~6~~5) Bowling lanes;

(~~7~~6) Churches;

(~~8~~7) Private clubs and lodges;

(~~9~~8) Fast food restaurants with drive-through facilities;

(~~10~~9) Liquor stores (packaged);

(~~11~~10) Video arcades of more than five games; and

(~~12~~11) Other retail businesses or retail commercial enterprises or services determined by the Planning Commission to be similar in character or meet the intent of the zone, and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

(13) Single Room Occupancy Units.

(14) Residential uses on the same site as a permitted commercial use, consisting of up to ten residential dwelling units above the first floor or on the rear half of the same lot.

§ 10-3-9.204 LIMITATIONS ON USE.

(A) No businesses dealing in wholesale or used goods or commodities shall be permitted, except in the case of articles taken in trade on sale of new merchandise on the same premises.

(B) All business shall be conducted entirely within a wholly enclosed building, excepting uses customarily conducted in the open.

(C) No products shall be made on site unless incidental to a permitted use and sold at retail on the same premises.

§ 10-3-9.205 SITE AREA.

The minimum lot area for interior lots shall be 5,000 square feet for each building or group of buildings with a minimum lot width of 50 feet. The minimum lot area for corner lots shall be 6,000 square feet.

§ 10-3-9.206 BUILDING HEIGHT.

No building structure shall have a height greater than 35 feet.

§ 10-3-9.207 YARD REQUIREMENTS.

(A) Front yard. Ten feet, except when adjacent to an R or PD zone or adjacent to a residential use, in which case the setback shall be 15 feet.

(B) Street-side yard. Ten feet, except when adjacent to the front yard of a residential use or a property in an R or PD zone, in which case the setback shall be 15 feet.

(C) Interior side yard. None, except when adjacent to an R or PD zone, in which case the setback shall be five feet.

(D) Rear yard. None, except when immediately adjacent to an R or PD zone, in which case a rear yard shall be provided as specified in § 10-3.508(D).

§ 10-3-9.208 OUTSIDE EQUIPMENT.

(A) All roof and wall appurtenances, such as mechanical equipment, electrical transformers, air conditioners, and all other equipment on the roof or walls of any building shall be completely screened from view from public streets with materials compatible with the main buildings on the subject property. Such equipment shall be constructed in such a manner that noise emanating from them shall not be discernible beyond the property lines of the subject property.

(B) All trash and storage areas shall be screened from view from public streets by a decorative masonry block wall or other materials architecturally compatible with the main buildings of the development. Access to such areas shall be closed at all times, except during loading and unloading.

§ 10-3-9.209 LANDSCAPING AND FENCING.

(A) In addition to any landscaping in the public right-of-way, perimeter landscaping shall be provided in front and street side yards at an average width of eight feet along the street frontages, exclusive of driveways and walkways, but in no case may the landscape area width be less than four feet.

(B) In addition to perimeter landscape areas, 5% of all parking areas shall be landscaped.

(C) The provisions of the City's Approved Street Tree List for tree types and spaces shall be followed for tree planting in parkstrips and perimeter landscape areas unless an alternative plan is approved by the Community Development Director.

(D) All landscape areas shall be planted so as to have at least 75% coverage within three years of planting.

(E) All landscape areas shall be fitted with an automatic irrigation system.

(F) Perimeter masonry fencing with a minimum height of eight feet shall be required adjacent to any R or PD zone in accordance with § 10-3.412.

HIGHWAY COMMERCIAL ZONES

§ 10-3-9.301 C-H ZONES; PURPOSE AND APPLICATION.

The regulations set forth in this subchapter shall apply in the C-H, Highway Commercial zone, unless otherwise provided in the chapter. This zone is designed to provide for businesses or services which rely on visibility from highways and/or serve the needs of the traveling public. It is intended to encourage development of open, uncrowded, and attractive projects that will enhance the major thoroughfares on which they are located. Small scale businesses and general commercial uses that do not fit this criteria would not be allowed. Uses that generally are dependent on a regional as well as the local population for their support are allowed. It is intended that areas with this designation would have good highway access and would not be developed until all urban services are available.

§ 10-3-9.302 PERMITTED USES.

(A) The following uses shall be permitted in the Highway Commercial Zone:
(1) Hotels, motels;
(2) Restaurants, coffee shops;
(3) Motorcycle sales and service shops;
(4) Auto service stations with accessory repair and maintenance;
(5) Bus depots and transit stations;
(6) Automotive sales new and used;
(7) RV sales and service facilities;
(8) Mini-storage facilities;
(9) Utility trailer sales establishments;
(10) Boat sales and service centers;
(11) Furniture and large appliance stores;
(12) Factory outlet shopping centers;
(13) Mobile homes sale establishments (new only);
(14) Government or other public services establishments that require convenient freeway access:
(15) Single bay, fully automatic car wash accessory to a permitted use;
(16) Full-service car washes as independent and primary land uses; and
(17) Other retail businesses or retail commercial enterprises or services which are similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

§ 10-3-9.302.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL~~ZONING ADMINISTRATOR PERMIT~~.

(A) The following uses shall be permitted subject to an Administrative Approval~~approval by the Zoning Administrator~~:
(1) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

§ 10-3-9.303 CONDITIONAL USES.

(A) The following uses shall be permitted with a Use Permit:
(1) Drive-in theaters;

(2) Overnight RV and travel trailer parks;
(3) Truck stops and terminals;
(4) Truck sales and services establishments;
(5) Auto repair garages and car washes;
(6) Bowling lanes;
(7) Fuel storage and distribution facilities;
(8) Farm machinery sales and services establishments;
(9) Fast food restaurants with drive-through facilities;
(10) Self-service car wash facilities as either primary or accessory uses; and
(11) Other retail businesses or retail commercial enterprises or services determined by the Planning Commission to be similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

§ 10-3-9.304 ACCESSORY USES.

The following structures and uses shall be permitted in Highway Commercial zones when accessory to a use permitted by the provisions of this subchapter:
(A) Incidental sales in connection with a permitted use;
(B) Accessory uses and structures customarily appurtenant to a permitted use; and
(C) Recreational facilities for employees and guests.

§ 10-3-9.305 LIMITATIONS ON USE.

(A) No uses shall be permitted in a C-H zone which may be obnoxious or offensive by reason of odor, dust, gas, smoke, noise, vibration, heat, glare, or hazards of similar nature.
(B) All sales activities, other than vehicular related businesses, shall be conducted entirely within a wholly enclosed building.

§ 10-3-9.306 SITE AREA.

The minimum lot area for interior lots shall be 5,000 square feet for each building or group of buildings with a minimum lot width of 50 feet. The minimum lot area for corner lots shall be 6,000 square feet.

§ 10-3-9.307 BUILDING HEIGHT.

No building or structure shall have a height greater than 50 feet, provided that additional height may be permitted if a use permit is first approved.

§ 10-3-9.308 YARD REQUIREMENTS.

(A) Front yard. Ten feet, except when adjacent to an R or PD zone or adjacent to a residential use, in which case the setback shall be 15 feet.
(B) Street side yard. Ten feet, except when adjacent to the front yard of a residential use or a property in an R or PD zone, in which case the setback shall be 15 feet.
(C) Interior side yard. None, except when adjacent to an R or PD zone or adjacent to a residential use, in which case the setbacks hall be five feet.
(D) Rear yard. None, except when immediately adjacent to an R or PD zone, in which case a rear yard shall be provided as specified in § 10-3.508(D).

(E) Whenever the side rear of a lot is adjacent to the right-of-way of Highway 99, the appearance of proposed uses must be considered relative to their orientation, architecture, building heights, lighting provisions, and sign programs. Such yard area shall be a minimum of 40 feet.

§ 10-3-9.309 OUTSIDE EQUIPMENT.

(A) All roof and wall appurtenances, such as mechanical equipment, electrical transformers, air conditioners, and all other equipment on the roof or walls of any building shall be completely screened from view from public streets with materials compatible with the main buildings on the subject property. Such equipment shall be constructed in such a manner that noise emanating from them shall not be discernible beyond the property lines of the subject property.

(B) All trash and storage areas, except from vehicular sales display areas, shall be screened from view from public streets by a decorative masonry block wall or other materials architecturally compatible with the main buildings of the development. Access to such areas shall be closed at all times, except during loading and unloading.

§ 10-3-9.310 LANDSCAPING AND FENCING.

(A) In addition to any landscaping in the public right-of-way, perimeter landscaping shall be provided in front and street side yards at an average width of eight feet along the street frontages, exclusive of driveways and walkways, but in no case may the landscape area width be less than four feet.

(B) In addition to perimeter landscape areas, 5% of all parking areas shall be landscaped.

(C) The provisions of the City's Approved Street Tree List for tree types and spacing shall be followed for tree planting in parkstrips and perimeter landscape areas unless an alternate plan is approved by the Community Development Director.

(D) All landscape areas shall be planted so as to have at least 75% coverage within three years of planting.

(E) All landscape areas shall be fitted with an automatic irrigation system.

(F) Perimeter masonry fencing with a minimum height of eight feet shall be required adjacent to any R or PD zone in accordance with § 10-3.412.

WEST YOSEMITE AVENUE OVERLAY ZONE (WY)

§ 10-3-9.401 PURPOSE.

The purpose and intent of this WY Overlay zone is:

(A) To provide for the orderly transition of the West Yosemite Avenue area from residential to nonresidential uses consistent with the General Plan;

(B) To recognize, maintain, and enhance the West Yosemite Avenue streetscape and architectural character of the neighborhood;

(C) To maximize the compatibility of uses and maintain the value of property during the transition period through the establishment of development standards and review procedures.

§ 10-3-9.402 APPLICABILITY.

(A) This zone is intended to be applied to all properties adjacent to West Yosemite Avenue between J and Q Streets for a lot depth not to exceed 175 feet.

(B) To accomplish the stated purpose and intent, this overlay zone shall be combined with all zones except the R-1 zone. It is to be applied in conjunction with any zone change in the applicable area.

(C) Any property rezoned from R-1 prior to the effective date of the subchapter shall not be further rezoned nor shall a new use be made of the property until the WY Zone is applied.

§ 10-3-9.403 USE PERMITS REQUIRED.

(A) In addition to uses which require a use permit in the underlying zone, all new construction, major exterior change, alteration, or addition shall be subject to a use permit. Applications for use permits shall be accompanied by detailed site and landscape plans. Building elevation and a list of exterior building materials will be required for new construction, exterior remodeling, and building additions.

(B) The Planning Commission will review applications for their compliance with the purpose and development standards of the zone.

§ 10-3-9.404 DEVELOPMENT STANDARDS.

The following development standards apply to all properties in the WY Overlay zone and shall supersede the requirements of the underlying zone.

(A) Setbacks.

(1) Front yard. 15 feet.

(2) Side yard.

(a) Interior five feet, exterior street side yard ten feet.

(b) Except in no event may any structure or parking area be placed within 15 feet of the West Yosemite right-of-way.

(3) Rear yard. Ten feet with no windows or two feet per vertical foot of building height measured at the top of highest window, whichever is greater.

(B) Parking.

(1) Off-street parking space requirements shall be those set forth in the Off-Street Parking Regulations subchapter of this chapter, however, in no case shall there be less than five off-street spaces provided for nonresidential uses.

(2) No parking shall be provided in the required front yard or within the West Yosemite Avenue setback.

(3) No parking shall be permitted within the required landscape areas except as provided in subsection § 10-3-9.404(C) below.

(4) Parking areas shall be constructed to city standards.

(5) Access shall be provided between parking areas and business entries by means of a walkway of not less than three feet in width.

(6) Lighting shall be arranged to reflect away from premises on which any dwelling unit is located.

(C) Landscaping. The following minimum standards shall apply to properties in this zone:

(1) All required front yards and street-side yard setback areas, exclusive of walkways and driveways, shall be landscaped except that parking may encroach five feet into a required street side yard setback.

(2) A landscaped area of not less than four feet in width shall be provided along all interior side and rear property lines except where this requirement conflicts with an access driveway leading to the rear of the lot, such landscaping requirement may be reduced to assure adequate access with Planning Commission approval; or when adjacent parcels share driveways and or parking areas, the landscaping along affected portions of common lot lines may be waived.

(3) Screen planting and a six-foot solid fence or wall shall be provided along all interior side and rear property lines abutting an R zone. Shrubs and fences may not exceed three feet in the required front or street-side-yard.

(4) In addition to landscaping required in paragraphs § 10-3-9.404(C)(1) and (2) above, 5% of the parking area shall be landscaped.

(5) Shade trees shall be planted within the parking area to provide 40% shade at high noon with full foliage within five years of planting.

(6) Trees shall be a minimum size of five gallons at planting; shrubs shall be a minimum of one gallon.

(7) Retention and maintenance of existing trees is encouraged. No tree, located in the street right-of-way nor in a required front yard, which exceeds four feet in circumference at a height of three feet in height shall be removed without first obtaining the approval of the Planning Commission. In the event of an emergency, where the tree poses a threat to persons or property, the Planning Director may authorize the immediate removal of the tree.

(8) Vegetative matter shall cover 75% of the landscaped areas.

(9) All landscaping areas shall be fitted with an irrigation system and shall be maintained in accordance with the approved plan.

(10) All trash areas shall be enclosed utilizing materials compatible with the structure.

(D) Architectural character. Structural style, scale, and quality of design shall be such that it blends with and is complementary to adjacent structures and the character of the area. Building colors and materials; roof pitch height and materials; screening of exterior appurtenances; lighting; and window placement will be factors considered in the architectural review element of the use permit. It is not the intent of this zone to control architecture style so rigidly that individual initiative is hindered, but rather it is the intent that any control exercised be the minimum necessary to achieve the purpose and intent of this zone.

(E) Signs.

(1) The protection of the character of the streetscape is a stated purpose of this subchapter. Signage is to be kept to a minimum to protect the streetscape while allowing for adequate identification.

(2) Placement of signs if governed under § 10-6.05 (A) of this chapter except as otherwise specified in this section.

(3) The following sign criteria is established:

(a) Ground signs. One non-illuminated double-face ground sign for each parcel subject to the following provisions:

1. Maximum sign area and dimensions. Ground signs may not exceed eight square feet in area. The message area, including background area, shall not exceed a vertical height of two feet. The maximum sign height shall not exceed four feet above average ground level.

2. Sign placement. Perpendicular to the street; a minimum of three feet behind sidewalk.

3. Street number. Every ground sign must incorporate the street number into the message area. Such numbers may not be less than four inches in height and must be compatible with the style of the sign message.

4. Letters. Routed or raised-wood letters; color is at the option of the applicant/owner.

(b) Wall/window sign. One wall or window sign not exceeding three square feet in area for each business at each major business entrance door.

(c) Directional sign. To encourage maximum use of the off-street parking located at the rear of a parcel, a directional sign not exceeding two square feet shall be provided adjacent to the driveway or in conjunction with the ground sign. The materials shall be compatible with those of the ground sign and the sign height shall not exceed four feet.

(d) Nonconforming signs. Signs which became nonconforming upon application of the West Yosemite zone shall be brought into compliance at the time of any change to the sign other than routine maintenance.

§ 10-3.1001 I ZONES.

The regulations set forth in this subchapter shall apply in all I industrial zones unless otherwise provided in this chapter.

§ 10-3.1002 USES PERMITTED.

(A) The following uses shall be permitted in I zones:

(1) Animal hospitals, kennels and veterinarians;

(2) Automobile dismantling and use parts storage, provided such must be conducted wholly within a building;

(3) Boat-building works;

(4) Building materials, sales and storage;

(5) Dairy products processing;

(6) Dwelling for a caretaker or security guard and his immediate family, necessary and incidental to a use located in such zone;

(7) Electrical and electronic instruments, devices and appliances, manufacture and assembly;

(8) Garment manufacture;

(9) Ice and cold storage plants;

(10) Laboratory, experimental and testing;

(11) Machine shops;

(12) Pharmaceuticals and drugs, manufacture;

(13) Prefabrication of buildings;

(14) Stone monument works;

(15) Textile manufacturing;

(16) Accessory buildings and uses customarily incidental to any of the above uses;

(17) Cultivation, distribution, manufacturing, testing labs as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(18) Retail only in conjunction with vertical integration business as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(19) Other retail and wholesale stores or storage and service establishments, light industrial and manufacturing uses determined by the Planning Commission to be similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

(20) Low Barrier Navigation Centers;

(21) Supportive Housing; and

(22) Transitional Housing.

(B) Uses permitted with an Administrative Approval ~~Zoning Administrator's permit~~:

(1) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(2) Food products manufacturing;

(3) Frozen food processing and storage;

(4) Fruit and vegetable canning, packing and processing;

(5) Furniture manufacture;

(6) Hatcheries;

(7) Wood products manufacturing, and;

(C) Any of the following industrial or manufacturing uses provided that those uses which in the opinion of the Commission may be of objectionable nature by reason of production of offensive odor, dust, smoke, fumes, noise, bright light, vibration, or involving the storage or handling of explosive or dangerous materials, and all the uses listed in this subsection, may be permitted only if a use permit is first secured in each case:

(1) All uses permitted in any R zone;

(2) Drilling for and/or removal of oil, gas, or other hydrocarbon substances;

(3) Commercial excavations of building or construction materials;

(4) Manufacture or storage of acid, cement, gas, inflammable fluids, glue, gypsum, lime or plaster of paris, refining of petroleum or its products, smelting of iron, tin, zinc, or other ores;

(5) Junk yards;

(6) Brewery;

(7) Poultry and rabbit processing;

(8) Automobile dismantling and use parts storage; and

(9) Nurseries (plant materials and supplies);

(10) Adult oriented businesses as provided in § 10-7.01 of this title;

(D) ~~Any type of dwelling~~A multifamily dwelling subject to first securing a use permit in each case; and

(E) Signs appurtenant to any permitted use may be erected in I zones subject to all the laws, rules, and regulations of the city pertaining to signs, including, but not necessarily limited to, the terms and provisions of § 10-3.415 of the General Provisions subchapter of this chapter pertaining to architectural control.

§ 10-3.1003 HEIGHT OF STRUCTURES.

The maximum height of any building shall be 65 feet; provided, however, additional height may be permitted if a use permit is first secured.

§ 10-3.1004 YARD REQUIREMENTS.

(A) Front yards. There shall be no requirements for front yards except where the frontage in a block is partially in a R zone in which case the front yard shall be the same as required in such R zone.

(B) Side yards. There shall be no requirements for side yards except where the side of a lot abuts upon the side of a lot in a R zone in which case the side yard shall not be less than ten feet.

(C) Rear yard. There shall be no requirements for rear yards except where the rear of a lot abuts on an R zone in which case the rear yard shall be not less than ten feet.

URBAN RESERVE ZONES (UR)

§ 10-3.10.501 UR ZONES.

The regulations in this subchapter shall apply in all Urban Reserve (UR) zones unless otherwise provided in this chapter.

§ 10-3.10.502 USES PERMITTED.

(A) The following uses shall be permitted in UR zones:

(1) Grazing and the raising of field crops, fruit and nut trees, vines, vegetables, horticultural specialties, and livestock;

(2) The curing, processing, packaging, and shipping of agricultural products produced upon the premises where such activity is carried on in conjunction with, or as part of, a bona fide agricultural operation;

(3) Single-family residences and farm employee housing which are incidental to a permitted use or conditional use;

(4) Incidental and accessory structures and uses located on the same site with a permitted use, including barns, stables, coops, tank houses, storage tanks, wind machines, windmills, silos, and other farm outbuildings; private garages and carports; one guest house or accessory living quarters without a kitchen for each residence on the site; and storehouses, garden structures, greenhouses, and the storage of petroleum products for the use of persons residing on the site;

(5) Irrigation and flood control facilities; and

(6) Home occupations.

(B) The following uses may be permitted by the Commission by the issuance of a conditional use permit:

(1) Agricultural service establishments primarily engaged in performing animal husbandry or horticultural services on a fee or contract basis, including plant nurseries and landscape gardening; landscape contracting; offices of veterinarians; animal hospitals; poultry farms; boarding and training horses; feed lots; and hog farms;

(2) Public and private charitable institutions, hospitals, sanitariums, rest homes, nursing homes, and cemeteries;

(3) Commercial stables and riding academies;

(4) Public and quasi-public uses of an educational, administrative, recreational, public service, cultural, or religious type;

(5) Private and noncommercial clubs and lodges;

(6) Sewage treatment plants;

(7) Signs appurtenant to any permitted use may be erected in UR zones subject to all the laws, rules, and regulations of the city pertaining to signs, including, but not necessarily limited to, the terms and provisions of § 10-3.415 of the General Provisions subchapter of this chapter pertaining to architectural control; and

(8) Trailer parks, subject to the limitations of § 10-3.906 of the Heavy Commercial zones of this chapter, providing public water and sewer systems are utilized.

§ 10-3.10.503 SPECIAL CONDITIONS.

(A) Any use involving a business, service, or process not completely enclosed in a structure shall be screened by a solid fence or masonry wall or a compact growth of natural plant materials six feet in height if the Commission finds such use to be unsightly.

(B) No conditional use shall be permitted and no process, equipment, or materials shall be used which are found by the Commission to be objectionable or injurious to property, crops, or livestock in the vicinity by reason of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, or unsightliness, or to involve any hazard of fire or explosion.

§ 10-3.10.504 SITE AREA.

(A) The minimum site area shall be 20 acres for permitted uses.

(B) On conditional uses the minimum site area shall be specifically stated on the use permit.

(C) Each site shall have not less than five acres of lot area for each dwelling unit located on the site. This shall not be construed to disallow the placing of the permitted dwelling units all in one area of the site.

§ 10-3.10.505 YARD REQUIREMENTS.

(A) Front yard. The minimum front yard shall be 50 feet.
(B) Side yard. The minimum side yard shall be five feet except that on the street side of a corner lot the yard shall be not less than 40 feet.
(C) Rear yard. The minimum rear yard shall be 20 feet.

§ 10-3.10.506 HEIGHT OF STRUCTURES.

(A) The maximum height of a building or structure for a permitted use shall be 35 feet subject to the exception that barns, tank houses, storage tanks, windmills, and silos may exceed 35 feet in height.
(B) The maximum height of a structure occupied by a conditional use and its accessory structures shall be determined by the provisions of the use permit.

§ 10-3.10.507 DISTANCE BETWEEN BUILDINGS.

The minimum distance between dwellings or dwellings and accessory structures shall be ten feet. The minimum distance between dwellings and accessory structures in which livestock or poultry is kept shall be 50 feet.

UNCLASSIFIED ZONES (U)

§ 10-3.1101 U ZONES.

The regulations set forth in this subchapter shall apply in all Unclassified (U) zones unless otherwise provided in this chapter. (Any land within the city and not designated or indicated on the zoning maps shall be in the U zone.)

§ 10-3.1102 USES PERMITTED.

All uses not otherwise prohibited by law shall be permitted provided that a use permit shall first be secured for any use to be established in any U zone.

§ 10-3.1103 SITE AREA; HEIGHT OF STRUCTURES; YARD REQUIREMENTS.

Building site area requirements, building height limits, and yard requirements shall be as specified in the use permit.

INDUSTRIAL PARK ZONES (IP)

§ 10-3.11.501 IP ZONES.

The regulations set forth in this subchapter shall apply in all Industrial Park (IP) zones unless otherwise provided in this chapter.

§ 10-3.11.502 PURPOSE.

The purpose of the regulations set forth in this subchapter is to provide a set of regulations which will insure the creation of an environment exclusively for, and conducive to, the development and protection of modern, large-scale administrative facilities, research institutions, specialized manufacturing organizations, and distributions centers for major retail outlets, all of a type in which the architecture, landscaping, and operations of the uses are such that each is a credit to the other, and investments in well-designed and maintained plants and grounds are secured by the maintenance of the highest standards throughout the district.

§ 10-3.11.503 PERMITTED USES.

(A) The following uses shall be permitted in IP zones:

(1) Apparel and other finished products made from fabrics and similar materials;

(2) Books, newspaper and magazine printing and publishing and allied industries;

(3) Electrical and electronic instruments, machinery, equipment and supplies manufacturing;

(4) Furniture and fixture manufacturing;

(5) Fabricated metal products manufacturing, except ordnance machinery and transportation equipment;

(6) Leather and leather products;

(7) Textile mill products;

(8) Professional, scientific, and controlling instruments;

(9) Photographic and optical goods;

(10) Watches and clocks.

(11) Cultivation, distribution, manufacturing, testing labs as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(12) Retail only in conjunction with vertical integration business as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

§ 10-3.11.503.1 USES REQUIRING AN ADMINISTRATIVE APPROVAL ~~ZONING PERMIT~~.

(A) Uses permitted with an Administrative ~~Zoning Administrator's permit~~Approval:

(1) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks;

(2) Chemicals and allied product manufacturing;

(3) Rubber and miscellaneous plastics manufacturing;

(4) Processing, warehousing and wholesale distribution of food and kindred products manufacture.

§ 10-3.11.504 ACCESSORY USES.

The following structures and uses shall be permitted in IP zones when accessory to a use permitted by the provisions of this subchapter:

(A) Incidental sales in connection with a permitted use;

(B) Accessory uses and structures customarily appurtenant to a permitted use; and

(C) Recreational facilities for employees and guests.

§ 10-3.11.505 USES REQUIRING USE PERMITS.

(A) The following uses shall be permitted with a Use Permit:

(1) Warehousing and wholesale distribution of manufactured or assembled products; and

(2) Any research or light manufacturing use which is determined by the Commission to be consistent with the purposes of this subchapter, which will not impair the present or potential uses or values of adjacent parties nor be detrimental to the public health, safety, peace, morals, comfort, or general welfare of the community, and which conforms to the performance standards set forth in this subchapter.

§ 10-3.11.506 PERFORMANCE STANDARDS.

All uses in IP zones shall meet the following performance standards.

(A) Noise. The maximum sound pressure level of activities other than street or highway transportation, temporary construction work, or temporary oil or gas drilling or exploration operations, as determined by the City Engineer, shall not exceed the standards for octave bands within the frequency limits given below after applying the correction factors:

(1) Noise at zone boundaries. At no point on the boundary of an IP zone shall the sound pressure level of any individual operation, use, or plant exceed the decibel levels in the designated octave bands set forth below:

Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm2)

Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm2)
0 - 75	72
75 - 150	67
150 - 300	59
300 - 600	52
600 - 1,200	46
1,200 - 2,400	40
2,400 - 4,800	34
Above 4,800	32

(2) Noise at property lines. At no point on the lot lines of any property shall the sound pressure level of any individual operation, use or plant exceed the decibel levels in the designated octave bands shown below:

Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm2)

Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm2)
0 - 75	80
75 - 150	75
150 - 300	70
300 - 600	64
600 - 1,200	58
1,200 - 2,400	53
2,400 - 4,800	49
Above 4,800	46

(3) Corrective factors in noise measurement. To any irregular or impulsive noise, one or more of the following corrective factors shall be added to the values permitted sound level:

Character of Noise	Correction in Decibels
Occurs between 10:00 p.m. and 7:00 a.m.	Minus 10
Noise source operates less than a total of 30 minutes in any day	Plus 10
Noise of impulsive character, such as hammering	Minus 5

(B) Air pollution. There shall be no discharge into the atmosphere, from any source, of particulate matter in excess of 0.3 grams per cubic foot of gas at standard conditions. There shall be no emission of gas, smoke, particulate material, dust, or other air contaminants for a period or periods aggregating more than three minutes in any one hour which contaminants are:

(1) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the US Bureau of Mines; or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection § 10-3.11.506(B)(1) of this subsection.

(C) Odor. Odors from gases shall not be in such quantity as to be offensive beyond the lot lines of the use.

(D) Vibration. Vibration from any machine, operation, or process shall not cause a perceptible motion at the lot lines.

(E) Glare and heat. Glare and heat from any source shall not be produced beyond the lot lines.

(F) Radioactivity and electrical disturbances. The use of radioactive materials within IP zones shall be limited to measuring, gauging, and calibration devices, such as tracer elements in X-ray and like apparatus, and in connection with the processing and preservation of foods. All electrical and electronic devices and equipment shall be suitably wired, shielded, and controlled so that in operation they shall not, beyond the lot lines, emit any electrical impulses or waves which will adversely affect the operation and control of any other electrical or electronic devices and equipment.

§ 10-3.11.507 HEIGHT REGULATIONS.

No structure in the IP zones shall exceed 50 feet in height except upon approval of a conditional use permit by the Planning Commission.

§ 10-3.11.508 LOT AREA.

The minimum building site area in IP zones shall be one acre.

§ 10-3.11.509 LOT WIDTH.

The minimum lot width in IP zones shall be 150 feet.

§ 10-3.11.510 LOT DEPTH.

The minimum average lot depth in IP zones shall be 150 feet.

§ 10-3.11.511 LOT COVERAGE.

Not more than 50% of the lot area in IP zones shall be covered with buildings.

§ 10-3.11.512 YARD REQUIREMENTS.

The following yards shall be required in IP zones:

(A) Front yards. Front yards shall have a minimum depth of 50 feet.

(B) Side yards. There shall be a minimum combined side yard width of 40 feet for both sides, and no one side yard shall have a width of less than ten feet. For every one foot the building exceeds 30 feet in height, one additional foot of side yard shall be required on each side. Side yards on the street side of corner lots shall be equal in depth to the front yard requirements set forth in subsection § 10-3.11.512(A) of this section.

(C) Rear yards. Rear yards shall have a minimum depth of 20 feet.

§ 10-3.11.513 USES IN BUILDINGS.

All uses in IP zones shall be conducted wholly within a completely enclosed building, except for off-street parking and loading, store age, and the disposal of trash and refuse.

§ 10-3.11.514 DISPOSAL FACILITIES.

Trash and refuse collection and disposal facilities in IP zones shall be enclosed by a solid fence or hedge no lower in height than the facilities themselves.

§ 10-3.11.515 OFF-STREET PARKING.

All vehicle parking, including trucks, trailers, and employee and visitor parking, in IP zones shall be provided on the premises. All parking areas shall be paved. Parking shall not be located in the required front yard or street side yard of a corner lot, except that a visitor parking area shall be permitted in the required front yard.

§ 10-3.11.516 STORAGE.

Outside storage in IP zones shall not be permitted unless concealed from the view from a public street by a solid fence or hedge.

§ 10-3.11.517 FENCES.

No fence shall be permitted in the required front yard or in the required side yard for the street side of corner lots in IP zones.

§ 10-3.11.518 OFF-STREET LOADING.

Off-street loading in IP zones shall be within the building or in side or rear yards separated and protected from any traveled way by a fence or hedge not less than six feet in height.

§ 10-3.11.519 LANDSCAPING.

A minimum of 15 feet of front and street side yards in IP zones shall be permanently landscaped.

§ 10-3.11.520 TYPE OF FUEL.

Manufacturing and industrial processes in IP zones shall use only natural gas or electricity as fuel unless otherwise authorized by a use permit.

§ 10-3.11.521 BUILDINGS.

(A) All buildings, except as noted in subsection § 10-3.11.521(B), (C), and (D) below, shall be subject to review and shall be approved by the Development Review Committee.

(B) Temporary buildings for temporary construction purposes are a permitted use.

(C) Temporary or portable-type buildings for uses other than that specified in subsection § 10-3.11.521(B) may be permitted subject to approval of a use permit by the Planning Commission. The use permit review shall consider the need for the building, the time frame for its use, the location of the building, its compatibility with surrounding uses, and provision of skirting and screening of axles and mechanical equipment.

(D) Notwithstanding subsection § 10-3.11.521(C), temporary buildings for a short-term use, not to exceed a total of nine months, may be permitted with approval from the Planning Director subject to the review considerations set forth in subsection § 10-3.11.521(C) above.

§ 10-3.11.522 SIGNS.

Each parcel of land in IP zones shall be permitted a maximum of two signs, with a total aggregate surface area of 250 square feet but not to exceed 150 square feet per sign. The sign height shall be 15 feet. Signs shall only identify the on-site operation and products. All signs shall be subject to review and shall be approved by the Development Review Committee. All signs shall be subject to review and approval as required by Chapter 6 of this title.
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SPECIFIC PLAN ZONES (SP)

§ 10-3.11.601 PURPOSE AND APPLICATION.

The purpose of the SP zone is to accomplish the following:
(A) To provide a framework for how to analyze project level development standards and permitted uses in the SP zone district; and
(B) To provide a framework and requirements for approving specific plans proposed in the city by establishing a development review framework for comprehensibly planned communities pursuant to Cal. Gov't Code §§ 65450 to 65457 for the preparation of specific plans.

§ 10-3.11.602 APPLICABILITY.

(A) For properties already zoned SP, the allowed uses, allowed density, and required property development standards shall be as outlined in the applicable specific plan. Where the regulations of a specific plan are silent or not specifically referenced, the comparable regulations of these zoning regulations and all adopted ordinances, regulations, standards, and guidelines of the city shall apply, subject to the Planning Director's discretion, unless otherwise declared by the Planning Commission.
(B) For properties proposed to be rezoned to the SP zone, a specific plan meeting the requirements outlined below is required and must be submitted concurrently with the rezone request. The SP zone, including all standards and processes, is available to all new development proposals within the city, except those areas within the city limits already regulated by an existing adopted specific plan and approved prior to the adoption of this subchapter. Those areas shall be exempt from this chapter, and all activities within such areas shall be subject to the existing standards and procedures of the applicable specific plan.
(C) All new SP zones must encompass an area of no less than five acres of contiguous property.

§ 10-3.11.603 SPECIFIC PLAN REQUIRED ELEMENTS.

A specific plan shall provide regulations and design standards governing the minimum and maximum development parameters of all real property within the proposed SP zone district. All specific plans prepared and adopted under §§ 10-3.11.601 et seq. shall be consistent with the requirements of Cal. Gov't Code § 65450 as amended, and shall include, at a minimum, the following:
(A) Purpose. State the relationship to the goals and policies of the General Plan.

(B) Setting. State the existing and regional setting to establish the conditions and reasons for the project.

(C) Proposed land uses. Establish the distribution, type, definitions of, and regulations for all proposed land uses. The uses described within the specific plan shall be designed and developed in a manner consistent with the General Plan and § 10-3.11.604 below.

(D) Development standards. Establish all regulating policies and include all of the following for all building types:

(1) Building height, setbacks, massing, and design standards;

(2) Lot area, width, depth, and structural limitations;

(3) Maximum number of dwelling units and the maximum residential density (of the Specific Plan area and any individual site or portion);

(4) Usable open space provisions and requirements within the development;

(5) Off-street parking and loading facilities;

(6) Design and development standards (architectural, landscape, streetscape, street furniture, utilities, fence/wall types, and the like), which may include design themes or similar architectural treatments to control future construction of buildings on parcels covered by the Specific Plan. Site planning at the perimeter of the zone boundaries shall provide for the mutual protection of the zone and the surrounding property;

(7) Signage requirements shall be addressed, either through Chapter 6 of Title 10 (Sign Regulations) or by a unique sign program codified in the specific plan; and

(8) All areas for storage of vehicles, maintenance equipment, refuse and collection facilities, manufactured products, or other similar materials used by or in a manufacturing/fabricating process on-site shall be prohibited or shall be enclosed by a decorative, block, or brick wall and/or landscape screening in combination.

(E) Site planning. Establish a comprehensive map of all major streets, open spaces, private and public property, and land uses for all affected property, consistent with the intent of the General Plan.

(1) Consider and preserve environmentally sensitive resources (water courses, view sheds, drainage areas, wooded areas, rough terrain [canyons, ravines, steep slopes, ridges, knolls, promontories], and other similar natural features) and make provisions to retain natural features and amenities found on-site.

(2) Provide landscape architectural concept plans and standards, including project entries, streetscapes, fencing details, lighting, signage, utility, and street furniture.

(F) Infrastructure. Identify the proposed distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, sewers, solid waste disposal, water, and other essential facilities proposed.

(1) Include written analysis detailing plans for the construction, improvement, or extension of transportation facilities, public utilities, and all other public facilities/services required to serve the properties.

(2) Dedicate all public right-of-ways and public park spaces within or abutting the development to applicable city specifications.

(3) Private streets and alleys shall be designed to public street standards (where applicable), or propose modifications, and be privately owned and maintained for their intended purpose without public cost or maintenance responsibility.

(4) Consideration of other forms of access, such as pedestrian ways, paseos, courts, plazas, driveways, horse trails, bike trails, or open public parking areas, may be made at the time of specific plan consideration by the city.

(G) Maintenance. Provisions assuring the continued maintenance of private property, grounds, and all common areas shall be required.

(H) Phasing. Specific plans developed in phases or neighborhoods over a period of time, not developed in a consecutive and uninterrupted manner, shall be required to process each phase or neighborhood through separate entitlement processes.

§ 10-3.11.604 ALLOWED LAND USES.

(A) All use of lands within the SP zones shall be compatible with the purpose and intent of these zoning regulations.

(B) All use of lands within the SP zones shall be consistent or made consistent with the General Plan Land Use Map, which may include varying densities of residential, commercial, and/or industrial development.

(C) A new specific plan shall be processed using the same procedure as a General Plan amendment as well as a change of zone boundaries per §§ 10-3.1501 et seq.

OFF-STREET PARKING REGULATIONS

§ 10-3.1201 GENERAL REQUIREMENTS.

(A) It is the purpose of this section to allow evaluation of off-street parking requirements for vehicles to prevent or lessen the traffic congestion and parking problems on public streets and to leave street parking available to persons making short-term visits for shopping, personal business and related activities. Off-street parking and off-street loading facilities shall be provided incidental to new land uses and major alterations and enlargements of existing land uses. Major land use development proposals will be expected to meet on-site parking requirements and, for customer satisfaction, should want to provide parking for their convenience. On-site parking is a normal part of land use development and satisfying Code requirement will be the rule and not the exception. Allowing large scale or high intensity land uses an exception to Code requirements, or to pay in-lieu fees, may have a tendency to over-load the city's existing parking inventory on at least a short-term basis, and in the case of some areas, exceed the city's ability to satisfy long-term needs. The number of parking spaces and the number of loading berths prescribed in this subchapter, or to be prescribed by the Planning Commission, shall be proportional to the need for such facilities created by the particular type of land use. Off-street parking and loading areas shall be laid out in a manner that will ensure their usefulness, protect the public safety, and, where appropriate, insulate surrounding land uses from their impact. The provisions of this subchapter are intended to:

(1) Provide clear standards for parking requirements;

(2) Provide parking requirements that are appropriate for specified land uses;

(3) Provide for flexibility in meeting parking requirements;

(4) Ensure that parking requirements are consistent with the land use goals of the community; and

(5) Discourage unnecessary curb cuts and the loss of on-street parking spaces through the construction of driveways downtown.

The provisions of this subchapter are also intended to deal with major problems, conditions, and needs which are apparent in attempting to provide sufficient off-street parking facilities in areas of intense commercial development, including:

(1) The difficulty in assembling land by private means;

(2) The often excessive time required in assembling land by private means;

(3) The varying financial capabilities and traffic generating characteristics among the various types of commercial enterprises;

(4) The importance of avoiding the development of a fragmented pattern of off-street parking facilities which may bear little relation to the needs of a commercial area as a whole;

(5) The importance of prescribing regulations which will not inadvertently discourage private investment within the community while alleviating or preventing traffic congestion; and

(6) The importance of achieving a reasonable distribution of burden among private interests and the public at large consistent with their individual and collective responsibilities to provide off-street parking and loading facilities.

(B) Every building hereafter erected in the city shall be provided with parking spaces as provided in § 10-3.1202 of this subchapter, subject to the other provisions of this subchapter. Such parking spaces shall be made available and shall be maintained for parking purposes according to the required use of the building.

(C) Every building hereafter reconstructed, remodeled, or structurally altered shall be provided with parking spaces as required by the new use of the building. The parking spaces required by this subsection shall be determined by subtracting the number of parking spaces required by the provisions of § 10-3.1202 of this subchapter for the building as used prior to its reconstruction, remodeling, or structural alteration from the number of spaces required by § 10-3.1202 for the building for its proposed use after its reconstruction, remodeling, or structural alteration. Such parking spaces shall be made available and shall be maintained for parking purposes according to the required use of the building. For buildings other than dwellings, if the number of parking spaces thus determined does not exceed the number of spaces required by the provisions of § 10-3.1202 for the building as used prior to its reconstruction, remodeling, or structural alteration by at least 10% or by five spaces, whichever is greater, no additional parking space need be provided by reason of the reconstruction, remodeling, or structural alteration of the building. In the event it is not possible to determine the number of parking spaces required for a particular building in the manner set forth in this subsection, the Commission shall determine an adequate number of parking spaces for such a building based on standards comparable to those set forth in § 10-3.1202.

§ 10-3.1202 PARKING SPACES REQUIRED.

Except as provided in § 10-3.1205 of this subchapter, the number of off-street parking spaces required shall be as follows:

Use	Parking Spaces Required	Downtown Parking District Standards
Residential Dwellings	1 space for each bachelor or one bedroom dwelling unit and 1.5 spaces for dwelling unit having more than one bedroom, with one covered space per unit.	Same
Multi-Family Housing Projects	In addition to parking spaces required in residential dwellings above, all projects with six or more units shall also provide off-street parking for visitors at locations reasonably central to the units to be served at a rate of one space for the first five units and one space for each five units thereafter.	Same
Senior citizen housing projects under § 10-3.5.1 Affordable Housing Density Bonus	One covered parking space for each unit, plus one guest parking space provided at the rate of one space for every four units, which shall be located in close	Same

proximity and easily accessible to the units they are designated to serve. Employee parking shall be provided at a rate of one space per every two employees. Parking for a manager's quarters shall be required at the standard residential rate. Sufficient additional open space area shall be provided to allow for compliance with standard residential rates should the project be converted in whole, or in part, for occupancy by other than senior citizens.

Use	Parking Spaces Required	owntown Parking District Standards
esidential Dwellings	aces for each bachelor or one bedroom dwelling unit and 1.5 spaces for dwelling unit having more than one bedroom. In each instance one space per unit must be covered.	Same
ılti-Family Housing Projects	dition to parking spaces required in residential dwellings above, all projects with six or more units shall also provide off-street parking for visitors at locations reasonably central to the units to be served.	Same
nior citizen housing projects under § 10-3.5.1 Affordable Housing Density Bonus	e cover parking space for each unit, plus one guest parking space provided at the rate of one space for every four units, which shall be located in close proximity and easily accessible to the units they are designated to serve. loyee parking shall be provided at a rate of one space per every two employees. Parking for a manager's quarters shall be required at the standard residential rate. fficient additional open space area shall be provided to allow for compliance with standard residential rates should the project be converted in whole, or in part, for occupancy by other than senior citizens.	Same

Use
Parking Spaces Required
Downtown Parking District Standards
Residential uses
Residential dwellings
1½ spaces for each bachelor or one bedroom dwelling unit and two spaces for dwelling unit having more than one bedroom. In each instance one space per unit must be covered.
Same

~~Multi-family housing projects~~

~~In addition to parking spaces required in residential dwellings above, all projects with six or more units shall also provide off-street parking for visitors at locations reasonably central to the units to be served at a rate of one space for the first four units and one space for each four units thereafter.~~

~~Same~~

~~Senior citizen housing projects under § 10-3.5.1 Affordable Housing Density Bonus~~

~~One cover parking space for each unit, plus one guest parking space provided at the rate of one space for every four units, which shall be located in close proximity and easily accessible to the units they are designated to serve.~~

~~Same~~

~~Employee parking shall be provided at a rate of one space per every two employees. Parking for a manager's quarters shall be required at the standard residential rate.~~

~~Sufficient additional open space area shall be provided to allow for compliance with standard residential rates should the project be converted in whole, or in part, for occupancy by other than senior citizens.~~

Use	Parking Spaces Required	Downtown Parking District Standards
Use	Parking Spaces Required	Downtown Parking District Standards
Rooming and lodging houses, fraternity and sorority houses, and private clubs having sleeping rooms	One space for each sleeping room.	Same
Motels	One space for each sleeping room, plus one space for each two employees.	Same
Hotels	One space for each three beds.	Same
Commercial and industrial uses		
Banks	One space for each 250 square feet of gross floor area.	Same
Business and professional offices	One space for each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area
Retail food stores	One space for each 250 square feet of gross floor area	One space for each 375 square feet of gross floor area
All other retail stores and personal service establishments, such as barber, beauty, and repair shops	One space for each 300 square feet of gross floor area	One space for each 450 square feet of gross floor area
Retail stores which handle only bulky merchandise, such as furniture, appliances, hardware, and similar establishments	One space for each 400 square feet of gross floor area, plus one space for each two employees.	One space for each 600 square feet of gross floor area

Motor vehicle sales, machinery sales, and auto repair garages	One space for each 400 square feet of gross floor area, plus one space for each two employees.	One space for each 600 square feet of gross floor area

Use	Parking Spaces Required	Downtown Parking District Standards

Use	Parking Spaces Required	Downtown Parking District Standards

Manufacturing, warehouses, storage uses, and wholesale houses	One space for each two employees, plus one space for each 300 square feet of office space and customer net floor area, plus one loading space for each 10,000 square feet of gross floor area.	One space for each two employees, plus one space for each 450 square feet of office space and customer net floor area, plus one loading space for each 10,000 square feet of gross floor area.
Places of assembly		
Establishments for the sale and consumption of food and beverages on the premises	One space for each three seats of a fixed nature, plus one space for each 50 square feet of net floor area available for non-fixed seating.	Same
Drive-in restaurants	One space for each three seats.	Same
Auditoriums	One space for each three seats.	Same
Theaters	One space for each five seats.	Same
Churches	One space for each four seats.	Same
Skating rinks, dance halls, and similar establishments	One space for each 50 square feet of net floor area used for dancing or skating or one space for each 200 square feet of gross floor area, whichever is greater.	Same
Libraries and museums	One space for each 400 square feet of gross floor area, plus one space for each two employees.	One space for each 600 square feet of gross floor area, plus one space for each two employees.
Mortuaries and funeral homes	One space for each vehicle used in conjunction with the establishment, plus one space for each two employees, plus one space for each four seats in the main chapel.	Same

Use	Parking Spaces Required	Downtown Parking District Standards

Use	Parking Spaces Required	Downtown Parking

		District Standards
All places of assembly without fixed seating, other than those uses set forth in establishments for the sale and consumption of food and beverages on the premises	One space for each 25 square feet of gross floor area used for assembly.	Same
Educational uses		
Elementary and junior high schools	One space for each faculty member and employee.	Same
High schools	One space for each individual employed on the campus, plus one space for each five students.	Same
Junior colleges, colleges, universities, and trade and draft schools	One space for each individual employed on the campus, plus one space for each two students not residing on the premises.	Same
Day care and nursery schools	One space for each employee	Same
School auditoriums, assembly halls, stadiums, and gymnasiums	One space for each three seats if such number will provide a greater number of spaces than set forth in elementary and junior high schools, high schools, and junior colleges, colleges, universities, and trade and draft schools.	Same
Health		
Medical and dental offices and clinics	Four spaces for each doctor, plus one space for each employee or one space for each 250 square feet of gross floor area, whichever is greater.	Same

Use	Parking Spaces Required	Downtown Parking District Standards
Use	Parking Spaces Required	Downtown Parking District Standards
Asylums, sanitariums, old-age homes, orphanages, convalescent homes, nursing homes, and children's homes	One space for each three beds plus one space for each two employees on the largest shift.	Same
Hospitals	One space for each two employees, plus one space for each doctor, plus one space for each three beds or one space for each 1,000 square feet of gross floor area, whichever is greater.	Same
Animal veterinary hospitals and clinics	Four spaces for each doctor, plus one space for each two employees.	Same

Public uses		
City, county, special districts, state, and federal administrative offices, excluding places of assembly	One space for each two employees, plus one space for each vehicle used in conjunction with the establishment, and one space for each 300 square feet of gross floor area.	Same
Public buildings and grounds, other than administrative offices and educational uses	One space for each two employees on the maximum work shift, plus the number of additional spaces prescribed by the Commission.	Same
Utility uses		
Electric distribution and transmission substations, gas regulator stations, sewage treatment plants, and other utility buildings and uses	One space for each two employees on the maximum work shift, plus one space for each 300 square feet of net floor open to the public.	Same

Use	Parking Spaces Required	Downtown Parking District Standards
Transportation facilities		
Airports, heliports, bus stations, truck terminals, and railroad stations and yards	One space for each two employees on the maximum work shift, plus the number of additional spaces prescribed by the Commission.	Same

§ 10-3.1203 PARKING REQUIREMENTS FOR USES NOT SPECIFIED.

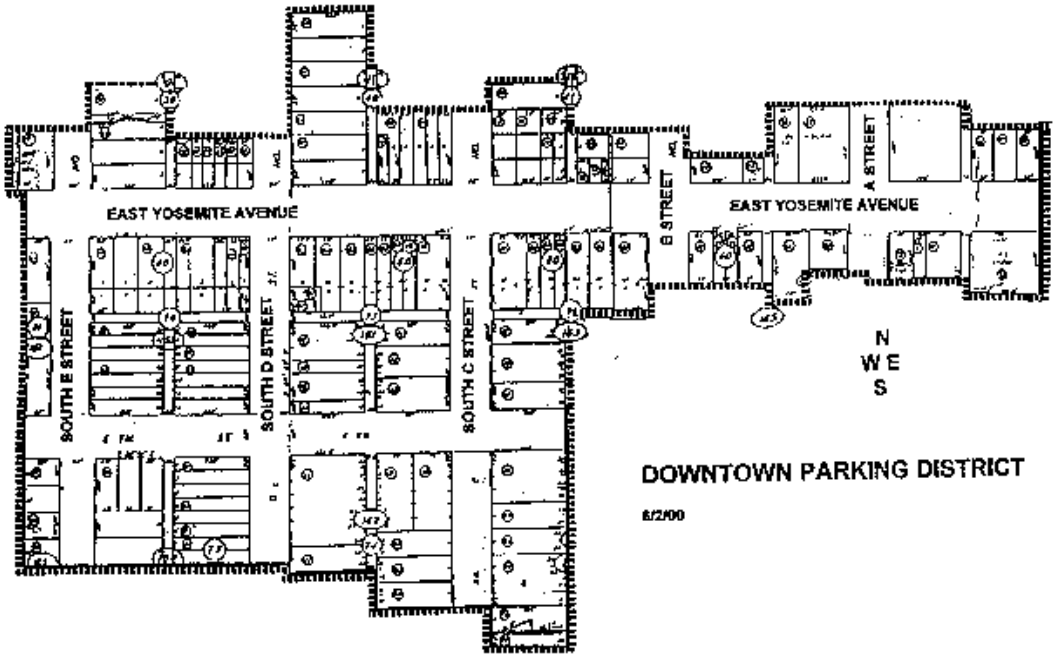
Where the parking requirements for a use are not specifically defined by this subchapter, the parking requirements for such use shall be determined by the Commission, and such determination shall be based upon the requirements for the comparable use specified in this subchapter.

§ 10-3.1204 IN LIEU PAYMENTS.

Within any parking district created under the Parking District Act of 1951 or any other Parking District Act approved by the City Council, in lieu of furnishing the parking spaces required by the provisions of this subchapter in case of the reconstruction, remodeling, or structural alteration of an existing building which has no existing off-street parking facilities or insufficient off-street parking facilities for its existing use, the parking requirements for such new, different, or expanded use may be satisfied by the payment to the city, prior to the issuance of a building permit, of the sum of $4,500 per parking space for each parking space required by the provisions of this subchapter. Such funds shall be deposited with the city in a special fund and shall be used and expended exclusively for the purpose of acquiring and developing off-street parking facilities located, insofar as practical, in the general vicinity of the buildings for which

the in lieu payments were made. Said parking fee shall be adjusted as required by the City Council based on the yearly increase in the Federal Consumers Price Index, or to more accurately reflect the cost of constructing off-street public parking facilities. Funds paid to the city for in-lieu parking shall not be refundable, in case of destruction or removal of the structure or land use for which the funds were paid. All in-lieu parking fees shall be paid prior to issuance of the first permit (any business license or building permit) for which the in-lieu fees are required.

(A) Downtown parking district.



(B) The determination for allowing payment of in-lieu fees for all or a part of the on-site parking otherwise required by the provisions of this subchapter shall be made by the Planning Commission on an individual basis in response to a request for exception filed by the applicant for the proposed new, different or expanded use. Parking adjustments provided under these provisions shall not decease the number of parking spaces otherwise required by this subchapter.

(C) Payment of in-lieu fees will generally be allowed only as a special exception, or applicable only under special circumstances.

(D) The Planning Commission will utilize the followings guidelines when evaluating a request for on-site parking exceptions:

(1) Payment of in-lieu fees may be considered for additions, expansions, or intensification.

(2) Payment of in-lieu fees may be considered when parcel size, shape, location, or limitations on access prevent development of on-site parking that would meet the design standards of this subchapter.

(3) If it is determined that providing parking on some sites will result in the loss of existing or potential on-street parking spaces due to the location of driveways or other improvements, the Planning Commission will consider the cumulative effect of providing off-street parking relative to the net gain in total parking spaces.

(4) Requests for exceptions involving properties that would otherwise be able to provide on-site parking meeting the requirements of this subchapter may be approved subject to meeting specific conditions, including but not limited to:

(a) Providing sufficient on-site parking to meet employee demands based on the maximum number on a peak shift or peak hour;

(b) Providing sufficient on-site handicapped parking spaces to meet standard requirements based on the number of spaces which would otherwise be required by this subchapter without consideration of in-lieu fees;

(c) Provide loading spaces that would otherwise be required for the proposed use based on the provisions of this subchapter.

(5) The following uses shall be excluded from requesting an exception to the parking provisions of this subchapter:

(a) All residential uses;

(b) All places of assembly (theaters, churches, lodges, etc.);

(c) All educational uses;

(d) All public uses.

(E) In granting an exception from the parking requirements of this subchapter and authorizing the payment of in-lieu fees, the Planning Commission must make at least one or more of the following findings:

(1) The project site for which the parking requirement applies is 5,000 square feet or less in size and has less than fifty feet (50') of street frontage.

(2) The construction of required driveway(s) for on-site parking would result in the excessive loss of curb parking on street.

(3) Because of special circumstances applicable to the property, including size, shape, location, or surroundings, the proposed use cannot conform with the strict application of the parking regulations and the property would be deprived of privileges enjoyed by other property in the vicinity.

(4) The applicant, as determined by the Planning Commission, has diligently pursued meeting the parking requirements both on-site and off-site, but has been unsuccessful in meeting the requirements.

(5) Exceptions shall be granted only when 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, 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.

(6) Any exception granted may be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

§ 10-3.1205 EXEMPTIONS FROM PARKING SPACE REQUIREMENTS.

(A) Existing buildings and uses. None of the requirements of this subchapter for off-street parking spaces shall apply to the use of a building in existence on August 1, 1978. No building, as it is used on August 1, 1978, shall be deemed to be nonconforming solely by reason of the lack of off-street parking spaces, provided that any portion of the premises available for off-street parking in connection with such building shall not be utilized for any purpose other than off-street parking if necessary to meet the requirements of this subchapter.

(B) Parking districts. None of the provisions of this subchapter which require the provisions of off-street parking spaces in connection with the use of property for commercial or industrial purposes shall apply to any parcel of existing improved property which is located within any parking district formed and existing under the Parking District Act of 1951 or any other parking district act approved by the Council, except any area within any such district which is available for off-street parking shall not be improved or changed without payment of the in lieu fees provided in § 10-3.1204. Determination of an area available for parking shall be made by the Planning Director whose determination shall be subject to review by the Planning Commission.

(C) Vacant parcels demolition and new facilities. None of the exemptions provided for in this section apply to vacant parcels of property or on parcels where existing buildings are demolished and a new facility is constructed, either in or out of a parking district.

§ 10-3.1206 REQUIRED IMPROVEMENT AND MAINTENANCE OF PARKING AREA.

Every lot used as a public or private parking area and having a capacity of five or more vehicles shall be developed and maintained in the following manner:

(A) Surface of parking area. Off-street parking areas shall be paved or otherwise surfaced and maintained so as to eliminate dust or mud and shall be so graded and drained as to dispose of all surface water. In no case shall such drainage be allowed to cross sidewalks, unless approved by the City Engineer.

(B) Border barricades, screening, and landscaping.

(1) Every parking area not separated by a fence from any street or alley property line upon which it abuts shall be provided with a suitable concrete curb or timber barrier not less than six inches in height, located not less than two feet from such street or alley property lines, and such curb or barrier shall be securely installed and maintained; provided, however, no such curb or barrier shall be required across any driveway or entrance to such parking area.

(2) Every parking area abutting property located in any R or PD zone shall be separated from such property by a solid wall, view-obscuring fence, or compact evergreen hedge a maximum of eight feet in height measured from the grade of the finished surface of such parking lot closest to the contiguous R or PD zone property, and a minimum of six feet in height as measured from the finished grade of the adjacent residential property; provided, however, no fence over three feet in height shall be constructed or grown to the front of any adjacent dwelling or within 25 feet of the street corner of any corner lot.

(3) The lights provided to illuminate any parking area or used car sales area permitted by this subchapter shall be arranged so as to reflect the light away from any premises upon which a dwelling unit is located.

(C) Entrances and exits. The location and design of all entrances and exits shall be subject to the approval of the City Engineer.

§ 10-3.1207 GENERAL REGULATIONS AND CONDITIONS.

The following regulations and conditions shall apply to all off-street parking facilities:

(A) Size and access. Each off-street parking space shall have a width of not less than nine feet and a length of not less than 19 feet except that up to 25% of the required parking spaces may be designated for compact car use in parking lots provided for uses other than residential dwelling units and having at least ten spaces. Compact car spaces shall have a minimum width of eight feet and a minimum length of 16 feet. Every space designated to accommodate compact cars shall be clearly marked as a compact space. Each space shall have adequate ingress and egress. Parking lot dimensions shall be set forth in the city standard specifications. When the required covered parking space for a dwelling unit is converted into a different use and occupancy, such required car space shall be relocated and covered by a garage or carport in accordance with the provisions of this chapter.

(B) Location. Off-street parking facilities shall be located as follows (where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facility to the nearest point of the building such facility is required to serve):

(1) For single or multiple-family dwellings, parking facilities shall be located on the same lot or building site as the buildings they are required to serve;

(2) For hospitals, sanitariums, rest homes, asylums, orphanages, rooming houses, lodging houses, club rooms, and fraternity and sorority houses, not more than 150 feet from the buildings they are required to serve; and

(3) For uses other than those set forth in subsections § 10-3.1207(B)(1) and (2) of this subsection, not over 300 feet from the building they are required to serve.

(C) Mixed occupancies in a building. In the case of mixed uses in a building or on a lot, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. The off-street parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except as set forth in subsection § 10-3.1207(D) of this section for joint use.

(D) Joint use. The Building Department, upon an application by the owner or lessee of any property, may authorize the joint use of parking facilities by the following uses or activities under the conditions set forth:

(1) Up to 50% of the parking facilities required by this subchapter for a use considered to be primarily a daytime use may be provided by the parking facilities of a use considered to be primarily a nighttime use; up to 50% of the parking facilities required by this subchapter for a use considered to be primarily a nighttime use may be provided by the parking facilities of a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to the conditions set forth in subsection § 10-3.1207(D)(4) of this section.

(2) Up to 100% of the parking facilities required by this subchapter for a church or for an auditorium incidental to a public or parochial school may be supplied by parking facilities of a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to the conditions set forth in subsection § 10-3.1207(D)(4) of this section.

(3) The following uses are typical daytime uses: banks, business offices, retail stores, personal service shops, clothing or shoe repair or service shops, manufacturing or wholesale buildings and similar uses. The following uses are typical of nighttime and/or Sunday uses: auditoriums incidental to a public or parochial school, churches, dance halls, theaters, and bars.

(4) Conditions required for joint use:

(a) The building or use for which application is being made for authority to utilize the existing off-street parking facilities provided by another building or use shall be located within 150 feet of such parking facility;

(b) The applicant shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use of off-street parking facilities is proposed; and

(c) If the building, structure, or improvement requiring parking space is in one ownership, and the required parking space provided in another ownership, partially or wholly, there shall be a recording in the office of the County Recorder of a covenant by such owner for the benefit of the city in the form first approved by the city that such owner will continue to maintain such parking space so long as the building, structure, or improvement is maintained within the city. The covenant herein provided shall stipulate that the title to and right to use the lots upon which the parking space is to be provided will be subservient to the title to the premises upon which the building is to be erected and that it is warranted that such lots are not and will not be made subject to any other covenant or contract for use without the prior written consent of the city as authorized by the Council.

(E) Common facilities. Common parking facilities may be provided in lieu of the individual requirements contained herein, but such facilities shall be approved by the Building Department as to size, shape, and relationship to business sites to be served, provided the total of such off-street parking spaces, when used together, shall not be less than the sum of the various uses computed separately.

(F) Plans. Plans of the proposed parking area shall be submitted to the Building Department at the time of an application for a building permit for any building to which the parking area is accessory. The plans shall clearly indicate the proposed development, including the location, size, shape, design, curb cuts, lighting, landscaping, and other features and appurtenances of the proposed parking lot.

(G) Accessibility. Parking spaces shall be easily accessible by standard-size automobiles, shall be so designed as to be accessible from a public street or alley, and shall be located so that sufficient area is available for maneuvering purposes.

(H) Stalls. No parking space shall be so located as to require the moving of any vehicle on the premises in order to enter into or proceed out of any other stall; provided, however, this provision need not apply in the event the parking facility has an attendant at all times during the use of such facility.

(I) Backing onto streets. Automobile parking so arranged as to require the backing of motor vehicles from a parking space, garage, or other structure onto a major street, as designated by the Council, shall be prohibited when either or both of the following conditions exist:

(1) The property is adjacent to, and contiguous to, a public alley; or

(2) The width of the lot and/or the nature of the design of the existing and/or proposed structures is such that vehicles leaving the property may do so by moving in a forward direction with relation to the street.

(J) Fractional spaces. When units of measurements determining the number of required parking spaces result in a requirement of a fractional space, any fraction of ½ or greater shall require one parking space.

(K) Waiting areas. Adequate ingress, egress, and waiting areas for such uses as drive-in movies, banks, and restaurants shall be provided on the subject lot as required by the City Traffic Engineer.

(L) Loading spaces.

(1) In any zone, in connection with every building, or part thereof, erected on, or after, August 4, 1978, having a floor area of 5,000 square feet or more, which building is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale storage, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same parcel with such building at least one off-street loading space, plus one additional loading space for each additional 20,000 square feet, or fraction thereof, of gross floor area.

(2) Each loading space shall be not less than ten feet in width, 35 feet in length, and 14 feet in height.

(3) No such space shall be located closer than 50 feet to any parcel in any R zone, unless wholly within a completely enclosed building, or unless screened by a solid wall not less than eight feet in height.

§ 10-3.1208 PARKING IN THE R ZONES.

Every parking area located in an R zone shall be governed by the following provisions in addition to those required by § 10-3.1206 of this subchapter:

(A) Such parking area shall be incidental to, and accessory to, a use permitted in the zone in which the property is located or shall be incidental to, and accessory to, a commercial or industrial use located in a commercial or industrial zone immediately adjacent to the zone in which the property is located.

(B) Such parking area shall be so located that its boundary shall be adjacent to the site of the establishment to which it is accessory, except that the parking area may be separated from such site by an alley.

(C) Such parking area shall be used solely for the parking of private passenger vehicles.

(D) No sign of any kind, other than one designating entrances, exits, or conditions of use, shall be maintained on any such parking lot. Any such sign shall not exceed eight square feet in area.

USE PERMITS

§ 10-3.1301 USE PERMIT PREREQUISITE TO BUILDING PERMIT.

No building permit shall be issued in any case where a use permit is required by the terms of this chapter unless and until such permit has been granted by the Commission or Council and then only in accordance with the terms and conditions of the use permit granted. Use permits, revocable, conditional, or valid for a term period, may be issued for any of the uses or purposes for which such permits are required or permitted by the provisions of this chapter.

§ 10-3.1302 APPLICATION.

Applications for use permits shall be made in writing to the Commission on a form prescribed by the Commission. The applications shall be filed with the Planning Director. The Planning Division shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and become a part of the permanent official records of the city.

§ 10-3.1303 FILING FEE.

Each application for a use permit shall be accompanied by a fee as established by resolution of the City Council; provided, however, public agencies shall not be required to pay such fee.

§ 10-3.1304 INFORMATION REQUIRED WITH APPLICATION.

The application for a use permit shall set forth in detail such facts as may be required by the Commission.

§ 10-3.1305 INVESTIGATION OF APPLICATION.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon the application as will serve to provide all necessary information to assure that the action on each application is consistent with the intent and purposes of this chapter.

§ 10-3.1306 PUBLIC HEARINGS.

(A) Whenever required by the provisions of this subchapter, or whenever deemed advisable by the Planning Commission, a public hearing shall be held on an application for a use permit. Not less than ten days before such public hearing, notice shall be given of such hearing in the following manner:

(1) By one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(2) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(3) In addition, for new commercial uses to be located in an existing tenant space in any commercial area, a notice shall also be conspicuously posted on the window or door of the establishment. The notice shall be a minimum of 11 × 17 inches, contain the information specified in § 10-3.1306(A) above, and shall be brightly colored as a means of attracting attention to its content.

(4) Notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

(5) The public review period for the environmental determination shall be consistent with the requirements of the California Environmental Quality Act ~~(negative declaration) shall not be less than 21 calendar days (30 days if State Clearinghouse review is required)~~.

(6) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

(B) The hearing shall be held pursuant to the rules for conduct established by the Planning Commission.

§ 10-3.1307 ACTION BY COMMISSION.

(A) The action by the Commission upon the application for a use permit shall be by a majority of the members of the Commission present at the meeting where such application is considered.

(B) In order to grant any use permit, the ~~findings of the~~ Commission shall first find that all of the following apply~~be that 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. For the purposes of this section the establishment, maintenance or operation of the use or building shall be deemed to 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 if any of the following conditions can be found or can be reasonably expected to exist after establishment~~:

(1) The proposal is consistent with the General Plan and Zoning Ordinance. ~~The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.~~

(2) The proposed use will be compatible with the surrounding properties. ~~The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.~~

(3) 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 sustaining by the subject premises of an administrative suspension or revocation or other such sanction as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation.~~

~~(4) The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the city that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passers by, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.~~

(C) The Commission may designate such conditions in connection with the use permit as it deems necessary to secure the purpose of this chapter and may require such guarantees and evidence that such conditions are being or will be complied with.

(D) Use permits issued authorizing the sale of alcoholic beverages for consumption on the premises shall include a requirement that such permits shall be subject to annual review by the Planning Commission for determination of compliance with the terms and conditions of the issuance of such permits and for termination thereof, as more particularly provided in § 10-3.1311 of this code.

§ 10-3.1308 EFFECTIVE DATE.

No use permit granted by the Commission shall become effective until after an elapsed period of 10~~5~~ days from the date of the action by the Commission.

§ 10-3.1309 APPEALS.

During the period of 10~~5~~ days referred to in § 10-3.1308 of this subchapter, written appeal from the action of the Commission may be taken to the Council by any person aggrieved or affected by any determination by the Commission in connection with any application for a use permit or upon failure of the Commission to make its determination on any application within 30 days from the date of receipt by the Commission from the Planning Director of the application. Such appeal shall be filed in triplicate with the City Clerk and shall state the grounds therefor and wherein the Commission failed to conform to the requirements of this chapter. The City Clerk shall forthwith transmit one copy of the appeal to the Planning Director. The appeal shall stay all proceedings in furtherance of the action appealed from until the determination of the appeal, and the use permit shall not become effective until the determination of the appeal.

§ 10-3.1310 ACTION ON APPEALS BY COUNCIL.

(A) The Council, at its next duly held meeting, shall set a date and time for a public hearing on the appeal and shall cause notice of such hearing to be posted in the vicinity of the property described in the application.

(B) The Commission shall submit to the Council a report setting forth the reasons for the action taken by the Commission, or a member of the Commission shall be present at such public hearing to represent the Commission.

(C) The Council shall render its decision within 60 days after the filing of such appeal.

(D) Review by the Council is de novo. The Council may, by resolution, affirm, reverse, or modify, in whole or in part, any decision, determination, or requirement of the Commission but before granting any appealed petition which was denied by the Commission, or before changing any of the conditions imposed by the Commission in a use permit granted by the Commission~~, the Council shall make a written finding of fact setting forth wherein the Commission's findings were in error.~~

(E) A five-sevenths vote of the whole of the Council shall be required to grant, in whole or in part, any appealed application denied by the Commission.

§ 10-3.1311 TERMINATION AND REVOCATION.

(A) 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. The Planning Commission shall review the request at its next regular meeting and may grant or conditionally grant an extension as it deems appropriate. Use permits utilized but later abandoned for a period of 12 consecutive months shall automatically terminate unless a written request for extension is submitted and approved as described in this section.

(B) All use permits which have been granted as provided in this chapter may be revoked by the Commission after a hearing as set forth below in the event the user of such permit, or his or its successor in interest to the real property in favor of which the permit was granted, breaches or fails to abide by any of the conditions designated in such permit, or conducts any use or activity on such property contrary to the provisions of this code, provided, however, special rules and regulations apply to use permits issued authorizing the sale of alcoholic beverages. Use permits which have been granted as provided in this chapter authorizing the sale of alcoholic beverages for consumption on [or off] the premises shall be subject to annual review for a determination of compliance with all of the terms and conditions of the issuance of the permit and to determine the existence of conditions or occurrences that are or may contribute to the detriment of the health, safety, peace, morals, comfort and general welfare of the persons

residing or working in the neighborhood of the use or detrimental or injurious to property and improvements in the neighborhood or general welfare of the city. For the purposes of this section the establishment, maintenance or operation of the use or building shall be deemed to 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 if any of the following conditions can be found to exist:

(1) The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.

(2) The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.

(3) The sustaining by the subject premises of an administrative suspension or revocation or other such sanctions as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation or other sanction.

(4) The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the city that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passers by, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.

If at such annual review the Planning Commission finds based on the evidence presented that there have been three or more incidents as described above, the use permit issued for such premises may be revoked.

(C) No use permit shall be revoked without the Commission's having first held a hearing thereon after having delivered written notice of such hearing at least five days prior thereto to the permittee at the address of the property which is the subject of such permit, or, if the property is unimproved, to the address of the owner thereof as shown on the last equalized assessment roll in the office of the Assessor of the county.

(D) The City Staff is hereby authorized and directed to monitor the uses of property where alcoholic beverages are sold for consumption on or off the premises for which a use permit has not been issued because of their existence before use permits were required but which uses have been continued as legal non-conforming uses. Such monitoring shall include an annual review of such operations as required by Section 10-3.1311 of the Municipal Code. If the Planning Commission finds the existence of the matters set forth in Section 10-3.1311 of the Municipal Code, such findings shall constitute a determination that such use of the property is detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such use and is detrimental or injurious to property and improvements in the neighborhood and general welfare of the city, and the Commission shall, at their discretion, refer the matter to the Code Enforcement Officer for abatement, submit a letter to the State Alcoholic Beverage Commission for initiation and/or inclusion in a nuisance file for the subject property, or submit to the Council the Commission's recommendation for abatement of such use as a public nuisance. For the purposes of this section the establishment, maintenance or operation of the use or building shall be deemed to 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 if any of the following conditions can be found or can be reasonably expected to exist after establishment:

(1) The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.

(2) The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.

(3) The sustaining by the subject premises of an administrative suspension or revocation or other such sanctions as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation.

(4) The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by an official of the city that such conditions exist. Such official may include, but not be limited to the Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passers by, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.

(E) The City Council shall, upon receipt of a recommendation for action on or against an establishment from the Planning Commission, set the item for a public hearing at the earliest opportunity. Such action on or against an establishment may include, but not be limited to, the endorsement and forwarding of a letter addressed to the local field office of the State Alcoholic Beverage Commission, outlining a specific complaint or complaints against an establishment, or direction to staff to commence abatement of the establishment as a public nuisance, or referral of the matter to the Code Enforcement Division. Commencement of such action shall not prevent the City Council from ordering the City Attorney to commence civil action to abate a nuisance in addition to, or in conjunction with, the proceedings set forth above; nor shall anything in this chapter prevent the city from commencing a criminal action with respect to the nuisance in addition to, or in conjunction with the proceedings set forth in this chapter.

§ 10-3.1312 USE PERMIT - LARGE FAMILY DAY CARE HOMES.

(A) Application procedure.

(1) Applications for large family day care homes shall be processed in accordance with the provisions of this section. For the purposes of this section, LARGE FAMILY DAY CARE HOME(S) shall mean a day care home which provides care consistent with Cal. Health and Safety Code § 1596.78(b).

(2) The applicant shall pay a fee as set forth in the Madera Planning Processing Fee Schedule as set by resolution of the City Council.

(3) Application for a large family day care home use permit shall be filed with the Planning Department in accordance with the requirements of § 10-3.1302.

(4) No less than ten days prior to the date on which the decision will be made on the application, the Planning Director, or his or her designee, shall give notice of the proposed use by mail to all owners shown on the last equalized assessment roll as owning real property within 100 feet of the exterior boundaries of the site of the proposed use.

(5) If no hearing is requested by the applicant, or other affected person, the Planning Director shall approve, approve in modified form, or deny the application. The Planning Director shall grant the use permit if the proposed large family day care home, as applied for or as conditioned, complies with the standards set forth in this section.

(6) If a hearing is requested by the applicant, or other affected person, a public hearing shall be held before the Planning Commission prior to a decision being made. No public hearing shall be held unless such a hearing is requested.

(7) Upon close of the public hearing, if a hearing has been requested, the Planning Commission shall approve, approve in modified form, or deny the application. The Planning Commission shall grant the use permit if the proposed large family day care home, as applied for or as conditioned, complies with the standards set forth in this section.

(8) Any action of the Planning Director on the application of a use permit for a large family day care home may be appealed to the Planning Commission. Any action on the application of a use permit for a large family day care home of the Planning Commission may be appealed to the City Council.

(9) No person shall operate a large family day care home in any single-family residential zone without first obtaining a use permit in compliance with the standards as set forth in division (B) of this section.

(B) Large family day care standards. The Planning Director or Planning Commission shall grant an application for a use permit to operate a large family day care home if it finds that all of the following standards have been met, and shall require that such standards be met at all times and maintained throughout the use of the permit by the proposed operator:

(1) The operator shall reside in the home, and the home shall be the operator's legal principal residence. The operator shall provide adequate written evidence of its residency.

(2) The use of the home as a large family day care home shall be clearly incidental and secondary to the primary residential use of the home and property.

(3) The property and home shall not have been altered or structurally changed in a way which is adverse to the character or appearance of the neighborhood or residential zone.

(4) One off-street parking space shall be provided for each non-resident employee. Such parking space shall be in addition to the minimum parking requirements applicable to the property consistent with the provisions of this chapter, including, but not limited to, provisions applicable to legal, non-conforming residential buildings. The residential driveway is acceptable so long as the parking space does not conflict with any required child drop-off/pickup area and does not block the public sidewalk or right-of-way.

(5) The garage shall not be used for any purpose relating to the care giving of the children unless it has been converted in accordance with the provisions of this chapter. Replacement parking (if needed) shall be sufficient to comply with the requirements of this chapter, including the provisions of this section.

(6) Sufficient procedures for the loading and unloading of children from vehicles shall have been submitted by applicant. If there is not sufficient on-street parking to allow for the safe loading and unloading of children from vehicles, the driveway shall be used for this purpose. The public sidewalk and/or right-of-way shall not be blocked while completing the loading and unloading process. Double parking in the street is prohibited. The applicant shall be responsible for the safe loading and unloading of children and shall distribute a notice of loading and unloading procedures to all persons that utilize services of the large family day care home. The day care provider is responsible for adherence to these rules.

(7) If the residence is located on a major arterial street, there must be a drop-off/pickup area designed to prevent vehicles from backing onto the major arterial roadway.

(8) No signs or other indicia may be used to identify the residence as a large family day care home, and no such signs or indicia may be visible from the right-of-way.

(9) There shall be a minimum distance of 300 feet between the parcel on which the large family day care home is located and the nearest parcel containing a licensed large family day care home.

(10) No more than one large family day care home shall be permitted within a 500 foot radius of any child day care facility or elementary school.

(11) The applicant shall be in compliance with all applicable regulations of the Fire Department and the Building Official regarding health and safety requirements.

(12) The applicant shall have applied for a large family day care home license from the State of California, Department of Social Services.

(13) The applicant shall not allow smoking within the residence when any of the children being cared for are present in the residence.

(14) Large family day care homes shall not create noise levels in excess of those allowed in single-family residential areas in the noise element of the General Plan. The Planning Commission may impose

reasonable limits on the hours of operation of the large family day care home in order to ensure that these limits are met.

VARIANCES

§ 10-3.1401 NECESSITY.

(A) Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this chapter may result from the strict and literal application of any of the provisions of this chapter, a variance may be granted as provided in this subchapter. All acts of the Commission and Council under the provisions of this subchapter shall be construed as administrative acts performed for the purpose of assuring that the intent and purposes of this chapter shall apply in special cases, as provided in this subchapter, and shall not be construed as amendments to the provisions of this chapter or the zoning maps.

(B) No variance shall be granted to authorize the use of land which is not in conformity with the use regulations specified for the district in which the land is located.

§ 10-3.1402 NECESSARY CONDITIONS.

Variances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning regulations deprives such property of privileges enjoyed by other property in the vicinity under identical zoning classifications. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

§ 10-3.1403 APPLICATIONS.

Applications for variances shall be made in writing to the Commission on forms prescribed by the Commission. The application shall be filed with the Planning Director. The Planning Division shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the city. Copies of all notices, reports, and actions pertaining to the application shall be attached.

§ 10-3.1404 FILING FEE.

Each application for a variance shall be accompanied by a fee in an amount as established by resolution of the City Council. The requirement of the filing fee shall not apply to public agencies.

§ 10-3.1405 INFORMATION REQUIRED WITH APPLICATION.

The application for a variance shall set forth in detail such facts as may be required by the Commission and as may relate to the conditions specified in § 10-3.1402 of this subchapter and shall be accompanied by:

(A) A legal description of the property involved and the proposed use, with plot plans showing locations of all proposed buildings or facilities as well as existing buildings and a description of the proposed use;

(B) A reference to the specific provisions of this chapter from which such property is sought to be excepted; and

(C) Evidence of the ability and intention of the applicant to proceed with actual construction work in accordance with such plans within 90 days from the date of granting the application.

§ 10-3.1406 INVESTIGATION OF APPLICATIONS.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application as will serve to provide all necessary information to assure that the action on each such application is consistent with the intent and purposes of this chapter and with previous amendments, variances, or modifications.

§ 10-3.1407 NOTICE OF PUBLIC HEARING.

(A) Whenever required by the provisions of this subchapter, or whenever deemed advisable by the Planning Commission, a public hearing shall be held on an application for a variance. Not less than ten days before such public hearing, notice shall be given of such hearing in the following manner:

(1) By one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(2) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(3) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

(4) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

(B) The hearing shall be held pursuant to the rules for conduct established by the Planning Commission.

§ 10-3.1408 PUBLIC HEARING.

Public hearings for variance applications shall be held before the Commission at the time and place for which public notice has been given. The Commission may establish its own rules for the conduct of such hearing. Any such hearings may be continued, provided, prior to the adjournment or recess thereof, the presiding officer at such hearing announces the time and place to which such hearing will be continued.

§ 10-3.1409 ACTION BY THE COMMISSION.

Within 30 days after the conclusion of the public hearing thereon, the Commission shall grant the variance with such conditions as it deems necessary or shall deny the variance. In the event of the granting of a variance, the Planning Director shall notify the applicant therefor of such granting in writing, and such variance shall be effective upon execution by the applicant of an acceptance thereof and agreement to abide by all the conditions attached thereto.

§ 10-3.1410 APPEALS TO THE COUNCIL.

Any applicant for a variance aggrieved by the action of the Commission upon such application may appeal the decision of the Commission to the Council. Such appeal shall be made within ten calendar days after receipt of notice of the action of the Commission and shall be submitted in writing to the City Clerk. Thereafter, the Council may affirm, modify, or reverse the decision of the Commission as it deems fit. Failure of the Council to take action upon such appeal within 30 days after consideration of any such appeal at a Council meeting shall constitute an affirmance of the action of the Commission unless specifically otherwise stated by minute order of the Council before the expiration of such 30-day period.

§ 10-3.1411 TERMINATION.

If the use authorized by any variance is or has been unused, abandoned, or discontinued for a period of six months, or if the conditions of the variance have not been complied with, the variance shall become null and void and of no effect; excepting that where construction of buildings, structures, and/or facilities is necessary, work on such construction shall be actually commenced within the aforesaid six-month period and shall be diligently prosecuted to completion; otherwise the variance shall be automatically null and void and of no effect.

ZONING TEXT AND MAP AMENDMENTS

§ 10-3.1501 NECESSITY.

Whenever the public necessity, convenience, general welfare, or good zoning practices require, this chapter may be amended by changing the zone boundaries or by changing any other provisions hereof.

§ 10-3.1502 INITIATION OF PROCEDURE.

An amendment may be initiated by:

(A) Resolution of intention of the Council;

(B) Resolution of intention of the Commission or the Director; or

(C) The verified application of one or more of the owners of the property within the area proposed to be changed.

§ 10-3.1503 APPLICATION FOR CHANGE.

Applications for any change of zone boundaries or reclassification of zones or change of any other provision of this chapter shall be filed with the Planning Director. Such applications shall be upon forms and accompanied by such data and information as may be prescribed for that purpose by the Commission so as to assure the fullest practicable presentation of facts for the permanent record.

§ 10-3.1504 FILING FEE.

Each application for any change of zone boundaries shall be accompanied by a fee as established by resolution of the City Council, no part of which shall be returnable to the applicant.

§ 10-3.1505 INVESTIGATION.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application as will serve to provide all necessary information to assure that the action on each such application is consistent with the intent and purposes of this chapter. Any failure to conduct an investigation will not invalidate any proceedings for amendment of this chapter.

§ 10-3.1506 NOTICES.

(A) Any amendment to this title, other than an amendment which changes any property from one zone to another, or which imposes any regulation relating to the use of buildings, structures, and land, or the location, height, sizes of buildings, or sizes of yards, courts, and open spaces, or which establishes building setback lines along any street, road, or alley, shall be considered by the Planning Commission at a public hearing for the purpose of providing a recommendation to the City Council. Not less than ~~ten~~ 20 days prior to a public hearing of the Planning Commission and not less than 10 days before such public hearing of the City Council, notice shall be given of such hearing in the following manner: by one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(B) In the event a proposed amendment changes any property form one zone to another, or imposes any regulation relating to the use of buildings, structures, and land, or the location, height, sizes of buildings, or sizes of yards, courts, and open spaces, or which establishes building setback lines along any street, road, or alley, the following additional notice shall be provided for a public hearing:

(1) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(2) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

(3) The public review period for the environmental determination ~~(negative declaration) shall not be less than 21 calendar days (30 days if State Clearinghouse review is required)~~ shall be consistent with the requirements of the California Environmental Quality Act.

(4) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

§ 10-3.1507 PUBLIC HEARING.

Public hearings, as required by the provisions of this subchapter, shall be held before the Commission which may establish its own rules for the conduct thereof. Any such hearing may be continued by oral pronouncement prior to its close and such pronouncement shall serve as sufficient notice of such continuance and without recourse to the form and manner of public notice as provided for in this subchapter.

§ 10-3.1508 FINDINGS OF THE COMMISSION.

After the conclusion of the public hearings, the Commission shall render a report and recommendation to the Council within 90 days after the notice of the first of such hearings provided that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the Commission so to report within 90 days without the aforesaid agreement shall be deemed to constitute ~~an~~ a recommendation of approval of the proposed amendment by the Commission.

§ 10-3.1509 ACTION BY COUNCIL.

(A) Upon receipt of such report from the Commission or upon the expiration of 90 days, the Council shall set the matter for public hearing, notice of which shall be given by one publication not less than ten days before the date of the hearing in a newspaper of general circulation within the city; provided, however, if the matter under consideration concerns the change of property from one zone to another, and the Commission has recommended against the adoption of such amendment, the Council need not take any further action thereon unless the Council so desires or unless an interested party shall request a hearing thereon by filing a written request with the City Clerk within five days after the Commission files its recommendations with the Council.

(B) After the conclusion of such hearing, the Council may adopt the amendment, or any part thereof, set forth in the petition in such form as the Council may deem to be advisable.

§ 10-3.1510 USE PERMITS REQUIRED.

From and after the date of adoption of the Resolution of Intention by the Council or the Commission, or on the date of filing of the verified application with the Commission for a proposed change of zone or zone boundaries, all uses within the area proposed to be changed shall be permitted only upon first securing in each case a use permit from the Commission. All uses permitted pursuant to such use permits shall be limited to the uses allowable within the existing zone of such area. In the event the proposal to change the zone is for a more restricted zone, the Commission may restrict the uses within such area to the more restricted proposed zone.

§ 10-3.1511 SPECIAL ZONING EXCEPTIONS.

Notwithstanding any other provisions of this chapter, if an application for a change of zone boundaries or reclassification of zones is filed with the Commission, accompanied by a proposal for the use of such property as hereinafter set forth, the Commission may recommend that the Council, instead of granting or denying such application, authorize the issuance of a special zoning exception which will permit the development or use of such property in accordance with such proposed development Before consideration by the Commission or Council of the granting of a special zoning exception, an applicant shall submit all of the following information:

(A) Three prints of a site plan drawn to scale which shall contain the following information:

(1) Lot dimensions;

(2) Location, elevations, size, height, and the proposed use of all buildings and structures;

(3) Location and dimensions of yards and spaces between buildings;

(4) Location, height, and type of construction of walls and fences;

(5) Location of off-street parking facilities, including the number of spaces, the dimensions of the parking area, and the internal circulation pattern;

(6) Access points for pedestrians, vehicular and service traffic, and internal circulation;

(7) Location, size, and height of any proposed signs;

(8) Loading areas, including the dimensions, the number of spaces, and the internal circulation;

(9) Location and general nature and hooding devices for lighting;

(10) Dedications for public use and proposed improvements; and

(11) Landscaping and such other data as may be required by the Planning Engineer or the Commission; and

(B) Facts which will enable the Commission to find all of the following:

(1) That if a special zoning exception is granted, there will be compliance with all the applicable provisions of this code; and

(2) That the public health, safety, and welfare will not be affected or that damage or prejudice to other property or improvements in the vicinity will not result if a special zoning exception is allowed.

§ 10-3.1512 EXCEPTIONS PROCEDURE.

If an application is submitted to the Planning Engineer in accordance with the provisions of § 10-3.1511 of this subchapter, all other provisions of this subchapter shall apply to the processing of the application for the proposed change in zone boundaries; provided, however, if a special zoning exception is authorized by the Council, after the conclusion of the public hearing upon the application for the change in zone boundaries, no action shall be taken by the Council to effectuate any such change until it has been determined that all of the conditions of the granting of the special exception have been met. Each special zoning exception shall specify a certain date on, or before, which work upon the proposed use of the land shall have been commenced to the satisfaction of the Planning Engineer. The failure of an applicant or his or her successor in interest to the property involved to commence such work within such time shall nullify the special zoning exception, and the application for the change of zone shall be deemed denied.

§ 10-3.1513 CONDITIONS.

Special zoning exceptions may be granted in accordance with this subchapter subject to any or all of the conditions hereinafter set forth by way of example only and not by way of limitation:

(A) Construction of special yards, spaces, and buffers;

(B) Construction of fences and walls;

(C) Surfacing of parking areas to city specifications;

(D) Dedication of property for public use and completion of improvements, including service roads or alleys;

(E) Regulation of points of vehicular ingress and egress;

(F) Regulation of signs;

(G) Completion of landscaping and provisions for the maintenance thereof;

(H) The establishment of restrictions to control noise, vibration, odors, and other similar characteristics;

(I) The posting of faithful performance and labor and materials' bonds in amounts recommended by the City Engineer to insure completion of any public improvements which are required to be made as a condition of the granting of the zoning exception. Such work shall be completed within the time specified by the Council; provided, however, if no time is specified by the Council, such work shall be completed in one year from the date the special zoning exception is approved; and

(J) Such other conditions as will make possible the development of the city in an orderly and efficient manner in conformity with the intent and purposes set forth in this chapter.

§ 10-3.1514 BUILDING PERMITS.

Before any building permit shall be issued for any building or structure proposed as part of the approved site plan referred to in § 10-3.1511 of this subchapter, the Building Inspector shall secure written approval from the Planning Engineer that the proposed building location is in conformity with the site plan and conditions approved by the Council. Before a building may be occupied, the Building Inspector shall certify to the Planning Engineer that the site has been developed in conformity with the site plan and conditions approved by the Council.

§ 10-3.1515 REZONING UPON COMPLETION OF WORK.

Upon the development and use of property in accordance with the provisions of § 10-3.1513 of this subchapter, the district, or part thereof, for which the special zoning exception was granted shall be thereupon rezoned, altered, amended, and established in accordance with the original application, or as set forth in the order of the Council made at the time such zoning exception was granted.

INTERPRETATION, ENFORCEMENT, VIOLATIONS, AND PENALTIES

§ 10-3.1601 INTERPRETATION.

(A) The Commission shall have the power to hear and decide appeals based on the enforcement or interpretation of the provisions of this chapter.

(B) In the event an applicant is not satisfied with the action of the Commission on any particular matter, he or she may, within 10 days from the date of such action, appeal in writing to the Council.

(C) The appeal to the Council shall set forth specifically wherein the Commission's findings were in error and wherein the public necessity, convenience, and welfare or good zoning practices require such change.

(D) Notice shall be given to the Commission of such appeal, and a report shall be submitted by the Commission to the Council setting forth the reasons for action taken by the Commission, or the Commission shall be represented at the Council meeting.

~~(E) The Council shall render its decision within 30 days following the filing of such appeal.~~

§ 10-3.1602 ENFORCEMENT.

(A) Issuance of permits and licenses. All departments, officials, and public employees of the city vested with the duty or authority to issue permits and licenses shall conform to the provisions of this chapter. No permit or license for uses, buildings, or purposes in conflict with the provisions of this chapter shall be issued. Any permit or license issued in conflict with the provisions of this chapter shall be null and void. It shall be the duty of the Planning Director to enforce the provisions of this chapter pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building by structure.

(B) Approval of Planning Director. Before issuing a business license for any new business, or before issuing a business license for a new location of any existing business activity, the Finance Department shall obtain the approval of the Planning Director respecting compliance with the provisions of this chapter.

§ 10-3.1603 VIOLATIONS OF CHAPTER; DECLARATION OF NUISANCE.

(A) Any person, whether as principal, agent, employee, owner, occupant, tenant, lessee or otherwise, violating or causing the violation of any of the provisions of this chapter, except §§ 10-3.1603(B)(12), (B)(13) or (B)(17) is specifically declared to be guilty of a misdemeanor. Any person, whether as principal, agent, employee, owner, occupant, tenant, lessee or otherwise, violating or causing the violation of any of the provisions of §§ 10-3.1603(B)(12), (B)(13) or (B)(17) of this chapter is specifically declared to be guilty of an infraction. Any building or structure set up, erected, constructed, operated, or maintained contrary to the provisions of this chapter, and any use of any land, building or premises established, conducted, operated, or maintained contrary to the provisions of this chapter and any uses of real property as hereinafter set forth shall be and are declared unlawful and a public nuisance.

(B) In addition and supplemental to the terms and provisions of this chapter, the hereinafter activities of any person owning, leasing, occupying, or having charge or possession of real property in this city are declared a public nuisance and shall be abated as hereinafter set forth. The conduct consists of the following:

(1) The maintenance of any building or property in such a manner as to constitute a fire hazard or danger to human life or the maintenance or failure to maintain the property so as to constitute a fire hazard or a likely habitat for vermin or to maintain property, the topography or configuration of which, whether a natural state or as a result of grading operations, causes or will cause erosion, subsidence, or surface water run-off problems which will or may be injurious to the public health, safety, and welfare to adjacent or nearby properties;

(2) To maintain or fail to maintain property or any building or structure thereon, so that it is found, as provided in this chapter, to be defective, unsightly, defaced, or in such condition of deterioration or disrepair that it causes or will cause an ascertainable diminishment of the property values of surrounding properties or is otherwise materially detrimental to adjacent and nearby properties and improvements. The term DEFACED as used herein includes, but is not limited to, writings, inscriptions, figures, scratches, or other markings commonly referred to as GRAFFITI;

(3) To abandon or vacate any structure so that it becomes readily available to unauthorized persons, including, but not limited to, juveniles and vagrants. Such abandonment or vacation shall be presumed when a building or structure which is uninhabited or unused is unsecured and when the public can gain entry without consent of the owner or is a partially constructed, reconstructed, or demolished building or structure upon which work is abandoned, such abandonment being deemed to exist when there is no valid and current building or demolition permit or where there has not been any substantial work on the project for a period of six months or more;

(4) The maintenance or the failure to maintain any real property, structures, or uses or activities thereon in violation of any of the provisions of titles 3, 4, 5, 7, 9 and 10 of the City Municipal Code, or as specified in Cal. Health & Safety Code §§ 17920.3 et seq., or of the State Housing Law or § 104 of the Uniform Code for Building Conservation or the storage, discharge, holding, handling, maintaining, using, or otherwise dealing with hazardous substances as defined by the State Health and Safety Codes or the Superfund Amendments and Reauthorization Act of 1986, Title 3 or other federal laws relating thereto in violation of such regulations;

(5) The maintenance of or allowing to be maintained on any real property, any labor supply camp, labor camp, or temporary labor camp as defined in the Health and Safety Code of the State unless specifically authorized in the zoning district in which the property is located;

(6) The keeping or maintaining of any animal, reptile, fowl, insect, or other living thing in such a manner as to pose a threat, disturbance, danger, or menace to persons or property of another, including public property;

(7) The maintenance or operation of any machinery which by reason of dust, exhaust, or fumes creates a health or safety hazard;

(8) The parking, storage, or maintenance of any of the following items in residential areas except as otherwise allowed in this code;

(a) Any airplane or other aircraft or parts thereof in any front or side yard;

(b) Any construction or commercial equipment, machinery, vehicles, or material except such equipment or material temporarily located on the property as may be required for construction or installation of improvements or facilities on the property;

(c) Special mobile equipment as defined in Cal. Veh. Code § 575 or other sections for any period in excess of 72 consecutive hours in a front or side yard unless such items are either in an accessory building constructed in accordance with the provisions of the City Municipal Code or in any area which provides for a five foot set-back from any property lines. In no event shall any such equipment be parked, stored, or kept within five feet of any exit, including exit windows.

(9) The keeping, operating, or maintaining any motor vehicle which has been wrecked, dismantled, or disassembled or any part thereof on any property in a residential zone in excess of 72 consecutive

hours unless the same is either in an accessory building constructed in accordance with the provisions of the City Municipal Code or completely concealed from public view behind a solid fence or wall constructed in accordance with the provisions of the Municipal Code;

(10) The keeping, maintenance, or storage of any refrigerator, washing machine, sink, stove, heater, boiler, tank, or any other household equipment, machinery, or furniture other than furniture designed for use in outdoor activities for a period in excess of 72 consecutive hours, on any property, provided, however, this prohibition shall not preclude the maintenance of machinery installed in the rear set-back area of property for household or recreational use, furniture designed and used for outdoor activities, and items stored or kept within an enclosed storage structure or unit;

(11) The wrecking, dismantling, disassembling, manufacturing, fabricating, building, remodeling, assembling, repairing, painting, washing, cleaning, or servicing in any set-back area of any airplane, aircraft, motor vehicle, boat, trailer, machinery, equipment, appliance or appliances, furniture, or other personal property;

(12) The use of any trailer, camper, recreational vehicle, or motor vehicle for living or sleeping quarters in any place in the city outside of a lawfully operated mobile home park or travel trailer park. This shall not prevent bona fide guests of a city resident from occupying a trailer, camper, or recreation vehicle on residential premises with the consent of the resident or land-owner for a period not to exceed 72 hours. Any such trailer, camper, or recreational vehicle so used shall not discharge any waste or sewerage into the city sewer system except through the residential discharge connection of the residential premises on which such trailer, camper, or recreation vehicle may be parked. No such trailer, camper, or recreation vehicle shall be stored in such a way as to encroach upon, extend over, or remain in any public right-of-way or in any area so as to cause an impedance to passage or traffic hazard, or be allowed to remain in any place or in such a way that it will or may be injurious to the public health, safety, or welfare. No person shall park or leave standing a recreational vehicle trailer, including but not limited to any camp trailer, vehicle transportation trailer, trailer coach or boat trailer, regardless of width, on any street, alley or public right-of-way in the city for a period exceeding 72 hours.

(13) The placing, hanging, affixing, maintaining or otherwise displaying upon any fence, wall, tree, bush, plant, or any other structure or portion thereof, any clothes, linens, rugs, fabrics, carpets, rags, or any other similar item except upon a clothesline apparatus constructed and maintained for the purpose of placing such items outside for drying. The placement of such clothesline(s) shall be prohibited within any required front yard or street side yard setback area;

(14) The maintaining of any condition, instrumentality or machine located outside of any structure on any premises, which is or may be unsafe or dangerous to children by reason of their inability to appreciate the peril therein, and which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it, including but not limited to abandoned, broken or neglected equipment, machinery, appliances, refrigerators and freezers, hazardous pools or ponds, uncapped or otherwise dangerous wells, and excavations. This subsection shall not apply to equipment or machinery which is being temporarily used for repair or maintenance of a structure or premises, and which is under the direct supervision of the person(s) performing such maintenance or repair. This subsection shall not apply to swimming pools which are properly constructed and maintained in conformance with applicable regulations, laws and ordinances;

(15) The maintaining of unpainted buildings and those having dry rot, warping or termite infestation or the maintaining of any building on which the condition of the paint has become so deteriorated as to permit decay, excessive checking, cracking peeling, chalking, dry rot, warping or termite infestation as to render the building unsafe or in a state of disrepair inconsistent with the condition of the surrounding neighborhood;

(16) The maintaining of buildings with windows containing broken glass or no glass at all, where the window is of a type which normally contains glass;

(17) The maintaining of trees, weeds, or other types of vegetation that are dead, decayed, infested, diseased, overgrown, likely to harbor rats, vermin or other nuisances or which obstruct the view of drivers on public streets or private driveways, or which impede, obstruct or deny pedestrian or other lawful travel

on sidewalks, walkways, or other public rights-of-way. The following conditions of vegetation shall be deemed to be a non-exclusive list of nuisances:

(a) A tree with limbs overhanging a street or sidewalk where such limbs are less than ten feet above such street or sidewalk;

(b) A hedge, bush or shrub overhanging a street or sidewalk;

(c) A hedge, bush or shrub on a corner lot within the triangular area formed by a line connecting points 20 feet from the intersection of projected street property lines with the point of the intersection of street property lines if such hedge, bush or shrub is more than 30 inches high from the surface of the ground;

(d) The limb of a tree or a hedge, bush or shrub which is so situated in or above the space between a sidewalk and the curb, as to obscure and impair the reading by motorists in the abutting portion of the street, of stop signs or other traffic signs or control devices;

(e) Turf in excess of eight inches in height. For purposes of this section, the term TURF shall mean a thick-matted groundcover material consisting of one or several types of grasses, which is grown on open space areas.

§ 10-3.1604 ABATEMENT.

Any public nuisance found, as provided in this chapter, to exist on or be associated with any real property, shall be abated by the procedures set forth in this chapter.

§ 10-3.1605 COMMENCEMENT OF PROCEEDINGS.

Whenever the Director or Chief, as appropriate, of a responsible department (hereinafter DIRECTOR) reasonably believes a nuisance exists, he or she shall commence abatement proceedings. The Director of Community Development shall have responsibility for abating nuisance pertaining to the building and zoning ~~ordinances~~ regulations of the City, Titles 9 and 10, respectively, of the City Municipal Code; and the Director of Public Works, City Engineer, Fire Chief, or Police Chief shall have responsibility for abating all other nuisances under code sections for which they are directly responsible.

§ 10-3.1606 HEARING; NOTICE.

(A) Where the Director finds that the nuisance exists, he or she shall give not less than seven days written notice of a hearing to determine whether a nuisance exists to the owners of affected properties as shown on the latest equalized tax assessment roll by mailing the same to the owner's address as indicated thereon by certified letter, and further, by conspicuously posting on the affected premises a copy of the notice.

(B) The notice shall indicate the nature of the alleged nuisance, the description of the property involved, and the designation of the time and place of the hearing to determine whether the same constitutes a nuisance, and the manner of its proposed abatement if the same is found to be a nuisance.

(C) The failure of any person to receive the notice shall not affect the validity of any proceedings under this subchapter.

§ 10-3.1607 HEARING CONDUCT.

The hearing to determine whether a nuisance exists shall be conducted by the City Administrator or a duly authorized representative, who shall act as the Hearing Officer. At the hearing, the Hearing Officer shall consider all relevant evidence, including but not limited to applicable staff reports. He or she shall give any interested person a reasonable opportunity to be heard in conjunction therewith. Based upon the

evidence so presented, the Hearing Officer shall determine whether a nuisance within the meaning of this chapter exists.

§ 10-3.1608 ORDER OF ABATEMENT.

(A) The decision of the Hearing Officer shall be final and conclusive in the absence of an appeal as provided in the Municipal Code.

(B) The Hearing Officer shall, within five working days, give written notice of his or her decision to the owner and to any other person requesting the same. The notice shall contain an order of abatement, if a nuisance is determined to exist, directed to the owner of the affected property or the person in control and/or in charge of the property, and shall set forth the nature of the nuisance, its location and the time and manner for its abatement.

(C) Where an appeal is filed as provided in this code, the order of abatement shall be suspended pending the review of the determination in the manner set forth in this subchapter.

§ 10-3.1609 APPEAL.

(A) The owner of the property or any other person in possession or claiming any legal or equitable interest therein shall have the right of appeal to the City Council.

(B) The appeal shall be filed with the City Clerk within five working days following the decision of the Hearing Officer. The appeal shall be in writing and shall state the grounds for the appeal.

(C) The City Clerk shall set the matter for a public hearing before the Council at a date and time not less than ten nor more than 35 days following the filing of the appeal. The City Clerk shall then notify the appellant, by mail, of the date and time of the hearing. The City Council may continue the hearing date where necessary.

(D) The Council may, by resolution, establish a fee for the processing of an appeal.

§ 10-3.1610 COUNCIL ACTION.

(A) At the time and place set for such hearing, the City Council shall review the decision of the Hearing Officer and shall afford the appellant a reasonable opportunity to be heard in connection therewith.

(B) If the City Council finds from the relevant evidence presented at the hearing that the action taken was in conformity with the provisions of the code, it shall require compliance with the order of abatement within 30 days after the mailing of a copy of its order to the affected property owner unless a period of time in excess of 30 days is specifically authorized within which to abate the nuisance.

(C) If the nuisance is not abated within the 30-day period or within such longer period as the Council may provide, the Director of the responsible Department is expressly authorized and directed to enter upon the premises for the purpose of abating the nuisance after obtaining the permission of the owner of the equitable interest therein, or after obtaining a warrant or court order specifically authorizing entrance upon the premises for the express purpose of abating the nuisance.

§ 10-3.1611 NOTICE OF COUNCIL DECISION.

A copy of the Council's order shall be mailed to the owner, and to any other person requesting the same, by the City Clerk within five working days after the adoption thereof. The Council's decision shall be final and conclusive. Pursuant to Code of Cal. Civ. Proc. § 1094.6, any action to review the decision of the Council shall be commenced not later than 19 days after the date the Council's order is adopted.

§ 10-3.1612 COST OF ABATEMENT.

Where the Director is required to cause the abatement of a public nuisance pursuant to the provisions of this chapter, he or she shall keep an accounting of the cost thereof, including incidental expenses for the abatement. The term INCIDENTAL EXPENSES includes but is not limited to the actual expenses and costs of the city in the preparation of notices, specifications, and contracts, inspection of the work, and the costs of printing and mailings required under this chapter. Upon conclusion of the abatement, he or she shall submit an itemized statement of costs to the city and set the same for a hearing before the Hearing Officer. The Director shall cause notice of the time and place of the hearing to be given to the owners of the property to which the same relate, and to any other interested person requesting the same, by US mail, postage prepaid, addressed to the person at his or her last known address at least five days in advance of the hearing.

§ 10-3.1613 REPORT; HEARING AND PROCEEDINGS.

At the time and place fixed for receiving and considering the report, the Hearing Officer shall hear and pass upon the report of the Director together with any objections or protests raised by any of the persons liable to be assessed for the cost of abating the nuisance. Thereupon, the City Manager shall make such revision, correction, and modification to the report, as he or she may deem just, after which the report is submitted, or as revised, corrected, or modified, shall be confirmed. The hearing may be continued from time to time. The decision of the Hearing Officer shall be subject to an appeal to the City Council in the time and manner set forth in §§ 10-3.1707 and 10-3.1708.

§ 10-3.1614 ASSESSMENT OF COSTS AGAINST PROPERTY.

The confirmed cost of abatement of a nuisance upon any lot or parcel of land shall constitute a special assessment against the respective lot or parcel of land to which it relates; and, after due notice and recordation, as thus made and confirmed, the same shall constitute a lien on the property in the amount of the assessment. After the confirmation of the report, a copy thereof shall be transmitted to the Tax Collector for the county, whereupon it shall be the duty of the Tax Collector to add the amounts of the assessment, or assessments, to the next regular bills of taxes levied against the respective lots and parcels of land for municipal purposes; and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

§ 10-3.1615 ALTERNATIVES.

Nothing in this chapter shall be deemed to prevent the City Attorney from commencing a civil action to abate a nuisance, including bringing an action to enjoin the nuisance, in addition to, alternatively to, or in conjunction with the proceedings set forth in this chapter; nor shall anything in this chapter be deemed to prevent the city from commencing a criminal action with respect to the nuisance in addition to, alternatively to, or in conjunction with the proceedings set forth in this chapter.

§ 10-3.1616 EMERGENCY ABATEMENT.

Notwithstanding any other provision of this subchapter with reference to the abatement of public nuisance, whenever the Director of a responsible department determines that property, a building, or structure is structurally unsafe, or constitutes a fire hazard, or is otherwise dangerous to human life, and such condition constitutes an immediate hazard or danger, he or she shall, without observing the

provisions of this chapter with reference to abatement procedures, immediately and forthwith abate the existing public nuisance.

§ 10-3.1617 VIOLATION; PENALTY.

(A) The owner or other person having charge or control of any such buildings or premises who maintains any public nuisance defined in this subchapter, or who violates an order of abatement made pursuant to § 10-3.1706 is guilty of a misdemeanor.

(B) Any occupant or lessee in possession of any building or structure in violation of an order given as provided in this chapter is guilty of a misdemeanor.

(C) No person shall obstruct, impede, or interfere with any representative of the City Council or with any representative of a city department or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated, or demolished and removed, or with any person to whom any such building has been lawfully sold pursuant to the provisions of this code whenever any such representative of the City Council, representative of the city, purchaser, or person having any interest or estate in the building is engaged in vacating, repairing, rehabilitating, or demolishing and removing any such building pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this subchapter.

DEVELOPMENT AGREEMENTS

§ 10-3.1701 AUTHORITY FOR ADOPTION.

These regulations are adopted under the authority of Cal. Gov't Code §§ 65864 through 65869.5. All development agreements entered into pursuant to this subchapter shall be approved by ordinance of the City Council.

§ 10-3.1702 FORMS AND INFORMATION.

The Community Development Director shall prescribe the form for each application, notice and documents provided for or required under these regulations for the preparation and implementation of development agreements. The Community Development Director may require an applicant to submit such information and supporting data as the Community Development Director considers necessary to process the application. An applicant requesting consideration and adoption of a development agreement shall at a minimum include the following information:

(A) The nature of the applicant's legal or equitable interest in the subject real property and a legal description of the property sufficient for recordation;

(B) A description of the development project sufficient to enable the Community Development Department and other departments and agencies to review the application for legality, compliance with standards, consistency with applicable plans, and environmental assessment requirements. The Planning Division may require the description to include site and building plans, architectural elevations, a description of the project's relationship to adjacent properties and land uses;

(C) A listing of each discretionary or ministerial action, permit and/or entitlement necessary for, or previously obtained with respect to, the project, including actions, permits, and/or entitlements issued by, or to be obtained from agencies other than the city. The listing will describe and distinguish between

those elements of the development project which are proposed to be fixed by the development agreement and those which may be subject to further review;

(D) The proposed duration of the development agreement;

(E) The density and or intensity of the uses to be permitted;

(F) The maximum height and size of the proposed buildings;

(G) Provisions for reservation or dedication of land for public purposes, as applicable;

(H) Any proposed conditions, terms, restrictions or requirements to be applicable to subsequent discretionary actions, provided that the proposed conditions, terms, restrictions or requirements shall not be construed to prevent development of the land for the uses and to the density or intensity of development set forth in the development agreement, unless specifically and expressly provided in the development agreement;

(I) A date by which construction shall have been commenced;

(J) Proposed phasing of the development project and of the construction of public facilities, including estimated and mandatory completion dates, interim progress milestones, and performance standards for periodic review of the development agreement;

(K) The manner in which the applicant proposes to finance and provide security for the construction of public facilities, and provisions for reimbursement, if any;

(L) A provision including as terms of the development agreement all mitigation measures previously adopted pursuant to the California Environmental Quality Act with respect to discretionary actions, permits and/or entitlements for the project granted by the city or other agencies, and a provision committing the applicant to incorporate as terms of the development agreement, to the extent required by the California Environmental Quality Act, all future mitigation measures necessary to avoid or substantially lessen significant environmental effects which can be feasibly mitigated, provided that nothing in this subchapter shall preclude the preparation of statements of overriding considerations when deemed appropriate and lawful by the city or other agencies;

(M) A clause requiring the applicant to indemnify the city against claims arising out of the development process and to provide insurance in an amount and form acceptable to the city attorney to assure the applicant's ability to satisfy its indemnification duty.

§ 10-3.1703 QUALIFICATION AS AN APPLICANT.

Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. Applicant includes an authorized agent. The Community Development Director may require an applicant to submit proof (including but not limited to a title report) of his/her interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the Community Development Director shall obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

§ 10-3.1704 PROPOSED FORM OF AGREEMENT.

Each application shall be accompanied by the form of development agreement proposed by the applicant. This requirement may be met by utilizing the city's standard form of development agreement adopted by the Community Development Director, and including specific proposals for changes in, or additions to the language of the standard form.

§ 10-3.1705 FEES.

Fees to be imposed for the filing and processing of each application, required consideration, and adoption of a development agreement shall be as prescribed by resolution adopted by the City Council. No such application shall be deemed complete unless it is accompanied by the current filing and processing fee. The filing and processing fee shall be in addition to any other required fees for permits or capital improvements relating to the development project, and shall be for the purpose of defraying the costs incurred by the city during review and action upon the development agreement application and during periodic review thereof.

§ 10-3.1706 REVIEW OF APPLICATION.

(A) The Community Development Director shall endorse the application on the date it is received. He or she shall review the application and may reject it if it is incomplete or inaccurate for processing. If he or she finds that the application is complete, he or she shall accept it for filing. The Director shall review the application and determine the additional requirements necessary to complete the agreement.

(B) Upon acceptance of a complete application, the development agreement and supporting information shall be circulated to each city department or local agency having an interest in the project. Each such department or agency shall review, comment upon, and recommend such changes to the proposed development agreement as may be necessary or desirable.

(C) After receiving responses from other departments or agencies, the Director shall prepare a staff report and recommendation and shall state whether or not the agreement proposed, or in an amended form, would be consistent with the general plan and any applicable specific plan.

§ 10-3.1707 COORDINATION OF APPLICATIONS.

To the extent practicable, applications requesting consideration and adoption of development agreements will be made and considered concurrently with the review of other discretionary permit applications within the city's control. It is the city's intent to avoid duplicative hearings and the repetition of information and effort. The development agreement shall not constitute a substitute for, or an alternative to, any other required permit or approval, and the applicant must comply with all other procedures required for development approval.

§ 10-3.1708 HEARING NOTICE.

(A) The Community Development Director shall give notice of the city's intention to consider adoption of the development agreement and of any other public hearing required by law or the municipal code.

(B) The form of the notice of intention to consider adoption of development agreement shall contain:

(1) The time and place of the hearing;

(2) The identity of the hearing body;

(3) A general explanation of the matter to be considered including a general description and location of the area affected; and

(4) Other information required by specific provision of these regulations or which the Community Development Director considers necessary or desirable.

(C) The time and manner of giving notice is by both of the following:

(1) Publication at least once in a newspaper of general circulation, published and circulated in the city, not less than ten days prior to the date of the hearing.

(2) Mailing of the notice to all persons shown on the last equalized assessment roll as owning real property within 300 feet of the property which is the subject of the proposed development agreement, not less than ten days prior to the date of the hearing.

(D) The Planning Commission or City Council, as the case may be, may direct that notice of the public hearing to be held before it, shall be given in a manner that exceeds the notice requirements prescribed by state law or this article.

(E) The failure of any person, entitled to notice as required by law or this chapter , to receive such notice does not affect the authority of the city to enter into a development agreement or the validity thereof.

§ 10-3.1709 RULES GOVERNING CONDUCT OF HEARING.

The public hearing shall be conducted as nearly as may be in accordance with the procedural standards adopted for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.

§ 10-3.1710 IRREGULARITY IN PROCEEDINGS.

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to a petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatsoever unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury was done if error is shown.

§ 10-3.1711 DETERMINATION BY PLANNING COMMISSION.

(A) The Planning Commission shall conduct a public hearing on the proposed development agreement, which may be continued from time to time. The Commission shall consider the staff report, as well as comments from the applicant and members of the public. Upon conclusion of the hearing, the Commission shall report its recommendation to the City Council in the form of a resolution. The Commission may recommend that the development agreement be adopted as proposed, or with such amendments as the Commission deems to be necessary or desirable to further the purposes of the municipal code, or otherwise in the public interest; or the Commission may recommend that the development agreement be rejected. The recommendation shall include the Planning Commission's determination whether or not the development agreement proposed:

(1) Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;

(2) Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;

(3) Is in conformity with public convenience, general welfare and good land use practice;

(4) Will not be detrimental to the health, safety and general welfare; and

(5) Will not adversely affect the orderly development of property or the preservation of property values.

The recommendation shall also include the reasons for the recommendation.

(B) Upon action by the Planning Commission, the proposed development agreement, shall be forwarded to the City Clerk for scheduling as the introduction of an ordinance at the next available meeting of the City Council.

§ 10-3.1712 DECISION BY CITY COUNCIL.

(A) Upon receipt of the Planning Commission's recommendation, the City Clerk shall schedule the proposed development agreement on the next available meeting of the City Council as the introduction and first reading of an ordinance.

(B) Not less than five days after the successful introduction of the ordinance, a public hearing and second reading of the proposed development agreement shall be held. Notice of the public hearing shall be provided in accordance with § 10-3.1708.

(C) After the City Council completes the public hearing, which may be continued from time to time, it may accept, modify or disapprove the recommendation of the Planning Commission. It may, but need not, refer matters not previously considered by the Planning Commission during its hearing, back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.

(D) The City Council shall not approve the development agreement unless it finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

(E) The City Council has sole discretion to either approve or not approve a development agreement, and there is no right to have such an agreement approved even if the City Council determines that it is in the best interests of the city.

(F) Approval of a development agreement by the City Council shall be by the adoption of an ordinance which shall be effective 31 days after adoption.

§ 10-3.1713 RECORDATION OF DEVELOPMENT AGREEMENT.

(A) Within ten days after the city enters into a development agreement, the City Clerk shall have the agreement recorded with the County Recorder. Upon the effective date of the ordinance adopting the development agreement, the agreement shall be effective and binding upon, and the benefits of the agreement shall inure to, the parties and all successors in interest to the parties to the agreement.

(B) If the parties to the development agreement or their successors in interest amend or cancel the development agreement as provided above, or if the city terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall cause notice of such action to be recorded with the County Recorder.

§ 10-3.1714 AMENDMENT AND CANCELLATION OF AGREEMENT.

(A) Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into.

(B) The procedure for proposing and adoption of an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into a development agreement. However, where the city initiates the proposed amendment to or cancellation in whole or in part of the development agreement based on its annual review thereof, it shall first give notice to the property owner at least 30 days prior to the hearing by the City Council to consider such amendment or cancellation.

§ 10-3.1715 PERIODIC REVIEW.

(A) The city shall review each development agreement every 12 months from the date the agreement is entered into. The time for review may be modified to be more frequent either by agreement between the parties or by initiation in one or more of the following ways:

(1) Affirmative vote of at least four members of the Planning Commission; or,

(2) Affirmative vote of at least three members of the City Council.

(B) The Community Development Director shall begin the review proceeding by giving notice that the city intends to undertake a periodic review of the development agreement to the property owner. Notice shall be provided at least ten days in advance of the time at which the matter will be considered by the Planning Commission.

(C) Annual review of development agreements shall be conducted by the Planning Commission at a public hearing at which the property owner shall demonstrate good faith compliance with the terms of development agreement. The burden of proof on this issue is upon the property owner.

(D) The Planning Commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the development agreement.

(E) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the Commission shall by resolution adopt a statement of compliance certifying such compliance in a form suitable for recording in the County Recorder's Office. Upon recording of a statement of compliance, the review for that period is concluded. A resolution adopting a statement of compliance shall be final ten days after the Planning Commission decision, unless a notice of appeal has been filed pursuant to the provisions of the municipal code.

(F) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the Planning Commission may recommend to the City Council that the development agreement be modified or terminated.

(G) The procedure for modifying or terminating a development agreement shall be the same as the procedure for entering into a development agreement, except that the owner shall be given at least 30

§ 10-3.1716 STATEMENT OF COMPLIANCE APPEALS.

(A) The applicant, City Council, or any affected person may appeal the Planning Commission's resolution adopting a statement of compliance in accordance with the provisions of the municipal code. The appellant shall bear the burden of demonstrating, on the basis of substantial evidence, that the applicant or successor in interest has not complied with the terms and conditions of the adopted development agreement.

(B) The City Council may uphold the statement of compliance, amend and approve the Planning Commission recommendation or statement of compliance, or reject it. The City Council may unilaterally terminate or modify the development agreement upon a determination based upon substantial evidence that the applicant or successor in interest has not complied with the terms and conditions of the agreement. Such determination shall be final and conclusive.

§ 10-3.1717 PROCEDURES FOR MODIFICATION OR TERMINATION.

(A) If, upon a finding under § 10-3.1715, the city determines to proceed with modification or termination of the development agreement, the city shall give notice to the property owner of its intention so to do. The notice shall contain:

(1) The time and place of the hearing;

(2) A statement as to whether or not the city proposes to terminate or to modify the development agreement; and

(3) Other information which the city considers necessary to inform the property owner of the nature of the proceeding.

(B) At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The City Council may impose those conditions to the action it takes as it considers necessary to protect the interests of the city. The decision of the City Council is final.

§ 10-3.1718 CERTAINTY OF DEVELOPMENT AGREEMENTS.

(A) An adopted development agreement and any terms, conditions, maps, notes, references, or regulations which are a part of the agreement shall be considered enforceable elements of the city's municipal code. In the event of an explicit conflict with any other provisions of the municipal code, the development agreement shall take precedence. Unless otherwise provided by the development agreement, the city's ordinances, resolutions, rules and regulations, and official policies governing permitted land uses, density, design, improvement and construction standards shall be those city's ordinances, resolutions, rules and regulations, and official policies in force at the time of final approval of the development agreement.

(B) All development agreements shall be subject to the laws, statutes, regulations or court decisions of the state and federal government. In the event any such laws, statutes, regulations or court decisions made or enacted after a development agreement has been entered into prevents or precludes compliance with one or more provisions of the development agreement, such provisions of the development agreement shall be modified or suspended as may be necessary to assure compliance by the city, applicant or successor in interest with such laws, statutes, regulations or court decisions. Nothing in this section shall be deemed to affect the validity of fees, conditions, or other exactions imposed and confirmed by the terms of the agreement.

MINOR DEVIATIONS

§ 10-3.1801 NECESSITY

Exceptions to development standards may be necessary to allow creative design solutions and to accommodate unique site conditions. The Minor Deviation process allows minor exceptions from certain requirements of this chapter to be approved at the administrative level to provide relief from the unintended consequences of the strict application of development standards.

§ 10-3.1802 APPLICABILITY

Minor Deviations do not apply to land use or density and shall not waive or modify a specific prohibition or procedural requirement. A Minor Deviation may be applied to the following development standards in any zone to the maximum reduction or increase as specified.

(A) Reduce area or lot dimension requirements to a maximum exception of 10 percent.

(B) Front and rear yard setback modifications not exceeding five feet.

(C) Side yard setback modifications not exceeding two feet.

(D) Building site coverage modifications not exceeding 10% of the minimum open space requirements specified by the Municipal Code.

(E) Excessive building height adjustments not exceeding two feet.

(F) Minor exceptions as determined by the Planning Director that provide relief of no more than 10 percent from the identified standard and meet the intent and purpose of this chapter.

§ 10-3.1803 APPLICATION AND FEES

(A) Applications for Minor Deviations shall be filed with the Planning Director. The Planning Division shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the city.

(B) Each application for a Minor Deviation shall be accompanied by a fee in an amount as established by resolution of the City Council. The requirement of the filing fee shall not apply to public agencies.

§ 10-3.1804 APPROVAL AUTHORITY

Applications for a Minor Deviation shall be reviewed and approved by the Planning Director. As the designated approving authority, the Director is authorized to approve, conditionally approve, or deny an application for a Minor Deviation.

§ 10-3.1805 PUBLIC HEARING AND NOTICING

No public hearing is required prior to taking action on an application for a Minor Deviation.

§ 10-3.1806 CONDITIONS OF APPROVAL

In approving an application for a Minor Deviation, the Planning Director may impose reasonable and appropriate conditions in order to achieve the purposes of this Title, ensure consistency with the goals and policies of the adopted General Plan, and justify making the necessary findings.

§ 10-3.1807 FINDINGS FOR APPROVAL

(A) The proposed development is compatible with existing and proposed land uses in the surrounding area.

(B) Any exceptions to or deviations from the requirements or development standards of this chapter result in the creation of appropriate and necessary project design solutions that would not otherwise be possible.

(C) Granting the Minor Deviation will not adversely affect the interests of the public or residents and property owners in the vicinity of the project.

(D) The proposed development is consistent with the purposes of the General Plan or any applicable specific plan or development agreement

§ 10-3.1808 APPEALS

In case the applicant, or other interested parties are not satisfied with the action of the Planning Director, they may within ten days appeal in writing to the Planning Commission for further action by filing an appeal with the Planning Director.

§ 10-3.1809 AMENDMENTS

Any amendments affecting an approved Minor Deviation shall be handled as a new application.

GENERAL PLAN AMENDMENTS

§ 10-3.1901 NECESSITY

This chapter establishes guidelines and procedures for amending the General Plan. The General Plan and these procedures are to be consistent with S~~s~~tate planning laws (California Government Code Section 65300 et seq.).

§ 10-3.1902 APPLICABILITY

A General Plan Amendment is required for any change to General Plan goals, policies, action items, or any change to General Plan land use diagrams or designations contained in the General Plan.

§ 10-3.1903 APPLICATION AND FEES

(A) Applications for a General Plan Amendment shall be made in writing to the Commission on forms prescribed by the Commission. The application shall be filed with the Community Development Director. The Planning Division shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the city. Copies of all notices, reports, and actions pertaining to the application shall be attached.

(B) Each application for G~~g~~eneral P~~p~~lan A~~a~~mendment shall be accompanied by a fee as established by resolution of the City Council, no part of which shall be returnable to the applicant.

§ 10-3.1904 APPROVING AUTHORITY

Applications for a General Plan Amendment shall be reviewed and approved by the designated authority as follows:

(A) Recommending Authority. The Planning Commission shall review and make recommendations, as appropriate, to the approving authority for an application for a General Plan Amendment.

(B) Approving Authority. The City Council is authorized to approve, alter, or deny an application for a General Plan Amendment.

§ 10-3.1905 PUBLIC HEARING AND NOTICE

(A) The Planning Commission shall hold a public hearing to make a recommendation on applications for a General Plan Amendment. The Planning Commission's recommendation shall be forwarded to the City Council. The City Council shall hold a public hearing prior to taking action on an application for a General Plan Amendment.

(B) Any proposed General Plan Amendment shall be considered by the Planning Commission at a public hearing for the purpose of providing a recommendation to the City Council. Not less than ten days

before such public hearing, notice shall be given of such hearing in the following manner: by one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, and the time and place of the action or hearing. The following additional notice shall be provided for a public hearing:

(1) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(2) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

§ 10-3.1906 FINDINGS OF APPROVAL

Prior to approving a General Plan Amendment, the City Council shall make all the following findings, which shall be made by resolution:

(A) The amendment is consistent with the intent of the General Plan vision statement and supporting principles, goals, and policies.

(B) The amendment prescribes reasonable controls and standards for affected land uses to ensure compatibility and integrity of those uses with other established uses.

(C) The amendment provides for the protection of the general health, safety, and/or welfare of the community.

§ 10-3.1907 NOTICE OF DECISION

Written notice of decision of City Council shall be provided to the applicant and all parties requesting such notification. Notices of decision are not required for actions of a recommending body. The notice of decision shall be provided as follows

(A) A written notice of decision shall be mailed within 10 days of the date of decision and shall include:

(1) The application request as acted upon by the City Council.

(2) Any conditions of approval or other requirements applied to the decision.

(3) The action taken by the City Council

§ 10-3.1908 APPEALS

Actions taken by the City Council are final and are not subject to appeal.

§ 10-3.1909 EXPIRATION AND TIME EXTENSION

No extensions of time are necessary as an approved General Plan Amendment does not expire.

§ 10-3.1910 AMENDMENTS

Any amendments affecting an approved General Plan Amendment shall be handled as a new application.

§ 10-3.1911 FREQUENCY OF AMENDMENTS

Pursuant to Government Code Section 65358, no mandatory element of the General Plan may be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time and may include more than one change to the General Plan.

§ 10-3.1912 ADDITIONAL NOTICE REQUIRED

Pursuant to Government Code Section 65352, at least 45 days prior to Council action on a proposed General Plan Amendment, the Community Development Director shall notify the County, the Local Agency Formation Commissions (LAFCO), any applicable Native American Tribes, and any area-wide planning agency or federal agency whose operations may be significantly affected by the proposed action and each governmental body, commission, or board, including those of any school or special districts, whose jurisdiction lies wholly or partially within the City whose functions include recommending, preparing plans for, or constructing major public works projects.

REPORT TO THE PLANNING COMMISSION

Prepared by:
Rudy Luquin, Senior Planner

Meeting of: December 10, 2024
Agenda Number: 2

SUBJECT:

Consideration of applications for a Conditional Use Permit (CUP 2042-17) and Site Plan Review (SPR 2024-27) pertaining to ±1.19 acres of property generally located on the northwest corner of the intersection of West Cleveland Avenue and Highway 99 at 1801 West Cleveland Avenue (APN: 013-110-010).

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 15311/Class 11 (Accessory Structures) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2024-17 and Site Plan Review (SPR) 2024-27, subject to the findings and conditions of approval.

SUMMARY:

Taco Bulls LLC. (applicant), has filed applications for a Conditional Use Permit (CUP 2024-17) and Site Plan Review (SPR 2024-27) pertaining to a ±1.19-acre parcel generally located on the northwest corner of the intersection of West Cleveland Avenue and Highway 99 at 1801 West Cleveland Avenue (APN: 013-110-010) (the “project site”).

The project site is developed with a Chevron fuel station and convenience store, is planned for Commercial uses by the Madera General Plan and zoned C2 (Heavy Commercial) by the City of Madera Zoning Ordinance.

CUP 2024-17 and SPR 2024-27 were filed requesting authorization to permit a mobile food preparation unit to be located on the private property on a semi-permanent basis; defined by the City Municipal Code (CMC) as, the selling, giving away, displaying or offering for sale any product or service from any location for a period of time in excess of 30 minutes.

City Municipal Code § 10-3.416(D) provides no person shall stop, park or cause a lunch wagon, pushcart or mobile food preparation unit to remain on any private property for the purpose of selling, giving away, displaying or offering for sale any food or beverage product to any person other than the owner, his agents or employees without first securing a use permit for such activity.

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

Table 1: *Project Overview*	
Project Number:	CUP 2024-17 & SPR 2024-27
Applicant:	Taco Bulls, LLC
Property Owner:	Vorha Vinay Et al.
Location:	1801 West Cleveland Avenue Northwest corner of W. Cleveland Ave. and South Highway 99 (APN: 013-110-010)
Project Area:	The project site is ±1.9 acres in area.
Planned Land Use:	Commercial
Zoning District:	C2 (Heavy Commercial)
Site Characteristics:	The project site is developed with a Chevron fuel station and convenience store.

BACKGROUND:

The Chevron Fuel Station was originally approved circa 1990. More recently, the Planning Commission approved a mobile food preparation unit on November 12, 2019. Evidently, the applicant never initiated business and the permit became void. The proposed site is suitable to accommodate the operation of mobile food preparation units subject to the conditions of approval.

The Conditions of Approval will be incorporated to ensure that the proposed uses will not create negative impacts to the surrounding area.

ANALYSIS:

CMC § 10-3.416(E) includes requirements and standards that shall apply only to mobile food preparation units, catering trucks and lunch wagons seeking to apply for a conditional use permit to operate on private property on a semi-permanent basis. These requirements and standards prohibit mobile food preparation units from operating on private property on a semi-permanent basis in the Residential or Professional Office Zones, or in established shopping centers. The proposed site is located within the C2 (Heavy Commercial) zone district and is not part of an established shopping center or integrated commercial development. Units may be authorized to operate on a property occupied by another land use, with the authorization of both the landowner and the operator of the primary business and as accessory to the primary land use. Except for restroom facilities units on private property must operate as a separate and independent land use. The primary land use much continue to function without infringement on its access, circulation and parking requirements.

The mobile food preparation unit will be required to obtain a business license with the City. The type of cuisine that Taco Bulls will prepare is Mexican food consisting of tacos, burritos, quesadillas, etc. The day and hours of operation are proposed to occur Wednesday through Monday from 5:30 p.m. until 10:30 p.m. CMC § 10-3.416(E)(9) provides that a unit operating on private property on a semi-permanent basis shall be limited in its operation to daylight hours only, except as otherwise allowed by approved use permit.

The business owner is proposing to utilize two (2) canopies and five (5) tables, and chairs for the tables. A minimum of three (3) standard on-site parking spaces shall be required in conjunction with the location of a unit on private property on a semi-permanent bases pursuant to CMC §10-3.416(E)(7).

Site Characteristics:

The project site is developed and operative with an existing commercial use for Chevron Fuel Station. There are commercial uses located to north, south, and west. The southbound Highway 99 off-ramp and State rights-of-way abut the easterly property lines of the project site. The Madera County Fair Grounds is located directly to the southeast across West Cleveland Avenue.

Surrounding Land Uses:

The Madera General Plan Land Use Map designates the project site for commercial land uses. All surrounding properties to the north, south, and west are planned and zoned for commercial uses the property to the east planned for public and semi-public uses and zoned Public. The surrounding area has existing urban development consisting of commercial and public uses.

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

Table 2: *Bordering Site Information*

Direction	*Existing Use*	*General Plan Designation*	*Zone District*
North	Commercial	Commercial	C2
East	County Fair Grounds	Public & Semi Public	PF
South	Commercial	Commercial	C2
West	Commercial	Commercial	C2

C2 – Heavy Commercial
PF – Public Facilities

Compatibility with Surrounding Uses:

The applicant proposes to operate a mobile food preparation unit on private commercial property and on a semi-permanent bases, which may be permitted through approval of a Conditional Use Permit within the C2 (Heavy Commercial) zone district. The proposed use is not

intensive and would be considered compatible with adjacent commercial uses in the C2 (Heavy Commercial) zone district. For this reason, the proposed use of the project site will contribute to the viable uses in commercial planned and zoned lands.

The proposed use is not considered to be of a sensitive nature, the introduction of which would generally obstruct or adversely impact the ability and/or the viability to conduct commercial operations for which planned and zoned commercial areas are intended. However, the property owner and owners of businesses proposing to conduct operations thereon must acknowledge the choice to conduct business on the site is a voluntary act and approval of the use permit is for the benefit of the applicant. The surrounding area is primarily planned and zoned for heavy commercial use. Typical heavy commercial operations should be expected to occur and should not be deemed to constitute a nuisance due to the introduction of the subject use on the project site. Acceptance of the conditions of approval includes the acknowledgement that the property owner as well as the owners and employees of business conducting operations on the project site should be prepared to accept the inconveniences and discomfort with normal heavy commercial activities.

The project is consistent and compatible with the other existing uses in the surrounding area. Conditions placed on the project will ensure that the development and operation of the unit will not have a substantial adverse impact on the surrounding uses and will function without infringement on access, circulation and/or parking requirements for the primary use of the project site.

ENVIRONMENTAL REVIEW:

Staff performed a preliminary environmental assessment and determined that the project is Categorically Exempt pursuant to Section 15311/Class 11 (Accessory Structures) of the California Environmental Quality Act (CEQA) Guidelines because the project is limited to the placement and operation of a mobile food preparation unit on private commercial property in the C2 (Heavy Commercial) zone district and as accessory (appurtenant) to the primary use as mandated by CMC § 10-3.416(E)(3). None of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project and there are no unusual circumstances.

COMMISSION ACTION:

The Commission will be acting on CUP 2024-17 and SPR 2024-27. Staff recommends that the Commission:

1. A Resolution of the Planning Commission of the City of Madera determining the project is Categorically Exempt pursuant to Section 15311/Class 11 (Accessory Structures) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2024-17 and Site Plan Review (SPR) 2024-27, 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 more request based on specified findings: (Commission to articulate reasons for denial).
3. Provide staff with other alternative directives.

ATTACHMENTS:

1. Aerial View
2. General Plan Land Use Map
3. City of Madera Zoning Map
4. Site Plan
5. Planning Commission Resolution
   Exhibit “A”: Conditions of Approval

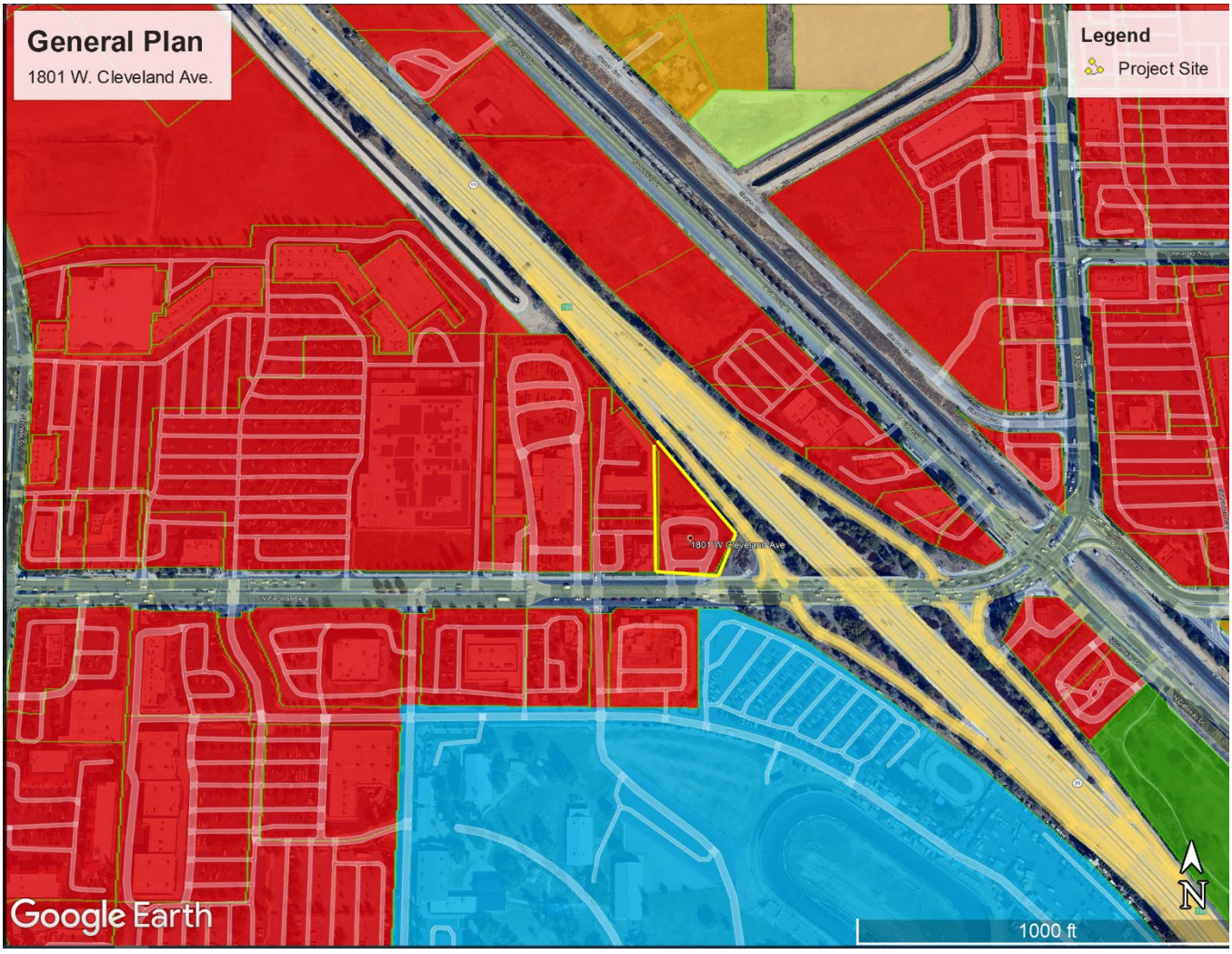
ATTACHMENT 1

Aerial View


Aerial View
Legend
Project Site
W Cleveland Ave
N
Google Earth
800 ft

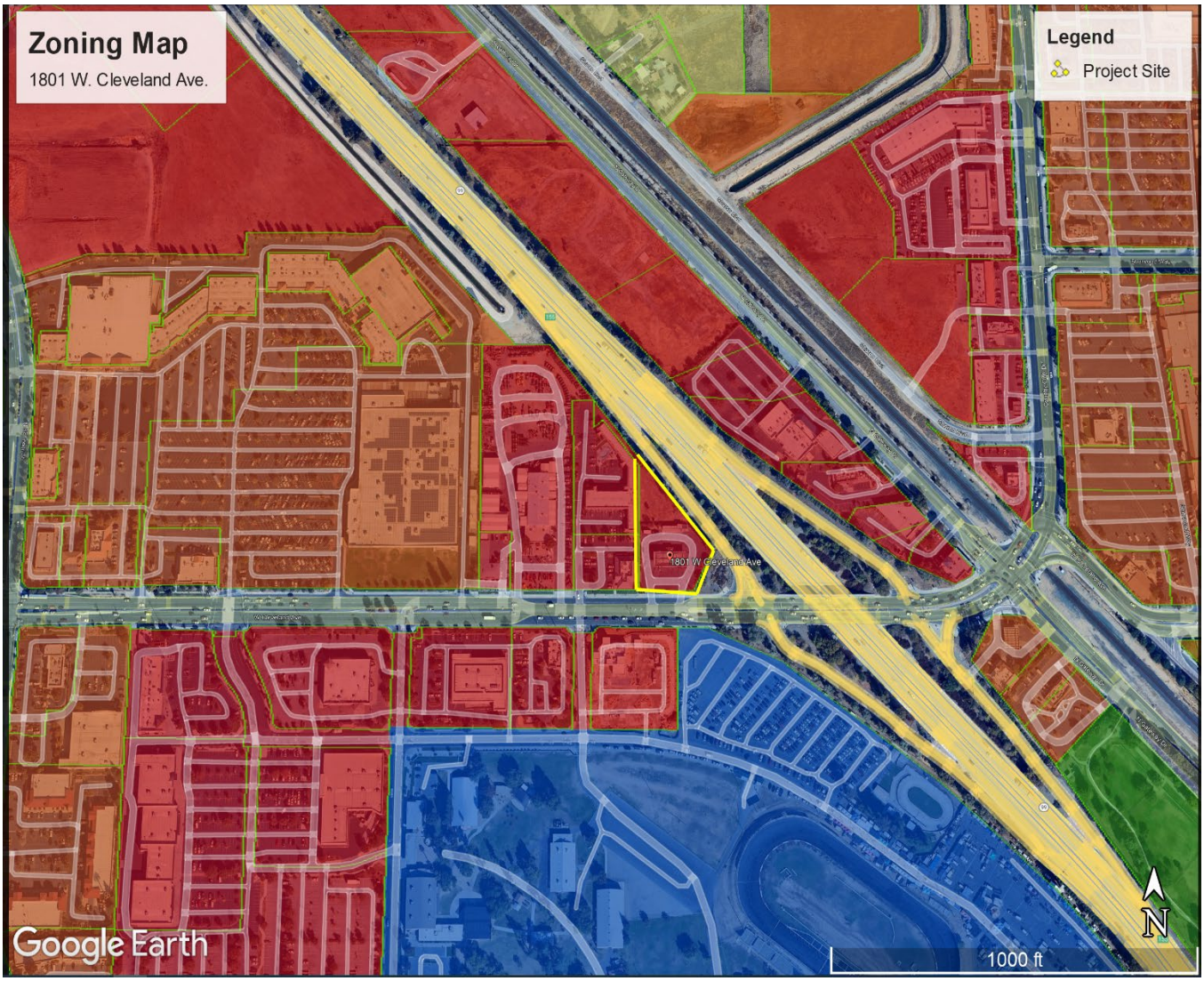
ATTACHMENT 2

General Plan Land Use Map


General Plan
1801 W. Cleveland Ave.
Legend
Project Site
1801 W Cleveland Ave
Google Earth
N
1000 ft

ATTACHMENT 3

City of Madera Zoning Map


Zoning Map
1801 W. Cleveland Ave.
Legend
Project Site
1801 W Cleveland Ave
Google Earth
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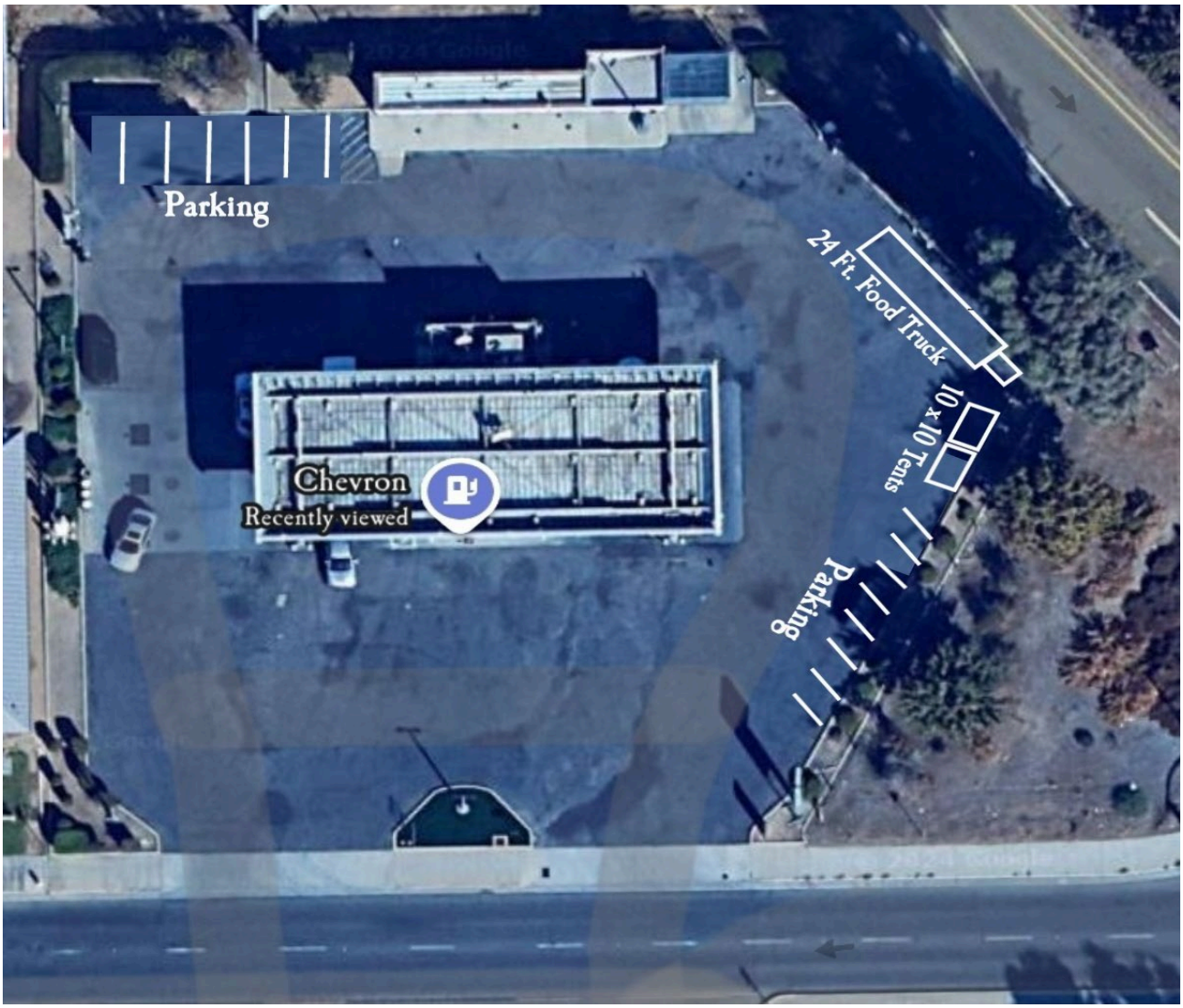
ATTACHMENT 4

Site Plan


Parking
24 Ft. Food Truck
10 x 10 Tents
Parking
Chevron
Recently viewed

ATTACHMENT 5

Planning Commission Resolution

Including:

Exhibit “A”: Conditions of Approval

RESOLUTION NO. 2013

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT PURSUANT TO SECTION 15311/CLASS 11 (ACCESSORY STRUCTURES) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND APPROVING CONDITIONAL USE PERMIT (CUP) 2024-17 AND SITE PLAN REVIEW (SPR) 2024-27

WHEREAS, Taco Bulls LLC. ("Applicant"), submitted an application for Conditional Use Permit (CUP 2024-17) and Site Plan Review (SPR 2024-27), "the Project," pertaining to ±1.19 acres of developed property generally located on the northwest corner of the intersection of West Cleveland Avenue and South Highway 99 at 1801 West Cleveland Avenue (APN: 013-110-010), Madera, CA (the "Project Site"); and

WHEREAS, the project site is designated for Commercial land uses on the General Plan Land Use Map and is zoned C2 (Heavy Commercial) by the Zoning Ordinance; and

WHEREAS, in accordance with City Municipal Code (CMC) § 10-3.416(D), the application for CUP 2024-17 and SPR 2024-27 was filed to request authorization to allow the operation of a mobile food preparation unit on private commercial property on a semi-permanent basis; and

WHEREAS, operations proposed in accordance with CUP 2024-17 have been determined to be able to occur on the site in a manner compliant with CMC § 10-3.416(E) and which 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 Section 15311/Class 11 (Accessory Structures) of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, under the City's Municipal Code, the Planning Commission is authorized to review and approve conditional use permits and environmental assessments as well as make determinations of use for associated projects on behalf of the City; and

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

WHEREAS, the Planning Commission received and independently reviewed CUP 2024-17 and SPR 2024-27 at a duly noticed meeting on December 10, 2024; 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 this Resolution approving CUP 2024-17 and SPR 2024-27 approving the operation of a mobile food preparation unit on private commercial property on a semi-permanent basis.

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 15311/Class 11 (Accessory Structures) of the State CEQA Guidelines because the project is limited to the placement and operation of a mobile food preparation unit on private commercial property in the C2 (Heavy Commercial) zone district and as accessory (appurtenant) to the primary use as mandated by CMC § 10-3.416(E)(3). 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 there are no unusual circumstances.

3. Findings to Approve CUP 2024-17: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of the use permit, 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 and Zoning Ordinance.*

   The proposed opertation of a mobile food preparation unit is consistent with the goals, objectives and policies of the General Plan Commercial land use designation and the C2 (Heavy Commercial) zone district.

   The proposed use is not considered to be of a sensitive nature, the introduction of which would generally obstruct or adversely impact the ability to develop planned commercial lands and/or viability to conduct operations for which planned and zoned commercial areas are intended.

   CUP 2024-17 was filed to request authorization to allow the operation of a food preparation unit on private commercial property (as other which in the opinion of the Commission are of a similar nature) to be established on the site in accordance with the provisons of City Municipal Code (CMC) CMC) § 10-3.416(E).

   As conditioned, development of the site is consistent with the Madera General Plan goals and policies and the Zoning Regulations for Outdoor Retail Sales.

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

   The proposed operation of a mobile food preparation unit on private commercial property is not intensive and would be considered compatible with surrounding commercial uses in the C2 (Heavy Commercial) zone district. For this reason, the proposed use of the project site will contribute

to a vaibility of the site and surrounding and adjacent commecial planned and zoned lands.

The proposed use is not considered to be of a sensitive nature, the introduction of which would generally obstruct or adversely impact the ability to develop planned commercial lands and/or viability to conduct operations for which planned and zoned conmercial areas are intended. The choice to conduct business on the site is a a voluntary act and approval of the use permit is for the benefit of the applicant. The surrounding area is primarily planned and zoned for commercial use. Typical commercial operations should be expected to occur and should not be deemed to constitute a nuisance due to the introduction of the subject uses on the project site. Acceptance of the conditions of approval includes the acknowledgement that the property owner as well as the owners and employees of business conducting operations thereon should be prepared to accept the inconveniences and discomfort with normal commercial activities.

As conditioned, the office uses will be compatible with the surrounding land uses and the established codes, standards and policies relating to traffic safety, street improvements and environmental quality.

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 operation of a mobile food preparation unit on the project site on a semi-permanent basis 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 to comply with the requirements and standards of CMC § 10-3.416(E), applicable only to mobile food preparation units, catering trucks and lunch wagons. The general welfare and safety of the surrounding uses and the City at large are not negatively impacted and will be protected.

4. Findings for SPR 2024-27: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2024-27, 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 and Municipal Code.

Basis for Finding: The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of Commercials. As conditioned, the project is consistent with the requirements and standards of CMC § 10-3.416(E), applicable only to mobile food preparation units, catering trucks and lunch wagons and does not conflict with City standards or other provisions of the Code. The conditions of approval will also ensure the primary land use will continue to function without infringement on its access, circulation and parking requirements.

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

Basis for Finding: The project site is not subject to any applicable specific plans.

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

Basis for Finding: Site Plan Review 2024-27 has been reviewed and is consistent with surrounding uses and with all applicable requirements for development in the C-2 zone districts including provisions for access to and from the site, parking, drainage, and lighting. The project consists of a mobile food preparation unit to be located on a developed and existing private commercial property. The project will not generate significant amounts of noise, light, or traffic.

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

Basis for Finding: Site Plan Review 2024-27 such that the codified requirements and standards of the CMC will be met through improvements and/or operations on the project site. Conditions are incorporated to maintain functionality of the primary use of the developed project site.

All established legal policies relating to traffic, street improvements, and environmental quality will be satisfied.

5. Approval of CUP 2024-17 & SPR 2024-27: Given that all findings can be made, the Planning Commission hereby approves CUP 2024-17 and SPR 2024-27 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 10th day of December 2024, 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 for CUP 2024-17 & SPR 2024-27

EXHIBIT "A"
CUP 2024-17 & SPR 2024-27
TACO BULLS Mobile Food Preparation Unit
CONDITIONS OF APPROVAL
December 10, 2024

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 2024-17 and SPR 2024-27 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 Conditions

1. 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) working days following action on CUP 2024-17 and SPR 2024-27**.
2. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions **within thirty (30) days of the date of approval for this use permit.**
3. The applicant's failure to utilize CUP 2024-17 within one year following the date of this approval shall render use permit(s) null and void unless a written request for an extension has been submitted to and approved by the Commission in accordance with the provisions of City Municipal Code (CMC) § 10-3.1311(A).
4. CUP 2024-17 may be made null and void without any additional public notice or hearing at any time upon both the benefactors of use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish CUP 2024-17.
5. The project site and facilities shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions, staff may schedule a public hearing before the Commission within 45 days of the violation to revoke the permits or modify the conditions of approval.
6. All plans submitted for on-site construction or building permits must incorporate and reflect all requirements outlined in the herein listed conditions of approval. Should the need for any deviations from these requirements arise, or for any future changes or additions not considered by the Planning Commission, they may be requested in writing for consideration of approval by the Planning Manager and/or City Engineer. The Planning Manager may determine that substantive changes require formal modification to the conditional use permit and/or site plan review by the Commission.
7. 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.
8. It shall be the responsibility of the property owner to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to any building permit final issuance.

9. Approval of this conditional use permit 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.

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

Fire Department

11. The mobile food preparation unit shall be equipped with a fully charged fire extinguisher in good operating condition and with a current inspection tag.
12. For permanent location, a kitchen and duct extinguishing system shall be installed within the cooking equipment of the mobile coach.
13. One 2A10BC-rated fire extinguisher shall be required and one K Class fire extinguisher shall be required.
14. Fire lanes shall be properly posted in accordance with the California Fire Code (CFC) and California Vehicle Code (CVC).
15. The location, as shown, must be adhered to a minimum of 25 feet from the closest dispenser.
16. The placement of the mobile food truck shall not obstruct access to the existing tire pressure fill area.

Planning Department

17. Approval of this conditional use permit 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. By accepting these conditions, the property owner and business operators acknowledge the surrounding area is primarily planned and designated for Commercial uses on the General Plan Land Use Map and zoned for C2 (Heavy Commercial) by the Zoning Ordinance

and agree the choice to conduct business on the site is a voluntary act. Typical commercial operations should be expected to occur. Acceptance of the conditions of approval includes the acknowledgement that the property owner as well as the owners and employees of businesses conducting operations on the project site should be prepared to accept the inconveniences and discomfort with normal commercial activities and normal commercial activities will not be deemed to constitute a nuisance due to the introduction of office uses on the project site.

18. Vandalism and graffiti shall be corrected per the MMC.
19. The property owner, operator and/or manager shall keep the property clear of all trash, rubbish and debris at all times, and disposal of refuse shall be restricted to the dumpster on the project site.
20. The property owner, operator and/or manager shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
21. The property owner and/or benefactor of the use permit(s) shall comply with all federal, state and local laws. Material violations of any of those laws concerning the use(s) may be cause for revocation of said use permit(s).
22. All other proposed uses that are not permitted by right in the Heavy Commercial zone district shall be individually processed as separate Conditional Use Permit(s).

<u>Mobile Food Preparation Unit</u>

23. The mobile food preparation unit shall comply with all requirements and standards contained in City Municipal Code (CMC) § 10-3.416 et seq.; except as may be specifically modified herein subject to CUP 2024-17.
24. The vendor shall obtain a business license in accordance with the provisions of Title 6 of this Code prior to commencement of operations.
25. The hours of operation for the mobile food preparation unit shall be allowed from 5:30 p.m. until 10:30 p.m., Wednesdays through Mondays.
26. The location of the mobile food truck shall be consistent with the location indicated on Attachment 1. Any deviation from the approved location shall be reviewed and approved by all applicable departments, including Planning and Police.
27. The mobile food preparation unit shall not be allowed in the following areas:
    a. Within fifteen feet of any crosswalk or fire hydrant;
    b. In marked diagonal parking spaces;
    c. On any sidewalk or street adjacent to a curb which has been designated as a white, yellow, blue, green or red zone;
    d. Within twelve feet of the outer edge of any entrance way to any building or facility used by the public measured in each direction parallel to the building;
    e. At a location where a pedestrian passage will be reduced to less than six feet;
    f. At any location where such operation may create a traffic hazard. The judgement of a Madera police officer shall be deemed conclusive as to whether the operation is creating a hazard;
    g. On any public right-of-way within 75 feet of any street intersection;
    h. On any public right-of-way designated by the City Engineer that represents a public peace, safety, health or welfare concern.

28. The mobile food truck shall have affixed to it in plain view or available for immediate inspection a Madera City Business License, Health Certificate and any other permit required by this or any other applicable code.
29. The operator of the mobile food truck shall carry their operator's permit at all times while in the unit.
30. A refuse bin of at least one cubic foot shall be provided in or on the unit and shall be accessible by customers.
31. No shouts, calls, horns or other noise nor amplified sound which can be heard fifty or more feet from the unit shall be permitted.
32. No artificial lighting of any pushcart is permitted except as required by the California Vehicle Code.
33. The mobile food truck shall comply with all applicable regulations set forth in Articles 10 and 10.1 of Title 17 of the California Administrative Code.
34. No cooking or food preparation shall be done while the mobile food truck is in motion.
35. Waste water shall not be discharged from the mobile food truck except at an approved disposal site.
36. The mobile food truck shall clearly exhibit the name of the owner of the unit, business address and business phone number of the person, firm, association, organization, company or corporation.
37. The operator of the mobile food truck shall be responsible for collection and proper disposal of all trash and debris accumulated by reason of their vending operation.

Landscaping

38. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the city. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, mowing lawns consistent with industry standards, and replacing dead or unhealthy vegetation

Parking

39. The project site shall be striped with parking stalls sufficient to meet the parking requirement for both the exiting service station and convenience store; and in addition shall include a minimum of three standard on-site parking spaces in conformance with City standards for the mobile food preparation unit on the private property on a semi-permanent basis.
    a. All parking stalls shall be striped and available prior to commencement of operations of the mobile food preparation unit.
40. The location of the parking stalls shall be striped consistent with their location indicated on Attachment 1. Any deviation from the approved location of the parking stalls shall be reviewed and approved by the Planning Department.
41. All parking stalls shall comply with City Standard Off-Street Parking Requirements (Std. E-4).

Signage

42. Signage allowed for the mobile food truck shall only be affixed to or painted on the unit or its canopy, with a maximum area of eight square feet.

Madera County Environmental Health Division

43. The mobile food truck owner shall meet the requirements from the California Retail Food Code Section 114315, which states, “A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business for more than a one-hour period.”
44. The mobile food truck owner shall submit a “restroom authorization” form for review and approval to the Madera County Environmental Health Division.

END OF CONDITIONS

REPORT TO THE PLANNING COMMISSION

Prepared by:
Adileni Rueda, Assistant Planner

Meeting of: December 10, 2024
Agenda Number: 3

SUBJECT:

Consideration of applications for a Conditional Use Permit (CUP 2024-16) and Site Plan Review (SPR 2024-26) to permit commercial uses on residentially zoned parcels located on the east side of Country Club Drive (Rd. 26) between Martin and Ellis Streets (APN[s]: 038-070-003 and 038-070-024).

RECOMMENDATION:

Conduct a public hearing and adopt:

1. A Resolution of the City of Madera Planning Commission determining the project is Categorically Exempt pursuant to Sections 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2024-16 and Site Plan Review (SPR) 2024-26, subject to the findings and conditions of approval.

SUMMARY:

The applicant, Michael Campbell, Trustee, has filed applications for a Conditional Use Permit (CUP 2024-16) and Site Plan Review (SPR 2024-26) to permit those C1 (Light Commercial) uses listed within City Municipal Code (CMC) § 10-3.802(A) and those uses permissible pursuant to CMC § 10-3.406(B)(3) on residentially zoned parcels located on the east side of Country Club Drive (Rd. 26) between Martin and Ellis Streets (APN[s]: 038-070-003 and 038-070-024) (the "project site").

The project site parcels, comprising ±3.1 total acres of land, were zoned R1 (Residential, one unit for every 6,000 square feet of site area), consistent with the applicable Low Density Residential land use designation, upon annexation to the City of Madera on April 14, 2024 (Country Club Drive-Martin Street Annexation). The project site was legally developed with commercial buildings and uses in the County of Madera prior to annexation to the City and reclassification to residential zoning.

City Municipal Code (CMC) § 10-3.406 provides that legal nonconforming uses of buildings or structures may be continued although such building or use does not conform to the regulations specified for the zone in which such building or structure is located. However, such legally

nonconforming uses may not be enlarged, increased or extended to occupy a greater area (than that occupied at the time such building or use became nonconforming) and may only be changed (to a use of the same or more restricted nature) provided a use permit is approved by the Planning Commission.

CUP 2024-16 will apply one conditional use permit to the whole site and authorize certain uses to operate without the need to rezone the project site. The project site was developed for commercial use under Madera County jurisdiction and has been operating since. Considering the project site is developed and currently in use, the project site meets the requirements of a nonconforming building. SPR 2024-26 will ensure the development of the site and associated public improvements are constructed and that buildings are connected to City services in accordance with City standards.

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

Table 1: *Project Overview*	
Project Number:	CUP 2024-16 & SPR 2024-26
Applicant:	Michael Campell, Trustee
Property Owner:	Michael Campell, Trustee
Location:	16465-19491 Road 26 East side of Country Club Drive (Rd. 26) between Martin and Ellis Streets (APN[s]: 038-070-003 and 038-070-024)
Project Area:	2.41 acres and 0.69 acres
Existing Land Use:	Light Commercial
Planned Land Use:	Low Density Residential
Zoning District:	R1 (Residential, one unit for each 6,000 square feet of site area)
Site Characteristics:	Project site is an existing commercial center developed in the County of Madera prior to annexation to the City of Madera.

BACKGROUND:

The Country Club Drive-Martin Street Annexation incorporated approximately 245 acres of land comprised of 53 parcels into the City of Madera. These lands are located within the City's Sphere of Influence and Urban Growth Boundary and are planned for Low Density Residential uses on the General Plan land use map. On May 17, 2023, the Madera City Council initiated the annexation application and prezoned the entire annexation area. In accordance with Policy LU-32 and Table LU-A: General Plan/Zoning Consistency of the General Plan, the project site was prezoned to the R1 (Residential, one unit for every 6,000 square feet of site area), consistent with the Low Density Residential planned land use designation. On February 21, 2024, the annexation was approved by Madera County's Local Agency Formation Commission (LAFCO). A Certificate of Completion for the change of organization was recorded with the Madera County Clerk Recorder on April 15, 2024 (Document No. 2024007403), at which time the City's R1 zoning became effective.

CMC § 10-3.305(A)(1) Conformance to Zone Regulations states the following:

- *Use.* No building shall be erected, reconstructed, or structurally altered in any manner, nor shall any land, building, or premises be used, designed, or intended to be used for any purpose or in any manner other than a use listed in this chapter as permitted in the specific zone in which such land, building, or premises are located, and then only after applying for, and securing, all permits and licenses required by law.

Commercial uses are not listed as permissible uses in the Residential zone districts. However, the Commercial use of the property was lawfully authorized under the jurisdiction of the County of Madera prior to annexation to the City and Residential zoning becoming effective.

CMC § 10-3.406(F) provides the following:

- *Nonconforming uses resulting from amendments.* The foregoing provisions of this section shall apply also to buildings, structures, land, or uses which hereafter become nonconforming by reason of any reclassifications of zones or any subsequent changes to the provisions of this chapter as of the effective date of such amendment.

The commercial use(s) of the project site (as lawfully authorized by the County of Madera prior to annexation) is determined to be a legal nonconforming use subject to the provisions of CMC § 10-3.406 et seq.

CMC § 10-3.406(B) provides the following:

- *Buildings or structures.* A building or structure in existence, or a use lawfully occupying a building or structure on the effective date of an applicable amendment (rezoning), which building or use does not conform to the regulations for the district in which the building or use is located, shall be deemed to be a nonconforming building or use, and may be continued as provided in this section:
    1) The lawful use of buildings or structures may be continued although such building or use does not conform to the regulations specified for the zone in which such building or structure is located.
    2) The nonconforming use of a portion of a building or structure may be extended throughout the building provided in each case a use permit shall be first approved by the Planning Commission.
    3) The nonconforming use of a building or structure may be changed to a use of the same or more restricted nature provided in each case a use permit shall first be approved by the Planning Commission.
    4) If the nonconforming use of a building or structure ceases for a continuous period of six months, it shall be considered abandoned and shall thereafter be used only in accordance with the regulations for the zone in which such building or structure is located and the nonconforming right shall be lost. Provided, however, that if a

use permit is approved by the Planning Commission within an additional six months from the date of termination, the use may be reestablished.

The project site has been developed with four commercial buildings accommodating multiple tenant spaces. Conditional Use Permit (CUP) 2024-16 has been filed to classify and memorialize the existing commercial uses to ensure the future viability of the project site. Approval of CUP 2024-16 will allow for the use(s) of the commercial buildings to change (to a use[s] of the same or more restricted nature) and/or for the uses to be extended throughout the buildings and tenant spaces.

ANALYSIS:

Conditional Use Permit (CUP) 2024-16

To conform with the CMC sections 10-3.305 and 10-3.406 (mentioned above), staff have determined that the project site will operate under one conditional use permit for the existing businesses and any future by-right tenants.

Commercial uses on the project site include: an apparel printing shop; a boxing gym; a restaurant; an automotive tire shop; and, an automotive body shop with incidental used auto sales. Please refer to Table 2 for information on the tenants.

Table 2: *Existing Tenants*

Business Address	Use	Building/Unit Square Footage	By-Right Use (C1 zone district)
16487 Rd 26 Unit 1/ "A"	T-Shirt Screen Printing	+/- 2,500	Y
16487 Rd 26 Unit 2/ "B"	Boxing Facility	+/- 2,500	Y
16491 Rd 26 Unit 1 / "A"	Boba Restaurant	+/- 2,500	Y
16491 Rd 26 Unit 2 / "B"	T-Shirt Screen Printing (extension of *16487 Rd 26 Unit 1/ "A")*	+/- 2,500	Y
16465 Rd 26	Tire Shop	+/- 6,000	Y
16479 Rd 26	Body Shop with Car Sales	+/- 5,000	N

The majority of the existing uses, aside from the body shop and car sale tenant, are allowable uses. The current body shop and car sale tenant (16479 Rd 26) was approved under a conditional use permit with Madera County. Similarly, the City requires a conditional use permit for used car sale lots and automobile repair shops in a C1 zone district. The City will honor the approval of the County CUP for the body shop and car sales as they were determined to be in conformance with

the County regulations in effect at the time and such entitlements run with the land. Nonetheless, any changes, expansion or intensification to the square footage of/or use(s) where changes in development conditions are necessary, (e.g., adequate parking, loading zone and landscaping) will require approval of an amendment to the CUP by the Planning Commission.

Given the range of types of existing legal nonconforming uses staff recommends those uses listed as permissible in the C1 (Light Commercial) zone district, "by-right," be authorized through approval of CUP 2024-16 as, "uses of the same or more restricted nature."

Accordingly, CUP 2024-16 would permit C1 (Light Commercial) by-right uses to lease commercial space at the project site. However, any new use listed outside the allowable permitted uses (alcohol/tobacco sales, drive through operations, car lots, etc.) will not benefit from CUP 2024-16 and shall be required to still apply for a separate conditional use permit or zoning administrator permit if specified.

Staff determined that the C1 zone district uses would be the best fit for the commercial center based upon the existing uses and due to the surrounding neighborhood. Matilda Torres High School is located abuts the project site to the north. Properties to the south and east are planned for Low Density Residential Uses. Adjacent parcels to the west, across Country Club Drive (a designated Arterial roadway), have been approved for development for the Arc, an intellectual and developmental disability center.

C1 uses would be consistent with the surroundings as light commercial uses should be present within the major street corridor to provide respective commercial services and employment opportunities to the existing and planned residential neighborhoods within the vicinity (and east of the railroad and State Route 99). While C2 (Heavy Commercial) uses also permit C1 uses and the existing uses on the property, promotion of heavy commercial uses, which include but are not limited to more auto related uses, are generally not supported within this segment of Country Club drive where residential frontage is planned and a safe and healthy pedestrian environment for students and residents is desired.

Site Plan Review (SPR) 2024-26

Pursuant to Section 10.3.4.0102 of the CMC, site plan review applies to all new, expanded, or changed uses of property which involve the construction or placement of new structures or buildings on the site, new uses which necessitate on-site improvements to comply with the provisions of the City Municipal Code, including uses subject to a use permit.

SPR 2024-26 memorializes the existing development of the site and respective conditions of approval will ensure the development of the site and associated public improvements are constructed and connections to City services are made in accordance with City standards. The project site is made up of two parcels with a combined acreage of approximately 3.1 acres. There are currently 4 buildings with 2 of those buildings split into two units. Please refer to Table 2 for information on the tenants.

ENVIORNMENTAL REVIEW:

Staff performed a preliminary environmental assessment and determined the project is Categorically Exempt pursuant to Section 15301/Class 1 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines because the project site is an existing developed site utilized for light commercial purposes. The proposed project does not propose additions to existing structures and physical changes would be limited to connection to existing City public utility services and abandonment of onsite private systems. Operational changes authorized by the CUP are limited to those uses of the same or more restricted nature (as existing uses) in accordance with the requirements of the City Municipal Code for legal nonconforming uses and are therefore considered to constitute negligible or no expansion of use. The proposed project is consistent with applicable general plan policies and is conditioned to be 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 there are no unusual circumstances.

PLANNING COMMISSION ACTION:

The Planning Commission (Commission) will be acting on CUP 2024-16 and SPR 2024-26. Staff recommends that the Commission:

1. Adopt a Resolution of the City of Madera Planning Commission determining the project is Categorically Exempt pursuant to Sections 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2024-16 and Site Plan Review (SPR) 2024-26, 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 more request based on specified findings: (Commission to articulate reasons for denial).
3. Provide staff with other alternative directives.

ATTACHMENTS:

1. Aeriel View
2. General Plan Land Use Map
3. City of Madera Zoning Map
4. Site Plan
5. Planning Commission Resolution
   Exhibit “A”: Conditions of Approval

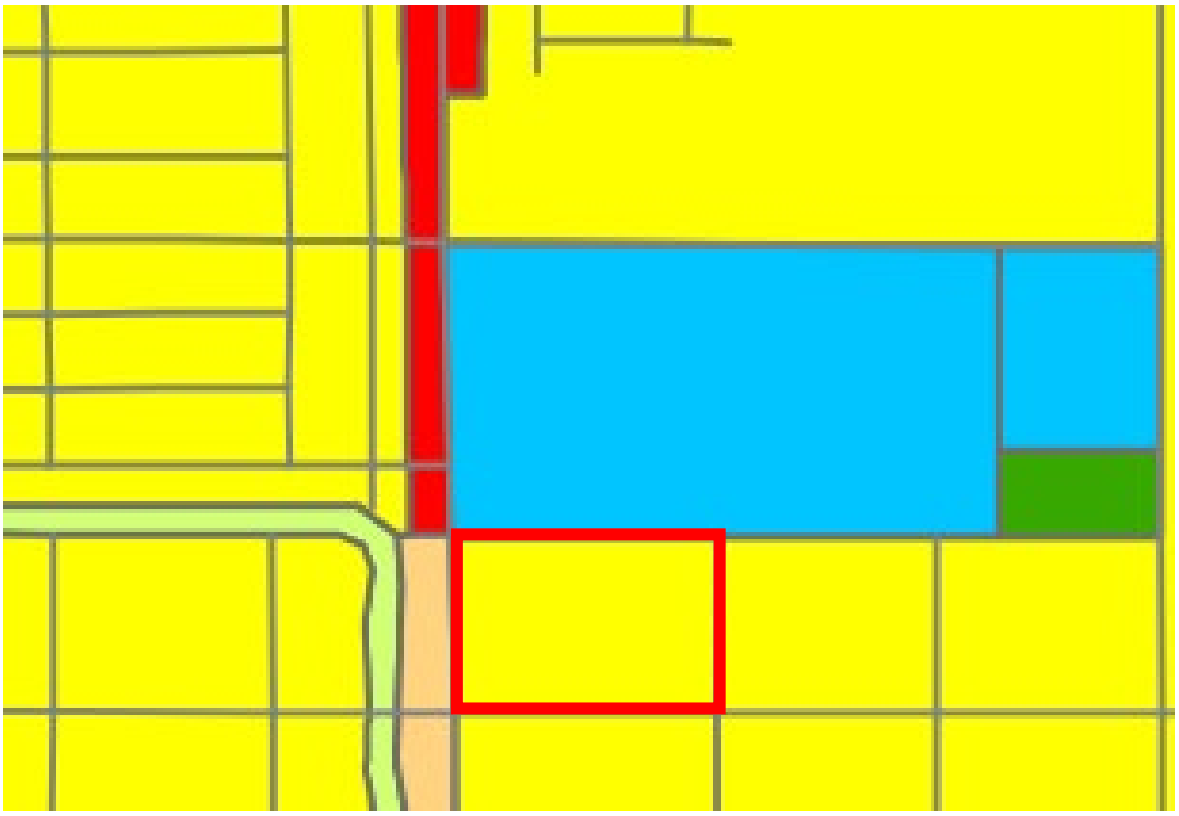
ATTACHMENT 1

Aerial View


Martin St
Martin St
Tapatios Meat Market
Andy Dominguez Electric
Advance Dr
Clark Dr
Madera & Fitness West
Madera Islamic Center
Auto Depot Madera
Torres High School
Turn Back Time Photo Booth Co
Lanterman Dr
The Valley's Barbershop
Rio Ts
Monterrey Tire Service
Rd 26
Rd 25
Ellis St
Ellis St
Ellis St
Oneals St

ATTACHMENT 2

General Plan Land Use Map



General Plan
Land Use Designations

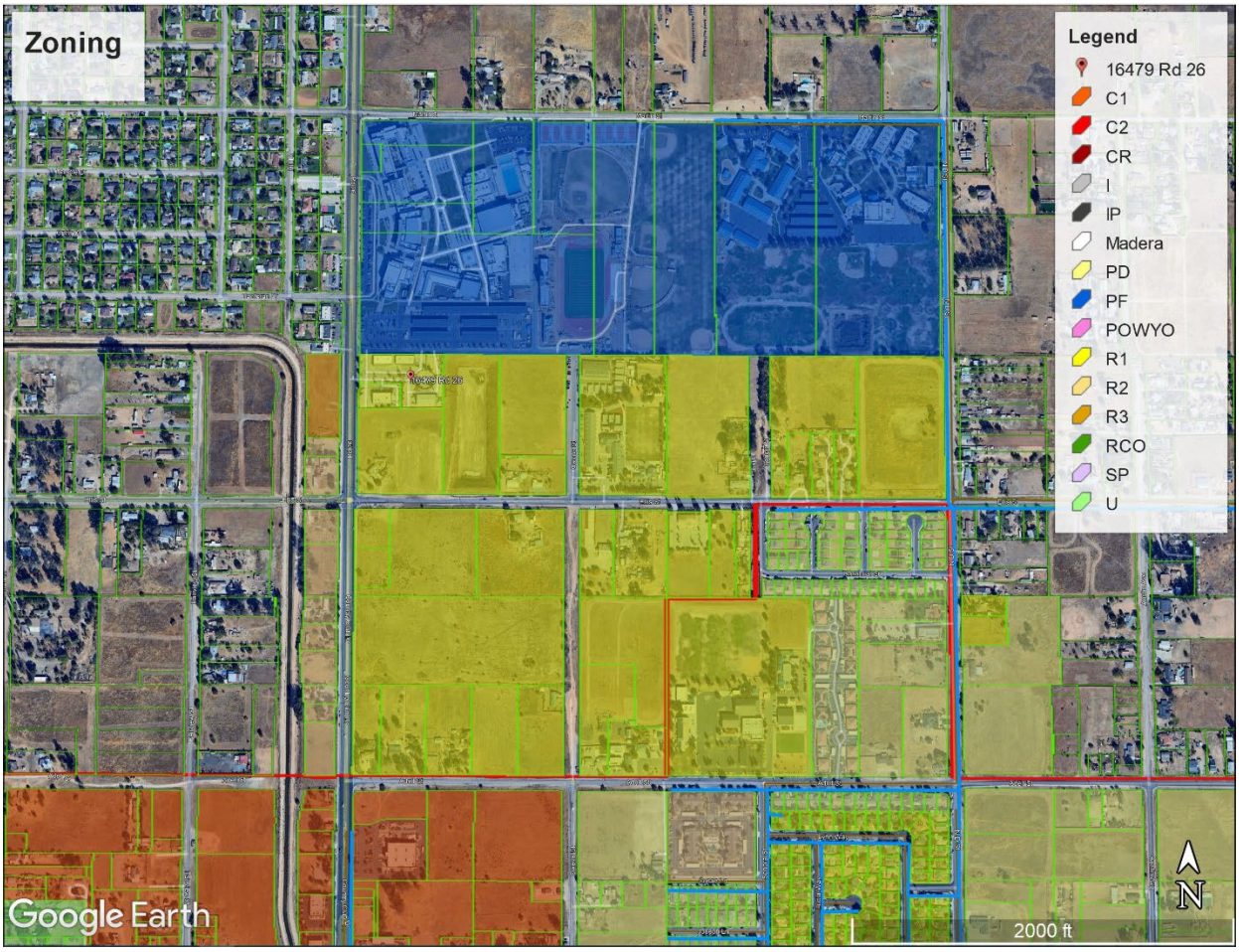
- C - Commercial
- O - Office
- I - Industrial

- VLD - Very Low Density Residential
- LD - Low Density Residential
- MD - Medium Density Residential
- HD - High Density Residential

Project Site

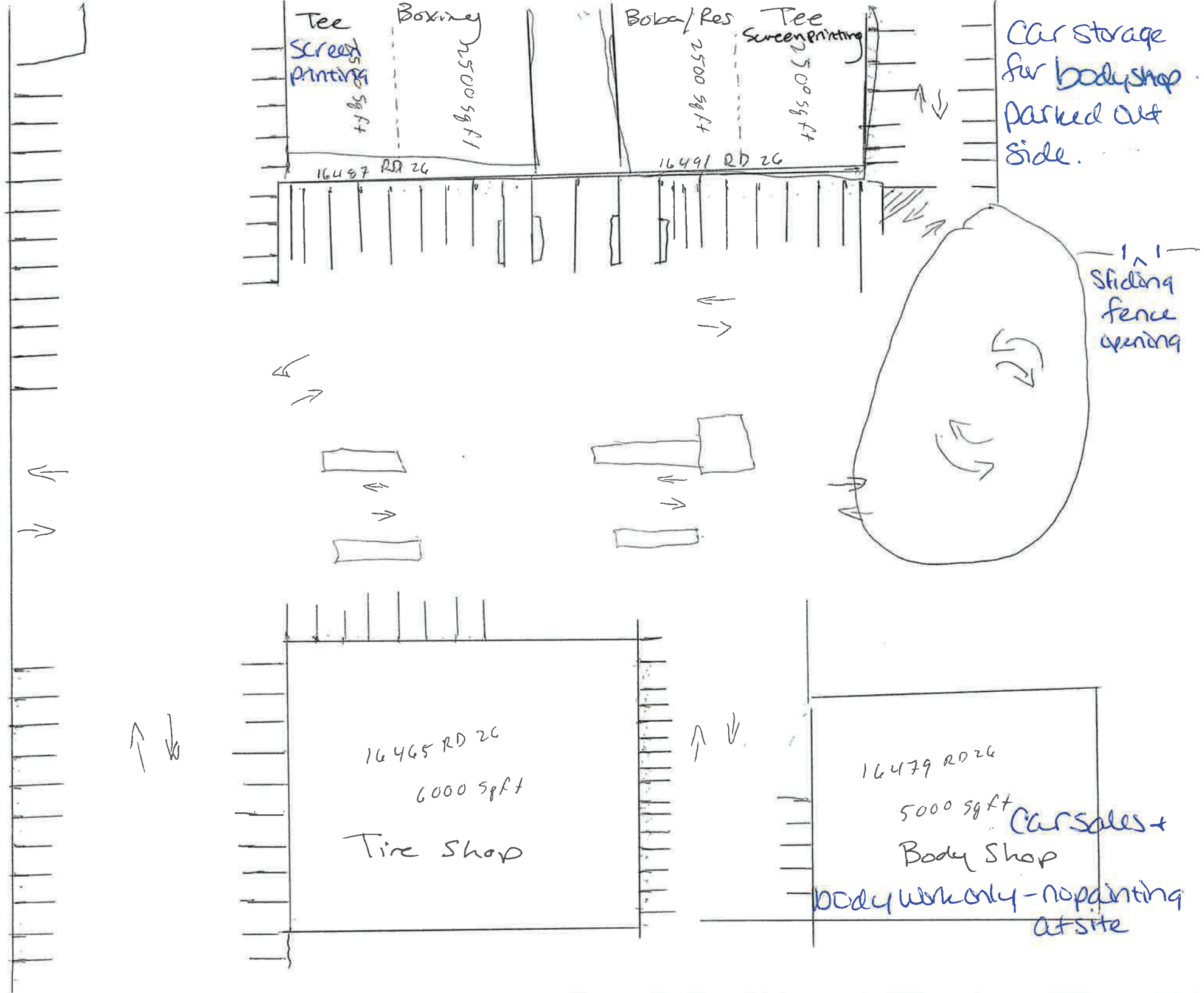
ATTACHMENT 3

City of Madera Zoning Map


Zoning
Legend
16479 Rd 26
C1
C2
CR
I
IP
Madera
PD
PF
POWYO
R1
R2
R3
RCO
SP
U
Google Earth
2000 ft
N

ATTACHMENT 4

Site Plan


Tee
Screen printing
Boxing
Boba/Res
Tee
Screenprinting
16487 RD 26
16491 RD 26
Car storage for body shop parked out side.
Sliding fence opening
16465 RD 26
6000 sqft
Tire Shop
16479 RD 26
5000 sqft
Car sales +
Body Shop
Body work only - no painting at site

ATTACHMENT 5

Planning Commission Resolution

Including:

Exhibit “A”: Conditions of Approval

RESOLUTION NO. 2014

A RESOLUTION OF THE CITY OF MADERA PLANNING COMMISSION DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT PURSUANT TO SECTION 15301/CLASS 1 (EXISTING FACILITIES) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND APPROVING CONDITIONAL USE PERMIT (CUP) 2024-16 AND SITE PLAN REVIEW (SPR) 2024-26.

WHEREAS, Michael Campbell, Trustee ("Owner") owns two abutting parcels comprising ±3.1 acres of land located on the east side of Country Club Drive (Rd. 26) between Martin and Ellis Streets (APN[s]: 038-070-003 and 038-070-024) ("Project Site"); and

WHEREAS, the site is designated for Low Density Residential planned land uses on the General Plan Land Use Map and is zoned R1 (Residential, one unit for each 6,000 square feet of site area) by the Zoning Ordinance; and

WHEREAS, the commercial use(s) of the project site and buildings thereon was lawfully authorized by the County of Madera prior to annexation of the project site to the City of Madera ("City") on April 15, 2024 (Document No. 2024007403, Madera County Clerk-Recorder); and

WHEREAS, the project site was rezoned to the R1 zone district upon annexation to the City of Madera and commercial uses are not permitted in the Residential zone districts pursuant to the provisions of the City Municipal Code (CMC); and

WHEREAS, the provisions of CMC § 10-3.406 et seq. pertaining to nonconforming buildings and uses are applicable to buildings, structures, land, or uses which became nonconforming by reason of reclassification of zones; and

WHEREAS, pursuant to the provisions of CMC § 10-3.406(B), nonconforming uses of buildings or structures may be continued but may not be extended throughout buildings or changed unless a use permit is first approved by the Planning Commission; and

WHEREAS, Conditional Use Permit (CUP) No. 2024-16 and Site Plan Review (SPR) No. 2024-26 were filed requesting authorization to allow uses listed as permissible by-right in the C1 (Light Commercial) zone district pursuant to CMC § 3.802(A), to occur on the project site; and

WHEREAS, uses listed as permissible by-right in the C1 (Light Commercial) zone district pursuant to CMC § 3.802(A) are of the same or of a more restrictive nature than those existing legal nonconforming commercial uses on the project site; and

WHEREAS, operations proposed in accordance with CUP 2024-16 and SPR 2024-26 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 Section 15301/Class 1 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, under the City's Municipal Code, 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 as required by law; and

WHEREAS, the Planning Commission received and independently reviewed CUP 2024-16 and SPR 2024-26 at a duly noticed meeting on December 10, 2024; 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 this Resolution determining the project is Categorically Exempt pursuant to Section 15301/Class 1 (Existing Facilities) of the CEQA Guidelines and approving CUP 2024-16 and SPR 2024-26.

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 Determination: A preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning Commission finds and determines that the project is exempt under Section 15301/Class 1 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines because the project site is an existing developed site utilized for light commercial purposes. The proposed project does not propose additions to existing structures and physical changes would be limited to connection to existing City public utility services and abandonment of onsite private systems. Operational changes authorized by the CUP are limited to those uses of the same or more restricted nature (as existing uses) in accordance with the requirements of the City Municipal Code for legal nonconforming uses and are therefore considered to constitute negligible or no expansion of use. The proposed project is consistent with applicable general plan policies and is conditioned to be 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 there are no unusual circumstances.

3. Findings to Approve CUP 2024-16: Pursuant to CMC § 10-3.1307 the Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2024-16, 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 and Zoning Ordinance.

The project proposal complies with the provisions of CMC §§ 10-3.305(A)(1) and 10-3.406(B) pertaining to conformance with the Zoning Regulations and applicable to legal nonconforming buildings and uses. The existing and/ or future of the project site will be in conformance with the City Municipal Code and policies of the General Plan subject to approval of CUP 2024-16 and compliance with the conditions of project approval.

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

The C1 uses authorized subject to CUP 2024-16 would be compatible with the surrounding properties as light commercial uses should be present within the major street corridor to provide respective commercial services and employment opportunities to the existing and planned residential neighborhoods within the vicinity (and east of the railroad and State Route 99). Heavy commercial uses are not appropriate within this segment of Country Club Drive (Rd. 26) where residential frontage is planned by the General Plan and a safe and healthy pedestrian environment for students and residents is desired.

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 commercial use of the property was lawfully established in the County of Madera and became nonconforming by reason of reclassification of zoning upon annexation to the City of Madera. The nonconforming uses as well as those uses authorized by CUP 2024-16 are considered compatible with surrounding properties and will not have a significant, adverse environmental impact. The request will not result in a detriment to the health, safety, peace, morals, comfort, or general welfare of surrounding uses. The project has been conditioned to meet the City's requirements and standards for commercial uses.

4. Findings to Approve SPR 2024-26: Pursuant to MMC § 10-3.4.0107, the Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2024-26, 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 and Zoning Ordinance.

Pursuant to Section 10.3.4.0102 of the CMC, site plan review applies to all new, expanded, or changed uses of property which involve the construction or placement of new structures or buildings on the site, new uses which necessitate on-site improvements to comply with the provisions of the City Municipal Code, including uses subject to a use permit.

SPR 2024-26 memorializes the existing development of the site and respective conditions of approval will ensure the development of the site and associated public improvements are constructed and connections to City services are made in accordance with General Plan Policies and City standards.

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

The property is not located within the boundary of a specific plan.

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

The project has been reviewed and is compatible with the surrounding uses and conditioned for compliance with all applicable City requirements and standards. The project site is an existing improved property. Review of the site determined that the project would not result in a significant generation of noise, light, and/or traffic.

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

SPR 2024-26 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 2024-16 and SPR 2024-26: Given that all findings can be made, the Planning Commission hereby approves CUP 2024-16 and SPR 2024-26 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 10th day of December 2024, 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 for CUP 2024-16 and SPR 2024-26

EXHIBIT "A"
CUP 2024-16 and SPR 2024-26
COUNTRY CLUB COMMERCIAL USES
CONDITIONS OF APPROVAL
December 10, 2024

Notice to Applicant

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedications, reservations, or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within ninety (90) calendar days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project. 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 site plan, conditional use permit 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.

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 2024-16 and SPR 2024-26 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within fifteen (15) days after the decision by the Planning Commission. Approval 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 designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this use permit and/or conditional use 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 use permit or the zoning ordinance, and all City standards and specifications. This use 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 use permit. Unless the conditions of approval specifically require operation inconsistent with the application, a new or revised use 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 use permit, or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the, use permit review process, or for

additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use 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.

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

CONDITIONS OF APPROVAL

1. 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 2024-16 and SPR 2024-26.**

2. These conditions are applicable to any person or entity making use of this tentative parcel map, 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 conditional use permit and site plan review.

3. Vandalism and graffiti shall be corrected per the City Municipal Code (CMC).

4. The project site shall be held to the City's commercial standards as listed in the CMC.

5. The property owner, operator and/or manager shall operate in a manner that does not generate noise, odor, blight, or vibration that adversely affects any adjacent properties.

6. Approval of this project 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

Conditional Use Permit (CUP 2024-16)

7. CUP 2024-16 shall only authorize C-1 (Light Commercial) uses listed as permissible by-right in CMC § 10-3.802(A) to occur within the existing commercial center.
    a. Uses that subject to approval by the Zoning Administrator or which require require authorization through a conditional use permit will not be covered by CUP 2024-16 and shall be required to submit a new use permit application through the Planning Department.
    b. Any changes, expansion or intensification to the square footage of/or use(s) where changes in development conditions are necessary, (e.g., adequate parking, loading zone and landscaping) will require approval of a new conditional use permit.
8. CUP 2024-16 is not for approval to commence on-site and off-site construction. Any changes to the site plan shall require review and approval through the Planning Department.

Site Plan Review (SPR 2024-26)

Parking

9. The chart below indicates the minimum required parking spaces needed for the project to meet the parking requirements. All parking areas shall be marked, striped, and maintained in accordance with SPR 2024-26 and City Standards at all times.

Parking Requirements	
Use	*Spaces Required*
16487 Rd 26 – Unit 1/ "A" *T-Shirt Screen Printing (300 square feet per gross floor area)*	9 spaces
16487 Rd 26 – Unit 2/ "B" *Boxing Facility (250 square feet per gross floor area)*	10 spaces

16491 Rd 26 – Unit 1 / "A" *Restaurant (*One *space for each three seats of a fixed nature, plus one space for each 50 square feet of net floor area available for non-fixed seating)*	11 spaces
16491 Rd 26 – Unit 2 / "B" T-Shirt Screen Printing (extension of *16487 Rd 26 Unit 1/ "A") (300 square feet per gross floor area)*	9 spaces
16465 Rd 26 Tire Shop *(400 square feet per gross floor area)*	15 spaces
16479 Rd 26 Body Shop with Used Car Sales *(One space for each 400 square feet of gross floor area, plus one space for each two employees)*	13 spaces
Parking Spaces Needed	67 spaces
Existing Parking Spaces	**111 spaces**

Signs

10. Prohibited signs pursuant to CMC §10-6.05 and marketing signs not approved with a sign permit shall be removed from the premises.

Body Shop and Used Car Sales

11. The allowance for an autobody and used car shop shall only pertain to 16479 Rd 26. Operations shall comply with conditions of the original Conditional Use Permit approved by the County, except as may be modified herein.
    a. Any changes to the existing interior and exterior site or business use shall require approval of a new conditional use permit.
12. Now new or expanded autobody shop and/or used car sales are authorized by CUP 2024-16.
13. The storage of cars and display of cars for sale is prohibited outside the existing gated storage yard.

Tire Sales/Service

14. Exterior storage, including tires, shall not be visible from Major Streets or residential or public facilities districts.

ENGINEERING DEPARTMENT

Water

15. 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. Each parcel shall have a separate domestic water service.

16. A separate water meter and backflow prevention device will be required for landscape area(s).
17. Water meters and backflow prevention devices shall be installed and account activated through the City's Utility Billing Department prior to the ability to receive water from the City water system.
18. Existing water service connections that will not be used for the project shall be abandoned at the mains per City of Madera standards.
19. 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.
20. The developer shall reimburse one half of the 8-inch component, its fair share cost, to the City for the previously constructed water main along the entire project frontage on Country Club Drive.

Sewer

21. In accordance with the intent of § 5-4.01 of the Municipal Code, each residence, building, or place of business within the City shall be connected onto the sanitary sewer system of the City where sewer mains are located within 100 feet of the premises of such residence or building. All connections shall be made within two years from the time that sewer mains are constructed within 100 feet from the premises.

    The applicant shall have two years from the date of approval of this entitlement to connect to the City sewer system as mandated by said code section.

END OF CONDITIONS

REPORT TO THE PLANNING COMMISSION

Prepared by:
Rudy Luquin, Senior Planner

Meeting of: December 10, 2024
Agenda Number: 4

SUBJECT:

Consideration of an application for a Conditional Use Permit (CUP 2022-23) and Site Plan Review (SPR 2022-35) pertaining to ±0.36 acres of property located on the north side of West Yosemite Avenue between North R and North Q Streets at 1221 West Yosemite Avenue (APN: 010-062-013).

RECOMMENDATION:

Conduct a public hearing and adopt:

1. A Resolution of the City of Madera Planning Commission determining the project is Categorically Exempt pursuant to Sections 15301/Class 1 (Existing Facilities), 15303/Class 3 (New Construction or Conversion of Small Structures) and 15332/Class 32 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2022-23 and Site Plan Review (SPR) 2022-35, subject to the findings and conditions of approval.

SUMMARY:

The applicant, Scott A. Vincent, architect, on behalf of Navjeet Singh Chatal, property owner, has filed applications for a Conditional Use Permit (CUP 2022-23) and Site Plan Review (SPR 2022-35) pertaining to ±0.36 acres of property located on the north side of West Yosemite Avenue between North R and North Q Streets at 1221 West Yosemite Avenue (APN:010-062-013) (project site).

SPR 2022-35 proposes to convert an existing ±1,523 square-foot service station building on the project site for use as a convenience store (Zippy Mart) in conjunction with the existing automobile gas fueling station also located on the project site. Proposed site improvements also include: a ±271 sq. ft. addition to the rear of existing building to allow for the installation of a walk-in cooler; updates to the exterior finishes of the building; the addition of a solid waste enclosure; and installation of new landscaping.

CUP 2022-23 requests authorization to obtain a California Department of Alcohol Beverage Control (ABC) Type 20 (Off-Sale Beer & Wine) License issued to retail stores and authorizing the sale of beer and wine for consumption off the premises where sold.

The project site is zoned C1 (Light Commercial) on the Official Zoning Map and is designated for Commercial uses on the General Plan Land Use Map. Table 1 below provides a brief overview of the entitlement request, project applicant, project location and site characteristics.

Table 1: *Project Overview*	
Project Number:	CUP 2022-23 and SPR 2022-35
Applicant:	Scott A. Vincent, Architect
Property Owner:	Navjeet Singh Chatal
Location:	1221 West Yosemite Avenue
Project Area:	±0.36 acres
Land Use:	Commercial
Zoning District:	C1 (Light Commercial)
Site Characteristics:	Project site has been developed with a ±1,523 sq ft service station building and automobile gas fueling station. Adjacent properties are developed with office, commercial and residential uses.

ANALYSIS

Conditional Use Permit (CUP) 2022-23

Pursuant to CMC § 10-3.405(B), no establishment where alcohol is served for consumption on or off the premises, shall be established in any zone where such use may be otherwise allowed unless a use permit shall first have been secured for the establishment, maintenance and operation of such use. Packaged liquor stores are also listed as requiring a use permit in the C1 (Light Commercial) zone district pursuant to CMC § 10-3.802(C)(16).

Alcohol Beverage Control (ABC) Type 20 License

ABC administers and issues licenses that allow establishments to serve alcohol. The applicant has requested approval for the proposed convenience store to sell beer & wine for consumption off the premises under the ABC Type 20 License. Minors are allowed on the premises.

In January of 1998, Section 23817.5 of the State of California Business and Professional Code was amended to permanently establish a moratorium on the issuance of Type 20 Licenses in cities and counties where the ratio of Type 20 Licenses exceeds one license for each 2,500 inhabitants. The moratorium as of January 30, 2017, includes all of Madera County. The moratorium specifically prohibits the purchase of a new Type 20 License or transfer of a Type 20 License from any city or county outside Madera County. The moratorium does not apply to transferred licenses from within Madera County.

The project site is located within Census Tract 8.01. Historically, the Police Department (PD) has opposed any request for the issuance of an alcohol license in Census Tract 8.01. The contention behind the opposition is that the Downtown District has an overconcentration of alcohol licenses that has caused a public nuisance to the City's welfare and safety in that area. This matter was brought to the City Council in an administrative report during the April 20, 2011, Council hearing with a request from staff for direction regarding businesses who wish to obtain an ABC license in an overconcentrated census tract. The Council came to a unanimous decision that provided staff with direction to review each conditional use permit for the sale and/or consumption of alcoholic beverages within areas of overconcentration on an individual case by case basis and weigh each application on its own merits.

The City's Police Department was notified and presented no opposition to the request. Presently, there are two (2) off-site ABC licenses in the census tract. ABC only allows for two (2) off-site licenses within the subject census tract. The potential approval of this ABC license will create an over concentration of the permitted ABC licenses within the census tract.

The nearest ABC license is located across the street for EZ Mart Food Store #15 located at 1221 West Olive Avenue. For further information on the business, please refer to Table 2 below.

Table 2: *ABC License Type 20*

Business	Census Tract	Year Issued	ABC Type	Jurisdiction
Thrifty Payless, Inc.	8.01	1994	Type 21	City of Madera
EZ Mart Food Store #15	8.01	2020	Type 21	City of Madera

ABC also considers whether there are schools within 1,000 linear feet (0.19 mile) of the proposed location of alcohol sales. The nearest schools to the project site are Madera High School with the main campus on the north side of Olive Avenue being located ±1575 feet away and the parking lot and athletic fields on the south side Olive Avenue being located ±965 feet away.

Staff acknowledges that Census Tract 8.01 will potentially become over concentrated with the approval of an additional ABC Type 20 License.

However, staff also acknowledge that convenience stores and fuel stations offer more than just beer & wine. Pursuant to Section 23958 of the California Business and Professions Code (BPC), ABC shall deny an application for a license if issuance would result in or add to an undue concentration of licenses. However, Section 23958 further states, with respect to certain license types (e.g., Type 20 & 21 off-sale licenses), ABC may issue said licenses if the local governing body, or its designated subordinate officer or body determines that issuance of the license would serve a public convenience or necessity (PCN). The City of Madera has declined to make determinations of PCN for persons/premises applying for an ABC license. Under this circumstance, determinations of PCN revert to ABC.

It is staff's opinion that the proposed project is consistent with Policy SUS-11 of the General Plan which provides:

- Policy SUS-11 – The City seeks to allow abundant commercial opportunities and the development of a strong local workforce. The City recognizes the interrelated nature of economic development among the various cultural, social, and economic segments of the community, and will work with local entrepreneurs to develop cooperative programs that increase and enhance opportunities for business growth within the City.

Should the Commission resolve to approve CUP 2022-23, staff has prepared conditions of approval which will ensure the sale of beer and wine for off-site consumption in conjunction with the proposed convenience store will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the vicinity.

Site Plan Review (SPR) 2022-35

Pursuant to Section 10.3.4.0102 of the CMC, site plan review applies to all new, expanded, or changed uses of property which involve the construction or placement of new structures or buildings on the site, new uses which necessitate on-site improvements to comply with the provisions of the City Municipal Code, including uses subject to a use permit.

SPR 2022-35 proposes to convert the existing ±1,523 square-foot service station building on the project site for use as a convenience store (Zippy Mart) in conjunction with the existing automobile gas fueling station also located on the project site. Proposed site improvements also include: a ±271 sq. ft. addition to the rear of existing building to allow for the installation of a walk-in cooler; updates to the exterior finishes of the building; the addition of a solid waste enclosure; and installation of new landscaping.

ENVIORNMENTAL REVIEW:

Staff performed a preliminary environmental assessment and determined that the project is Categorically Exempt pursuant to Section 15301/Class 1 (Existing Facilities), 15303/Class 3 (New Construction or Conversion of Small Structures) and 15332/Class 32 (In-Fill Development Projects) of the State of California Environmental Quality Act (CEQA) Guidelines because it involves interior or exterior alterations involving such things as interior partitions, plumbing and electrical conveyances, restoration and adaptive reuse of a deteriorated structure, which will meet current standards of public health and safety as well as an addition to an existing structure which will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet (whichever is less); and, does not exceed 10,000 square-feet and is located in an area where public services and facilities are available to allow for maximum development permissible in the General Plan and which is not environmentally sensitive. In addition, the project involves the conversion of an existing small structure from one use to another where only minor modifications are made in the exterior of the structure. The project site is zoned and proposed to be utilized consistent with the Commercial General Plan land use designation and policies and will comply with all zoning regulations subject to the

conditions of approval. The project site is located within city limits, is not more than five acres, is surrounded by urban uses and has no value as habitat for endangered, rare or threatened species. The site is existing and can be adequately served by all required utilities and public services. Approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality. 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.

PLANNING COMMISSION ACTION:

The Planning Commission (Commission) will be acting on CUP 2022-23 and SPR 2022-35. Staff recommends that the Commission:

1. Adopt a Resolution of the City of Madera Planning Commission determining the project is Categorically Exempt pursuant to Sections 15301/Class 1 (Existing Facilities), 15303/Class 3 (New Construction or Conversion of Small Structures) and 15332/Class 32 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines and approving Conditional Use Permit (CUP) 2022-23 and Site Plan Review (SPR) 2022-35, 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 more request based on specified findings: (Commission to articulate reasons for denial).
3. Provide staff with other alternative directives.

ATTACHMENTS:

1. Aerial View
2. General Plan Land Use Map
3. City of Madera Zoning Map
4. Concentration & Proximity Map
5. Site Plan
6. Planning Commission Resolution
   Exhibit “A”: Conditions of Approval

ATTACHMENT 1

Aerial View

Zoning

Legend

- 1221 W Yosemite Ave
- C1
- C2
- CR
- I
- Madera
- PD
- PF
- POWYO
- Project Site
- R1
- R2
- R3
- RCO
- SP
- U

ATTACHMENT 2

General Plan Land Use Map

Aerial

Legend

- 1221 W Yosemite Ave
- Project Site

1221 W Yosemite Ave

Google Earth

700 ft

N

ATTACHMENT 3
General Plan

General Plan

ATTACHMENT 4

Concentration & Proximity Map

Concentration & Proximity Map

Legend

- Project Site
- Sensitive Use
- Tract 8.01
- Type 21

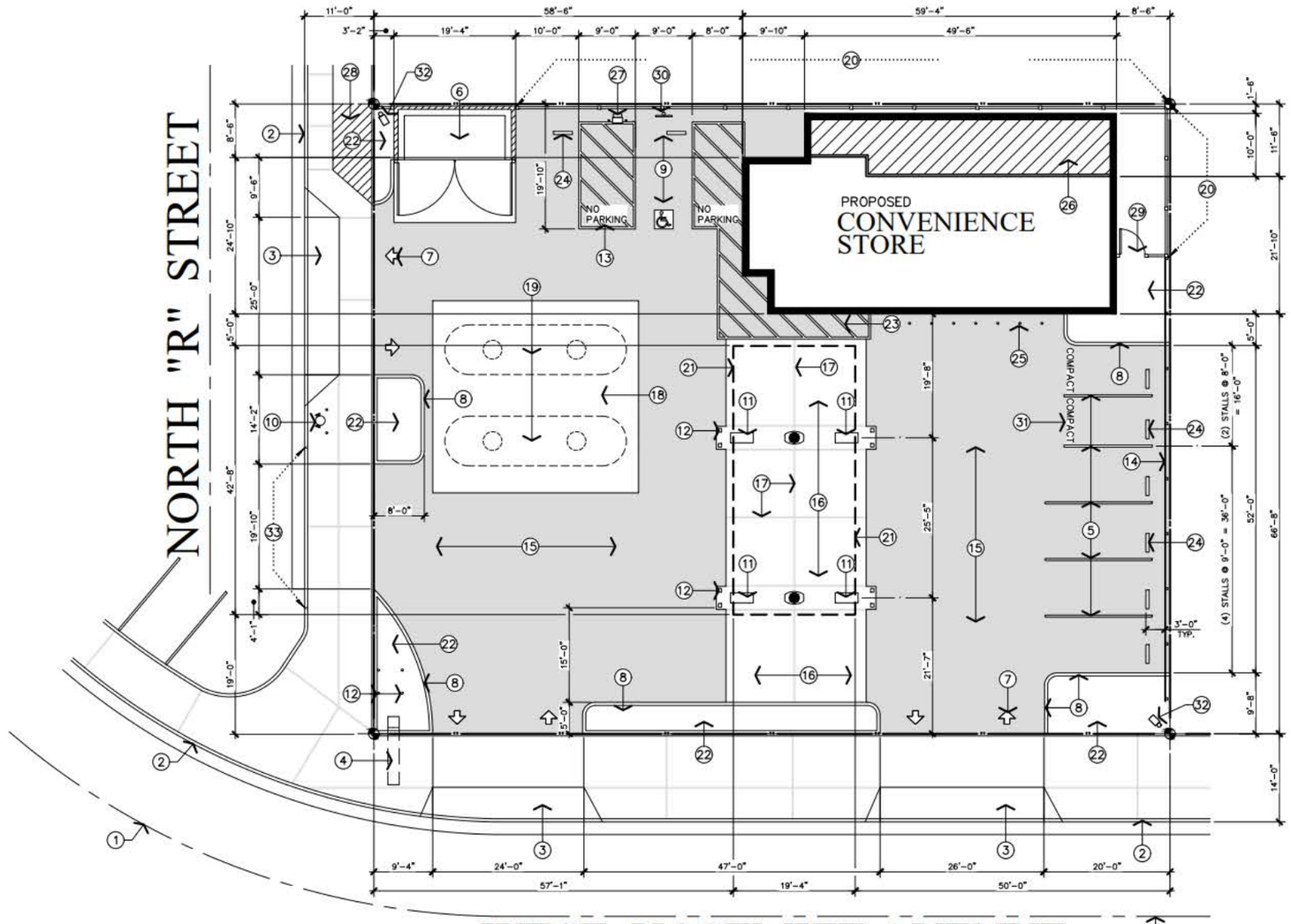
Google Earth

2000 ft

N

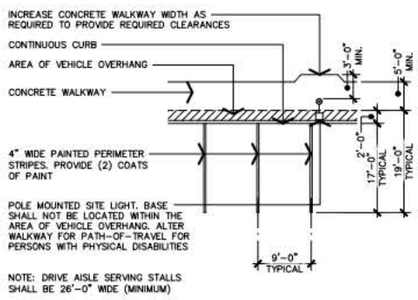
ATTACHMENT 5

Site Plan

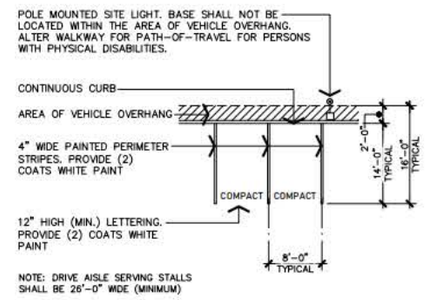


SITE PLAN

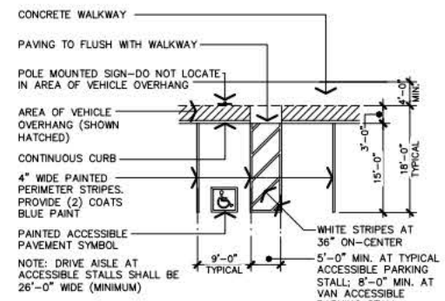
1" = 10'-0"



Ⓐ STANDARD PARKING STALL



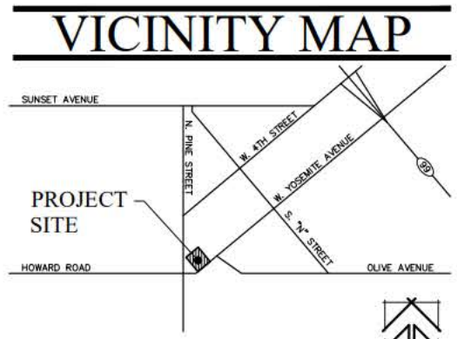
Ⓓ COMPACT PARKING STALL



Ⓑ ACCESSIBLE PARKING STALL

Ⓘ TYPICAL PARKING STALL DIMENSIONS

VICINITY MAP



STATISTICS

AGENCY JURISDICTION	CITY OF MADERA
PROJECT ADDRESS	1221 WEST YOSEMITE AVENUE MADERA, CALIFORNIA 93637
ASSESSORS PARCEL	010-062-013
CURRENT ZONING	C-1 COMMERCIAL RETAIL
CURRENT USE	VACANT - GAS STATION (AUTOMOTIVE REPAIR) WITH FUEL ISLANDS
PROPOSED USE	CONVENIENCE STORE WITH FUEL ISLANDS
SITE AREA	15,826 S.F. (0.363 ACRES)
SITE COVERAGE	
a. BUILDING AREA	1,794 S.F. (11.3%)
b. FUEL ISLAND	825 S.F. (5.2%)
c. PAVING / PARKING	9,330 S.F. (58.9%)
d. OPEN AREA / LANDSCAPING	3,877 S.F. (24.5%)
BUILDING AREA(S)	
a. CONVENIENCE STORE	
1. EXISTING BUILDING	1,523 S.F.
2. PROPOSED ADDITION	271 S.F.
3. TOTAL CONVENIENCE STORE AREA	1,794 S.F.
b. FUEL CANOPY	825 S.F.
c. TOTAL BUILDING AREA	2,619 S.F.
PARKING	
a. PARKING REQUIRED (1 STALL / 250 S.F. RETAIL)	8 STALLS
b. PARKING PROVIDED	
1. PARKING STALLS	
a. STANDARD STALLS	6 STALLS
b. COMPACT STALLS	2 STALLS
c. TOTAL PARKING STALLS	8 STALLS
2. FUEL ISLAND STALLS	8 FUELING POSITIONS
3. TOTAL PARKING PROVIDED	16 SPACES
4. PERCENT COMPACT PROVIDED	25%
5. ACCESSIBLE STALLS PROVIDED	1 STALL
CONSTRUCTION TYPE	VB
OCCUPANCY GROUP	M
PROJECT OWNER	NAVJEET SINGH CHAHAL 2267 CARSON AVENUE CLOVIS, CALIFORNIA 93611 (559) 322-5998

KEYNOTES

1. CENTER LINE OF STREET.
2. EXISTING CONCRETE CURB AND GUTTER AND CONCRETE SIDEWALK INSTALLED PER CITY OF MADERA PUBLIC WORKS STANDARDS TO REMAIN.
3. EXISTING STREET TYPE COMMERCIAL APPROACH PER CITY OF MADERA PUBLIC WORKS STANDARDS TO REMAIN.
4. INDICATES THE LOCATION OF THE EXISTING POLE MOUNTE PROJECT SIGN TO REMAIN. MODIFICATIONS TO THE SIGN REQUIRES A SEPARATE REVIEW AND PERMIT.
5. INSTALL 4 INCH WIDE WHITE PAINTED STRIPPING PER CITY OF MADERA PUBLIC WORKS STANDARDS/ TYPICAL PARKING STALL.
6. INSTALL TRASH ENCLOSURE WITH 6'-0" HIGH REINFORCED CONCRETE MASONRY WALLS AND CORRUGATED STEEL GATES PER CITY OF MADERA PUBLIC WORKS STANDARDS.
7. INSTALL WHITE PAINTED TRAFFIC ARROWS PER CITY OF MADERA PUBLIC WORKS STANDARDS AS INDICATED.
8. INSTALL 6 INCH CONTINUOUS CONCRETE CURB/ TYPICAL.
9. INDICATES THE LOCATION OF VAN ACCESSIBLE PARKING SPACE WITH AN 8'-0" WIDE UNLOADING ZONE ON THE PEDESTRIAN SIDE OF THE VEHICLE. PROVIDE SIGNAGE, PAINTED SYMBOLS AND STRIPED UNLOADING ZONE PER TITLE 24 CCR ACCESSIBILITY REQUIREMENTS
10. INDICATES THE LOCATION OF EXISTING OFF-SITE FIRE HYDRANT TO REMAIN.
11. INDICATES THE LOCATION OF MULTI-PUMP FUEL DISPENSING UNITS TO REMAIN (NO WORK UNDER THIS PERMIT).
12. INDICATES THE LOCATION OF 4 INCH CONCRETE FILLED STEEL PIPE BARRIERS TO REMAIN.
13. INSTALL 4 INCH WIDE WHITE PAINTED STRIPING AND THE WORDS "NO PARKING" IN 12 INCH HIGH LETTERS AT THE AIR/WATER DISPENSER.
14. INDICATES LOCATION OF EXISTING 24 INCH HIGH WOOD BARRIER AT PROPERTY LINE TO REMAIN. INSPECT FOR DAMAGE AND REPAIR OR REPLACE AS REQUIRED.
15. SHADING INDICATES THE LOCATION OF EXISTING ASPHALTIC CONCRETE PAVING TO REMAIN. INSPECT FOR DAMAGE AND REPAIR OR REPLACE AS REQUIRED. INSTALL A NEW SEAL COAT PRIOR TO OCCUPANCY.
16. INDICATES THE LOCATION OF EXISTING CONCRETE PAVING TO REMAIN. INSPECT FOR DAMAGE AND REPAIR OR REPLACE AS REQUIRED.
17. INDICATES LOCATION OF EXISTING TOOLED CONCRETE CONTROL JOINTS TO REMAIN.
18. INDICATES THE LOCATION OF EXISTING CONCRETE PAVING AT FUEL TANKS TO REMAIN.
19. LOCATION OF THE EXISTING UNDERGROUND FUEL TANKS SHOWN DASHED.
20. INDICATES LOCATION OF 6'-0" HIGH WOOD FENCE AT PROPERTY LINE TO REMAIN.
21. THE EDGE OF FUEL ISLAND CANOPY SHOWN DASHED. REFER TO THE FUEL EQUIPMENT EXHIBIUTS FOR ADDITIONAL INFORMATION.
22. PROPOSED LANDSCAPING AREA.
23. INSTALL 5'-0" WIDE PAINTED CROSSWALK WITH HATCHING AT 3'-0" ON-CENTER TO IDENTIFY THE ACCESSIBLE PATH-OF-TRAVEL WITH SLOPES LESS THAN 5% IN THE DIRECTION OF TRAVEL AND 2% CROSS-SLOPE
24. INSTALL 6" x 36" PRE-CAST CONCRETE WHEELSTOPS AS INDICATED
25. INDICATES THE LOCATION OF 4 INCH x 42 INCH TALL CONCRETE FILLED STEEL PIPE BARRIERS TO BE INSTALLED AT 42 INCHES ON-CENTER.
26. HATCHING INDICATES THE LOCATION OF THE PROPOSED ADDITION TO THE CONVENIENCE STORE.
27. INDICATES THE LOCATION OF EXISTING AIR / WATER UNIT TO REMAIN.
28. HATCHING INDICATES THE LOCATION OF EXISTING PUBLIC WALK TO BE REMOVED FOR THE INSTALLATION OF A NEW PLANTER
29. INSTALL NEW 6'-0" HIGH WOOD FENCE TO MATCH THE EXISTING ADJACENT FENCE. PROVIDE A 4'-0" WIDE GATE FOR ACCESS
30. INSTALL POLE MOUNTED SIGNAGE AT PARKING STALL RESERVED FOR PERSONS WITH PHYSICAL DISABILITIES PER TITLE 24 CCR.
31. INSTALL 12 INCH HIGH PAINTED SIGNAGE AT COMPACT PARKING STALLS PER CITY OF MADERA PUBLIC WORKS STANDARDS.
32. EXISTING POLE MOUNTED SITE LIGHT TO REMAIN / TYPICAL OF 2 TOTAL
33. INSTALL CONCRETE CURB AND GUTTER AND CONCRETE SIDEWALK PER CITY OF MADERA PUBLIC WORKS STANDARDS TO REMAIN.

THE VINCENT COMPANY
ARCHITECTS, INC.
1500 West Shaw, Ste. 304
Fresno, California 93711
Phone: 559.225.2602

Revisions	Date

PROPOSED REMODELLING FOR:

ZIPPY MART

1221 W. YOSEMITE AVENUE
MADERA, CALIFORNIA 93637

Project Architect:

REGISTERED ARCHITECT SCOTT A. VINCENT Exp. 12/31/25 No. C-15290 STATE OF CALIFORNIA

Issuances:	Date:
DESIGN REVIEW	
PLAN CHECK	
BACK CHECK	
PERMITS	
CONSTRUCTION	
AS BUILT	

Reference North:

Scale: 1"=10'-0"

Project Name: ZIPPY MART
MADERA, CALIFORNIA

Project Number: 0211119

Plot Date: 09.24.24

Sheet Number:

PA1

Of Sheets

ATTACHMENT 6

Planning Commission Resolution

Including:

Exhibit “A”: Conditions of Approval

RESOLUTION NO. 2015

A RESOLUTION OF THE CITY OF MADERA PLANNING COMMISSION DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT PURSUANT TO SECTIONS 15301/CLASS 1 (EXISTING FACILITIES), 15303/CLASS 3 (NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES) AND 15332/CLASS 32 (IN-FILL DEVELOPMENT PROJECTS) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND APPROVING CONDITIONAL USE PERMIT (CUP) 2022-23 AND SITE PLAN REVIEW (SPR) 2022-35.

WHEREAS, Scott A. Vincent ("Applicant"), on behalf of Navjeet Singh Chatal ("Owner"), submitted an application for a Conditional Use Permit (CUP 2022-23) and Site Plan Review (SPR 2022-35), the "Project," pertaining to a ±0.36 acres of property located on the north side of West Yosemite Avenue between North R and North Q Streets at 1221 West Yosemite Avenue (APN: 010-062-013) in the City of Madera CA. (the "project site"); and

WHEREAS, the project 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, the site has been developed with an existing ±1,523 square-foot commercial automobile service station building as well as gas fueling pumps, islands and canopy; and

WHEREAS, SPR 2022-35 proposes to convert the existing ±1,523 square-foot commercial automobile service station building on the project site for use as a convenience store and construct a ±271 sq. ft. addition to the rear of existing building to allow for the installation of a walk-in cooler and update exterior finishes and site improvements; and

WHEREAS, CUP 2022-23 was filed to request authorization to obtain a California Department of Alcoholic Beverage Control (ABC) Type 20 (Off-Sale Beer & Wine) License issued to retail stores and authorizing the sale of beer & wine for consumption off the premises where sold for the proposed convenience store; and

WHEREAS, the proposed operations and scope of work, in accordance with CUP 2022-23 and SPR 2022-35, 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 Section 15301/Class 1 (Existing Facilities), 15303/Class 3 (New Construction or Conversion of Small Structures) and 15332/Class 32 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, under the City's Municipal Code, 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 as required by law; and

WHEREAS, the Planning Commission received and independently reviewed CUP 2022-23 and SPR 2022-35 at a duly noticed meeting on December 10, 2024; 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 this Resolution determining the project is Categorically Exempt pursuant to Section 15301/Class 1 (Existing Facilities), 15303/Class 3 (New Construction or Conversion of Small Structures) and 15332/Class 32 (In-Fill Development Projects) of the CEQA Guidelines and approve CUP 2022-23 and SPR 2022-35, subject to the findings and conditions of approval.

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

1. Recitals: The above recitals are true and correct and are incorporated herein.

2. CEQA: A preliminary environmental assessment was performed for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning Commission determines that the project is Categorically Exempt pursuant to Section 15301/Class 1 (Existing Facilities), 15303/Class 3 (New Construction or Conversion of Small Structures) and 15332/Class 32 (In-Fill Development Projects) of the State of California Environmental Quality Act (CEQA) Guidelines because it involves interior or exterior alterations involving such things as interior partitions, plumbing and electrical conveyances, restoration and adaptive reuse of a deteriorated structure, which will meet current standards of public health and safety as well as an addition to an existing structure which will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet (whichever is less); and, does not exceed 10,000 square-feet and is located in an area where public services and facilities are available to allow for maximum development permissible in the General Plan and which is not environmentally sensitive. In addition, the project involves the conversion of an existing small structure from one use to another where only minor modifications are made in the exterior of the structure. The project site is zoned and proposed to be utilized consistent with the Commercial General Plan land use designation and policies and will comply with all zoning regulations subject to the conditions of approval. The project site is located within city limits, is not more than five acres, is surrounded by urban uses and has no value as habitat for endangered, rare or threatened species. The site is existing and can be adequately served by all required utilities and public services. Approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality. 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 2022-23: 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 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 existing and proposed use of the property and proposed operations requiring a use permit are consistent with the goals, objectives and policies of the General Plan as well as with all development, performance or operational standards of the City Municipal Code and Zoning Regulations subject to the conditions of approval.

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

The project site is planned and zoned for commercial uses. The site is developed with an existing building previously used for an automobile service and fueling station use. The Type 20 ABC license authorizes the sale of alcohol for consumption off the premises. All surrounding properties are zoned for Light and Heavy Commercial uses. The project has been conditioned to ensure 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. The general welfare and safety of the surrounding uses and the City at large are not negatively impacted.

4. Findings to Approve SPR 2022-35: 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.*

The proposed adaptive reuse of an existing structure, which will meet current standards of public health and safety and the proposed improvements to the property supports Vision Madera 2025 and will 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). All proposed improvements and operations will comply with the policies of the General Plan and the development standards of the Zoning Regulations.

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). The project has been conditioned for consistency 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.*

Approval of SPR 2022-35 will not have a significant impact on traffic or the environment. The project site has been developed with an existing ±1,523 square-foot commercial automobile service station building as well as gas fueling pumps, islands and canopy within proximity to other commercial uses. The proposed project will comply with all established and adopted policies related to public safety and improvements.

5. Approval of CUP 2022-23 and SPR 2022-35: 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 10th day of December 2024, 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 for CUP 2022-23 and SPR 2022-35

EXHIBIT "A"
CUP 2022-23 and SPR 2022-35
CONVENIENCE STORE & ABC LICENSE
CONDITIONS OF APPROVAL
December 10, 2024

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 2022-23 and SPR 2022-35 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. CUP 2022-23 and Site Plan Review 2022-35 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Madera Municipal Code or required action is taken to extend the approval before expiration date.
2. All on-site and off-site requirements listed herein shall be completed in advance of any request for building permit final inspection, occupancy of the tenant suite or issuance of a business license, or as otherwise noted.
3. Vandalism and graffiti shall be corrected per the City Municipal Code (CMC).
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 2022-23 and SPR 2022-35.**
5. The property owner, operator and/or manager shall operate in a manner that does not generate noise, odor, blight, or vibration that adversely affects any adjacent properties.
6. Approval of CUP 2022-23 and SPR 2022-35 is for the benefit of the applicant. The submittal of site plan review application 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

Site Plan Review (SPR 2022-35)

Solid Waste Enclosures:

7. Outdoor trash areas shall be screened and enclosed on three sides with masonry wall composed of an exterior cement plaster finish painted consistent with building colors to reduce the visual appearance. Trash enclosure shall be designed to meet the storage requirements for waste bins. Enclosure shall incorporate a roof cover to ensure waste debris and/or liquids do not infiltrate storm drains.
8. Each enclosure shall provide a minimum interior length of 27 feet measured to accommodate, one (1) general waste bin, one (1) recycle bin and one (1) compostable bin in accordance with the City's waste hauler bin specifications; and, shall otherwise be constructed in accordance with City of Madera Typical Refuse Container Enclosure Detail (Standard) E-7.
    a. Alternative designs are subject to approval by the Community Development Director.
9. Applicants seeking organics waivers pursuant to the provisions of CMC §5-3A.06 shall contact the City of Madera's contracted hauler (Designee), Mid Valley Disposal, at (559) 567-0520 for further information and respective forms to be completed.
    a. Upon completion, forms submitted to Mid Valley Disposal will be delivered to City of Madera Public Works staff for review and approval or denial.
        i. Following approval, a copy of the approved waiver shall be delivered by the applicant to respective Planning and/or Building Department staff for purposes of

demonstrating compliance in-lieu of facility construction and satisfying respective backcheck comments and requirements.

ii. Alternatively, if the waiver is denied, required facilities must be provided/constructed and compliance with any additional City requirements must be demonstrated prior to final inspections/occupancies being granted by the City and/or prior to commencement of operations being authorized.

Landscaping:

10. Landscaping shall be installed in accordance with approved landscape planting and irrigation plans, subject to final approval by the Planning Manager prior to issuance of building permits.

11. Landscape and irrigation plan shall be prepared by a licensed Landscape Architect and submitted as part of the submittals for a building permit. Landscape and irrigation plans shall comply with all the specific landscape requirements and be approved by the Planning Department including Zoning Code requirements, unless specific deviation from the standards are approved by the Planning Manager, prior to issuance of building permits. The plans shall:

    a) Projects subject shall demonstrate compliance with the State of California's Model Water Efficient Landscape Ordinance (MWELO);

    b) Provide permanent automatic irrigation systems for all landscaped areas with design to have moisture and/or rain sensor shutoff (weather based automatic, self-adjusting), minimize irrigation runoff, promote surface infiltration where possible, minimize the use of fertilizers and pesticides that can contribute to storm water pollution;

    c) Provide vegetative matter coverage of a minimum of seventy percent (70%) of all landscaped areas;

    d) Street trees within rights-of-way or planted on-site in-lieu of planting within the sidewalk pattern shall be selected from the City's "Approved City Street Tree List" and spaced accordingly. Trees must be established to the satisfaction of the Planning Manager after five (5) years or shall be enhanced or replaced subject to the above condition for a further five (5) year period of establishment or to the Planning Managers satisfaction;

    e) Locate landscape material in such a way that it does not interfere with utilities above or below ground. All existing and proposed site utility features shall be fully screened with landscaping at appropriate clearances. A detail of screening shall be included on the plans and approved prior to building permit issuance and subject to Planning Manager review;

    f) Provide detailed planting lists for all landscaping, with the number, size, spacing (where applicable) and species of all plant life and groundcover, as well as tree staking, soil preparation techniques for all landscaped areas; and

    g) Landscaping shall be designed and operated to treat stormwater runoff by incorporating elements that collect, detain, and infiltrate runoff, by the use of flow through planters from areas of impermeable paving (such as parking and circulation areas).

12. Parking lot shade trees should be planted within the parking area to provide a minimum of 50% shade coverage over parking bays at high noon or at a rate of one 15-gallon tree for each 3 parking stalls including loading spaces.

13. On-site and off-site landscaping and irrigation shall not be installed until detailed landscape and irrigation plan(s) are approved by the Planning Department. Any deviation from the approved plan(s) shall require written request and approval by the Planning Department.
14. Approved landscape and irrigation plan(s) shall be fully installed and operational prior to granting occupancy.
15. The property owner, operator, and/or manager shall develop and submit to the Planning Department for review and approval, prior to issuance of a building permit certificate of completion, a landscape maintenance and irrigation program for the first three (3) years to ensure that streetscapes and landscaped areas are installed and maintained as approved.
16. The property owner shall maintain all landscaping in a healthy and well-manicured appearance. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation with drought-tolerant plantings.
17. A maintenance agreement is required for all landscaping located within the public right-of-way. Such agreement shall be entered into prior to issuance of a certificate of completion.

<u>Conditional Use Permit (CUP 2022-23):</u>

18. Business hours of operation are 5:00 am to 2:00 a.m., seven days a week.
    a. Alcohols sales shall be limited to the Hours of Sale per the California Department of Alcoholic Beverage Control.
    b. Any sale of alcohol between the hours of 2 am and 6 am shall be strictly prohibited.
19. CUP 2022-23 and SPR 2022-35 do not authorize commencement of construction. All required permits for proposed work shall be obtained from the Building Department prior to commencement of construction activities.
20. The business shall not display exterior signage or marketing of alcohol sales.

Alcohol Beverage Control License (ABC)

21. CUP 2022-23 provides authorization to obtain a Type 20 ABC License on the project site for use in conjunction with a proposed convenience store in accordance with SPR 2022-35.
22. No consumption of alcohol is allowed on the premises.
23. The use is conditioned upon obtaining an appropriate permit from the Department of Alcohol Beverage Control. The applicant, operator and any successors shall comply with all applicable codes. If at any time the use is determined by staff to be in violation to seek revocation of the permit or modification of the conditions of approval.
24. In the event the property owner and/ or applicant chooses to modify the ABC License type, the applicant shall amend CUP 2022-23 and shall require reapproval of the Planning Commission.
25. Any action taken by the owner, applicant, and/or business manager found to be in violation of any of the provisions set forth by the Alcohol Beverage Control License Type.

26. shall render this conditional use permit revocable. The use must always comply with any license requirements for the subject property by Alcohol Beverage Control.
27. Cooler doors for alcoholic beverage products will be locked during hours when alcoholic beverages may not be sold.
28. 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.
29. The sale of 32-ounce to 40-ounce beer and malt beverage products shall be prohibited.
30. The sale of wine coolers shall occur in no less than packs of four (4).
31. The sale of wine shall not be sold in containers less than 750 ml.
32. No malt liquor or fortified wine products shall be sold.
33. No display of alcohol shall be made from an ice tub, barrel or similar container.
34. No sale or distribution of alcoholic beverages shall be made at any time from a drive-up or walk-up window.

Merchandise & Advertising. As an ongoing measure:

35. 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.
36. No adult magazines or videos shall be sold.
37. 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.
38. All indoor display(s) of alcohol beverages shall be located at least five (5') feet away from the store entrance.
39. No promotional signage and/or displays promoting alcohol, tobacco and/or tobacco related products shall be utilized in any way.

Building Department

40. A building permit is required for all improvements/ additions.
41. The rear wall shall be fire rated appropriately and have no openings.

Fire Department

42. One additional fire extinguisher shall be required.
43. More information is required regarding the type of storage including the method and arrangement of storage.

Engineering Department

General

44. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
45. 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.
46. 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.
47. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.
48. All off-site improvements shall be completed prior to issuance of final occupancy.

Water

49. 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.
50. Water meters shall be installed and account activated through the City's Utility Billing Department prior to commencement of foundations and/or pads. Immediate installation can be delayed subject to use of a metered hydrant utilizing meter supplied through the Public Works Department along with appropriate measures to ensure water from the future lateral not be used until a permanent meter and backflow prevention device is installed.
51. Existing water service connections that will not be used for the project shall be abandoned at the mains per City of Madera standards.

Sewer

52. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards.
53. Existing sewer service connections that will not be used for the project shall be abandoned at the mains per current City of Madera standards.
54. Sewer main connections six (6) inches and larger in diameter shall require manhole installation.
55. Existing septic tanks, if found, shall be removed, permitted and inspected by City of Madera Building Department.

Streets

56. 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.

57. The developer shall remove the southerly most driveway on R Street to minimize potential for conflicting turning movements to or from Yosemite as depicted on the site plan dated September 24, 2024.x

END OF CONDITIONS

REPORT TO THE PLANNING COMMISSION

Prepared by: Adileni Rueda, Assistant Planner

Meeting of: December 10, 2024

Agenda Number: 5

SUBJECT:

Consideration of applications for General Plan Amendment 2024-01, Annexation (ANX 2024-01), Prezone (REZ 2024-02) and Tentative Subdivision Map (TSM 2024-01), pertaining to ±19.90 acres of land, comprised of 11 parcels, bounded by Adell and Fairview Streets on the south and west and the Madera Irrigation District Canal (Lat. 24.2) on the north and east, in the County of Madera (APN[s]: 038-060-017, 038-110-016, 038-110-017, 038-110-018, 038-110-019, 038-110-020, 038-110-021, 038-110-022, 038-060-028, 038-060-032, and 038-060-033).

RECOMMENDATION:

Conduct a public hearing and adopt:

1. A Resolution of the Planning Commission of the City of Madera adopting the Mitigated Negative Declaration (SCH 2024110144) and the Mitigation Monitoring and Reporting Program prepared for purposes of the proposed project in accordance with the California Environmental Quality Act (CEQA) Guidelines and contingently approving TSM 2024-01, subject to the findings and conditions of approval; and
2. A Resolution of the Planning Commission of the City of Madera recommending the Council of the City of Madera approve GPA 2024-01 and REZ 2024-02 to facilitate annexation to the City of Madera (ANX 2024-01).

SUMMARY:

The applicant, CVI Group, has filed applications for General Plan Amendment (GPA 2024-01), Annexation (ANX 2024-01), Prezone (REZ 2024-02) and Tentative Subdivision Map (TSM 2024-01).

GPA 2024-01 and TSM 2024-01 pertain to a ±6.93-acre parcel located on the northeast corner of Ellis and Fairview Streets (APN: 038-060-017) (the "Project Site). GPA 2024-01 proposes to change the General Plan land use designation for the project site from the Low Density Residential (2.1-7 dwelling units per acre) designation to the Medium Density Residential (7.1-15 dwelling units per acre) designation to facilitate approval of TSM 2024-01. TSM 2024-01 proposes a 61-lot single family residential subdivision of the project site at a density of ±8.80 dwelling units/acre.

ANX 2024-01 and REZ 2024-02 pertain to eleven (11) parcels (APNs 038-060-017, 038-110-016, 038-110-017, 038-110-018, 038-110-019, 038-110-020, 038-110-021, 038-110-022, 038-060-028,

038-060-032, and 038-060-033) totaling ±19.90 acres in area and bounded by Adell and Fairview Streets on the south and west and the Madera Irrigation District Canal (Lat. 24.2) on the north and east in the County of Madera, CA (the "Project Area"). REZ 2024-02 proposes to prezone the project site to the PD-3000 (Planned Development, one unit for each 3,000 square feet of site area) consistent with the Medium Density Residential land use designation proposed in accordance with GPA 2024-01. The balance of the project area is proposed to be prezoned to the R-1 (Residential, one unit for each 6,000 square feet of site area) consistent with the existing Low Density Residential General Plan land use designation. Prezoning is a prerequisite to annexation of the project area to the City of Madera, which is proposed for purposes of facilitating the proposed subdivision of the project site in accordance with TSM 2024-01.

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

Table 1: *Project Overview*	
Project Number:	GPA 2024-01, ANX 2024-01, Prezone 2024-02, TSM 2024-01
Applicant:	CVI Group
Property Owner:	CVI Group
Location:	±19.90 acres of land bounded by Adell and Fairview Streets on the south and west and the Madera Irrigation District Canal (Lat. 24.2) on the north and east in the County of Madera, CA
Project Area / Project Site:	±19.90 acres / ±6.93 acres
Existing Land Use Designation:	±19.90 ac. - Low Density Residential (2.1-7 d.u./ac.)
Proposed Land Use Designation:	±12.97 ac. - Low Density Residential (2.1-7 d.u./ac.) ±6.93 ac. - Medium Density Residential (7.1-15 d.u./ac.)
Existing Zoning District:	RRS (Madera County - Residential, Rural, Single Family District)
Proposed Zoning District:	±12.97 ac. – R1 (Residential, one unit for each 6,000 sq. ft. of site area) ±6.93 ac. – PD-3000 (Planned Development, one unit for each 3,000 sq. ft. of site area).
Site Characteristics	Majority of the project area is composed of vacant and rural single family residential.

ANALYSIS:

Site Characteristics:

The project area consists of eleven parcels that total ±19.90 acres in area. The majority of the project area consists of rural residential development and vacant parcels. The project area is located within the unincorporated area of the County of Madera but within the City of Madera Sphere of Influence (SOI) and Urban Growth Boundary (UGB) pursuant to the General Plan.

Annexation 2024-01:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act) establishes procedures for local government changes of organization, including city incorporations, annexations to a city or special district, and city and special district consolidations.

Local agency formation commissions (LAFCOs) have numerous powers under the Act, but those of primary concern are the power to act on local agency boundary changes and to adopt spheres of influence for local agencies. Among the purposes of LAFCOs are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies.

Upon receipt of the project application, City staff met preliminarily with Madera County LAFCO staff for purposes of identifying a recommended logical and orderly boundary for annexation. Both City and LAFCO staff agree the most logical and orderly boundary would be a prolongation of the western boundary of the project site to the south to the existing incorporated City boundary at Adell Street. The existing incorporated City boundary to the east is the Madera Irrigation District Canal (Lat. 24.2).

Accordingly, the proposed project area includes all parcels within the area which City and County staff recommend will create the most logical and orderly boundary for annexation.

General Plan Amendment 2024-01 and Prezone 2024-01:

Currently, the City of Madera's General Plan Land Use Map designates all eleven parcels within the project area and proposed annexation boundary for Low Density Residential (2.1-7.0 dwelling units per acre) uses. Policy LU-32 of the General Plan provides zoning shall be consistent with General Plan land use designations.

The project proposes to amend the General Plan Land Use Map to change the land use designation for the project site (APN: 038-060-017) from Low Density Residential to Medium Density Residential (7.1-15 dwelling units per acre) to facilitate subdivision of the project into 61 single family residential lots at a density of ±8.80 dwelling units per acre. Accordingly, REZ 2024-02 proposes to: (1) Prezone the project site (±6.93 ac.) to the PD-3000 (Planned Development, one unit for each 3,000 square feet of site area) zone district, consistent with the Medium Density Residential land use designation; (2) Prezone the balance of the project area (±12.97 ac.) to the R1 (Residential, one unit for each 6,000 square feet of site area) zone district consistent with the Low Density Residential land use designation. Policy LU-32 of the General Plan also provides Table LU-A: General Plan/Zoning Consistency of the General Plan shall be used to determine consistency for rezoning applications. The PD-3000 and the R1 zone districts are consistent with the Medium and Low Density Residential land use designations, respectively pursuant to Table LU-A of the General Plan.

The Medium Density Residential land use designation proposed by GPA 2024-01 will facilitate consistency between the proposed subdivision density and the General Plan Land Use designation; and allow prezoning to a zone district which will accommodate the proposed subdivision density and lot sizes (i.e., one unit for each 3,000 square feet of site/lot area).

Prezoning of the project area in accordance with REZ 2024-02 will create consistency between zoning (upon annexation to the City of Madera) and the General Plan land use designation in accordance with Policy LU-32 of the General Plan as well as the prezoning requirements for annexation as provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

The chart below indicates the proposed zone district and land use designation for the parcels included within the project area:

APN	Acres	Proposed City of Madera GP	Proposed City of Madera Zone District
038-060-017	6.93	Medium Density Residential (MD)	PD-3,000 (Planned Development, one unit per 3,000 sq ft)
038-110-016	0.91	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-110-017	1.51	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-110-018	0.92	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-110-019	1.15	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-110-020	2.33	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-110-021	0.77	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-110-022	1.19	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-060-028	1.95	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-060-032	1.0	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)
038-060-033	1.18	Low Density Residential (LD)	R-1 (One unit for every 6,000 sq ft)

Tentative Subdivision Map 2024-01:

A tentative subdivision map was submitted to subdivide the ±6.93-acre project site (APN: 038-060-017) into 61 single family residential lots. Each parcel will be required to be a minimum of 3,000 square feet in area. The tentative map map proposes minimum lot sizes of 3,344 square feet and a maximum lot size of 4,475 square feet.

At this time, construction of the subdivision is not being proposed therefore the precise plan details have not been determined. Pursuant to the City Municipal Code (CMC) 10-3-4.103, No

construction, grading, or new development activity shall commence in any P-D zone prior to the approval of a precise plan of the development by the Planning Commission.

Subdivision Map Act:

The California Subdivision Map Act (Government Code Section 66410, et seq.) establishes most of the procedures for subdivision of land. Other components are contained within Chapter 2 (Subdivisions) of Title 10 (Planning and Zoning) of the Madera Municipal Code. Generally, a tentative subdivision map is required in order to subdivide land into five or more parcels.

Pursuant to Government Code Section 66474, a legislative body of a city or county shall deny approval of a tentative map, if it makes any of the following findings:

a) That the proposed map is not consistent with applicable general plan and specific plans as specified in Section 65451 of the Government Code.

b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

c) That the site is not physically suitable for this type of development.

d) That the site is not physically suitable for the proposed density of development.

e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. The subsection shall apply only to easements of record or to easements established by judgement of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

ENVIRONMENTAL REVIEW:

The proposed project has been reviewed for compliance with the requirements of the California Environmental Quality Act (CEQA) Guidelines.

Precision Civil Engineering, Inc. has prepared an initial study, performed environmental analyses and evaluated the project in accordance with the CEQA Guidelines and criteria on behalf of the City as lead agency. The conclusions and findings resultant from these environmental studies, analyses and an evaluation of the proposed project determined that although the project could have a significant effect on the environment, there will not be a significant effect because

mitigation measures have been identified to reduce the significant direct, indirect or cumulative effects on the environment to a level less-than-significant, and that preparation of a Mitigated Negative Declaration (MND) is appropriate for this project.

The Notice of Intent to Adopt the Mitigated Negative Declaration (SCH No. 2024110144) was filed on November 8, 2024, with the County Clerk, published in the Madera Tribune, and posted with the Governor's Office of Planning and Research (OPR). This initiated a public review period effectively commencing on November 9, 2024, and ending December 9, 2024.

Staff is recommending the Planning Commission adopt a resolution approving TSM 2024-01 contingent upon and subject to Council approval of REZ 2024-02 (& ANX 2024-01). With this action, the Commission would be making the first project approval for the overall project and therefore will be considering the environmental findings of MND (SCH No. 2024110144), including the Mitigation Monitoring and Reporting Program, for adoption. The MND (SCH No. 2024110144) provides the environmental assessment and criteria analyses for purposes of the entire proposed project, including subsequent actions by the City Council.

PLANNING COMMISSION ACTION:

The Commission will be considering adoption of the Mitigated Negative Declaration (SCH No. 2024110144), including the Mitigation Monitoring and Reporting Program; and considering TSM 2024-01 for approval or denial. The Commission's action relative to GPA 2024-01, REZ 2024-02 (& ANX 2024-01) will be a recommendation to the City Council. Staff recommends that the Commission:

1. Adopt a Resolution of the Planning Commission of the City of Madera adopting the Mitigated Negative Declaration (SCH 2024110144) and the Mitigation Monitoring and Reporting Program prepared for purposes of the proposed project in accordance with the California Environmental Quality Act (CEQA) Guidelines and contingently approving TSM 2024-01, subject to the findings and conditions of approval; and
2. Adopt a Resolution of the Planning Commission of the City of Madera recommending the Council of the City of Madera approve GPA 2024-01 and REZ 2024-02 to facilitate annexation to the City of Madera (ANX 2024-01).

ALTERNATIVES:

As an alternative, the Commission may elect to:

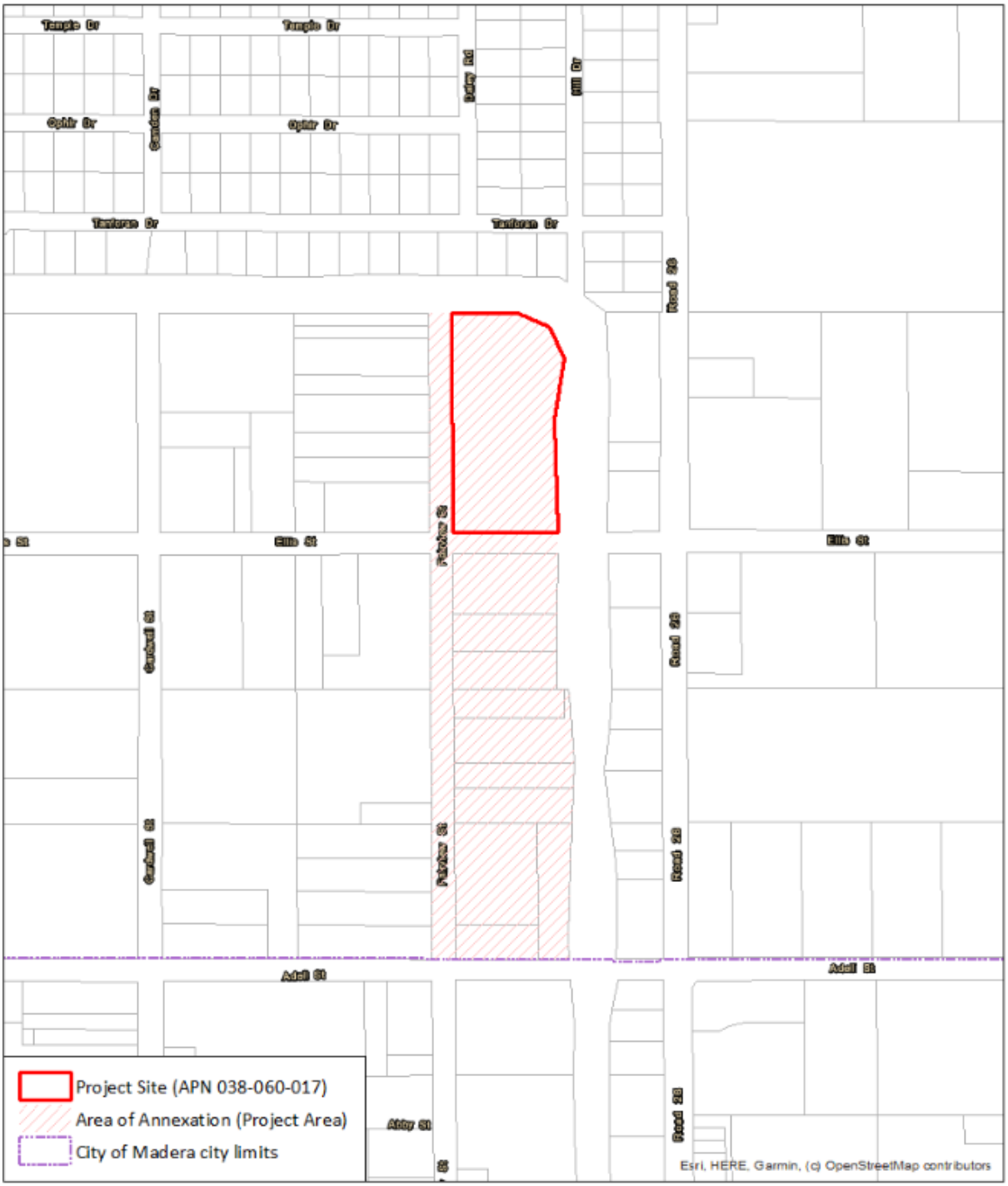
1. Move to refer the item back to staff and/or continue the public hearing to a future Commission meeting at a date certain with direction to staff to return with an updated staff report and/or resolution(s): (Commission to specify date and reasons for continuance).
2. Move to deny (or recommend denial)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

ATTACHMENTS:

1. Vicinity Map
2. Existing General Plan Land Use Map
3. Proposed General Plan Land Use Map
4. Existing Zoning Map
5. Proposed Zoning Map
6. Tentative Subdivision Map
7. Initial Study/Mitigated Negative Declaration
8. Resolution Adopting MND & Approving TSM
    Exhibit “A”: Conditions of Approval
    Exhibit “B”: Mitigation Monitoring and Reporting Program
9. Resolution for Recommendation to the City Council

ATTACHMENT 1

Vicinity Map

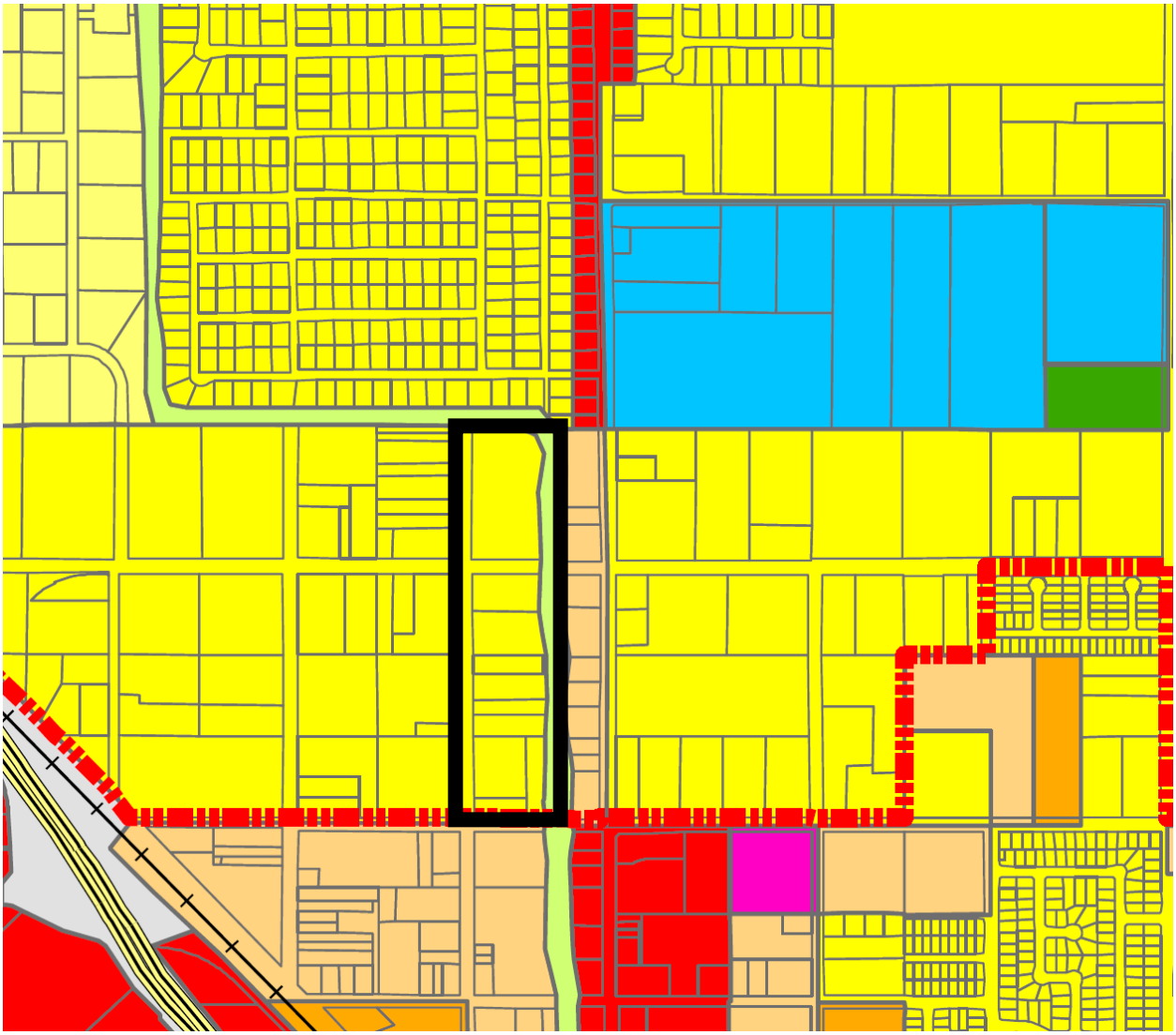


CITY OF MADERA - ELLIS/FAIRVIEW RESIDENTIAL SUBDIVISION

Created: 7/30/2024

ATTACHMENT 2

Existing General Plan Land Use Map



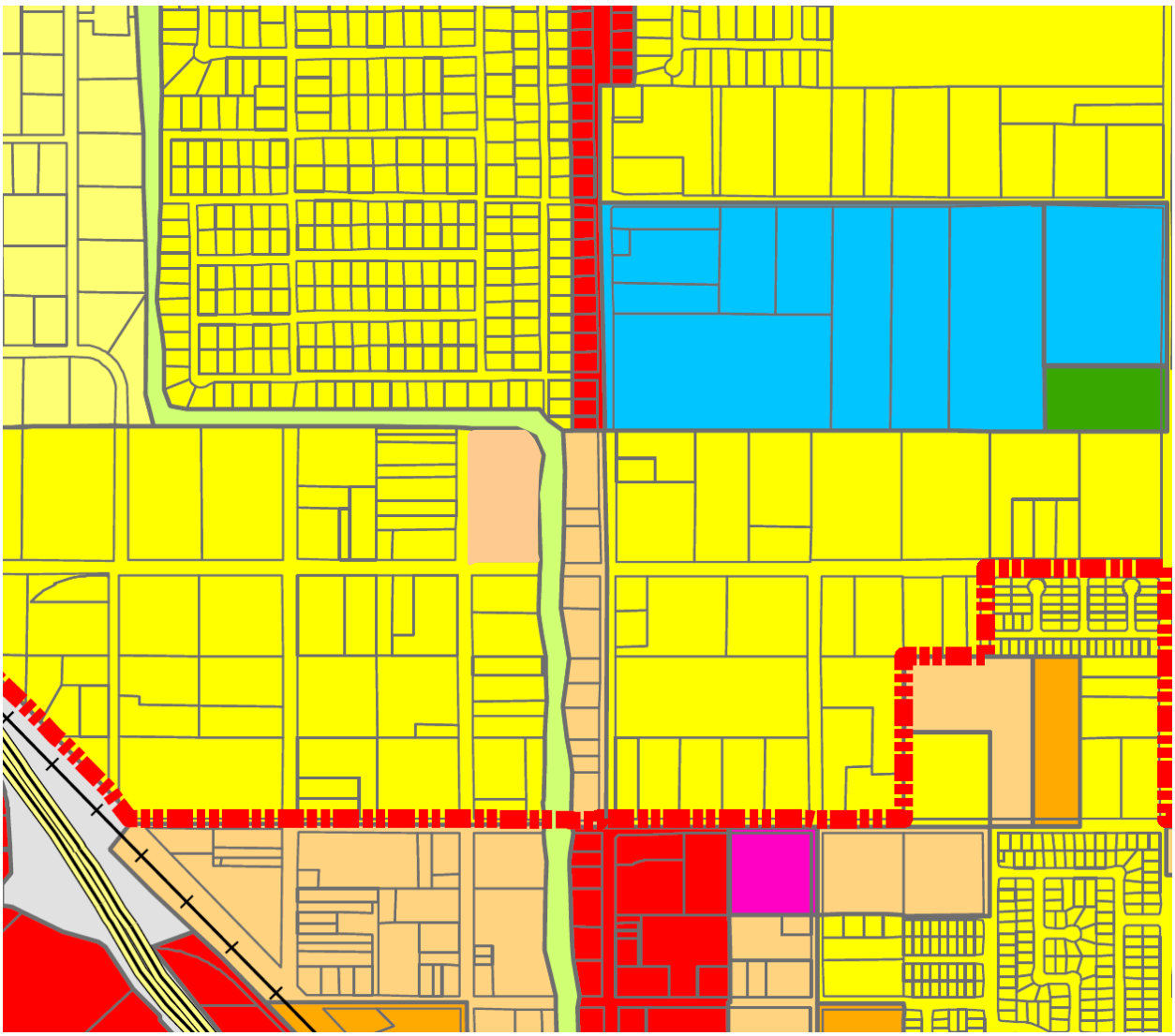
General Plan
Land Use Designations

- C - Commercial
- O - Office
- I - Industrial
- VLD - Very Low Density Residential
- LD - Low Density Residential
- MD - Medium Density Residential
- HD - High Density Residential
- NMU - Neighborhood Mixed Use
- VMU - Village Mixed Use

Project area

ATTACHMENT 3

Proposed General Plan Land Use Map



General Plan
Land Use Designations

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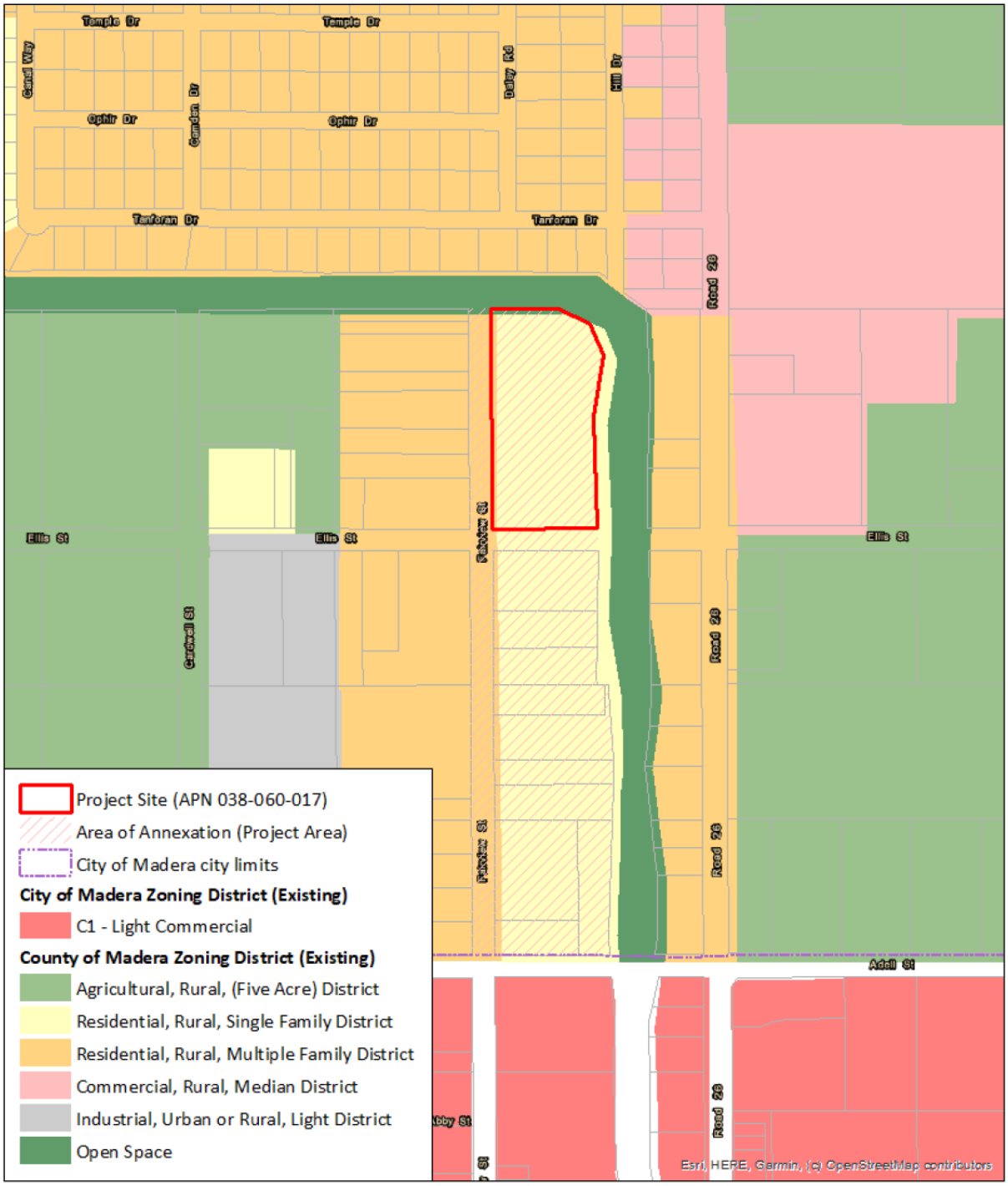
ATTACHMENT 4

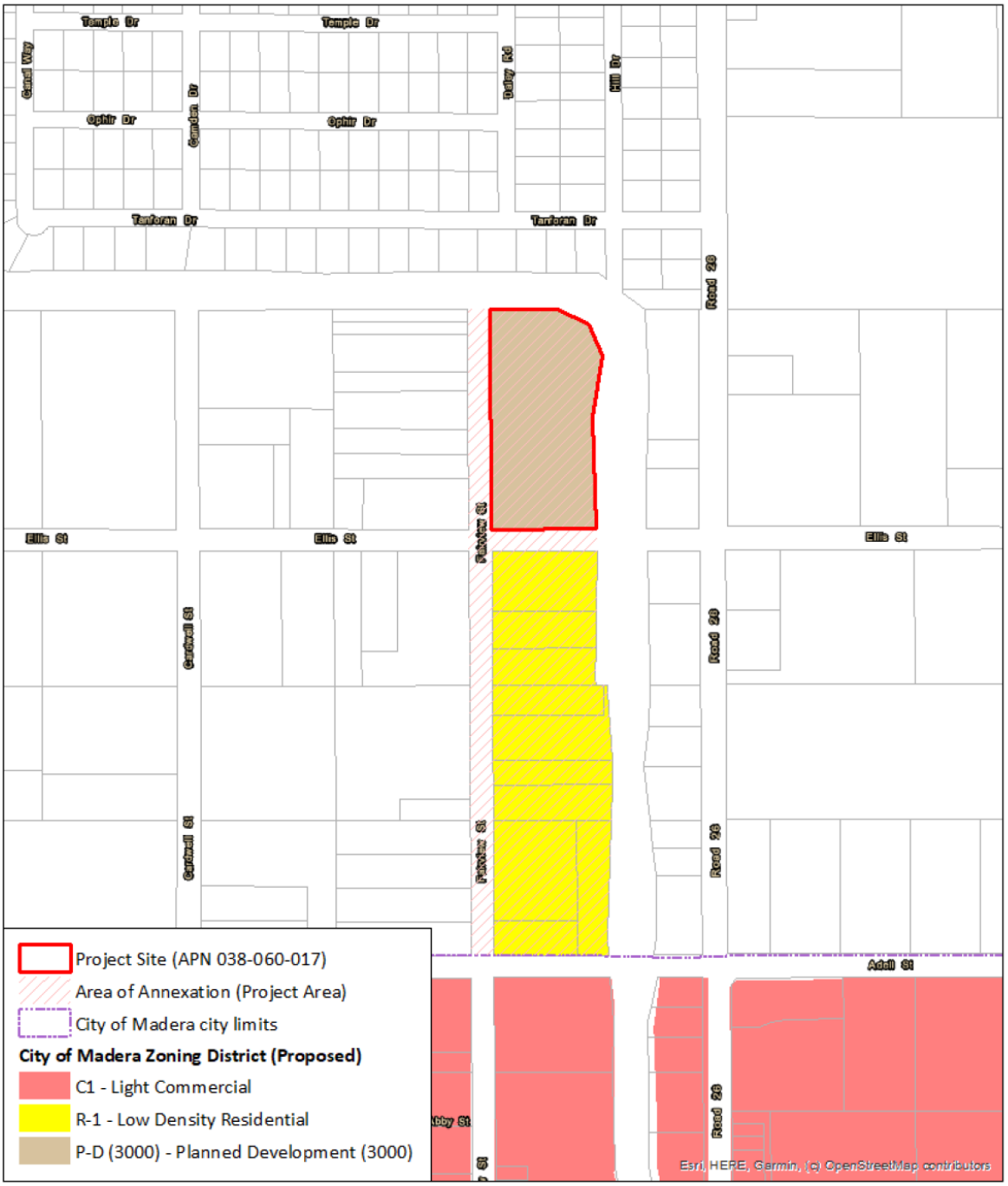
Existing Zoning Map



CITY OF MADERA - ELLIS/FAIRVIEW RESIDENTIAL SUBDIVISION

Created: 7/30/2024

ATTACHMENT 5
Proposed Zoning Map



0 0.045 0.09 0.18 0.27 0.36 Miles

CITY OF MADERA - ELLIS/FAIRVIEW RESIDENTIAL SUBDIVISION

Created: 7/30/2024

ATTACHMENT 6

Tentative Subdivision Map

ATTACHMENT 7

Initial Study/Mitigated Negative Declaration

https://www.madera.gov/home/departments/planning/#tr-current-projects-environmental-review-2436011

ATTACHMENT 8

Planning Commission Resolution Adopting MND & Approving TSM

Including:

Exhibit “A”: Conditions of Approval

Exhibit “B”: Mitigation Monitoring and Reporting Program

RESOLUTION NO. 2017

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA ADOPTING THE MITIGATED NEGATIVE DECLARATION (SCH 2024110144) AND THE MITIGATION MONITORING AND REPORTING PROGRAM PREPARED FOR PURPOSES OF THE PROPOSED PROJECT IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND CONTINGENTLY APPROVING TSM 2024-01

WHEREAS, CVI Group ("Owner") owns Assessor's Parcel Number (APN) 038-060-017, comprising ±6.93 acres of land located on the northeast corner of the intersection of Ellis Street and Fairview Street in the County of Madera, California (the "Project Site"); and

WHEREAS, the Owner has submitted Tentative Subdivision Map No. 2024-01 requesting authorization to subdivide the project site for purposes of creating a 61-lot single family residential planned development on the site at a density of ±8.80 dwelling units per acre; and

WHEREAS, the Owner has also submitted applications for a General Plan Amendment (GPA) 2024-01 and Prezone (REZ) 2024-02 to facilitate approval of Tentative Subdivision Map No. 2024-01 and annexation of the project site to the City of Madera; and

WHEREAS, GPA 2024-01 proposes to amend the General Plan Land Use Map to change the land use designation for the project site from Low Density Residential (2.1-7.0 dwelling units per acre) to Medium Density Residential (7.1-15 dwelling units per acre); and

WHEREAS, REZ 2024-02 proposes to prezone the project site to the PD-3,000 (Planned Development, One Unit Per 3,000 Square Feet), consistent with the proposed Medium Density Residential General Plan Land Use pursuant to Policy LU-32 and in accordance with Table LU-A: General Plan/Zoning Consistency of the General Plan; and

WHEREAS, the project site is located within the unincorporated area of the County and requires prezoning prior to annexation to the City of Madera; and

WHEREAS, this project was assessed in accordance with the provisions of the California Environmental Quality Act ("CEQA") resulting in preparation of a Mitigated Negative Declaration (SCH 2024110144) including a Mitigation Monitoring and Reporting Program, which has been circulated, and made available for public review pursuant to CEQA and the City of Madera Municipal Code (CMC); and

WHEREAS, under the City's Municipal Code, the Planning Commission is authorized to adopt environmental determinations and review and approve tentative subdivision maps on behalf of the City; and

WHEREAS, the City provided notice of the Planning Commission hearing on December 10, 2024, as required by law; and

WHEREAS, the Planning Commission received and reviewed Mitigated Negative Declaration (SCH No. 2024110144), including the Mitigation Monitoring and Reporting Program and TSM 2024-01 at the duly noticed meeting on December 10, 2024; and

WHEREAS, at the December 10, 2024, public hearing, 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 all the items before it, the Commission now desires to adopt this Resolution adopting the Mitigated Negative Declaration (SCH No. 2024110144), including the Mitigation Monitoring and Reporting Program prepared for purposes of the project project and approving TSM 2024-01 with conditions.

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

1. Recitals: The above recitals are true and correct and are incorporated herein.

2. CEQA: The Commission finds an environmental assessment initial study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations. Preparation of the environmental assessment necessitated a thorough review of the proposed Project and relevant environmental issues. Pursuant to CEQA Guidelines Section 15074(b), after consideration of the whole administrative record, including the Mitigated Negative Declaration circulated on November 9, 2024, and all comments received, the Commission finds that with the imposition of mitigation measures, there is no substantial evidence that the project will have a significant effect on the environment. Furthermore, the Commission finds the Mitigated Negative Declaration reflects the independent judgment and analysis of the City and the mitigation measures have been made enforceable conditions on the project. The Commission further finds the Initial Study and Mitigated Negative Declaration were timely and properly published and noticed as required by CEQA. As such, the Commission adopts Mitigated Negative Declaration (SCH No. 2024110144) and the Mitigation Monitoring and Reporting Program (Exhibit B) for purposes of the proposed project.

3. Findings for TSM 2024-01: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support approval of Tentative Subdivision Map No. TSM 2024-01, as conditioned. With the conditions, the project is consistent with the requirements of the Municipal Code, including Section 10-2.402. 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 proposed subdivision is consistent with the General Plan and specific plans.*

The Tentative Subdivision Map shall be consistent and compatible with the City's General Plan land use designations contingent upon and subject to City Council approval of GPA 2024-01 and REZ 2024-02. The procedural requirements of the Subdivision Map Act have been met, and all parcels comply with the General Plan, engineering, and zoning standards pertaining to grading, drainage, utility connections, lot size and density. In this regard, the design and improvements of the subdivision, subject to the conditions of approval, will be consistent with the requirements and improvement standards of the City of Madera.

b. *The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.*

The proposed subdivision design at a density of ±8.80 dwelliing units per acre will be consistent with the proposed Medium Density Residential land use designation and PD-3000 (Planned Development, one unit for each 3,000 square of site area) zone district contingent upon and subject to Council approval of GPA 2024-01 and REZ 2024-02. City Municipal Code provisions requiring the submission of a Precise Plan prior to commencement of any grading or construction activity will ensure final subdivision design is consistent with General Plan goals, objectives and policies. Improvements to City standards are required as part of the project conditions of approval.

c: The site is physically suitable for the type of development.

Adequate service capacity is available to service the subject site.

The project site is being planned for Medium Density Residential land use at a density of ±8.80 dwelling units per acre. The IS/MND prepared for the project sufficiently reviews the project pursuant to State CEQA Guidelines, which identifies the requirements for which analysis shall be carried out and the IS/MND provide sufficient analysis and project mitigations that, no further environmental review is required.

The subdivision design accommodates lot sizes and dimensions. adequate right-of-way widths for all streets, utilities and public improvements and services in accordance with City standards.

d: The site is physically suitable for the proposed density of development.

The proposed project of 61 single family residential units on ±6.93 acres of land at a density of approximately 8.80 dwelling units per acre is consistent with the proposed Medium Density Residential (7.1-15 dwelling units per acre) planned land use designation contingent upon and subject to Council

approval of GPA 2024-01. Proposed lots will provide a minimum of 3,000 square feet of site area for each unit as permissible in the proposed PD-3000 zone district contingent upon and subject to Council approval of REZ 2024-02. The Precise Plan will demonstrate compatibility with General Plan objectives and policies as well as with development standards for single family residential zoning in the City Municipal Code.

e: The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The design of the subdivision and the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

4. Approval of TSM 2024-01: Given that all findings can be made, the Planning Commission hereby approves TSM 2024-01, as conditioned as set forth in the Conditions of Approval (Exhibit "A") and contingent upon and subject to City Council approval of GPA 2024-01, REZ 2024-02 and annexation to the City of Madera.

5. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 10th day of December 2024, 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 "B” - Mitigation Monitoring and Reporting Program

EXHIBIT "A"
Tentative Subdivision Map (TSM) 2024-01
Ellis and Fairview Street Residential Subdivision
CONDITIONS OF APPROVAL
December 10, 2024

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 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within fifteen (15) days after the decision by the Planning Commission. 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 and requirements, including but not limited to any/all costs associated with annexation 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. TSM 2024-01 shall expire 24 months from date of issuance, unless extended prior to in accordance with the provisions of the California Government Code (Subdivision Map Act) and Section 10-402.8.2 of the City Municipal Code (CMC).

3. Approval of this application shall be considered null and void in the event of failure by the applicant and/or the authorized representative to disclose and delineate all facts and information relating to the subject property and proposed uses.

4. The applicant shall submit to the City of Madera 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. **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 all approval actions. Applicant shall also submit to the City of Madera Planning Department a check in the amount necessary to file for the California Fish and Wildlife requirements.**

5. It shall be the responsibility of the property owner, operator, and/or management to ensure that any required permits, inspections, and approvals from any regulatory agency

be obtained from the applicable agency prior to issuance of a building permit and/or the issuance of a certificate of completion, as determined appropriate by the City of Madera Planning Department.

6. Development of the project shall conform to the plans designated by the City and subject to the conditions noted herein. Minor modifications to the approved plans necessary to meet regulatory, engineering, or similar constraints may at the discretion of the Community Development Director without an amendment. However, should the Community Development Director determine that modifications are substantive, he/she may require that an amendment be filed for review and approval through the applicable City process.

7. Approval of this application 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

Fences & Walls

8. A solid masonry wall, a minimum of six (6) feet in height shall be constructed (and vehicle access rights relinquished) on the southerly property line of all double-frontage lots along the Ellis Street frontage.

a. A landscaped buffer shall be provided between the public sidewalk and the wall to be determined through of the Precise Plan.

9. A solid masonry wall, a minimum of six (6) feet in height, shall be constructed along the common property lines of all lots abutting the Madera Irrigation District Canal (Lat. 24.2) easement; with the following exception:

    a. A solid panel, two-sided or two-ply wood fence or other substantially equivalent, durable, and child-protective alternative material is authorized with the Precise Plan approval.

Precise Plan

10. Prior to the commencement of any grading, construction improvements or development activity in any "PD" Zone District, the applicant shall have an approved Precise Plan. The precise plan shall be processed under the provisions for use permits as set forth in Section 10-3.13 of the Madera Municipal Code.

TSM 2024-01

11. Dead-end or street stubs to exterior map boundaries, which are not designed to provide access to adjoining land that is not yet subdivided or developed shall be prohibited; unless designed and/or dedicated to comply with the following prior to recordation of a Final Map:

    a. The dead-end/stub street is designed with a cul-de-sac or vehicular turnaround is dedicated for public purposes and improved in accordance with City standards; or,

    b. The dead-end/stub street provides pedestrian and bicycle connections to neighboring trails, open spaces, or public easements. The design of connections shall be approved as part of the Precise Plan; or,

    c. The dead-end/stub street serves as a controlled Emergency Vehicle Access (EVA) point to a neighboring street and may be utilized as a pedestrian or open space amenity within the subdivision, subject to approval as part of the Precise Plan.

12. TSM 2024-01 shall provide a street or EVA point from Ellis Street to the interior of the subdivision. The design of the EVA shall be at a minimum of 16-20' feet in width as determined by the City Fire Marshall for vehicle access and shall provide a minimum four (4) feet of width per side which shall be planted with a landscaping and trees to act as a buffer for the abutting lots.

    a. EVA cross-sections shall be approved prior to recordation of a Final Map.

13. Approval of TSM 2024-01 is contingent upon Council Approval of GPA 2024-01 and REZ 2024-02 and annexation of the project site to the City of Madera.

14. TSM 2024-01 shall not become effective and a Final Map shall not be recorded until the a Certificate of Completion for Annexation is recorded with the County Clerk by the Madera County Local Agency Formation Commission.

ENGINEERING DEPARTMENT

General

15. Deferrals are not permitted for any condition included herein, unless otherwise stated.
16. Prior to recording of the final map, all action necessary for the formation of a community facilities district shall have been taken, and all property included in said subdivision shall be made a part of such district and subject to its taxes.
17. A final subdivision map shall be required per Section 10-2.502 of the municipal code. If the project is phased, the phasing pattern is subject to approval by the City Engineer to ensure that the applicable conditions of approval are satisfied.
18. All lots are to be numbered in sequence throughout the entire subdivision, including all phases, with the last lot in each phase circled for identification. As an alternative, subject to the approval of the City Engineer, lots may be numbered in sequence within blocks that are also separately identified. A consecutive subdivision name and a consecutive phase number shall identify multiple final maps filed in accordance with an approved tentative map.
19. A benchmark shall be established per City Standards and related data shall be submitted to the Engineering Department prior to acceptance of the subdivision improvements. The City Engineer shall designate the location.
20. All construction vehicles shall access the site by a route approved by the City Engineer, which will minimize potential damage to other streets and disruption to the neighborhood. A construction route and traffic control plan to reduce impact on the traveling public shall be approved prior to any site construction or initiation of work within a public right-of-way.
21. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
22. Development impact fees shall be paid at time of building permit issuance.
23. Improvement plans sealed by an engineer shall be submitted to the Engineering Division according to the Engineering Plan Review Submittal Sheet and Civil Plan Submittal Checklist.
24. The developer shall pay all required fees for processing subdivision map and completion of project. Fees due include but shall not be limited to the following: subdivision map review and processing fee, plan review, map recording, and improvement inspection fees.
25. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.

26. The improvement plans for the project shall include the most recent version of the City's General Notes.

Water

27. Prior to framing construction on-site, a water system shall be designed to meet the required fire flow for the type of development planned and approved by the fire department. Fire flows shall be determined by Uniform Fire Code appendix III-A.

28. Unless the City Engineer or fire flow analysis specifies larger water lines, a minimum of 8 inches in diameter shall be installed in all streets. Water main installation shall be per city of Madera installation procedures and guidelines. Any new water main or fire hydrant line installations of 18 feet or more shall be sterilized in accordance with the water main connection procedures, including the temporary use of a reduced pressure assembly. Water service connections are required to be hot tap type connection to existing city main. If the subdivision is constructed in phases, blow-offs will be required at each termination point. All water system bacterial analysis testing costs shall be reimbursed to the City prior to approval of any units for final occupancy. Fees shall be based on rates established by the Department of Public Works.

29. The developer shall install master planned water supply facilities in accordance with the City of Madera Water System Master Plan as follows:

    a. Install a 24-inch water main from the intersection of Ellis Street and Country Club Drive to the west edge of the intersection of Ellis Street and Fairview Street.

       The oversize component (difference in cost between constructed pipe size and 8-inch pipe) of the construction of these water main are considered reimbursable through the City's Development Impact Fee (DIF) Program, subject to the availability of funds. Half the 8-inch component is reimbursable from adjacent properties as they develop and connect. While availability of funding cannot be predicted, approximate current fund balances can be stated. At the time these conditions were prepared, there was less than $511,800 available in the Water Pipe DIF.

    b. The City is currently in the land acquisition stage of a Capital Improvement Program (CIP) project that will construct a water tank and the 24-inch water main cited previously. Should the City CIP project begin prior to construction of off-site improvements, the following shall occur:

        i. The developer shall reimburse one half of the 8-inch component, its fair share cost, to the City for the previously constructed or pending water main along the entire project frontage on Ellis Street from the eastern subdivision boundary to the centerline of Fairview Street.

        ii. The developer shall be responsible for requesting service laterals and/or coordinating with City relative to need. At present, it is anticipated that no

services from this line will occur and that all connections shall be made from Fairview Street

c. Install an 8-inch water main from the intersection of Ellis Street and Fairview Street to the northerly limit of Fairview Street unless fire flow analysis indicates need for a larger pipe.

   The developer shall contact all property owners on the west side of Fairview Street to determine if they would like to connect to the water line. If so, the developer is obligated to install lateral to the property line but only to the extent they are willing to pay all associated cost of said lateral and one half the cost of the 8-inch water main along their property frontage.

30. Prior to beginning any framing construction, approved fire hydrants shall be installed in accordance with spacing requirements for residential development (400 feet). A copy of the preliminary water and hydrant location plan shall be provided to the City Engineer and the fire protection planning officer for review and approval. Fire hydrants shall be constructed in accordance with City Standard W-26. Fire hydrant pavement markers shall be installed as soon as the permanent pavement has been installed.
31. For subdivisions, water services shall be placed 3 feet from either property line, opposite of streetlight and fire hydrant installations, installed and tested at the time the water main is installed, and identified on the curb face. Water meters shall not be located within driveway approaches or sidewalk areas. Water services shall not be located at fire hydrant or streetlight locations.
32. One water quality sampling station shall be installed within the subdivision and approved by the water quality division of the Public Works Department.
33. Prior to commencement of grading or excavation on site, all water sources used for construction activities shall have an approved back-flow device installed. All water trucks/storage tanks will be inspected for proper air gaps or back-flow prevention devices.
34. Water service connection(s) shall be shown on the improvement plans for each phase and shall be constructed to current City standards in effect at time of construction including an Automatic Meter Reading (AMR) water meter installed within the City's right-of-way. Backflow prevention devices shall be required for any water service not serving a residence and installed within private property.
35. Water connections not serving a residence shall be constructed per current City standards including water meters located in the City's right-of-way and backflow prevention device located on private property.
36. Existing wells if any shall be abandoned as directed and permitted by City of Madera for compliance with state standards.
37. Water meters shall be installed and account activated through the City's Utility Billing Department prior to construction activities commencing on individual dwelling units.

Sewer

38. The developer shall reimburse one half of the 8-inch component, its fair share cost, to the City for the previously constructed sewer main along the entire project frontage on Ellis Street.
39. Sewer lines installed to serve this subdivision shall be sized accordingly and shall be a minimum of 8 inches in diameter. Sewer main connections to any existing city main 6 inches or larger in diameter shall require the installation of a manhole. All sewer mains shall be air-tested, mandrelled and videotaped after the trench compaction has been approved and prior to paving. USB's shall be submitted to the City Engineer and be approved prior to paving with all costs to be borne by the sub-divider.
40. Sewer services shall be located at the approximate centerline of each lot or as required for construction of residential development with a clean-out installed per City Standards and identified on the curb face. Termination of service shall be 10 feet past property line. Where contiguous sidewalks are installed, the 4-inch-sewer clean out shall be located 18 inches back of sidewalk in a dedicated public utility easement. Sewer clean-outs shall not be located within sidewalk or approach areas unless approved by the City Engineer. Sewer services shall be installed 10 feet beyond the property lines as a part of the sewer system installation for testing purposes.
41. Existing septic tanks, if found, shall be removed, permitted, and inspected by City of Madera Building Department.

Storm Drain

42. Storm runoff from this project site is planned to go to the basin labeled as P07 in the 2014 Storm Drainage System Master Plan located southwest of the proposed project site. The location of this future basin as shown in the Storm Drainage System Master Plan (Storm Master Plan) is illustrated as conceptual. The basin location, however, does correspond to one that was constructed for a previous City bridge project known as the Ellis Overcrossing. The developer shall acquire sufficient additional right-of-way with assistance from City, as may be necessary, expand the basin and construct other necessary facilities in accordance with criteria in the Storm Master Plan and City standard drawings, as may be applicable, to convey and hold storm runoff. The ultimate basin size shall correspond to master plan requirement of 104-acre-feet or greater depending on adjustments that may be required based on actual location. Perimeter fence and outlet shall be constructed at ultimate location and depth, respectively. Initial capacity of basin shall, at a minimum, correspond to that required for the project.

    Construction of storm drain facilities are fully reimbursable subject to available funding. While availability of funding cannot be predicted, approximate current fund balances can be stated. At the time these conditions were prepared, there was less than $415,000

available in the NE Storm Drainage DIF. $100,000 of the current fund balance is designated for this basin while the remainder is available to be reimbursed in the order in which requests are received following project acceptance. Because the basin is a mandatory base part of the storm drainage system, the City will also provide storm drain credits for the basin itself.

43. A detailed drainage study shall be provided to support the chosen path of conveyance and design of any necessary conveyance facilities prior to any excavating or grading activities.
44. The site shall be graded in such a way as to not allow any additional storm runoff into the United States Bureau of Reclamation Canal to the north and west of the project parcel.
45. 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

46. The developer shall be a proponent of annexing into existing Landscape Maintenance District (LMD) Zone 51. If the annexation into LMD Zone 51 is not attainable, the developer shall at their sole expense, form a new Landscape Maintenance District zone. The sub-divider shall sign and submit a landscape district formation and inclusion form, an engineer's report and map prior to recording of any final map.
47. Prior to the approval of any final maps, the developer shall submit a cash deposit in an amount sufficient to maintain lighting and landscaping within the required LMD Zone 51 or new LMD Zone for a period of one year. The specific amount of the deposit shall be determined by the City Engineer and be established based on landscape plans approved by the Parks and Community Services Department and the Engineer's Report for the required improvements. The deposit will be used to maintain landscaping improvements existing and new improvement which are required to be constructed by the developer and included in the City-wide LMD, after the improvements for the subdivision have been approved but before any revenues are generated by the assessment district to pay for the maintenance of the landscape. Any funds deposited by the developer and not needed by the Parks Department for maintenance of eligible landscaping shall be refunded to the developer.

48. The north half of Ellis Street along the entire project frontage shall be improved to a 100-foot arterial roadway standard. The north half of the street shall include, but not be limited to, sidewalk, streetlights, fire hydrants, curb and gutter, park strip, a 16-foot landscaped median and a 30-foot paved asphalt section. Sidewalk and landscape area shall be per City standard and not be used to absorb grade differences for any reason. Adequate transition with the existing improvements relative to grade and alignment shall be provided.

    The center three lanes (36-feet total less those pavements sections that can be preserved) are eligible for reimbursement through the City's Development Impact Fee program, subject to the availability of funds.

    While availability of funding cannot be predicted, approximate current fund balances can be stated. At the time these conditions were prepared, there was less than $228,800 available in the Median Island DIF and less than $1,750,000 in the Arterial/Collector DIF.

49. The east half of Fairview Street along the entire project frontage shall be reconstructed to a residential street standard (Standard Drawing St-2) The east half of the street shall include but not be limited to fire hydrants, streetlights, curb and gutter, park strip, sidewalk and an 18-foot paved asphalt section. The west half of the street shall include one permanently paved 12-foot travel lane and drainage swale. Storm drain inlets shall be provided as may be necessary to accommodate existing and completed project storm runoff. Adequate transitions with the existing improvements including existing project driveways relative to grade and alignment shall be provided.

50. Street easement dedication shall be made to dedicate sufficient right-of-way along the entire project parcel frontage on Ellis Street to provide a half-street width of fifty (50-ft) feet, north of the centerline, to accommodate an arterial standard roadway.

51. The developer shall dedicate a 10-foot Public Utility Easement (PUE) along all internal publicly dedicated streets.

52. Interior streets shall be constructed in accordance with City standards for a residential street including a five-foot sidewalk, curb and gutter, streetlights, fire hydrants and all other components necessary to complete constructions per City standards.

53. An approved on-site or off-site turn-around shall be provided at the end of each stub-out or roadway 150 feet or more in length pursuant to the uniform fire code. Cul-de-sacs shall be no longer than 450 feet. Any off-site turn-around shall have a maintenance covenant and easement recorded prior to recording of final map. The developer is responsible for all fees associated with the approval of all documents.

54. "No Parking" signs shall be installed along Ellis Street frontage per City standards.

55. Traffic calming features, as approved by the City Engineer, shall be implemented throughout the interior subdivision streets. Maximum distance between calming devices

shall be 300 feet. Any increase in separation shall be approved by the City Engineer. Speed bumps or humps are not permitted.

If bulbouts are used as a traffic calming feature, they shall be designed in such a way that they limit the loss of parking.

56. Landscaping and irrigation systems shall be installed in accordance with the approved landscaping and irrigation plans before the final building inspection of any adjacent residential units.

57. Access ramps shall be installed at all curb returns per current City standards.

58. Driveway approaches shall be constructed per current City standards.

59. The developer shall install streetlights along Ellis Street and Fairview Street frontages and interior subdivision streets in accordance with current City spacing standards. Streetlights shall be LED using Beta Lighting standards or equal in accordance with City of Madera standards.

60. Except for streets not having direct residential access, installation of sidewalks and approaches may be deferred and constructed at the builder's expense with residential development after the acceptance of the subdivision improvements. Each dwelling shall at occupancy have full, uninterrupted ADA access from front door to nearest collector street, arterial street or other street that provides ADA access provisions. Provisions for construction in conjunction with building permits shall be established as a part of the improvement plan approval and subdivision agreement, and bonding for uncompleted work in conjunction with the subdivision's public improvements will not be required.

61. If developed in phases, each phase shall have two (2) points of vehicular access within a recorded easement for fire and other emergency equipment and for routes of escape which will safely handle evacuations as required by emergency services personnel. An all-weather access road shall be two inches of type "B" asphalt over 6 inches of 90% compacted native soil or 4 inches of Class II aggregate base capable of withstanding 40,000 pounds of loading. A maintenance covenant and easement along with associated fees shall be recorded prior to recording the final map for any phased development.

62. Improvement plans prepared in accordance with City Standards by a registered civil engineer shall be submitted to the City Engineer for review and approval on 24" x 36" tracing with city of Madera logo on bottom right corner. The cover sheet shall indicate the total lineal feet of all streets, fire hydrant and street water main lineal feet, and sewer line lineal feet, a list of items and quantities of all improvements installed and constructed for each phase respectively, as well as containing an index schedule. This subdivision is subject to the City Standards, updated standards available on the City of Madera website. The plans are to include the city of Madera title block and following:

    a. Detailed site plan with general notes, including the location of any existing wells and septic tanks;

    b. Street plans and profiles;

i. Drainage ditches, culverts, and other structures (drainage calculations to be submitted with the improvement plans)

ii. Streetlights

iii. Traffic signals

iv. Construction details including traffic signage and striping plan.

c. Water and sewer plans (sewage flow and water demand calculations to be submitted with the improvement plans);

d. Grading plan indicating flood insurance rate map community panel number and effective date;

e. Landscape and irrigation plans shall be prepared by a landscape architect or engineer.

f. Storm water pollution control plan and permit.

g. Itemized quantities of the off-site improvements to be dedicated to the City.

63. Submittals shall include:

a. Engineering Plan Review Submittal Sheet

b. Civil Plan Submittal Checklist – all required items shall be included on the drawings

c. Four copies of the final map

d. Two sets of traverse calculations

e. Two preliminary title reports

f. Two signed copies of conditions

g. Six sets of complete improvements plans

h. Three sets of landscaping plans

i. Two sets of drainage calculations

j. Two copies of the engineers estimate

Partial submittals will not be accepted by the engineering department.

64. All utilities (water, sewer, electrical, phone, cablevision, etc.) shall be installed prior to curb and gutter installation. Trench compaction shall be as required for curb and gutter installation. If curb and gutter is installed prior to utility installation, then all trenches shall be back-filled with a 3-sack sand slurry mix extending one-foot past curb and gutter in each direction.

65. The applicant shall coordinate with the pertinent utility companies as required regarding establishment of appropriate easements and under-grounding of service lines. A ten-foot-public utility easement will be required along all interior lot frontages.

66. All existing and proposed public utilities shall be underground, 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 subdivision and along peripheral streets shall be placed underground except those facilities exempted by the Public Utilities Commission Regulations or operating at 70,000 volts or greater. Undergrounding of utilities shall not result in the addition of new poles being installed on other properties or street frontages.

67. A preliminary title report and plan check fees along with the engineer's estimated cost of installing the subdivisions improvements shall be submitted with the initial improvement plan submittal. Inspection fees shall be paid prior to initiating construction.

68. A final soils report including "R" values in future streets prepared by a registered civil engineer in accordance with the California Health and Safety Code must be submitted for review prior to the approval of the improvement plans and the filing of the final map, if required by the City Engineer. The date and name of the person who prepared the report are to be noted on the final map.

69. The subdivider shall enter an Improvement Agreement in accordance with the municipal code prior to recording of the final map. The subdivision agreement shall include for deposit with the City a performance bond, labor, material bond, cash bond, or other bonds as required by the City Engineer, prior to acceptance of the final map.

70. Subdivider may commence off site construction prior to approval of the final map in accordance with Section 7-2.02 MMC, an encroachment permit, providing improvement plans are approved and submitting 100% performance bond, additional bond (50% labor & material) and insurance certificate, shall be submitted prior to initiating any construction work within any street or right-of-way which is dedicated or proposed to be dedicated by the subdivision. The encroachment permit fee shall be per City of Madera Development Application Fees as approved by City Council and shall be paid at the time of permit.

71. The developer's engineer, upon completion of subdivision related improvements, shall certify to the City Engineer that the improvements are made in accordance with city requirements and the approved plans. As-built plans showing final existing conditions and actual grades of all improvements and facilities shall also be submitted prior to acceptance of the subdivision improvements by the City.

<u>Subdivision Improvement Inspections</u>

72. Engineering department plan check and inspection fees along with the engineer's estimated cost of installing off-site improvements shall be submitted along with the improvement plans. Inspection fees shall be due at time that all other fees are due per the subdivision agreement.

73. Prior to the installation of any improvements or utilities, the general contractor shall notify the engineering department 48 hours prior to construction. The inspector will verify

prior to inspection that the contractor requesting inspection is using plans signed by the City Engineer.

74. No grading or other construction activities, including preliminary grading on site, shall occur until the City Engineer approves the improvement plans or grading plans. The inspector will verify prior to inspection that the contractor requesting inspection is using plans signed by the City Engineer.

75. No occupancy of any buildings within the subdivision shall be granted until subdivision improvements are completed to the satisfaction of the City Engineer. After request for final improvement inspection, the generation of a written punch list will require a minimum of five working days.

Special Engineering Conditions

76. Project grading shall not interfere with the natural flow or adjacent lot drainage, and shall not adversely impact downstream properties. Grading plans shall indicate the amount of cut and fill required for the project, including the necessity for any retaining walls. Retaining walls if required shall be approved as to design and calculations prior to issuance of a grading permit therefore.

77. Lot fill in excess of 12 inches shall require a compaction report prior to issuance of any building permits. Soil shall not slope onto any adjacent property. Lot grade elevation differences with any adjacent properties of 12 inches or more will require construction of a retaining wall.

78. Retaining walls, if required, shall be concrete blocks. Design calculations, elevations, and locations shall be shown on the grading plan. Retaining wall approval is required in conjunction with grading plan approval.

79. Prior to the issuance of any building permits or any construction on the subdivision, a storm water pollution plan shall be prepared and a storm water permit obtained as required by the state regional water quality control board for developments of over one acre in size.

80. Any construction work on MID facilities must not interfere with either irrigation or storm water flows, or MID operations. Prior to any encroachment upon, removal or modification of MID facilities, the sub-divider must submit two sets of preliminary plans for MID approval. Permits must be obtained from MID for said encroachments, removal, or modification. Upon project completion as built plans shall be provided to MID. Abandonment of agricultural activities will require removal of MID facilities at the owners' expense. Turnouts and gates shall be salvaged and returned to the MID yard.

81. Prior to recording the subdivision map, any current and/or delinquent MID. assessments, plus estimated assessments for the upcoming assessment (calendar) year, as well as any outstanding crop water charges, standby charges or waiver fees must be paid in full. Assessments are due and payable in full November first of the year preceding the assessment year.

82. The developer of the property can expect to pay current and future development impact fees, including, but not limited to sewer (special service area), water, streets, bridge, public works, parks, public safety and drainage, that are in place at the time building permits are issued.

83. Final street names shall be approved by the Planning Department prior to recording the map for each phase of the development or approval of the improvement plans. Road names matching existing county roads must maintain the current suffix. All streets, even the small segments, shall have street names on the final map. Entry streets, cul-de-sacs and courts should utilize the name of the nearest subdivision street.

84. The applicant shall coordinate with the United States post office relative to the proposed location of the postal boxes for the project. In regard to this item, all adjacent sidewalks shall retain a minimum clear walkway width of five feet.

END OF CONDITIONS

ATTACHMENT 9

Planning Commission Resolution for
Recommendation to the City Council

Chapter 5 Mitigation Monitoring and Reporting Program

This Mitigation Monitoring and Reporting Program (MMRP) has been formulated based upon the findings of the Initial Study/Mitigated Negative Declaration (IS/MND) for the Ellis/Fairview Residential Subdivision (Annexation 2024-01, Prezone/Rezone 2024-02, General Plan Amendment 2024-01, Tentative Subdivision Map 2024-01, Precise Plan 2024-01) in the City of Madera. The MMRP lists mitigation measures recommended in the IS/MND for the Project and identifies monitoring and reporting requirements.

Table 5-1 presents the mitigation measures identified for the proposed Project. Each mitigation measure is numbered with a symbol indicating the topical section to which it pertains, a hyphen, and the impact number.

The first column of Table 5-1 identifies the mitigation measure. The second column, entitled "When Monitoring is to Occur," identifies the time the mitigation measure should be initiated. The third column, "Frequency of Monitoring," identifies the frequency of the monitoring of the mitigation measure. The fourth column, "Agency Responsible for Monitoring," names the party ultimately responsible for ensuring that the mitigation measure is implemented. The last columns will be used by the City of Madera to ensure that individual mitigation measures have been complied with and monitored.

Table 5-1 Mitigation Monitoring and Reporting Program

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	**When Monitoring is to Occur**	**Frequency of Monitoring**	**Agency Responsible for Monitoring**	**Method to Verify Compliance**	**Verification of Compliance**
Biological Resources					
Mitigation Measure BIO-1: If Project activities must occur during the nesting season (February 1 to September 15), pre-activity nesting bird surveys shall be conducted within seven (7) days prior to the start of construction on the construction site and a 500-foot buffer for raptors. 1. If no active nests are found, no further action is required. However, existing nests may become active, and new nests may be built at any time prior to and throughout the nesting season, including when construction activities are in progress. 2. If active nests are found during the survey or at any time during construction of the Project, an avoidance buffer ranging from 50 feet to 500 feet may be required, with the avoidance buffer from any specific nest being determined by a qualified biologist. The avoidance buffer will remain in place until the biologist has determined that the young are no longer reliant on adults or the nest. Work may occur within the avoidance buffer under the approval and guidance of the biologist, but full-time monitoring may be required. The biologist shall have the ability to stop construction if nesting adults show any sign of distress.	14 days prior to Project Construction	Prior to and During Project Construction	City of Madera	Review of Documentation Submittal	
Mitigation Measure BIO-2: 14 days prior to Project activities, a pre-construction survey shall be conducted by a qualified biologist knowledgeable in the identification of burrowing owls. The pre-construction survey shall include walking transects to identify presence of burrowing owls and their burrows. For burrowing owls, the transects shall be spaced at no greater than	14 days prior to Project Construction	Prior to and During Project Construction	City of Madera	Review of Documentation Submittal	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
30-foot intervals to obtain a 100 percent coverage of the Project site and a 250-foot buffer. 1. If no evidence of this species is detected, no further action is required. 2. If dens or burrows that could support these species are discovered during the pre-construction survey, avoidance buffers outlined below shall be established. Unless a qualified biologist approves and monitors development activity, no work shall occur within these buffers. Burrowing Owl (active burrows): a. Non-breeding season (September 1 to January 31): 160 feet b. Breeding season (February 1 to August 31): 250 feet					
Cultural Resources					
Mitigation Measure CUL-1: If previously unknown resources are encountered before or during grading activities, construction shall stop in the immediate vicinity of the find and a qualified historical resources specialist shall be consulted to determine whether a historical resources evaluation shall be completed to confirm if the resources qualify as historical resources as defined by Section 15064.5(a) of CEQA Guidelines. . The evaluation shall be prepared by a qualified architectural historian or historian who meets the Secretary of the Interior's Professional Qualifications Standards (PQS) in architectural history or history. The qualified architectural historian or historian shall conduct an intensive-level evaluation in accordance with the guidelines and best practices promulgated by the State Office of Historic Preservation to identify any potential historical resources within the proposed project area. All properties 45 years of	During Project Construction	During Project Construction	City of Madera	Review of Documentation Submittal	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
age or older shall be evaluated within their historic context and documented in a report meeting the State Office of Historic Preservation guidelines. All evaluated properties shall be documented on Department of Parks and Recreation Series 523 Forms. The report shall be submitted to the City for review and concurrence. Any relocation, rehabilitation, or alteration of the resource shall be implemented consistent with the Secretary of the Interior's Standards for the Treatments of Historic Properties (Standards). In accordance with CEQA, a project that has been determined to conform with the Standards generally would not cause a significant adverse direct or indirect impact to historical resources (14 CCR Section 15126.4[b][1]). Application of the Standards shall be overseen by a qualified architectural historian or historic architect meeting the PQS. In conjunction with any development application that may affect the historical resource, a report identifying and specifying the treatment of character-defining features and construction activities shall be provided to the City for review and concurrence, in addition to the historical resources evaluation. If significant historical resources are identified on the development site and compliance with the Standards and or avoidance is not feasible, the applicant or developer shall provide a report explaining why compliance with the Standards and or avoidance is not feasible for the City's review and approval. Site-specific mitigation measures shall be established and undertaken, including, but not limited to, documentation of the historical resource in the form of a Historic American Buildings Survey-Like report. The report shall be commissioned by the project applicant or their consultant to comply with the					

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall generally follow the Historic American Buildings Survey Level III requirements, including digital photographic recordation, detailed historic narrative report, and compilation of historic research. The documentation shall be completed by a qualified architectural historian or historian who meets the PQS and submitted to the City prior to issuance of any permits for demolition or alteration of the historical resource.					
Mitigation Measure CUL-2: In the event of the accidental discovery or recognition of any human remains on the Project site during construction, the following steps in accordance with Section 15064.5 of the CEQA Guidelines shall be taken prior to the continuation of, and during, construction activities, in order to mitigate potential impact: 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: a. The coroner of the County in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required; and, b. If the coroner determines the remains to be Native American: i. The coroner shall contact the Native American Heritage Commission within 24 hours. ii. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.	During Project Construction	During Project Construction	City of Madera	Review of Documentation Submittal	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	**When Monitoring is to Occur**	**Frequency of Monitoring**	**Agency Responsible for Monitoring**	**Method to Verify Compliance**	**Verification of Compliance**
iii. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.					
Geology and Soils					
Mitigation Measure GEO-1: Subsequent to a preliminary City review of the project grading plans, a soils report, inclusive of information on expansive soils, shall be conducted. The following procedures shall be followed: • If expansive soils are not found, excavation and/or construction activities can commence. • If there is evidence that the Project site includes expansive soils, foundations for buildings and structures founded on expansive soils shall be designed in accordance with IBC *Section 1808.6.1* or *1808.6.2* unless 1) the expansive soil is removed in accordance with *Section 1808.6.3* or 2) the building official approves stabilization of the soil in accordance with *Section 1808.6.4*.	Prior to Project Construction	Prior to Project Construction	City of Madera	Review of Documentation Submittal	
Mitigation Measure GEO-2: If any paleontological resources are encountered during ground-disturbance activities, all work within 25 feet of the find shall halt until a qualified paleontologist as defined by the Society of Vertebrate Paleontology Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources (2010), can evaluate the find and make recommendations regarding treatment. Paleontological resource materials may	During Project Construction	During Project Construction	City of Madera	Review of Documentation Submittal	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
include resources such as fossils, plant impressions, or animal tracks preserved in rock. The qualified paleontologist shall contact the Natural History Museum of Los Angeles County or another appropriate facility regarding any discoveries of paleontological resources. If the qualified paleontologist determines that the discovery represents a potentially significant paleontological resource, additional investigations, and fossil recovery may be required to mitigate adverse impacts from project implementation. If avoidance is not feasible, the paleontological resources shall be evaluated for their significance. If the resources are not significant, avoidance is not necessary. If the resources are significant, they shall be avoided to ensure no adverse effects or such effects must be mitigated. Construction in that area shall not resume until the resource-appropriate measures are recommended or the materials are determined to be less than significant. If the resource is significant and fossil recovery is the identified form of treatment, then the fossil shall be deposited in an accredited and permanent scientific institution. Copies of all correspondence and reports shall be submitted to the Lead Agency.					

RESOLUTION NO. 2016

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECOMMENDING THE CITY COUNCIL OF THE CITY OF MADERA APPROVE GPA 2024-01 AND REZ 2024-02 TO FACILITATE ANNEXATION TO THE CITY OF MADERA (ANX 2024-01)

WHEREAS, CVI Group ("Owner") owns Assessor's Parcel Number (APN) 038-060-017, comprising ±6.93 acres of land located on the northeast corner of the intersection of Ellis Street and Fairview Street in the County of Madera, California (the "Project Site"); and

WHEREAS, the Owner has submitted an application for a General Plan Amendment (GPA) 2024-01 and Prezone (REZ) 2024-02 to facilitate annexation and approval of a Tentative Subdivision Map (TSM) 2024-01 for, and annexation of, the project site to the City of Madera; and

WHEREAS, the logical and orderly formation of an annexation boundary, in accordance with the provisions of the California Government Code (CGC), requires inclusion of a total ±19.90 acres of land comprised of eleven (11) parcels bounded by Adell and Fairview Streets on the south and west and the Madera Irrigation District Canal (Lat. 24.2) on the north and east in the County of Madera, CA (APN[s]: 038-060-017, 038-110-016, 038-110-017, 038-110-018, 038-110-019, 038-110-020, 038-110-021, 038-110-022, 038-060-028, 038-060-032, and 038-060-03) (the "Project Area"), to be annexed to the City of Madera; and

WHEREAS, the specific changes of organization requested consist of detachment of the project area territory from the County of Madera and annexation to the City of Madera; and

WHEREAS, the territory to be annexed is within the Sphere of Influence (SOI) and the Urban Growth Boundary of the City of Madera; and

WHEREAS, Government Code (CGC) § 56375(C)(7) requires, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the Local Agency Formation Commission (LAFCO) that the existing development entitlements on the territory are consistent with the city's general plan; and

WHEREAS, GPA 2024-01 proposes to amend the General Plan Land Use Map to change the land use designation for the project site (±6.93 ac.) from Low Density Residential (2.1-7.0 dwelling units per acre) to Medium Density Residential (7.1-15 dwelling units per acre) to facilitate prezoning of the project site (±6.93 ac.) to the proposed PD-3,000 (Planned Development, one unit for each 3,000 square feet of site area) in accordance with REZ 2024-02; and

WHEREAS, REZ 2024-02 proposes to prezone the balance of the project area and annexation territory (±12.97 ac.) to the R-1 (Residential, one unit for each 6,000 square feet of site area) zone district; and

WHEREAS, the proposed PD-3,000 and R-1 zone districts are consistent with Medium Density and Low Density Residential land use designations of the General Plan, respectively,

pursuant to Policy LU-32 and in accordance with Table LU-A: General Plan/Zoning Consistency of the Madera General Plan; and

WHEREAS, the project is compatible with other properties and environs within the vicinity of the project and is not expected to be detrimental to the health, safety, peace, comfort or general welfare of the neighborhood or the City; and

WHEREAS, this project was assessed in accordance with the provisions of the California Environmental Quality Act ("CEQA") resulting in preparation of a Mitigated Negative Declaration (SCH 2024110144) including a Mitigation Monitoring and Reporting Program, which has been circulated, and made available for public review pursuant to CEQA and the City of Madera Municipal Code (CMC); and

WHEREAS, project approval of TSM 2024-01 is contingent upon and subject to Council approval of GPA 2024-01 and REZ 2024-02 (to authorize ANX 2024-01), as well as the annexation of the territory to the City of Madera; and

WHEREAS, pursuant to the City's Municipal Code and State Planning and Zoning Law, the Planning Commission (Commission) is authorized to review and make recommendations to the City Council (Council) for prezones on behalf of the City; and

WHEREAS, the City provided notice of the Commission hearing as required by law for the regular meeting of the Planning Commission held on December 10, 2024; and

WHEREAS, the Commission received and independently reviewed and considered the information contained in the IS/MND pursuant to CEQA, and reviewed GPA 2024-01 and REZ 2024-02 (to authorize ANX 2024-01) at the duly noticed meeting on December 10, 2024; and

WHEREAS, at the December 10, 2024, Commission hearing, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Commission; and

WHEREAS, after due consideration of all the items before it, the Commission now desires to adopt this Resolution recommending the Council approve GPA 2024-01 and REZ 2024-02 and authorize ANX 2024-01; and

NOW, THEREFORE BE IT RESOLVED, by the Planning Commission of the City of Madera as follows:

1. Recitals: The above recitals are true and correct and are incorporated herein.

2. CEQA: The Planning Commission finds an environmental assessment initial study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations. Preparation of the environmental assessment necessitated a thorough review of the proposed Project and relevant environmental issues. Based on this review and assessment, the Planning Commission finds that although the project could have a significant effect on the environment, there will not be a significant effect because mitigation measures have been identified to reduce the potential

significant direct, indirect or cumulative effects on the environment to a level less-than-significant, and that a Mitigated Negative Declaration is appropriate for this project. The Planning Commission further finds the Initial Study and Mitigated Negative Declaration were timely and properly published and noticed as required by CEQA. As such, the Planning Commission has resolved to adopt Mitigated Negative Declaration (SCH No. 2024110144) including the Mitigation Monitoring and Reporting Program for purposes of the contingent approval of TSM 2024-01 and the proposed project.

3. Recommendation to City Council to Approve GPA 2024-01: Based on the evidence in the record, the Planning Commission recommends the Council approve the GPA 2024-01 to amend the General Plan Land Use Map to change the land use designation for the project site (±6.93 ac.) from Low Density Residential (2.1-7.0 dwelling units per acre) to Medium Density Residential (7.1-15 dwelling units per acre) to facilitate prezoning in accordance with REZ 2024-02 and subdivision of the project site for purposes of a 61-lot single family residential planned development at a density of ±8.80 dwelling units per acre in accordance with TSM 2024-01. Therefore, based on evidence in the record, the Planning Commission recommends that the City Council approve GPA 2024-01 as shown in Exhibit A.

4. Recommendation to City Council to Approve REZ 2024-02: The Commission finds that REZ 2024-02 is consistent with the General Plan goals, policies and objectives and with the General Plan Land Use Plan contingent upon Council approval of GPA 2024-01. Subject to Council approval of GPA 2024-01, the project is consistent with General Plan Policy LU-32, which provides zoning shall be consistent with General Plan land use designations and Table LU-A, which shall be used to determine consistency for rezoning applications. In accordance with Table LU-A, the PD-3,000 (Planned Development, one unit for each 3,000 square feet of site area) and R-1 (Residential, one unit for each 6,000 square feet of site area) zone districts are consistent with the Low Density Residential and proposed Medium Density Residential land use designations for the territory to be annexed as designated by the General Plan and proposed in accordance with GPA 2024-01, respectively. The proposed PD-3000 zone district will allow for minimum 3,000 square-foot lot sizes, to facilitate approval of TSM 2024-01. Therefore, based on evidence in the record, the Planning Commission recommends that the City Council approve REZ 2024-02 as shown in Exhibit B.

5. Annexation Findings: The Commission finds that the annexation of the proposed project area territory to the City of Madera is consistent with the goals, objectives, and policies of the Madera General Plan. The project is consistent with General Plan Policy LU-13, which states "The City shall support annexation of property to its boundaries for the purpose of new development only when it determines that the following conditions exist:

- Sufficient public infrastructure, facilities, and services are available or will be provided in conjunction with new development; and

- Demands on public infrastructure, facilities and services created by the new development will not result in reductions in capacity that is necessary to serve the existing city limits (including demand created by potential infill development),

reductions in existing service levels within the city limits, or the creation of detrimental fiscal impacts on the city"

The appropriate findings have been made and as a result, the project would be consistent with the City's General Plan. Therefore, based on evidence in the record, the Planning Commission recommends that the City Council authorize ANX 2024-01 as shown in Exhibit C.

6. Effective Date: This Resolution shall become effective immediately. The Secretary of the Commission shall certify to the adoption of the Resolution and shall transmit copies of the same to the Council of the City of Madera.

* * * *

Passed and adopted by the Planning Commission of the City of Madera this 10th day of December 2024, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

_____
Robert Gran Jr.
Planning Commission Chairperson

Attest:

_____
Will Tackett
Community Development Director

Attachments:

Exhibit "A" – Existing and Proposed General Plan Land Use Map
Exhibit "B" – Existing and Proposed Zone Map
Exhibit "C" – Project Area/Territory Proposed for Annexation