

## REGULAR MEETING OF THE MADERA PLANNING COMMISSION

205 W. 4<sup>th</sup> Street, Madera, California 93637

### NOTICE AND AGENDA

Tuesday, March 14, 2023  
6:00 p.m.

Council Chambers  
City Hall

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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: 82377976185# followed by \*9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/82377976185>. Comments will also be accepted via email at [planningcommissionpubliccomment@madera.gov](mailto:planningcommissionpubliccomment@madera.gov) or by regular mail at 205 W. 4th Street, Madera, CA 93637.

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#### **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:** None

#### **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. CUP 2022-25 & SPR 2022-43 – El Epazote**

**Subject:** A noticed public hearing to consider a conditional use permit and site plan review to allow for the sale of beer and wine for on-site consumption and use of an outdoor barbeque in conjunction with an existing 1,100 square foot restaurant. The site is located at 301 N. Gateway Dr. in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 007-071-001).

The project is considered to be categorically exempt per Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

**Recommendation:**

Staff is requesting this item be continued to the April 11<sup>th</sup>, 2023, Planning Commission meeting.

**2. REZ 2022-06 & SPR 2022-10 – 3<sup>rd</sup> & D St. Multi-Family**

**Subject:** A noticed public hearing to consider the rezone of 0.33-acre site from C1 (Light Commercial) to R3 (Residential) for consistency with the site’s MD (Medium Density Residential) General Plan land use designation and the development of 2 tri-plexes on the 0.33-acre site. The site is located at the southwest corner of 3<sup>rd</sup> and N. D St. APN’s: 007-075-013 & 014.

The project is considered to be categorically exempt per Section 15332, In-Fill Development, of the California Environmental Quality Act (CEQA) Guidelines.

**Recommendation:**

The applicant is requesting this item be continued to an undetermined later date.

**3. DOU 2023-01 – Body Massage and Sculpting**

**Subject:** A noticed public hearing to consider a Determination of Use for the allowance of medical and personal body massage and sculpting establishments in C1 (Light Commercial) and C2 (Heavy Commercial) Zone Districts subject to a use permit. (Report by Robert Smith)

The proposed micropigmentation/tattoo cosmetic service business is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

**Recommendation:**

Conduct the public hearing and adopt:

- a. Adopt a Resolution adopting a Findings of Exemption from CEQA pursuant to CEQA Guidelines, Section 15061(b)(3) (General Rule) and approving Determination of Use 2023-01 subject to the findings.

#### 4. CUP 2022-19 & SPR 2022-28 – Pure Essence Massage

**Subject:** A continued public noticed hearing to consider a Conditional Use Permit and Site Plan Review to allow for the establishment of a business, Pure Essence Massage (massage therapy, lymphatic treatment, body sculpting, etc.) in Suite H of the 47<sup>th</sup> Place West Shopping Center located at 1930 Howard Road, in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 009-361-017). (Report by Robert Smith)

The proposed massage business is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

**Recommendation:**

Conduct the public hearing and adopt:

- a. Adopt a Resolution adopting a Findings of Categorical Exemption from CEQA pursuant to CEQA Guidelines Section 15301 for the project and approving Conditional Use Permit 2022-19 and Site Plan Review 2022-28 allowing the establishment of the Pure Essence business to operate in Suite H of the 47<sup>th</sup> Place West Shopping Center located at 1930 Howard Rd, based on, and subject to, the findings and conditions of approval.

#### 5. CUP 2022-35 & SPR 2022-45 – Precision by Noco

**Subject:** A continued noticed public hearing to consider a Conditional Use Permit and Site Plan Review to allow for the establishment of a business, Precision by Noco (micropigmentation/tattoo cosmetic service) in Suite M of the 47<sup>th</sup> West Shopping Center located at 1930 Howard Road, in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 009-361-017). (Report by Robert Smith)

The proposed massage business is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

**Recommendation:**

- a. Adopt a Resolution adopting a Findings of Categorical Exemption from CEQA pursuant to CEQA Guidelines Section 15301 for the project and approving Conditional Use Permit 2022-35 and Site Plan Review 2022-45 allowing the establishment of the Precision by Noco business to operate in Suite M of the 47<sup>th</sup> Place West Shopping Center located at 1930 Howard Rd, based on, and subject to, the findings and conditions of approval.

#### 6. TSM 2017-02 EXT 3 – CVI-2 Subdivision

**Subject:** A noticed public hearing to consider an application requesting an extension of a previously approved 19 lot residential Tentative Subdivision Map (TSM 2017-02). The map, first approved by the Commission on August 14, 2018, has been subject to previous extensions. The site is located at the southwest corner of the intersection of Adell Street and N. Lake Street in the PD-4500 (Planned Development) Zone District with an LD (Low Density) General Plan land use designation (APN's: 008-102-007 & 008). (Report by Robert Smith)

A Negative Declaration was adopted for the approved Tentative Subdivision Map on August 14, 2018. No further environmental review is required for the proposed extension.

**Recommendation:**

- a. Adopt a Resolution approving a 12-month time extension to Tentative Subdivision Map 2017-02. A Negative Declaration was adopted for the project by the Planning Commission on August 14, 2018. No further Environmental Review is warranted per CEQA Guidelines, Section 15162.

**ADMINISTRATIVE REPORTS:**

**COMMISSIONER REPORTS:**

**ADJOURNMENT:**

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- The meeting room is accessible to the physically disabled. Requests for accommodations for persons with disabilities such as signing services, assistive listening devices, or alternative format agendas and reports needed to assist participation in this public meeting may be made by calling the Planning Department's Office at (559) 661-5430 or emailing [planninginfo@madera.gov](mailto: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](mailto: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.

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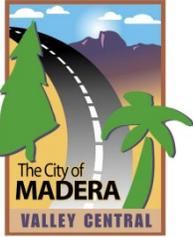
**CUP 2022-25 & SPR 2022-43 - El Epazote**

Staff is requesting this item be continued to the April 11th, 2023  
Planning Commission meeting.

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**REZ 2022-06 & SPR 2022-10 - 3rd & D St. Multi-Family**

The applicant is requesting this item be continued to an undetermined later date.



## REPORT TO THE PLANNING COMMISSION

**Prepared by:**

Robert Smith, Senior Planner

**Meeting of:** March 14, 2023

**Agenda Item:** 3

**SUBJECT:**

Body Massage and Sculpting Determination of Use (DOU) 2023-01

**RECOMMENDATION:**

Conduct a public hearing and:

1. Adopt a resolution adopting a Categorical Exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) and approving Determination of Use (DOU 2023-01) subject to the findings.

**PROPOSAL:**

An application for Determination of Use for consideration to allow for the establishment of body massage and sculpting businesses subject in C1 (Light Commercial) and C2 (Heavy Commercial) zone districts subject to a use permit. Services may include but not be limited to body massage, massage therapy, manual lymphatic treatment and body sculpting.

| <b>Table 1: Project Overview</b> |                                              |
|----------------------------------|----------------------------------------------|
| <i>Project Number:</i>           | DOU 2022-04                                  |
| <i>Applicant:</i>                | City of Madera                               |
| <i>Property Owner:</i>           | N/A                                          |
| <i>Location:</i>                 | Citywide                                     |
| <i>Project Area:</i>             | Citywide                                     |
| <i>Plan Land Use:</i>            | C – Commercial                               |
| <i>Zoning District:</i>          | C1 (Light Commercial), C2 (Heavy Commercial) |
| <i>Site Characteristics</i>      | Citywide                                     |

**SUMMARY:**

The characteristics of uses associated with body massage and sculpting businesses have changed dramatically over the years and increasing interest in establishing new variants of what would traditionally have been massage parlors in the community have been observed. The use of technology and alternative approaches within these types of uses has been a topic of focus as popularity among recipients has increased.

The Planning Commission is being requested to make a determination of use to allow for this type of business to operate in C1 – Light Commercial and C2 – Heavy Commercial zone districts upon the issuance of a use permit.

**BACKGROUND:**

In the past, body massage and sculpting businesses were mostly limited to massage, traditional healing and quasi medical type uses. The rise of interest in a broader array of these types of personal services, and the proliferation of services providing specialisms in certain areas of body massage and sculpting are increasing. The general delivery of service and factors associated with these uses are not dissimilar to a more traditional type of service delivery in terms of the impacts on land uses. The similarities between these uses should allow these operations to be considered conditionally permitted uses in commercial and industrial zones.

With the rise in acceptance and interest in different forms of body massage and sculpting services including, but not limited to, massage therapy, manual lymphatic treatment, body sculpting, and even lip fillers, and sales products associated with these services and enjoyment of body massage and sculpting use.

The shift from one or two specialist massage type products to a broader suite of services from single outlets increases the complexity of everyday operations, but not necessarily the intensity of use. This change in complexity would not impact the compatibility with surrounding uses in any given location. Additional analysis for each individual body massage and sculpting use or similar use proposals would still be required to be determined for its compatibility and impact on existing and future surrounding uses on a case-by-case basis. Therefore, these types of uses would still be subject to public hearing and Planning Commission review for determination.

**ANALYSIS:**

*Compatibility/Determination of Use*

*MMC § 10-3.802 C-1 Zones, Uses Permitted, Other Retail Business*

Under consideration is a request to allow various forms of body massage and sculpting service in the C-1 (Light Commercial) and C-2 (Heavy Commercial Zone Districts. Services may include, but not be limited to, body massage, massage therapy, manual lymphatic treatment, body sculpting, and other similar types of services. No one use or combination of uses listed in the MMC explicitly list or closely resembles body massage or sculpting as a permitted use or as a use subject to the approval of a use permit. Clinics (medical and dental) are the closest use listed.

In the C1 (Light Commercial) and C2 (Heavy Commercial Zone Districts, the Zoning Ordinance allows the Commission to permit “other uses which, in the opinion of the Commission, are of a similar nature,” subject to the approval of a conditional use permit. Such uses shall not, under the circumstances of a particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

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

In April 2010, the Commission approved a determination of use (DOU 2010-01) allowing the establishment of a therapeutic massage parlor at 1930 Howard Road, Suite H. The Commission approved DOU 2010-01 based on the following findings:

1. A therapeutic massage parlor use is consistent with the purpose and intent of the C-1 (Light Commercial) Zone District;
2. A therapeutic massage parlor use is similar in character to the surrounding commercial services; and
3. Therapeutic massage parlor use is not more detrimental to the welfare of the neighborhood in which it shall be located than other uses permitted in the C-1 (Light Commercial) Zone District.

Body massage and sculpting services of massage therapy, manual lymphatic treatment, body sculpting could be categorized as being similar to a “therapeutic massage parlor” under the provisions of DOU 2010-01.

#### Operations

For applicants proposing to establish body massage and sculpting services, these would generally be appropriate in commercial settings, especial where they include a mix of business types including, but not limited to retail, food, services, professional office uses and/or other permitted uses.

As a use subject to a use permit, individual projects will be reviewed for the nature of the proposed body massage and sculpting services where they would vary from full and partial body massages, the length of time for the service, number of clients per day, and how the service may impact vehicle and foot traffic or have a visual impact to the surrounding uses. There is no compelling reason to disallow these types of uses in the C-1 and C-2 zone districts.

#### **ENVIRONMENTAL REVIEW:**

Staff performed a preliminary environmental assessment and has determined that the project is exempt under Section 15061(b)(3) (General Rule) of the California Environmental Quality Act (CEQA) Guidelines because the activity is covered by the common-sense 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.

#### **PLANNING COMMISSION ACTION:**

The Commission will be acting on DOU 2023-01 and the CEQA Exemption. Staff recommends that the Commission:

1. Adopt a resolution adopting a CEQA Exemption Pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) and Approving a Determination of Use (DOU 2023-01) (Body Massage and Sculpting).

**ALTERNATIVES:**

As an alternative, the Commission may elect to:

1. Move to continue the public hearing to the April 11, 2023 Planning Commission hearing with direction to staff to return with an updated staff report, resolution and/or appropriate findings modifying the DOU for the following reasons: (Specify –Commission should articulate reasons for modifications).
2. Move to deny the request based on the following reasons: (Specify –Commission should articulate reasons for denial).

**ATTACHMENTS:**

1. Resolution

**ATTACHMENT 1**

Planning Commission Resolution

**RESOLUTION NO. 1947**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA  
ADOPTING A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES  
SECTION 15061(b)(3) (GENERAL RULE) AND APPROVING DETERMINATION OF  
USE (DOU 2023-01) (BODY MASSAGE AND SCULPTING)**

**WHEREAS**, on March 14, 2023, staff requested the Planning Commission (Commission) to make a determination of use (“DOU”) in order to allow for the establishment of body massage and sculpting businesses, and similar uses in C1 – Light Commercial, and C2 – Heavy Commercial zone districts subject to the approval of conditional use permit by the Planning Commission; and

**WHEREAS**, a use determination is intended to recognize the fact that zoning regulations relating to land use do not address every conceivable use that may be permitted, conditionally permitted, or prohibited within a given zoning district; and

**WHEREAS**, the use determination procedure allows consideration of land use proposals not specifically permitted or prohibited in a zone district, but which may be appropriate uses given their similarity to other permitted or conditionally permitted uses; and

**WHEREAS**, a use determination is not intended to be used and shall not be used in lieu of a zone change; and

**WHEREAS**, the impetus behind the staff-initiated request were numerous inquiries from the community regarding the ability to establish varying types of body massage and sculpting uses; and

**WHEREAS**, traditional massage establishments were typically limited to a specific massage operation; and

**WHEREAS**, massage have generally been considered an use in commercial zone districts subject to a use permit under the general observation that, since a general massage service may offer these as ancillary services, then a body massage and sculpting service should also be considered a similar use, subject to a use permit; and

**WHEREAS**, present-day massage services have evolved to offer a wider array of related services; and

**WHEREAS**, with the rise of interest in body massage and sculpting services including, but not limited to massage therapy, manual lymphatic treatment, and body sculpting services included in these types of uses; and

**WHEREAS**, there is growing tendency for body massage and sculpting services to provide a wider array of services for their patrons on-site; and

**WHEREAS**, the shift from more formal medical and healthcare institutions to offer these services and moving the uses to independent operators where the complexity of everyday operations for body massage and sculpting services increases without necessarily affecting the uses intensity; and

**WHEREAS**, additional analysis for each individual body massage and sculpting services or similar use proposal is required to determine its compatibility and impact on existing and future surrounding uses on a case-by-case basis; and

**WHEREAS**, under the City’s Municipal Code, the Commission is authorized to review and approve requests for use determinations on uses not explicitly mentioned as permitted, conditionally permitted, or prohibited uses; and

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

**WHEREAS**, DOU 2023-01 was properly noticed in the March 14, 2023, Commission agenda; and

**WHEREAS**, the Commission received and reviewed DOU 2023-01 at a duly noticed meeting on March 14, 2023; and

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

**WHEREAS**, the Planning Commission now desires to approve DOU 2023-01.

**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 Recommendation: A preliminary environmental assessment was prepared for this activity in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning Commission finds and determines that the request for a use determination is exempt under CEQA Guidelines Section 15061(b)(3) (General Rule) of the State CEQA Guidelines because the activity is covered by the common-sense 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, similar use types are already allowed in the in C1 (Light Commercial), and C2 (Heavy Commercial) zone districts, subject to the approval of a use permit, and confirming this use through business establishments dedicated to body massage and sculpting service uses will not result in any significant impact above the current baseline, and certainly not an adverse environmental impact. As such, a finding under CEQA Guidelines Section 15061(b)(3) is appropriate.
3. Findings to Approve DOU 2023-01: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of DOU 2023-01. 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. Body massage and sculpting services and similar businesses possess operational characteristics that merit review on a case-by-case basis.
  - b. Currently, if body massage and sculpting services have generally been considered a permitted commercial use in commercial zone districts as a medical clinic that might also provide these services, then body massage and sculpting services, etc., should also be considered a similar and permitted use.

- c. Body massage and sculpting services and similar uses within the C1 (Light Commercial) and C2 (Heavy Commercial) zoned districts, subject to the approval of a use permit, is consistent with the Madera General Plan principles, goals, and policies.
  - d. The allowance for body massage and sculpting services and similar uses in the C1 (Light Commercial) and C2 (Heavy Commercial) zoned districts, subject to the approval of a use permit, provides consistency with the Zoning Ordinance.
4. Approval of DOU 2023-01: Given that all findings can be made, the Planning Commission hereby approves DOU 2023-01 and determines that body massage and sculpting services, and similar uses shall be allowed in the C1 (Light Commercial) and C2 (Heavy Commercial) zoned districts subject to the approval of a use permit on a case-by-case basis.
5. Effective Date: This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 14<sup>th</sup> day of March 2023, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

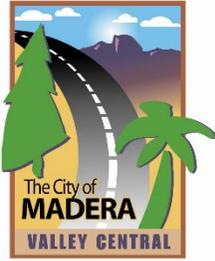
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Robert Gran Jr.  
Planning Commission Chairperson

Attest:

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Gary Conte, AICP  
Planning Manager



## REPORT TO PLANNING COMMISSION

**Prepared by:**

Robert Smith, Senior Planner

**Meeting of:** March 14, 2023

**Agenda Item:** 4

**SUBJECT:**

Pure Essence Conditional Use Permit 2022-19 and Site Plan Review 2022-28 (Continued from February 21, 2023).

**RECOMMENDATION:**

Conduct a public hearing and:

1. Adopt a Resolution adopting a finding of Categorical Exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (existing facilities) and approving Use Permit (CUP) 2022-19, and Site Plan Review Permit (SPR) 2022-28 subject to the findings and conditions of approval.

**PROPOSAL:**

An application for Use Permit (CUP), and Site Plan Review, (SPR) for consideration to allow for the establishment of a Body Massage and Sculpting operation center (Pure Essence) in Suite H of 47<sup>th</sup> Place West, an existing shopping center located at 1930 Howard Road. 47<sup>th</sup> Place West is located on the southeast corner of South Schnoor Avenue and Howard Road. The use will occupy a currently vacant 1,230 square foot (sf) tenant unit in an existing commercial building composed of multiple tenants. Body Massage and Sculpting Services to be provided include massage therapy, manual lymphatic treatment, body sculpting, and lip fillers.

**This item was continued from the February 21, 2023, Planning Commission hearing.** The Planning Commission (Commission) continued its consideration on the proposal from February 21, 2023, to the March 14, 2023 Planning Commission hearing at staff's requests. With the exception of staff requesting a continuance on this item and the Commission approving a motion to continue the item to the March 14, 2023, Commission hearing, this item was not presented to the Planning Commission.

Table 1: Project Overview below provides an overview of the project site location, ownership, site characteristics, and the General Plan and zoning designations.

| <b>Table 1: Project Overview</b> |                                                                                                                                                                                                                                                                       |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Project Number:</i>           | CUP 2022-19 and SPR 2022-28                                                                                                                                                                                                                                           |
| <i>Owner:</i>                    | Berry & Berry, Inc.                                                                                                                                                                                                                                                   |
| <i>Applicant:</i>                | Guadalupe Mendoza                                                                                                                                                                                                                                                     |
| <i>Location:</i>                 | 1930 Howard Road, Suite H southeast corner of Howard Road and South Schnoor Avenue (APN 009-361-060 and 063).                                                                                                                                                         |
| <i>Project Area:</i>             | 0.716 acre or 94,213 sf; developed as a commercial shopping center, subdivided into multiple tenants. Suite H is 1,230sq.                                                                                                                                             |
| <i>Plan Land Use:</i>            | C (Commercial)                                                                                                                                                                                                                                                        |
| <i>Zoning District:</i>          | C-1 (Light Commercial).                                                                                                                                                                                                                                               |
| <i>Site Characteristics</i>      | Commercial shopping center with multiple suites operating as various uses. (e.g., bank, restaurants, office, retail). The proposed Suite is part of Building H. The parcel is accessed through an approach on South Schnoor Avenue and two approaches on Howard Road. |

**SUMMARY:**

The applicant, Guadalupe Mendoza, is proposing to establish a massage therapy, lymphatic treatment, body sculpting business (Pure Essence) in an existing 1,230 sf vacant Suite H, within the 47<sup>th</sup> West Shopping Center. The tenant space is oriented towards the shopping center parking area. However, the Suite can only be accessed via a covered breezeway corridor providing access to the rear of the shopping center and the adjacent suite (Suite I) facing Modoc Street.

The applicant proposes to provide Body Massage and Sculpting services. Services include massage therapy; manual lymphatic treatment; body sculpting; and lip fillers). The Body Massage and Sculpting services are subject to physician referrals and will be by appointment only. The range of uses are similar and consistent to “therapeutic message” businesses permitted to occupy Suite H pursuant to an approved Determination of Use (DOU 2010-01) allowing therapeutic massage businesses within the C-1 Light Commercial zoning district subject to a use permit. Although similar, the prior DOU cannot be relied upon for the purposes of this proposed use as it was specific to the elements and limits of a prior business.

The applicant has performed cosmetic upgrades to the unit but has not submitted a Building permit for any work requiring permits. The applicant has indicated none of the work would trigger a building permit and the extend of work relates to painting and flooring.

**SURROUNDING LAND USES:**

The tenant space immediately adjacent to the south of the proposed site (Suite G) is occupied by a bar and grill (Backstreet Bar & Grill) and the tenant space immediately adjacent to the north of the proposed site (Suite I) is occupied by a Welcome Home Funding. Directly across from the proposed site on the opposite side of the covered breezeway, the suite (Suite J) is occupied by flower shop (Floral Fantasy). Access to the flower shop faces the shopping center’s parking area. There are not tenants abutting to the rear (west) of the proposed site. The rear of Suite H abuts South Schnoor Avenue.

The 47<sup>th</sup> Place shopping center surrounding land uses are predominantly commercial land uses to the north, east and south on developed parcels containing a variety of existing commercial uses including coffee shops, restaurants, fast food, and retails stores amongst other uses. To the west is the Lions Town and County Park.

Property to the north, across Howard Avenue and west of the shopping center along Howard Avenue are designated C (Commercial) and zoned for commercial uses (C1 Light Commercial). Property immediately to the south, across Modoc Street are also designated C (Commercial) and is zoned C2 Heavy Commercial. Property immediately to west, across South Schnoor Avenue is designated OS (Open Space) and zoned RCO (Resource Conservation) and is occupied by the City’s Lions Town and Country Park. Table 2 below lists all the immediate uses adjacent to the 47th Place West shopping center.

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

| <b>Table 2: Bordering Site Information</b> |                     |                                 |                                  |
|--------------------------------------------|---------------------|---------------------------------|----------------------------------|
| <b>Direction from Project site</b>         | <b>Existing Use</b> | <b>General Plan Designation</b> | <b>Zone District</b>             |
| <b>North</b>                               | Commercial          | C – Commercial                  | C-1 – Light Commercial           |
| <b>East</b>                                | Commercial          | C – Commercial                  | C-1 – Light Commercial           |
| <b>South</b>                               | Commercial          | C – Commercial                  | C-1 – Light Commercial           |
| <b>West</b>                                | Open Space          | OS – Open Space                 | RCO – Resource Conservation Area |

**ANALYSIS:**

*Site Plan Review*

*MMC §§ 10-3.4.0101 – 10-3.4.0117 Site Plan Review*

Pursuant to the Madera Municipal Code (MMC), a site plan review is required for all projects which require a use permit, including a change of use where no on-site construction is proposed. If the Commission cannot make the appropriate findings, the development should be denied. Conditions may be attached to the approval of the site plan to ensure compatibility.

*Conditional Use Permit*

*MMC §§ 10-3.1301 – 10.3.1311 Use Permits*

The City’s Zoning Ordinance allows for the granting of a use permit by the Commission subject to the Commission being able to make findings that “the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.” If the Commission cannot make the appropriate findings, the development should be denied. Conditions may be attached to the approval of the site plan to ensure compatibility and the provisions are contained within Section 10-3.4.0102 of the MMC. Project design may be altered and on- or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

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

Determination of Use 2022-01 (DOU 2022-01) analyzes the acceptability of body art shops and similar businesses providing services such as, but not limited to, lip fillers and permanent make-up in C1 (Light Commercial) and C2 (Heavy Commercial) zone districts, subject to a use permit.

Determination of Use 2023-01 Body Massage and Sculpting (DOU 2023-01) analyzes the acceptability of body massage and sculpting businesses providing services such as, but not limited to, body massage, massage therapy, manual lymphatic and body sculpting in C1 (Light Commercial) and C2 (Heavy Commercial) zone districts subject to a use permit.

DOU 2022-01 and 2023-01 establish the foundation for the Commission to make the appropriate and warranted findings required of the proposed Pure Essences Project CUP 2022-19 and SPR 2022-28.

#### Parking and Circulation

There are 10 standard parking spaces and one (1) ADA parking space directly in front of the building that houses Suite H and the adjacent suites. There are additional parking spaces throughout 47th Place West shopping center that can also be used by Pure Essence. Limited street parking is available along Modoc Street located to the rear of the 47<sup>th</sup> Place. Parking on South Schnoor is prohibited.

#### Signage

##### *MMC § 10-6.01 – Sign Regulations*

The proposal is subject to Section 10-6.09 of the City’s Sign Regulations. No signs are approved with this site plan review and a separate sign permit must be applied for. Permanent window signage is prohibited, and temporary window signage is subject to the City’s Sign Regulations. Temporary signage, such as for a grand opening, is subject to a separate sign permit independent from any on building or freestanding sign permit issued.

#### Potential Impacts

Should the conditional use permit and site plan review be approved, the impact of this use on surrounding properties will be minimal. The only continuous impact is the minor increase in traffic and parked vehicles from the additional customers that the proposed use is anticipated to attract but not beyond what was anticipated for the shopping center or uses that have previously occupied this space. As noted above, there are 10 standard parking stalls and one (1) ADA parking stall directly in front of the existing building that serves Suite H and the adjacent units. There are additional parking stalls throughout 47th Place West shopping center. Staff has determined that 47th Place West provides sufficient parking space to accommodate this use.

#### Other Department and Agency Comments

The proposed use permit and site plan review were reviewed by various City Departments and outside agencies. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report.

#### **ENVIRONMENTAL REVIEW:**

Staff conducted a preliminary environmental assessment and has determined that the project is categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines because the project will occupy an existing building on an existing parcel with existing services and utilities, and no major modifications or expansion to the structure are to occur. Moreover, no expansion

of commercial uses will occur. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project.

**COMMISSION ACTION:**

The Commission will be acting on the CUP 2022-19 and SPR 2022-28, and the CEQA Categorical Exemption. Staff recommends that the Commission:

1. Adopt a Resolution of the Planning Commission adopting a Finding of Categorical Exemption from CEQA pursuant to CEQA Guidelines Section 15301 for the project and approving Conditional Use Permit 2022-19, and Site Plan Review Permit 2022-28, based on, and subject to, the findings and conditions of approval.

**ALTERNATIVES:**

As an alternative, the Commission may elect to:

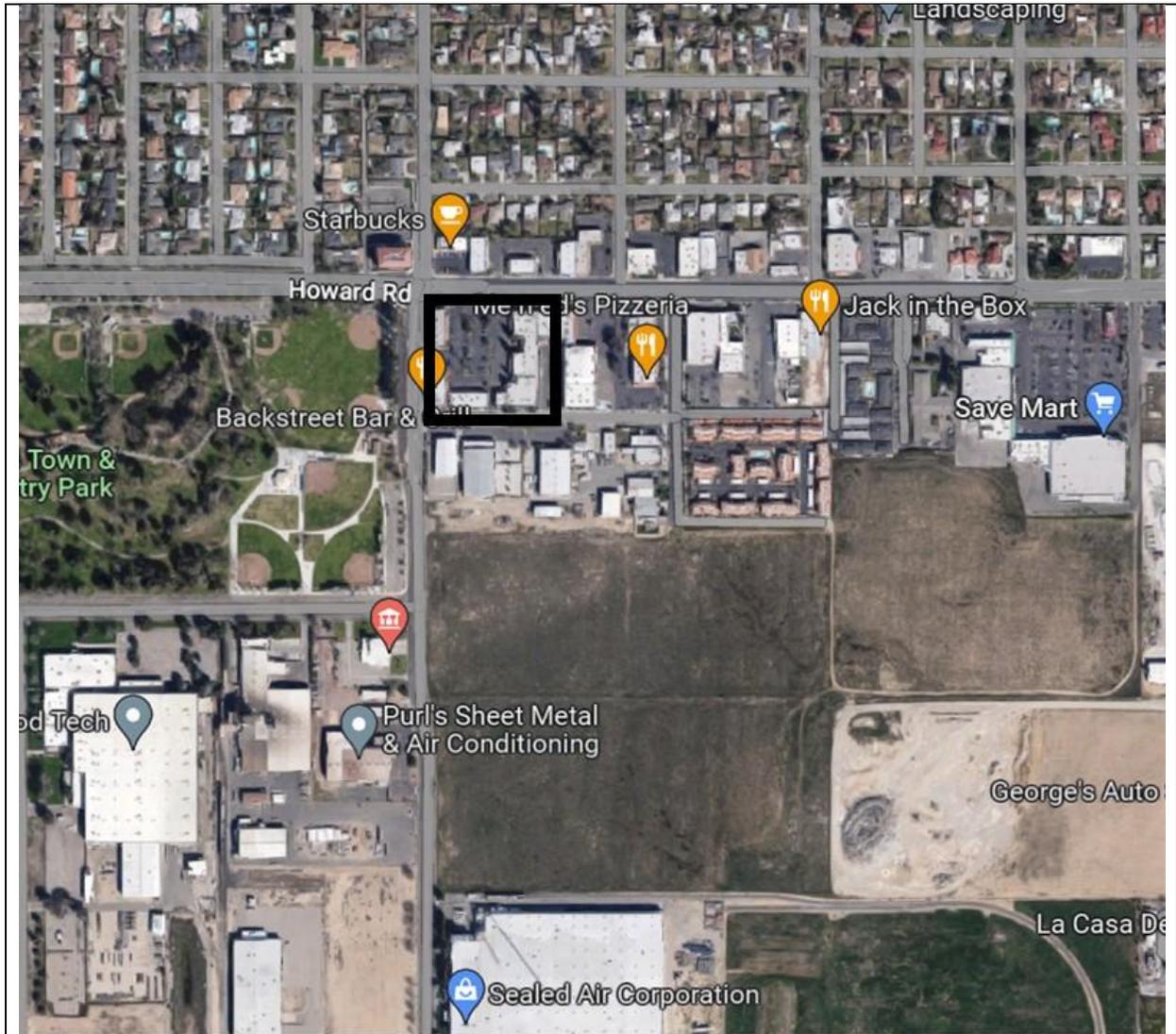
1. Move to continue the public hearing to the April 11, 2023, Planning Commission meeting (Commission to specify and articulate reasons for continuance).
2. Move to deny the request based on specified findings: (Commission to specify and articulate reasons for denial).

**ATTACHMENTS:**

1. Vicinity Map
2. General Plan Land Use Map
3. Zoning Map
4. Site Plans
5. Planning Commission Resolution

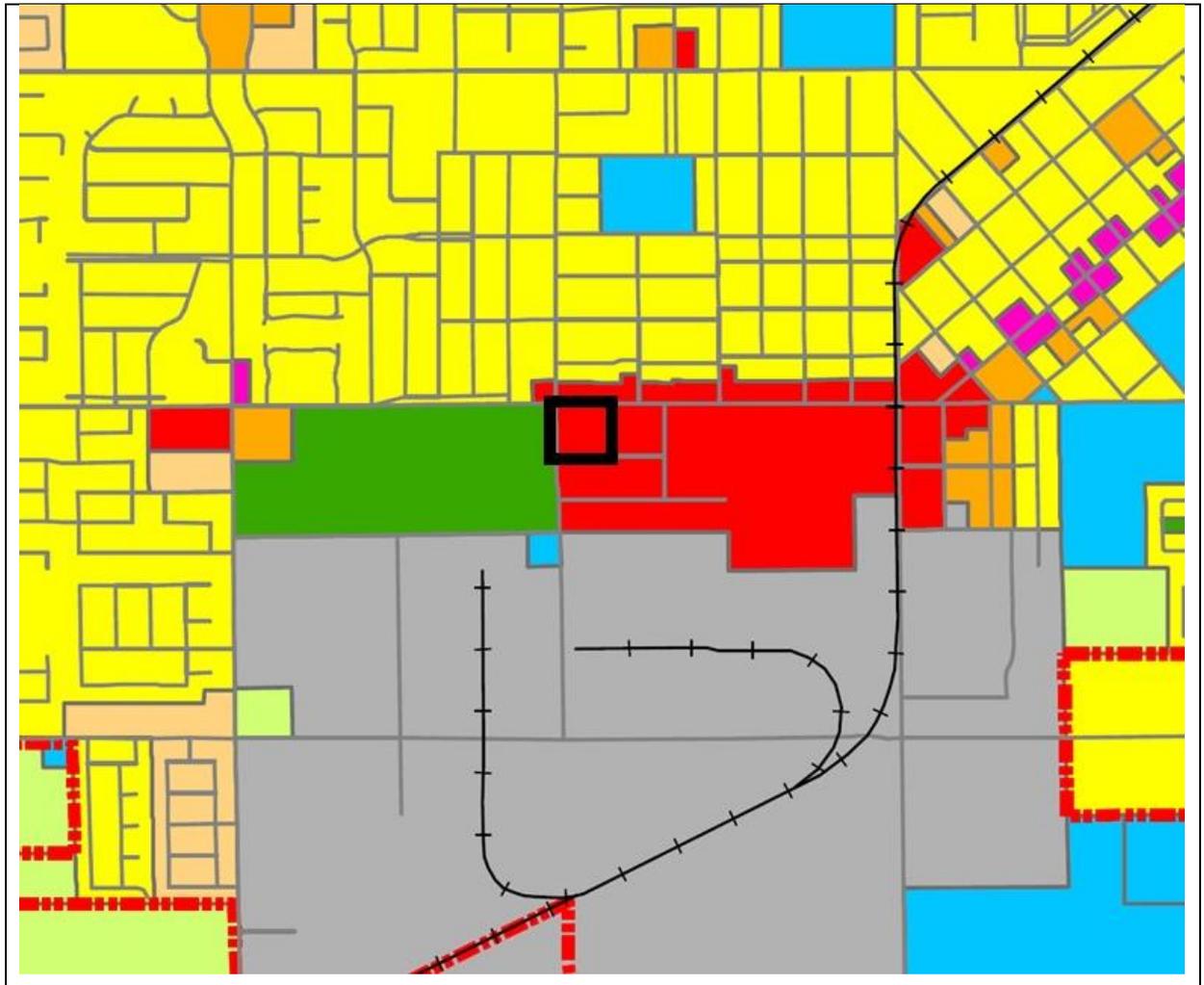
**ATTACHMENT 1**

Vicinity Map



**ATTACHMENT 2**

General Plan Land Use Map



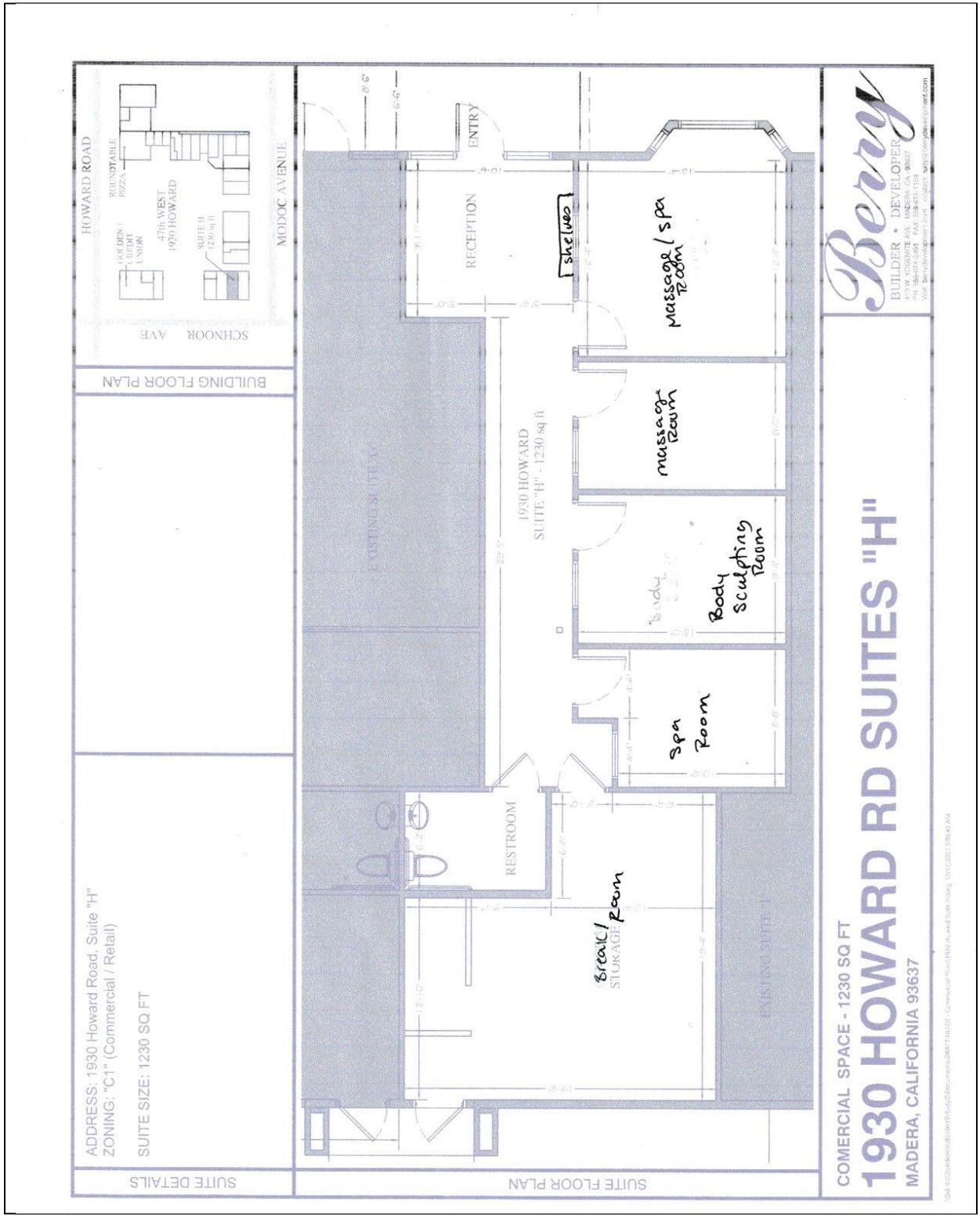
**ATTACHMENT 3**

Zoning Map



**ATTACHMENT 4**

Site Plans





**ATTACHMENT 5**

Planning Commission Resolution

**RESOLUTION NO. 1948**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA  
ADOPTING CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES  
SECTION 15301 (EXISTING FACILITIES) APPROVING CONDITIONAL USE PERMIT  
(CUP 2022-19) AND SITE PLAN REVIEW (SPR 2022-28), (PURE ESSENCE – 1930  
HOWARD RD, SUITE H)**

**WHEREAS**, Berry and Berry, Inc. (“Owner”) owns 47<sup>th</sup> Place West Shopping Center located at 1930 Howard Road in Madera, California (“site”); and

**WHEREAS**, the site is an existing commercial shopping center planned for and surrounded by Commercial land uses; and

**WHEREAS**, the applicant, Guadalupe Mendoza, is seeking a Use Permit and Site Plan Review to allow for the use as a medical healing and post operation center, as proposed by CUP 2022-19 and SPR 2022-28; and

**WHEREAS**, the applicant’s medical healing and post operation center services of massage therapy, manual lymphatic treatment, and body sculpting is categorized as being similar to “body massage and sculpting services” in accordance with Determination of Use (DOU) 2023-01; and

**WHEREAS**, the applicant’s medical healing and post operation center services of lip filler and permanent make-up is categorized as a similar use to that of a body art shop, in accordance with Determination of Use (DOU) 2022-01; and

**WHEREAS**, body massage and sculpting services and body art shops and facilities are allowable uses in C1 – Light Commercial zone districts subject to a use permit, in accordance with DOUs 2022-01 and 2023-01; and

**WHEREAS**, the use, as conditioned, is compatible with all the surrounding uses in 47<sup>th</sup> Place West Shopping Center; and

**WHEREAS**, a Categorical Exemption under the California Environmental Quality Act (CEQA) guidelines, Section 15301 (Existing Facilities) has been prepared for the proposed project in accordance with CEQA, Public Resources Code Section 21000 et. Seq.; and

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

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

**WHEREAS**, at its February 21, 2023, the Commission, at staff’s request, continued CUP 2022-19 and SPR 2022-28 to the March 14, 2023 Commission meeting; and

**WHEREAS**, the Commission received and reviewed CUP 2022-19 and SPR 2022-28 at a duly noticed meeting on March 14, 2023; and

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

**WHEREAS**, the Commission now desires to adopt a Categorical Exemption pursuant to CEQA Guidelines Section 15301 and approve CUP 2022-19 and SPR 2022-28

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

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA Recommendation: 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 (Existing Facilities) of the State CEQA Guidelines because the project will occupy an existing building on an existing lot with existing services and utilities, and any modifications to the structure will only be minor interior and exterior changes involving negligible or no relative expansion of use. 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.
3. Findings for CUP 2022-19: The Commission finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2022-16, as conditioned. The 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 is consistent with its zoning district of C1 – Light Commercial. CUP 2022-19 is found to be consistent with all regulations set forth by MMC § 10 3.405 (Uses).
  - Finding b: *The proposed use will be compatible with the surrounding properties.*

The project site is suited for commercial uses. The proposal is for an existing building zoned commercial and is surrounded by like uses to the north, east, and south of the property. As conditioned, the use will be compatible with surrounding properties and is consistent with applicable requirements regulating such use.
  - Finding c: *The establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city.*

The proposed use will not result in a detriment to the health, safety, peace, morals, comfort, or general welfare of persons or property in the surrounding area. The operations of this proposal have been conditioned by staff to mitigate any potential concerns related to the services provided by the proposed use. These conditions ensure that the general welfare and safety of the surrounding uses and the City at large are not negatively impacted. The surrounding uses are also similar in nature and therefore the proposed use at this location will not be detrimental or injurious to property and improvements in the neighborhood.

4. Approval of SPR 2022-28: The Commission finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2022-28, as conditioned. The 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 site is zoned C1 – Light Commercial which is consistent with the General Plan designation of Commercial. The project consists of the renovation of the existing Suite H for medical healing and post operation uses. The intended use is consistent with the intent and purpose of the C-1 zone, and the conditions of approval ensure the project does not conflict with any City standards or Municipal Code requirements.

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 proposed project has been found to be consistent with surrounding uses. Conditions of approval will ensure improvements are made and adequate parking spaces are provided such that traffic and pedestrian safety are maintained. The proposed plan and associated activities will not generate an excessive amount of light, noise, or traffic.

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

The proposed project will install on-site improvements consistent with City standards. As conditioned, adequate parking is provided, and vehicular access is arranged such that traffic and pedestrian safety are maintained. The proposed

uses will not have a significant impact on traffic or cause significant degradation to the surrounding environment.

5. Approval of CUP 2022-19 and SPR 2022-28: Given that all findings can be made, the Planning Commission hereby approves CUP 2022-19 and SPR 2022-28 as conditioned and set forth in the Conditions of Approval attached as Attachment A.

6. Effective Date: This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 14<sup>th</sup> day of March 2023, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

\_\_\_\_\_  
Robert Gran Jr.  
Planning Commission Chairperson

Attest:

\_\_\_\_\_  
Gary Conte, AICP  
Planning Manager

Exhibit "A": Conditions of Approval for CUP 2022-19 & SPR 2022-28

**EXHIBIT "A"**  
**CUP 2022-19 & SPR 2022-28 (PURE ESSENCE)**  
**CONDITIONS OF APPROVAL**  
**March 14, 2023**

**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 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 2022-19 will ultimately be deemed mandatory unless appealed by the applicant to City Council within fifteen (15) days after the decision of the Planning Commission, and all discretionary conditions of approval for SPR 2022-28 will ultimately be deemed

mandatory unless appealed by the applicant to the City Council within ten (10) days after the decision by the Planning Commission. 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, successors-in-interest, lessee, operator, or any other person or entity making use of this permit. Furthermore, "project site" refers to the portions of 1930 Howard Road that are being developed under CUP 2022-19 and SPR 2022-28. The following conditions apply only to these portions of the subject site, unless specifically noted otherwise.

## **CONDITIONS OF APPROVAL**

### **General Conditions**

1. The applicant's failure to utilize CUP 2022-19 and SPR 2022-28 within one year following the date of this approval shall render the conditional use permit null and void unless a written request for an extension has been submitted to and approved by the (Commission).
2. CUP 2022-19 and SPR 2022-28 may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and the owner(s) of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
3. CUP 2022-19 and SPR 2022-28 shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by staff to be in violation of the conditions of approval, staff may schedule a public hearing before the Commission within 45 days of the violation to consider revocation of the permit.
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.**
5. CUP 2022-19 shall expire 12 months from date of issuance, unless positive action to utilize the CUP or a written request for extension has been submitted to the Planning Commission before the expiration of the CUP (MMC Section 10-3.1311, Termination and Revocation).
6. SPR 2022-28 shall expire one year from date of issuance unless positive action is taken on the project as provided in the Madera Municipal Code (MMC) or required action is taken to extend the approval prior to the expiration date (MMC Section 10-3.4.0114, Lapse of Site Plan Approval).
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, 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 or business license, as determined appropriate by the City of Madera Planning Department.

9. Minor modifications to the approved plans necessary to meet regulatory, engineering, or similar constraints may at the discretion of the Planning Manager without an amendment to CUP 2022-19 and/or SPR 2022-28. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to CUP 2022-19 and/or SPR 2022-28 be filed for review and approval through the applicable City process.
10. Deferrals are not permitted for any condition included herein, unless otherwise stated or unless approved by the City Council, through a separate deferral process.
11. Approval of CUP 2022-19 and SPR 2022-28 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.

12. 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 surrounding properties.

#### **Building Department**

13. A building permit is required for all improvements. The tenant space must meet the requirements of the California Building Code, California Fire Code, and Americans with Disabilities Act prior to occupancy.
14. Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at the permit stage and shall be confirmed at final inspection.
15. Interior work must comply with California Building Code Chapter 11 accessibility.

#### **Engineering Department**

### General

16. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
17. 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.
18. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.

### Water

19. New or existing water service connection(s) 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.
20. Existing water service connections that will not be used for the project shall be abandoned at the mains per City of Madera standards.

### Sewer

21. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards. Each parcel shall have a separate sewer service.
22. Existing sewer service connections that will not be used for the project shall be abandoned at the mains per current City of Madera standards.

### Streets

23. 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.
24. The developer shall construct ADA accessible sidewalk along the project frontage on South Schnoor Avenue per City standards to maintain an unimpeded path of travel at all times.
25. If the applicant believes that a hardship waiver is applicable based on the cost of ADA improvements in relation to overall project costs, a request for waiver may be submitted for consideration and an ultimate determination by the City.

### **Fire Department**

26. One, 2A10BC rated fire extinguisher is required for every 3,000 square feet of floor area.
27. A new key is required for the existing key box if the locks are re-keyed.
28. Egress door hardware shall comply with the California Building Code, Chapter 10.

### **Planning Department**

#### General

29. The project site shall be developed in conformance with the site plan as reviewed and approved under CUP 2022-19 and SPR 2022-28. Minor modifications to the site plan, which are necessary to meet regulatory, engineering, or similar constraints or requirements may be made at the

discretion of the Planning Manager without an amendment to CUP 2022-19 and SPR 2022-28. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to CUP 2022-19 and SPR 2022-28 be filed for review and approval through the applicable City process.

30. Any proposed future modifications to the site, including, but not limited to, the building structural exteriors, parking/loading areas, shall require an amendment to CUP 2022-19 and SPR 2022-28.
31. All on-site improvements shall be completed prior to final building inspection and shall be completed in conformance with CUP 2022-19 and SPR 2022-28 to the satisfaction of the City of Madera prior to issuance of a certificate of completion.
32. The project site 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, the property owner, operator, and/or manager may be subject to corrective action.
33. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
34. On-site vandalism and graffiti shall be corrected per the Madera Municipal Code.
35. The property owner, manager and the applicant shall keep the property clear of all trash, rubbish and debris at all times; dumping of refuse shall be restricted to the dumpster/refuse containers belonging to the subject property.
36. The applicant shall comply with all federal, state and local laws. Material violations of any applicable laws concerning the use will be cause for revocation of this permit.

#### **Conditional Use Permit 2022-19**

37. CUP 2022-19 allows for the establishment of a medical healing and post operation business known as Pure Essence providing the following services: manual lymphatic treatment; body sculpting; lip fillers; and permanent make-up within Suite H of the 47<sup>th</sup> Place West shopping center located at 1930 Howard Road.
38. The applicant and/or successors-in-interest of Pure Essence shall operate consistent with the approved operational statement. Any significant alterations and/or expansions of the use is subject to an amendment to CUP 2022-19 and SPR 2022-28.
39. The hours of operation shall occur as early as 8:00 a.m. until as late as 10:00 p.m., six (6) days a week.
40. No one under the age of 18 years old shall be permitted to enter the premise without a parent or legal guardian.
41. No one under the age of 18 years old shall permitted to be an employee.
42. Business owner/operator shall be responsible for the conduct of persons employed or retained by the business while on the business premises or while otherwise providing service on behalf of the business.
43. All services shall be confined entirely within the building and all service areas shall not be visible from public view.

44. All equipment used manual lymphatic treatment; body sculpting, lip fillers, permanent make-up, and related services shall be kept clean and sanitized at all times.
45. All equipment used for manual lymphatic treatment; body sculpting, lip fillers, permanent make-up, and related services shall only be accessible to employees of the establishment.
46. Business shall comply with all federal, state and local laws and regulations, including without limitation to provisions of the California Health and Safety Code.
47. Criminal acts occurring on the premise and/or related to the business, whether or not committed by the business owner, operator and/or employees of the business, shall be reviewed by the Police Department and shall be grounds for revocation of the use permit by the Planning Commission
48. It shall be a violation of CUP 2022-19 to promote and/or affiliate with any member of a criminal organization. Members of a criminal organization shall not be permitted to loiter near or upon the business.

#### Landscaping

49. The property owner and/or manager shall maintain all landscaping in a healthy and well-manicured appearance. This includes but is not limited to; ensuring irrigation equipment is properly operating at all times, trimming and pruning trees and shrubs and replacing dead or unhealthy vegetation with drought-tolerant plantings.

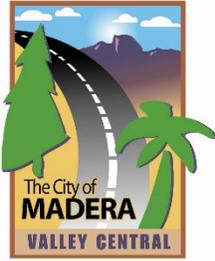
#### Signage

50. All signage shall be in compliance with the Sign Regulations of the City of Madera.

#### **Madera County Environmental Health Department**

51. The applicant, operator and/or successor-in-interest shall obtain an Operating Permit for a medical healing and post operation facility, and if applicable, for a body art facility and register as a small quantity medical waste generator. Said Operating Permit shall be secured prior to issuance of a City of Madera Business License.

END OF CONDITIONS



## REPORT TO PLANNING COMMISSION

**Prepared by:**

Robert Smith, Senior Planner

**Meeting of:** March 14, 2023

**Agenda Item:** 5

**SUBJECT:**

Precision by Noco Conditional Use Permit 2022-35 and Site Plan Review 2022-45 (Continued from February 21, 2023).

**RECOMMENDATION:**

Conduct a public hearing and:

1. Adopt a Resolution adopting a finding of Categorical Exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (existing facilities) and approving Use Permit (CUP) 2022-35 and Site Plan Review Permit (SPR) 2022-45 subject to the findings and conditions of approval.

**PROPOSAL:**

An application for Use Permit (CUP 2022-35) and Site Plan Review (SPR 2022-45) for consideration to allow for the establishment of a permanent cosmetics beauty use focused on a hair loss solution by way of micro-pigmentation (Precision by Noco) in Suite M of 47<sup>th</sup> Place West, an existing shopping center located at 1930 Howard Road. 47<sup>th</sup> Place West is located on the southeast corner of South Schnoor Avenue and Howard Road. The use will occupy a vacant 970 square foot (ft) tenant unit in an existing commercial building composed of multiple tenants.

**This item was continued from the February 21, 2023, Planning Commission hearing.** The Planning Commission (Commission) continued its consideration on the proposal from February 21, 2023, to the March 14, 2023, Planning Commission hearing due to no representation by the applicant at the hearing to respond to inquiries from the Commission and recommended modification to the conditions of approval requested by the Fire Department Marshall. The modifications resulted in minimum amendments to the conditions of approval relating to fire safety provisions.

**SUMMARY:**

The applicant, Creyonna Packard, is proposing to establish a permanent cosmetics beauty business focused on a hair loss solution by way of micro-pigmentation (micro-blading) (Precision by Noco) in the vacant suite M, within the 47<sup>th</sup> West Shopping Center. The tenant space faces the shopping center parking area. The rear of the tenant space abuts Modoc Street. The tenant space can be accessed from a covered walkway entrance paralleling the front of the building facing the shopping center's centralized parking

area as well as from a covered entrance leading to Modoc Street. On-street parking is permitted on Modoc Street. The applicant proposes to provide the following services: permanent cosmetics - micro pigmentation; and associated sales. The range of services is similar to and consistent with tattoo business operations allowed within the C-1 Light Commercial zoning district subject to a use permit.

Table 1: Project Overview below provides an overview of the project site location, ownership, site characteristics, and the General Plan and zoning designations.

| <b>Table 1: Project Overview</b> |                                                                                                                                                                                                                                                      |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Project Number:</i>           | CUP 2022-35 and SPR 2022-45                                                                                                                                                                                                                          |
| <i>Owner:</i>                    | Berry & Berry, inc.                                                                                                                                                                                                                                  |
| <i>Applicant:</i>                | Creyonna Packard                                                                                                                                                                                                                                     |
| <i>Location:</i>                 | 1930 Howard Road, Suite M southeast corner of Howard Road and South Schnoor Avenue (APN 009-361-048 and 053).                                                                                                                                        |
| <i>Project Area:</i>             | Shopping Center is 0.716 acre or 94,213 sf; developed as a commercial shopping center, subdivided into multiple tenants. Suite M is 970 sf.                                                                                                          |
| <i>Plan Land Use:</i>            | C (Commercial)                                                                                                                                                                                                                                       |
| <i>Zoning District:</i>          | C-1 (Light Commercial).                                                                                                                                                                                                                              |
| <i>Site Characteristics</i>      | Commercial shopping center with multiple suites operating as various uses. (e.g., bank, restaurants, office, retail). The proposed Suite is M. The parcel is accessed through an approach on South Schnoor Avenue and two approaches on Howard Road. |

**PLANNING COMMISSION DIRECTION FROM FEBRUARY 21, 2023**

At the February 21, 2023, Planning Commission hearing staff presented the information and analysis contained in the February 21, 2023 Planning Commission staff report. Following deliberation, the Planning Commission continued the project to the March 14, 2023 Planning Commission to allow the applicant time to consider and respond to the amended Conditions of Approval (Conditions 26 to 28). No other conditions of approval are modified. The Planning Commission also indicated their support of staff’s recommendation. The modified conditions of approval are reflected in the attached “Exhibit A” Conditions of Approval.

**SURROUNDING LAND USES:**

The tenant space immediately adjacent to the east of the proposed site (Suite L) is occupied by a sandwich shop (Full-O-Bull) and the tenant space immediately adjacent to the west of the proposed site (Suite O) is occupied by a karate studio. No tenants abut to the rear (west) of the proposed site. The rear of Suite M abuts Modoc Street.

The 47<sup>th</sup> Place shopping center surrounding land uses include predominantly commercial land uses to the north, east and south on developed parcels containing a variety of existing commercial uses including coffee shops, restaurants, fast food, and retails stores amongst other uses. To the west is the Lions Town and County Park.

Property to the north, across Howard Avenue and west of the shopping center along Howard Avenue are designated C (Commercial) and zoned for commercial uses (C1 Light Commercial). Property immediately to the south, across Modoc Street are also designated C (Commercial) and is zoned C2 Heavy Commercial. Property immediately to the west, across South Schnoor Avenue is designated OS (Open Space) and zoned

RCO (Resource Conservation) and is occupied by the City’s Lions Town and Country Park. Table 2 below lists all the immediate uses adjacent to the 47<sup>th</sup> Place West shopping center.

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

| <b>Table 2. Bordering Site Information</b> |                     |                                 |                                  |
|--------------------------------------------|---------------------|---------------------------------|----------------------------------|
| <b>Direction from Project site</b>         | <b>Existing Use</b> | <b>General Plan Designation</b> | <b>Zone District</b>             |
| <b>North</b>                               | Commercial          | C – Commercial                  | C-1 – Light Commercial           |
| <b>East</b>                                | Commercial          | C – Commercial                  | C-1 – Light Commercial           |
| <b>South</b>                               | Commercial          | C – Commercial                  | C-1 – Light Commercial           |
| <b>West</b>                                | Open Space          | OS – Open Space                 | RCO – Resource Conservation Area |

**ANALYSIS:**

*Site Plan Review*

*MMC §§ 10-3.4.0101 – 10-3.4.0117 Site Plan Review*

Pursuant to the Madera Municipal Code (MMC), a site plan review is required for all projects which require a use permit, including a change of use where no on-site construction is proposed. If the Commission cannot make the appropriate findings, the development should be denied. Conditions may be attached to the approval of the site plan to ensure compatibility.

*Conditional Use Permit*

*MMC §§ 10-3.1301 – 10.3.1311 Use Permits*

The City’s Zoning Ordinance allows for the granting of a use permit by the Commission subject to the Commission being able to make findings that “the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.” If the Commission cannot make the appropriate findings, the development should be denied. Conditions may be attached to the approval of the site plan to ensure compatibility and the provisions are contained within Section 10-3.4.0102 of the MMC. Project design may be altered and on- or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

*Compatibility/Determination of Use*

*MMC § 10-3.802 C-1 Zones, Uses Permitted, Other Retail Business*

Under consideration is a request to allow a permanent cosmetics beauty business focused on a hair loss solution by way of micro-pigmentation - a form of microblading. Microblading is a tattooing technique in which a small handheld tool made of several tiny needles is used to add pigment to the skin. Microblading differs from standard tattooing because each hairstroke is created by hand using a blade which creates fine slices in the skin. This method is typically used on eyebrows to create, enhance, or reshape their appearance in terms of both shape and color.

In the C1 (Light Commercial) Zone District, the Zoning Ordinance allows the Commission to permit “other uses which, in the opinion of the Commission, are of a similar nature,” subject to the approval of a conditional use permit. Such uses shall not, under the circumstances of a particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

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

The Planning Commission (Commission) in July 2022, approved a determination of use (DOU 2022-01) allowing body art shops, facilities, and similar uses to operate in any C1 (Light Commercial), C2 (Heavy Commercial) or I (Industrial) Zone District based on the following findings:

1. Body art shops and facilities and similar businesses possess operational characteristics that merit review on a case-by-case basis.
2. Currently, body art shops and facilities have generally been considered a permitted use in commercial zone districts as medical clinics might perform very similar procedures, then body art shops, etc., should also be considered a similar and permitted use.
3. Body art shops and facilities and similar uses within the C1 – Light Commercial, C2 – Heavy Commercial, and I – Industrial zoned districts, subject to the approval of a conditional use permit, are consistent with the Madera General Plan principles, goals, and policies.
4. The allowance for body art shops and facilities and similar uses in the C1 – Light Commercial, C2 – Heavy Commercial, and I – Industrial zoned districts, subject to the approval of a conditional use permit, provides consistency with the Zoning Ordinance.

Precision by Noco services focused on a hair loss solution by way of micro-pigmentation (micro-blading), as proposed, would be categorized as a “similar use” under the provisions established by DOU 2022-01. The provisions are set out within the City of Madera Municipal Code Section 10-3.802, and 10-3.1301.

### Operations

The applicant is proposing to establish Precision by Noco, a micro-pigmentation (micro-blading), use within Suite M in the 47<sup>th</sup> Place West shopping center. The shopping center includes a mix of business types including food, services, professional office uses and other permitted uses.

The business specializes in cosmetic interventions for hair follicle loss. Hours of operation are listed from Monday to Friday from 9:00 AM to 6:00 PM, with an anticipated maximum of 4 customers per day. The suite includes an enclosed storage room and restroom. The interior arrangement includes a sales counter and wall to the right of the entry and waiting area capable of accommodating up to four persons to the left of the entry. The micro-pigmentation will be performed in an open common area similar to a beauty salon. Three treatment stations will be provided. Disposal needles, colored pigment and other material will all be stored in locked storage cabinets to be located in the breakroom.

In reviewing the use compatibility within 47th Place West shopping center, the proposed Precision by Noco services fits with the various existing light retail and food establishments. As proposed and as

conditioned, operations for this proposal are expected to produce very minimal impacts. Staff has determined that the use is compatible with the surroundings businesses.

### Parking and Circulation

There are 10 standard parking stalls and one (1) ADA parking stall directly in front of the existing building that serves Suite M and the adjacent units. There are additional parking stalls throughout 47th Place West shopping center that can also be used by Precision by Noco. Off-site parking is also available along Modoc Street. Parking on South Schnoor Avenue and Howard Road are prohibited.

### Signage

#### *MMC §§ 10-6.01 – 10-6.21 Sign Regulations*

The proposal is subject to Section 10-6.09 of the City's Sign Regulations. No signs are approved with this site plan review and a separate sign permit must be applied for. Permanent window signage is prohibited, and temporary window signage is subject to the City's Sign Regulations. Temporary signage, such as for a grand opening, is subject to a separate sign permit independent from any on building or freestanding sign permit issued.

Based on site visits to the property, the applicant has adhered signage onto the Suite windows absent submittal and approval of sign permit. Window signs are subject to an approved sign permit. As such, the present window signs are in violation of the City Sign Regulations. Only the address (street and/or name signs), not exceeding four square ft for commercial uses, is exempt from requiring a sign permit, so long as the sign satisfies all other applicable permitting requirements.

Windows signage is restricted to street and/or name signs, and temporary signs not exceeding 30 days. Temporary window signs, whether painted on, or affixed to, the window surface may not cover more than 60 percent of any single window or series of windows, nor more than 30 percent of the entire surface area of available windows. The total area of window signage shall not be greater than the permanent on-building sign area allowed for the business/use pursuant to MMC 10-6.04.

The applicant has submitted a sign permit request for an on-building sign. The sign permit request is subject to CUP 2022-35 and SPR 2022-45. Project conditions of approval include removal of existing window signage in violation of City Sign Ordinance.

### Potential Impacts

Should the conditional use permit and site plan review be approved, the impact of this use on surrounding properties will be minimal. The only continuous impact is the minor increase in traffic and parked vehicles from the additional customers that the proposed use is anticipated to attract but not beyond what was anticipated for the shopping center or uses that have previously occupied this space. As noted above, there are 10 standard parking stalls and one (1) ADA parking stall directly in front of the existing building that serves Suite M and the adjacent units. There are additional parking stalls throughout 47th Place West shopping center. Staff has determined that 47th Place West provides sufficient parking space to accommodate this use.

### Other Department and Agency Comments

The proposed use permit and site plan review were reviewed by various City Departments and outside agencies. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report.

**ENVIRONMENTAL REVIEW:**

Staff conducted a preliminary environmental assessment and has determined that the project is categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines because the project will occupy an existing building on an existing parcel with existing services and utilities, and no major modifications or expansion to the structure are to occur. Moreover, no expansion of commercial uses will occur. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project.

**COMMISSION ACTION:**

The Commission will be acting on the CUP 2022-35 and SPR 2022-45, and the CEQA Categorical Exemption. Staff recommends that the Commission:

1. Adopt a Resolution of the Planning Commission adopting a Finding of Categorical Exemption from CEQA pursuant to CEQA Guidelines Section 15301 for the project and approving Use Permit 2022-35 and Site Plan Review Permit 2022-45, based on and subject to the findings and conditions of approval.

**ALTERNATIVES:**

As an alternative, the Commission may elect to:

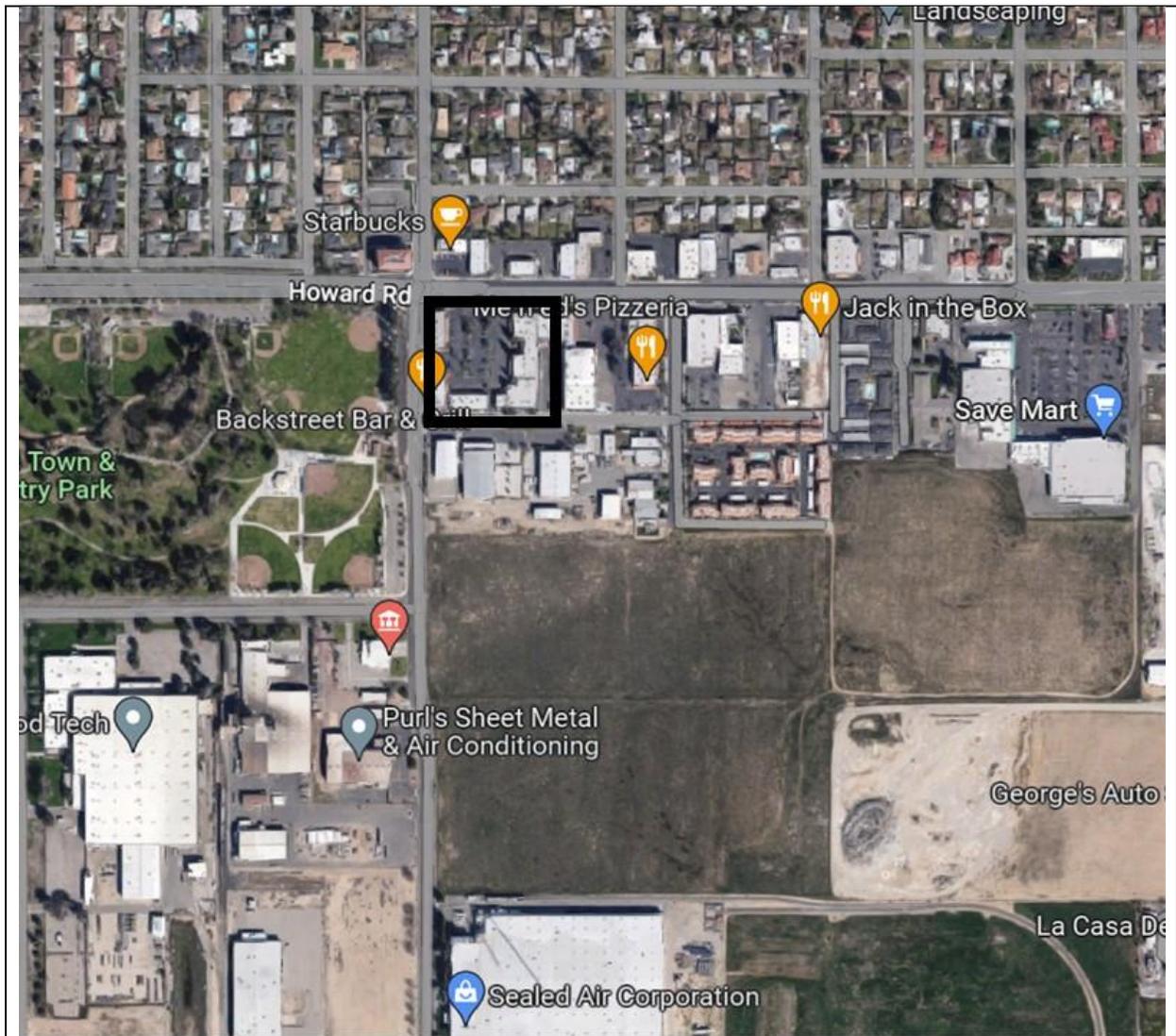
1. Move to continue the public hearing to the April 11, 2023, Planning Commission meeting (Commission to specify and articulate reasons for continuance).
2. Move to deny the request based on specified findings: (Commission to specify and articulate reasons for denial).

**ATTACHMENTS:**

1. Vicinity Map
2. General Plan Land Use Map
3. Zoning Map
4. Proposed Site Plan
5. Planning Commission Resolution

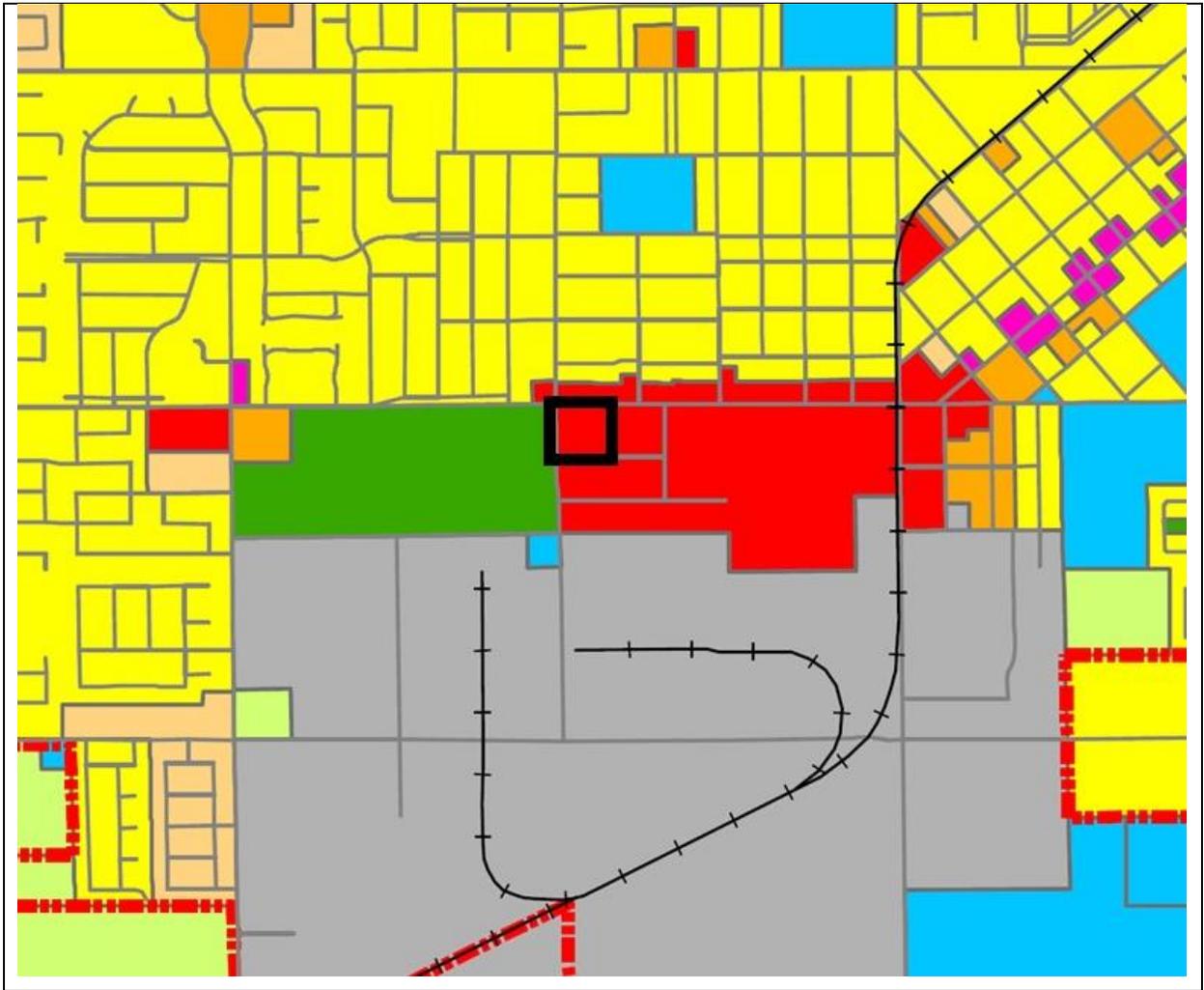
**ATTACHMENT 1**

Vicinity Map



**ATTACHMENT 2**

General Plan Land Use Map



**ATTACHMENT 3**

Zoning Map



**ATTACHMENT 4**

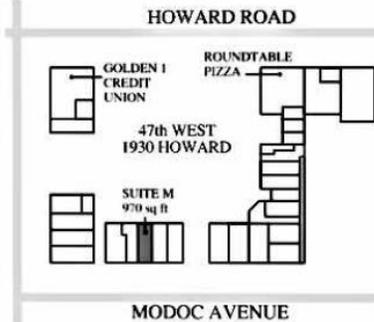
Proposed Site Plan

LEASE RATES

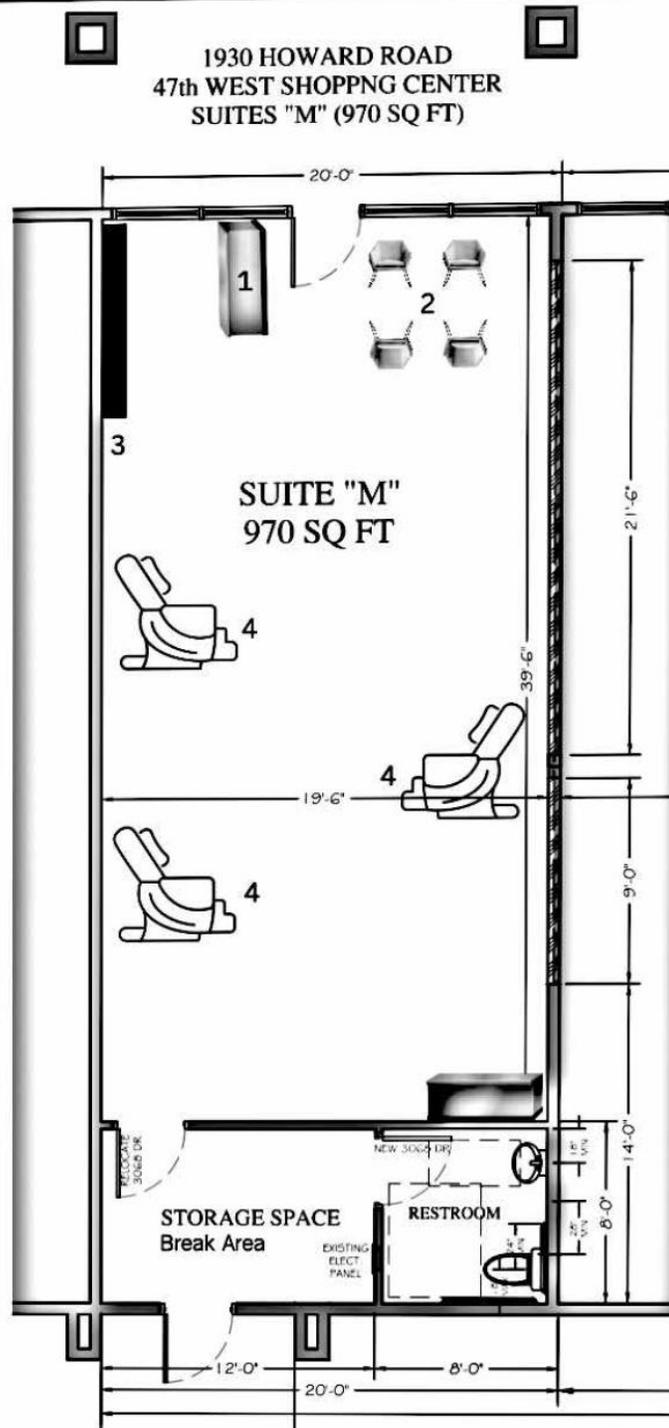
ADDRESS: 1930 Howard Rd, Suite "M"  
ZONING: "C1" (Commercial / Retail)  
SUITE SIZE: 970 SQ FT total

- 1- Sales Counter
- 2- Waiting Area
- 3- Sales Wall
- 4- Treatment Center

SUITE MAP



SUITE FLOOR PLAN



COMMERCIAL SPACE - 970 SQ FT  
**1930 HOWARD RD, Ste "M"**  
 MADERA, CALIFORNIA 93637

*Berry*  
 BUILDER • DEVELOPER  
 413 W. VOSEMITTE AVE - MADERA, CA - 93637  
 PH: 559-674-2491 FAX: 559-674-1154  
 Visit: berrydevelopment.com contact: rudy@berrydevelopment.com

**ATTACHMENT 5**

Planning Commission Resolution

**RESOLUTION NO. 1945**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA  
ADOPTING CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES  
SECTION 15301 (EXISTING FACILITIES) APPROVING USE PERMIT (CUP 2022-35)  
AND SITE PLAN REVIEW (SPR 2022-45), (PRECISION BY NOCO – 1930 HOWARD  
ROAD, SUITE M)**

**WHEREAS**, Berry and Berry, INC (“Owner”) owns 47<sup>th</sup> Place West Shopping Center located at 1930 Howard Road in Madera, California (“site”); and

**WHEREAS**, the site is an existing commercial shopping center planned for an surrounded by Commercial land uses; and

**WHEREAS**, the applicant, Creyonna Packard, is seeking a Use Permit and Site Plan Review to allow for the use of a permanent cosmetics beauty business focused on a hair loss solution by way of micro-pigmentation (micro-blading), as proposed by CUP 2022-35 and SPR 2022-45 at 1930 Howard Road, Suite M; and

**WHEREAS**, the applicant’s micro-pigmentation (micro-blading) services is categorized as a similar use to that of a body art shop, in accordance with Determination of Use (DOU) 2022-01; and

**WHEREAS**, body art shop and facilities are allowable uses in C1 – Light Commercial zone districts subject to a use permit, in accordance with DOU 2022-01; and

**WHEREAS**, the use, as conditioned, is compatible with all the surrounding uses in 47<sup>th</sup> Place West Shopping Center; and

**WHEREAS**, a Categorical Exemption under the California Environmental Quality Act (CEQA) guidelines, Section 15301 (Existing Facilities) has been prepared for the proposed project in accordance with CEQA, Public Resources Code Section 21000 et. Seq.; and

**WHEREAS**, under the City’s Municipal Code, the Planning Commission (Commission) is authorized to review and approve use permits, site plan reviews and environmental assessments for associated projects on behalf of the City; and

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

**WHEREAS**, the Commission received and reviewed CUP 2022-35 and SPR 2022-45 at a duly noticed meeting on February 21, 2023; and

**WHEREAS**, at the February 21, 2023 Commission hearing, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Commission; and

**WHEREAS**, the Commission continued CUP 2022-35 and SPR 2022-45 to the March 14, 2023 Commission hearing to allow the applicant time to consider and respond to the Fire Department’s amended conditions of approval; and

**WHEREAS**, at the March 14, 2023, Commission hearing, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Commission; and

**WHEREAS**, the Commission now desires to adopt a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and approve CUP 2022-35 and SPR 2022-45 as conditioned.

**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 Recommendation: 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 (Existing Facilities) of the State CEQA Guidelines because the project will occupy an existing building on an existing lot with existing services and utilities, and any modifications to the structure will only be minor interior and exterior changes involving negligible or no relative expansion of use. 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.
3. Findings for CUP 2022-35: The Commission finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2022-35, as conditioned. The 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 is consistent with its zoning district of C1 – Light Commercial. CUP 2022-35 is found to be consistent with all regulations set forth by MMC § 10-3.405 (Uses).

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

The project site is suited for commercial uses. The proposal is for an existing building zoned commercial and is surrounded by like uses to the north, east, and south of the property. As conditioned, the use will be compatible with surrounding properties and is consistent with applicable requirements regulating such use.

Finding c: *The establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city.*

The proposed use will not result in a detriment to the health, safety, peace, morals, comfort, or general welfare of persons or property in the surrounding area. The operations of this proposal have been conditioned by staff to mitigate any potential concerns related to the use operations. These conditions ensure

that the general welfare and safety of the surrounding uses and the City at large are not negatively impacted. The surrounding uses are also similar in nature and therefore a micro pigmentation (microblading) use at this location will not be detrimental or injurious to property and improvements in the neighborhood.

4. Findings for SPR 2022-45: The Commission finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2022-45, as conditioned. The 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 site is zoned C1 – Light Commercial which is consistent with the General Plan designation of Commercial. The project consists of the renovation of the existing Suite M for micro-pigmentation (micro-blading) services. The intended use is consistent with the intent and purpose of the C-1 zone, and the conditions of approval ensure the project does not conflict with any City standards or Municipal Code requirements.

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 proposed project has been found to be consistent with surrounding uses. Conditions of approval will ensure improvements are made and adequate parking spaces are provided such that traffic and pedestrian safety are maintained. The proposed plan and associated activities will not generate an excessive amount of light, noise, or traffic.

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

The proposed project will install on-site improvements consistent with City standards. As conditioned, adequate parking is provided, and vehicular access is arranged such that traffic and pedestrian safety are maintained. The proposed uses will not have a significant impact on traffic or cause significant degradation to the surrounding environment.

5. Approval of CUP 2022-35 and SPR 2022-45: Given that all findings can be made, the Planning Commission hereby approves CUP 2022-35 and SPR 2022-45 as conditioned and set forth in the Conditions of Approval attached as Attachment A.

6. Effective Date: This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 14<sup>th</sup> day of March 2023, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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Robert Gran Jr.  
Planning Commission Chairperson

Attest:

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Gary Conte, AICP  
Planning Manager

Exhibit "A": Conditions of Approval for CUP 2022-35 and SPR 2022-45

**EXHIBIT "A"**  
**CUP 2022-35 & SPR 2022-45 (PRECISION BY NICO)**  
**CONDITIONS OF APPROVAL**  
**MARCH 14, 2023**

**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 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 2022-35 will ultimately be deemed mandatory unless appealed by the applicant to City Council within fifteen (15) days after the decision of the Planning Commission, and all discretionary conditions of approval for SPR 2022-45 will ultimately be deemed

mandatory unless appealed by the applicant to the City Council within ten (10) days after the decision by the Planning Commission. 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, successors-in interest, lessee, operator, or any other person or entity making use of this permit. Furthermore, "project site" refers to the portions of 1930 Howard Road that are being developed under CUP 2022-35 and SPR 2022-45. The following conditions apply only to these portions of the subject site, unless specifically noted otherwise.

### **CONDITIONS OF APPROVAL**

#### **General Conditions**

1. The applicant's failure to utilize CUP 2022-35 and SPR 2022-45 within one year following the date of this approval shall render the conditional use permit null and void unless a written request for an extension has been submitted to and approved by the (Commission).
2. CUP 2022-35 and SPR 2022-45 may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and the owner(s) of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
3. CUP 2022-35 and SPR 2022-45 shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by staff to be in violation of the conditions of approval, staff may schedule a public hearing before the Commission within 45 days of the violation to consider revocation of the permit.
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.**
5. CUP 2022-35 shall expire 12 months from date of issuance, unless positive action to utilize the CUP or a written request for extension has been submitted to the Planning Commission before the expiration of the CUP (MMC Section 10-3.1311, Termination and Revocation).
6. SPR 2022-45 shall expire one year from date of issuance unless positive action is taken on the project as provided in the Madera Municipal Code (MMC) or required action is taken to extend the approval prior to the expiration date (MMC Section 10-3.4.0114, Lapse of Site Plan Approval).
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, 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 or business license, as determined appropriate by the City of Madera Planning Department.

9. Minor modifications to the approved plans necessary to meet regulatory, engineering, or similar constraints may at the discretion of the Planning Manager without an amendment to CUP 2022-35 and/or SPR 2022-45. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to CUP 2022-35 and/or SPR 2022-45 be filed for review and approval through the applicable City process.
10. Deferrals are not permitted for any condition included herein, unless otherwise stated or unless approved by the City Council, through a separate deferral process.
11. Approval of CUP 2022-35 and SPR 2022-45 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.

12. 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 surrounding properties.

#### **Building Department**

13. A building permit is required for all improvements. The tenant space must meet the requirements of the California Building Code, California Fire Code, and Americans with Disabilities Act prior to occupancy.
14. Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at the permit stage and shall be confirmed at final inspection.
15. Interior work must comply with California Building Code Chapter 11 accessibility.

## **Engineering Department**

### General

16. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
17. 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.
18. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.

### Water

19. New or existing water service connection(s) 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.
20. Existing water service connections that will not be used for the project shall be abandoned at the mains per City of Madera standards.

### Sewer

21. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards. Each parcel shall have a separate sewer service.
22. Existing sewer service connections that will not be used for the project shall be abandoned at the mains per current City of Madera standards.

### Streets

23. 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.
24. The developer shall construct ADA accessible sidewalk along the project frontage on Modoc Street per City standards to maintain an unimpeded path of travel at all times.
25. If the applicant believes that a hardship waiver is applicable based on the cost of ADA improvements in relation to overall project costs, a request for waiver may be submitted for consideration and an ultimate determination by the City.

## **Fire Department**

26. Building Permits are required for the construction of all improvements. Separate permits are required for fire sprinklers, fire alarm, the underground fire main systems, as applicable.
27. Fire extinguishers are required. One 2A10BC rated fire extinguisher is required for the suite.
28. The space must comply with accessibility provisions and this area of the building may have 2 stories.

## **Planning Department**

## General

29. The project site shall be developed in conformance with the site plan as reviewed and approved under CUP 2022-35 and SPR 2022-45. Minor modifications to the site plan, which are necessary to meet regulatory, engineering, or similar constraints or requirements may be made at the discretion of the Planning Manager without an amendment to CUP 2022-35 and SPR 2022-45. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to CUP 2022-35 and SPR 2022-45 be filed for review and approval through the applicable City process.
30. Any proposed future modifications to the site, including, but not limited to, the building structural exteriors, parking/loading areas, shall require an amendment to CUP 2022-35 and SPR 2022-45.
31. All on-site improvements shall be completed prior to final building inspection and shall be completed in conformance with CUP 2022-35 and SPR 2022-45 to the satisfaction of the City of Madera prior to issuance of a certificate of completion.
32. The project site 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, the property owner, operator, and/or manager may be subject to corrective action.
33. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
34. On-site vandalism and graffiti shall be corrected per the Madera Municipal Code.
35. The property owner, manager and the applicant shall keep the property clear of all trash, rubbish and debris at all times; dumping of refuse shall be restricted to the dumpster/refuse containers belonging to the subject property.
36. The applicant shall comply with all federal, state and local laws. Material violations of any applicable laws concerning the use will be cause for revocation of this permit.

## Conditional Use Permit 2022-35

37. CUP 2022-35 allows for the establishment of a micro-pigmentation (micro-blading) within Suite H of the 47<sup>th</sup> Place West shopping center located at 1930 Howard Road.
38. The applicant and/or successors-in-interest of Precision by Noco business shall operate consistent with the approved operational statement. Any significant alterations and/or expansions of the use is subject to an amendment of CUP 2022-35 and SPR 2022-45.
39. The business hours are from 9:00 a.m. to 6:00 p.m., Monday through Friday.
40. No one under the age of 18 years old shall be permitted to enter the premise without a parent or legal guardian.
41. No one under the age of 18 years old shall permitted to be an employee.
42. Business owner/operator shall be responsible for the conduct of persons employed or retained by the business while on the business premises or while otherwise providing service on behalf of the business.
43. All services shall be confined entirely within the building and all service areas shall not be visible from public view.

44. All equipment used for micro-pigmentation (micro-blading) and related services shall be kept clean and sanitized at all times.
45. All equipment used for micro-pigmentation (micro-blading) and related services shall only be accessible to employees of the establishment.
46. Business shall comply with all federal, state and local laws and regulations, including without limitation to provisions of the California Health and Safety Code.
47. Criminal acts occurring on the premise and/or related to the business, whether or not committed by the business owner, operator and/or employees of the business, shall be reviewed by the Police Department and shall be grounds for revocation of the use permit by the Commission
48. It shall be a violation of CUP 2022-35 to promote and/or affiliate with any member of a criminal organization. Members of a criminal organization shall not be permitted to loiter near or upon the business.

#### Landscaping

49. The property owner and/or manager shall maintain all landscaping in a healthy and well-manicured appearance. This includes but is not limited to; ensuring irrigation equipment is properly operating at all times, trimming and pruning trees and shrubs and replacing dead or unhealthy vegetation with drought-tolerant plantings.

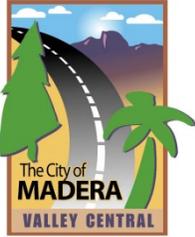
#### Signage

50. All signage shall be in compliance with the Sign Regulations of the City of Madera.
51. Applicant shall remove existing window signage not in conformance with the City Sign Regulations including, but not limited to, temporary or permanent signs painted on, and/or affixed to, the window surface greater than 60 percent of any single window or series of windows or greater than 30 percent of the entire surface area of available windows prior to issuance of a business license.
52. Total area of window signage (temporary and permanent combined) in conjunction with any on-building sign(s) shall not exceed the allowable on-building sign area permitted for Suite M (one (1) square foot per linear foot of occupancy frontage, not to exceed a maximum of 75 square feet).

#### **Madera County Environmental Health Department**

53. The applicant, operator and/or successor-in-interest shall obtain an Operating Permit for a body art facility and register as a small quantity medical waste generator. Said Operating Permit shall be secured prior to issuance of a City of Madera Business License.

END OF CONDITIONS



## REPORT TO THE PLANNING COMMISSION

**Prepared by:**

Robert Smith, Senior Planner

**Meeting of:** March 14, 2023

**Agenda Item:** 6

**SUBJECT:**

CVI-2 Tentative Subdivision Map 2017-02 Extension 3

**RECOMMENDATION:**

Conduct a public hearing and adopt a resolution approving a 12-month time extension to Tentative Subdivision Map 2017-02.

**PROPOSAL:**

An application for an extension of the CVI Tentative Subdivision Map (TSM 2017-02) approved by Planning Commission (Commission) in August 2018 allowing for the creation of a residential 19-lot tentative subdivision map. All previously approved conditions of approval remain in effect with minor modifications to bring some conditions up to date without significant amendments to the project. One new condition (Condition 3b) was added to extend the life of the map 12 months to February 14, 2024 and one condition was deleted (Condition 3a) which previously extend the map to expire February 14, 2023.

| <b>Table 1: Project Overview</b> |                                                                                                                                                                                                                                                                                  |
|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Project Number:</i>           | Tentative Subdivision Map Extension No. 3 (TSM 2017-02 EXT 3)                                                                                                                                                                                                                    |
| <i>Applicant:</i>                | CVI-2 Group, LLC                                                                                                                                                                                                                                                                 |
| <i>Property Owner:</i>           | CVI-2 Group, LLC                                                                                                                                                                                                                                                                 |
| <i>Location:</i>                 | North Lake Street between Adell Street and Kennedy Street                                                                                                                                                                                                                        |
| <i>Project Area:</i>             | 3.52-acres                                                                                                                                                                                                                                                                       |
| <i>Plan Land Use:</i>            | LD (Low Density Residential)                                                                                                                                                                                                                                                     |
| <i>Zoning District:</i>          | PD(4500 - Planned Development (one unit for each 4,500 square feet of site area))                                                                                                                                                                                                |
| <i>Site Characteristics</i>      | The project site is vacant and disced for vegetation management and is generally surrounded by single-family residential homes. North of the project site is the James Monroe elementary school and south of the site is a 65 unit apartment complex (Madera Garden Apartments). |

**SUMMARY:**

Tentative Subdivision Map TSM 2017-02 allows for the creation of nineteen (19) single-family residential lots from two (2) existing parcels. The applicant has been working diligently to complete the final mapping process and comply with the required conditions of approval attached to the original application. A number of City infrastructure improvements were conditioned with the original approval due to the undeveloped nature of the site and its surroundings. As a component of the subdivision map, Kennedy Street, a designated Collector street, will be extended west from its current terminus at North Lake Street through the subdivision along with underground City utilities (sewer, water and storm drain), curb, gutter, sidewalk, streetlights and fire hydrants.

Although largely complete and ready to submit the final map, the applicant is requesting an extension to allow requirements to be finalized with the City and recording of the final map to take place. This extension request is allowed under the California Subdivision Map Act. A precise plan is required to address any subsequent development within the subdivision. Pursuant to the Madera Municipal Code (MMC) Section 10-3-4.103, no construction, grading or new development activity shall commence in a PD zone prior to the approval of a precise plan by the Commission.

**PRIOR ACTION:**

TSM 2017-02: Approved by Planning Commission on August 14, 2018 allowing the creation of 19 single family residential lots.

TSM 2017-02 EXT: Withdrawn.

TSM 2017-02 EXT 2: Approved by Planning Commission on August May 10, 2022, extending life of the Map to February 14, 2023.

**SURROUNDING LAND USES:**

| <b>Table 2: Bordering Site Information</b> |                               |                                 |                                                                                     |
|--------------------------------------------|-------------------------------|---------------------------------|-------------------------------------------------------------------------------------|
| <i>Direction</i>                           | <i>Existing Use</i>           | <i>General Plan Designation</i> | <i>Zone District</i>                                                                |
| <i>North</i>                               | Vacant and religious facility | LD - Low Density Residential    | P-D (4500) – Planned Development (one unit for each 4,500 square feet of site area) |
| <i>East</i>                                | Single family residential     | LD - Low Density Residential    | R1 (one unit per each 6,000 square feet)                                            |
| <i>South</i>                               | Multifamily residential       | LD - Low Density Residential    | P-D (3000) – (one unit for each 3,000 square feet of site area)                     |
| <i>West</i>                                | Vacant                        | LD - Low Density Residential    | R1 (one unit per each 6,000 square feet)                                            |

**ANALYSIS:**

TSM 2017-02 was approved by the Commission on August 14, 2018. MMC Section 10-2.402.8.1(A) stipulates an approval of a tentative subdivision map shall expire 24 months from the date of approval of the map. Thus, the approval of TSM 2017-02 was scheduled to expire on August 14, 2020. However, the State of California has the ability to grant statutory extensions to maps that met certain criteria (Government Code Sections 66452.22 – 66452.25).

Assembly Bill 1561 (AB 1561), signed by Governor Newsom on September 29, 2020, extended approved “housing entitlements” including tentative subdivision maps approved prior to, and effective on, March 4, 2020, and that would have expired prior to December 31, 2021, an additional 18 months. The signing of AB 1561 into law in effect extended the life of TSM 2017-02 to February 14, 2022.

On November 22, 2021, the applicant filed a 12-month extension request (TSM 2017-02 EXT). That application was subsequently withdrawn by the applicant and a new 12-month extension request (TSM 2017-02 EXT 2) was filed on January 3, 2022, more than 15 days prior to the scheduled expiration on February 14, 2022. Planning Commission approved TSM 2017-02 EXT 2 on May 10, 2022 extending the life of TSM 2017-02 to February 14, 2023. The applicant is now requesting an extension to allow sufficient time to complete the tentative map requirements and record the final map (TSM 2017-02 EXT 3). The applicant filed the request on January 18, 2023, more than 15 days prior to the scheduled expiration on February 14, 2023.

Considering the applicant’s extensive preparatory activity conducted with the Engineering Department thus far and time warrants to complete to record the final map, staff recommends a 12-month extension. A 12-month would allow ample time to address unforeseen circumstances that could potentially delay the completion of remaining tentative map requirements and recordation of the final map.

**ENVIRONMENTAL REVIEW:**

A Negative Declaration (ND) was adopted for the project by the Planning Commission as part of the original TSM 2017-02 approval on August 14, 2018. The setting for the project has not substantially changed since the adoption of the ND and no additional development in the area has occurred since the approval that would require additional environmental analysis of the project. The extension of time for a tentative subdivision map does not involve any physical changes in the environment and hence does not have the potential for causing a significant effect on the environment beyond what has previously been studied. Therefore, the adopted ND is sufficient and pursuant to State CEQA Guidelines Section 15162, which identifies the requirements for which subsequent analysis is warranted, no further environmental review is required.

**PLANNING COMMISSION ACTION:**

The Commission will be acting on TSM 2017-02 EXT 3. All required findings for approval under the Municipal Code and law can be made and are described in the Resolution attached to the report. Staff recommends the Commission conduct a public hearing, make the necessary findings and:

1. Adopt a Resolution approving a 12 month time extension to the Tentative Subdivision Map 2017-02.

**ALTERNATIVES:**

As an alternative, the Commission may elect to:

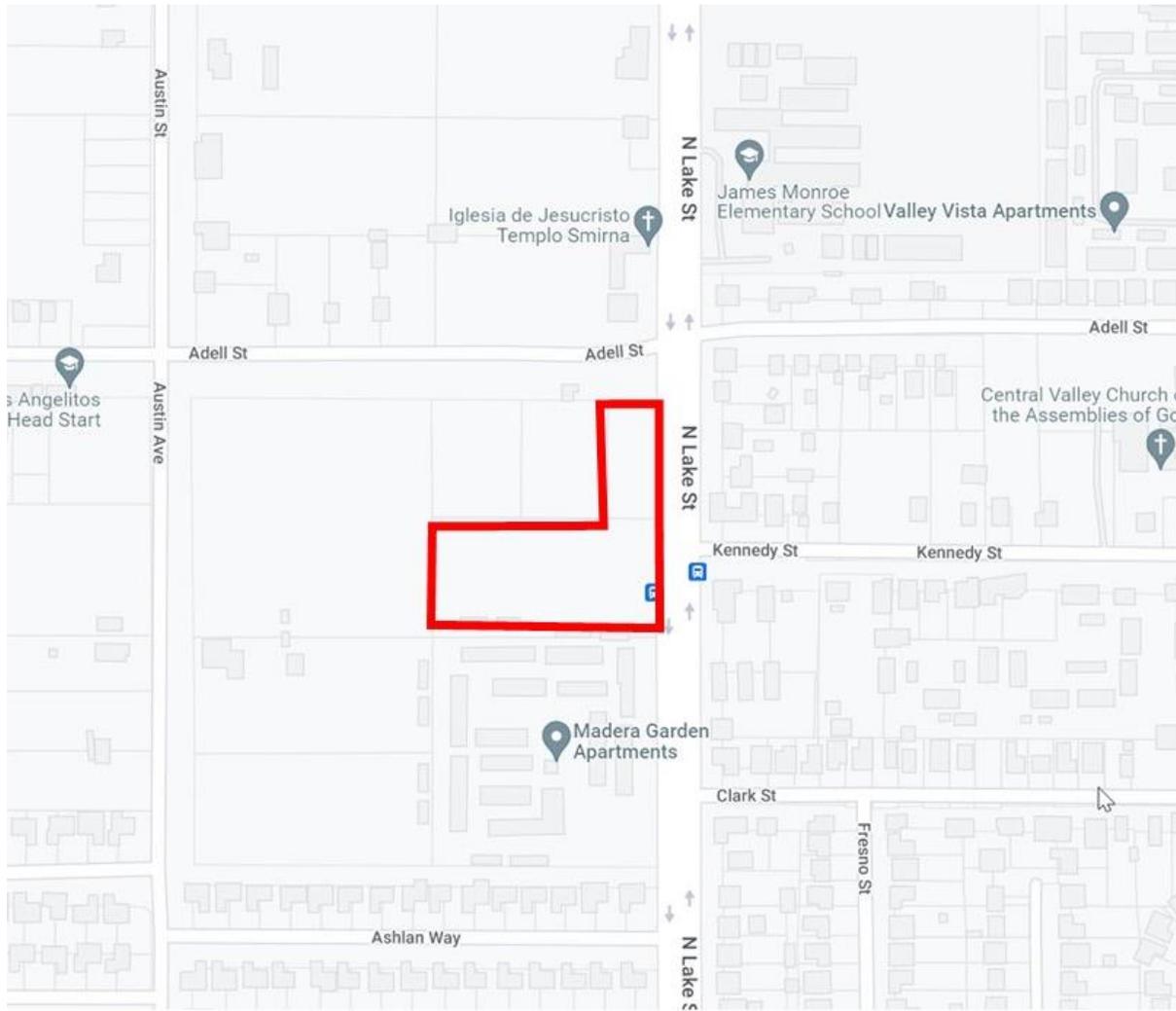
- Move to continue the public hearing to the April 11, 2023 Commission meeting for the following reasons or in order for the following information to be provided (Specify – Commission to specify reasons for continuance).
- Move to deny the request, based on the following findings: (Specify – Commission to specify findings for denial).

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial Map
3. Tentative Subdivision Map 2017-02
4. Planning Commission Resolution  
Exhibit "A" TSM 2017-02 EXT 3 Amended Conditions of Approval

**ATTACHMENT 1**

Vicinity Map



**ATTACHMENT 2**

Aerial Map



Adell Street

Austin Street

Lake Street

**ATTACHMENT 3**

Tentative Subdivision Map 2017-02



**ATTACHMENT 4**

Planning Commission Resolution

**RESOLUTION NO. 1949**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA  
APPROVING A 12-MONTH TIME EXTENSION FOR CVI TENTATIVE SUBDIVISION  
MAP 2017-02**

**WHEREAS**, Planning Commission of the City of Madera (Commission) on August 14, 2018 adopted a Negative Declaration and approved the CVI Subdivision Map (TSM 2017-02) to subdivide approximately 3.52-acres to create 19 single family lots; and

**WHEREAS**, the approval of TSM 2017-02 was scheduled to expire August 14, 2020, 24 months from the date of approval by the Commission; and

**WHEREAS**, California Assembly Bill 1561 (AB 1561), signed by Governor Newsom on September 29, 2020, and codified as California Government Code Section 65914.5, extended approved “housing entitlements” including tentative subdivision maps issued prior to, and effective on, March 4, 2020 and that would expire prior to December 31, 2021, by additional 18 months; and

**WHEREAS**, TSM 2017-02 was approved prior to and effective on March 4, 2020, and would expire prior to December 31, 2021; and

**WHEREAS**, California Government Code Section 65914.5 automatically extended the life of TSM 2017-02 an additional 18 months to February 14, 2022; and

**WHEREAS**, on November 21, 2021, prior to the expiration of TSM 2017-02 Dale G. Mell and Associates on behalf of CVI-2 Group LLC, filed a request for a 12-month extension for TSM 2017-02, herein reference as TSM 2017-02 EXT; and

**WHEREAS**, Dale G. Mell and Associates on behalf of CVI-2 Group LLC, subsequently withdrew the 12-month extension request for TSM 2017-02, herein known as TSM 2017-02 EXT; and

**WHEREAS**, on January 3, 2022, Dale G. Mell and Associates on behalf of CVI-2 Group, LLC, filed a new request for a 12-month extension for TSM 2017-02, herein referenced as TSM 2017-02 EXT 2; and

**WHEREAS**, based on a preliminary environmental assessment, TSM 2017-02 EXT 2 was determined to be consistent with the Negative Declaration prepared and adopted for the original CVI Tentative Subdivision Map (TSM 2017-02) and no further analysis is required; and

**WHEREAS**, under the City’s Municipal Code, the Planning Commission is authorized to review and approve tentative subdivision map extensions on behalf of the City; and

**WHEREAS**, the Commission on May 10, 2022, approved TSM 2017-02 EXT 2 scheduling TSM 2017-02 to expire on February 14, 2023; and

**WHEREAS**, on January 18, 2023, prior to the expiration of TSM 2017-02 on February 14, 2023, Dale G. Mell and Associates on behalf of CVI-2 Group LLC, filed a request for an extension for TSM 2017-02, herein reference as TSM 2017-02 EXT 3; and

**WHEREAS**, considering the applicant’s extensive preparatory activity conducted with the Engineering Department thus far and time warrants to complete and inspect the infrastructure improvements remaining and to record the final map, staff recommends a 12-month extension; and

**WHEREAS**, based on a preliminary environmental assessment, TSM 2017-02 EXT 3 was determined to be consistent with the Negative Declaration prepared and adopted for the original CVI Tentative Subdivision Map (TSM 2017-02) and no further analysis is required; and

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

**WHEREAS**, the Planning Commission received and reviewed TSM 2017-02 EXT 3 at a duly noticed meeting on March 14, 2023; and

**WHEREAS**, a public hearing was held, the public was provided an opportunity to comment; and

**WHEREAS**, at the March 14, 2023, 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 deliberation and consideration of all relevant items, the Planning Commission now desires to approve a 12-month extension of time for TSM 2017-02, resulting in a new expiration date of February 14, 2024.

**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. Findings for TSM 2017-02 EXT 3: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support approval, as conditioned. With the conditions, the project is consistent with the requirements of the Municipal Code, including Sections 10-2.402.8.1 and 10-2.402.8.2. 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. *There have been no changes to the provisions of the General Plan, any applicable specific plan or the development code applicable to the project since the approval of the tentative map.*

The Tentative Subdivision Map remains consistent and compatible with the City’s General Plan land use designations for the subject site and surroundings. The subject site is not subject to an adopted Specific Plan.

- b. *There have been no changes in the character of the site or its surroundings that affect how the policies of the General Plan or other standards of the development code apply to the project.*

Surrounding property existing conditions and uses remain relatively unchanged since the approval of the tentative subdivision map. The project, with the approval

of the additional condition of approval, will remain consistent with the City's Zoning Ordinance.

- c. *There have been no changes to the capacities of community resources, including but not limited to, water supply, sewage treatment or disposal facilities, roads or schools so that there is no longer sufficient remaining capacity to serve the project.*

Adequate service capacity remains available to service the subject site.

- d. *There have been no changes in the character of the site, its surroundings, or the project that that would require major revisions to the previous negative declaration or would cause substantial environmental damage or injury to wildlife.*

The adopted negative declaration is sufficient and pursuant to State CEQA Guidelines Section 15162, which identifies the requirements for which subsequent analysis is required, no further environmental review is required.

- 3. Approval of TSM 2017-02 EXT 3: Given that all findings can be made, the Planning Commission hereby approves TSM 2017-02 EXT 3 as conditioned as set forth in the Conditions of Approval attached as Exhibit "A." and shall now expire on February 14, 2024.

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

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 14<sup>th</sup> day of March 2023, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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Robert Gran Jr.  
Planning Commission Chairperson

Attest:

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Gary Conte, AICP  
Planning Manager

'EXHIBIT A' Conditions of Approval for TSM 2017-02

**EXHIBIT "A"**  
**TSM 2017-02 EXT 3**  
**CONDITIONS OF APPROVAL**  
**(Amended March 14, 2023)**

**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 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 this project will ultimately be deemed mandatory unless appealed by the applicant to the City Council within ten (10) days after the decision by the Planning

Commission. 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, successors-in-interest, lessee, operator, or any other person or entity making use of this permit. Furthermore, “project site” refers to the portions of the project site that are being developed under this project by the applicant. The following conditions apply only to these portions of the subject site, unless specifically noted otherwise.

### **Conditions of Approval**

#### **General Conditions**

1. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specifically noted in the conditions or mandated by statutes.
2. Any minor deviation from the approved map or any condition contained herein shall require prior written request by the applicant and approved by the Planning Manager.
3. 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 establishment of the use.

~~3(a) This tentative map approval (TSM 2017-02) shall expire on February 14, 2023, unless a final map is recorded in accordance with the Subdivision Map Act and filed with the County Recorder or the required action is taken to extend the approval before expiration date.~~

3(b) This tentative map approval (TSM 2017-02) shall expire on February 14, 2024, unless a final map is recorded in accordance with the Subdivision Map Act and filed with the County Recorder or the required action is taken to extend the approval before expiration date.

#### **Engineering Department**

##### **General**

4. 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.
5. 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 Lighting and Landscape Maintenance District zone “LLMD” zone of benefit 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 existing landscaping improvements and new improvements which are required to be constructed by the developer and included in the City-wide LLMD, 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.

6. 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.
7. 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.
8. A benchmark shall be established per City Standards and related data shall be submitted to the Engineering Division prior to acceptance of the subdivision improvements. The City Engineer shall designate the location.
9. 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.
10. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
11. Improvement plans shall be sealed by an engineer shall be submitted to the Engineering Division according to the Engineering Plan Review Submittal Sheet and Civil Plan Submittal Checklist.
12. 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, easement acceptance, map recording and improvement inspection fees.
13. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.
14. The improvement plans for the project shall include the most recent version of the City's General Notes.
15. 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.
16. 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 (2") inches of type "B" asphalt over six (6") inches of ninety (90%) percent compacted

native soil or four (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.

17. 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 a 24" x 36" tracing with City of Madera logo on the bottom right corner. The cover sheet shall indicate the total lineal feet of all streets, fire hydrant and street water main lineal feet, 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. The plans are to include the City of Madera title block and the 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 for off-site landscaping improvements 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.

18. 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 improvement plans.
- h. Three sets of landscaping plans.
- i. Two sets of drainage calculations.
- j. Two copies of the engineer's estimate.

Partial submittals will not be accepted by the Engineering Division.

19. 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 three-sack sand slurry mix extending one (1') foot past curb and gutter in each direction.

20. The applicant shall coordinate with the pertinent utility companies, as required, regarding establishment of appropriate easements and under-grounding of service lines. A ten (10') foot

public utility easement shall be required along all interior lot frontages.

21. All 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.
22. 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.
23. 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 shall 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.
24. The sub-divider shall enter a subdivision 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.
25. The sub-divider may commence off-site construction prior to approval of the final map in accordance with Section 7-2.02 of the Madera Municipal Code, provided that an encroachment permit has been issued and improvement plans have been submitted and approved. As a component of the encroachment permit, the applicant shall submit a one hundred (100%) percent performance bond, additional bond (50% of labor and material) and insurance certificate 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 the City Council and shall be paid at time of permit.
26. The developer's engineer, upon completion of subdivision-related improvements, shall certify to the City Engineer that the improvements shall be 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.
27. The development of individual parcels shall be consistent with provisions of the Precise Plan that require driveway designs that remove the necessity for vehicles to back into or out of driveways. Achieving this can be accomplished through the application of measures but are not necessarily limited to construction of hammer head driveways or circular driveways that are fully contained on individual parcels or shared with adjacent parcels, or as directed by City Engineer.

#### **Sewer**

28. Sewer lines installed to serve this subdivision shall be sized accordingly and shall be a minimum of eight (8") inches in diameter. Sewer main connections to any existing City main six (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. DVD's shall be submitted to the City Engineer and be approved prior to paving with all costs to be borne by the sub-divider.

29. The developer shall construct and eight (8") inch sewer main in Adell Street from its current termination point at the intersection of Lake Street and Adell Street to the westernmost property line of lot 18 of the tentative subdivision map in accordance with the lines and grades shown on the City of Madera Redevelopment Agency Adell Street Improvement Project. The sewer main shall be constructed to current City standards.
30. Sewer services shall be located at the approximate centerline of each lot or as required for construction of commercial or industrial buildings with a clean-out installed per City Standards and identified on the curb face. Termination of service shall be ten (10') feet past the property line. Where contiguous sidewalks are installed, the four (4") inch sewer clean out shall be located eighteen (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 ten (10') feet beyond the property lines as a part of the sewer system installation for testing purposes.
31. Existing septic tanks, if found, shall be removed with the appropriate building permit(s) required by the City of Madera Building Department.
32. The developer shall reimburse its fair share cost to the City for the previously constructed sewer main along the entire project frontage on Lake Street.

#### **Storm Drain**

33. Storm runoff from this project site is planned to go to the Sherwood basin located to the southwest of the proposed project site. The developer shall, as may be necessary, construct sufficient facilities in accordance with criteria in the Storm Drainage Master Plan to convey storm runoff to the existing basin and excavate basin to an amount equivalent to this project's impact on the basin. The developer shall have the option of constructing a temporary basin and enter into a maintenance covenant given funding is not available to reimburse for master plan pipe improvements. Should this option be selected, all improvements shall be designed to allow for future connection to master plan improvements when constructed later as part of a City initiated project. A detailed drainage study shall be provided to support the chosen path of conveyance and design of any necessary conveyance facilities.

#### **Streets**

34. The developer shall dedicate a ten (10') foot Public Utility Easement (PUE) along Lake Street, Adell Street and Kennedy Street, adjacent to the entire project site.
35. The developer shall dedicate an eighty (80') foot wide easement for street and utility purposes to accommodate the new Kennedy Street alignment.
36. Kennedy Street along the entire project frontage shall be improved to an eighty (80') foot collector street standard per City of Madera standards with a five (5') foot sidewalk, park strip, curb and gutter, lighting, striping, signage and travel lanes.
37. The south half of Adell Street along the entire project frontage shall be improved to match

improvements to the east, including but not limited to, five (5') foot sidewalk, curb and gutter, lighting and travel lanes. Adequate transitions with the existing improvements relative to grade and alignment shall be provided.

38. The developer shall install the traffic signal pole and pole box on the northwest and southwest corners of Kennedy Street and Lake Street along with an underground conduit on the west leg of the intersection. These improvements are reimbursable under the Traffic Signal component of the Development Impact Fee Program, subject to funds being available. In lieu of installing new poles, the developer may relocate poles from the intersection of Adell Street and Lake Street, replacing them with streetlights subject to those poles meeting the required current design standards.
39. The tentative map shall illustrate the proposed future circulation pattern and improvements wherein the subdivision constructs the first portion of an interconnect roadway between Adell Street and Kennedy Street, cul-de-sac of Adell Street west of Austin Street and construction of a worm island at Lake Street and Adell Street that prohibits the ability for vehicles to turn left or drive straight through from the east or west side of the intersection.
40. An approved on-site turn-around shall be provided at the end of the Kennedy Street interconnect. The cul-de-sac shall be no longer than 450 feet. Any off-site turn-around shall have a maintenance covenant and easement recorded prior to recording of the final map. The developer is responsible for all fees associated with the approval of all documents.
41. The developer shall not oppose annexation into existing Landscape Maintenance District Zone 51. If the expansion of the existing Landscape Maintenance District Zone 51 is not attainable, the developer shall, at their sole expense, form a Lighting and Landscape Maintenance District zone for Lake Street median landscaping and landscaping adjacent to the subdivision along the park strip. The sub-divider shall sign and submit a landscape district formation and inclusion form, an engineer's report and map prior to the recording of any final map.
42. Access ramps shall be installed at all curb returns per current City Standards.
43. Driveway approaches shall be constructed per current City Standards.
44. "No parking" signs shall be installed along the new Kennedy Street frontage per City standards.
45. Curb fronting the new Kennedy Street alignment shall be painted red.
46. The developer shall be required to install metered streetlights along the new Kennedy Street frontage and in accordance with current City spacing standards. Streetlights shall be metered. Streetlights shall be LED using Beta Lighting standards or equal in accordance with City of Madera standards.
47. 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 the front door to the nearest collector, arterial or other street that provides ADA access provisions. Provisions for construction in conjunction with building permits shall be established as part of the improvement plan approval and subdivision agreement,

and bonding for incomplete work in conjunction with the subdivision's public improvements will not be required.

**Water**

48. The water system shall be designed to meet the required fire flow for this type of development and shall be approved by the Fire Department and shall be operational prior to any framing construction on-site. Fire flows shall be determined by Uniform Fire Code Appendix III-A.
49. The developer shall construct an eight (8") inch water main along the new Kennedy Street alignment from its current termination point at the intersection of Lake Street and Kennedy Street to the western property line of the proposed project site. Water main installation shall be per City of Madera installation procedures and guidelines. Any new water main or fire hydrant line installations of eighteen (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 shall be a hot tap type connection to the existing City main. If the subdivision is constructed in phases, blow-offs shall be required at each termination point.
50. The developer shall construct a twelve (12") inch water main in Adell Street from its current termination point at the intersection of Lake Street and Adell Street to a point five (5') feet west of the westernmost property line of lot 18 of the tentative subdivision map in accordance with the lines and grades shown on the City of Madera Redevelopment Agency Adell Street Improvement Project. The water main shall be constructed to current City standards. The oversize component (difference in cost between twelve (12") inch and eight (8") inch pipe) of the construction of this line is considered reimbursable, subject to availability of funds, under the City's Development Impact Fee Program.
51. Prior to the beginning of 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.
52. Water services shall be placed three (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 the driveway approaches, sidewalk areas, or at fire hydrant or street light locations.
53. All water sources used for construction activities shall have an approved back-flow device installed. All water trucks and/or storage tanks shall be inspected for proper air gaps or back-flow prevention devices.
54. Water service connections shall be constructed per current City standards including water meters located within the City right-of-way.
55. Existing wells, if any, shall be abandoned as directed and permitted by the City of Madera for compliance with State standards.

56. The developer shall reimburse its fair share cost to the City for the previously constructed water main along the entire project frontage on Lake Street and Adell Street.

#### **Subdivision Improvement Inspections**

57. 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.
58. Prior to installation of any improvements or utilities, the general contractor shall notify the Engineering Department 48 hours prior to construction. The inspector shall verify prior to inspection that the submitted plans from the contractor are signed by the City Engineer.
59. 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.
60. 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 (5) working days.

#### **Special Engineering Conditions**

61. The Successor Agency to the former Madera Redevelopment Agency has determined that the use of Successor Agency bond funds to incentivize a realignment of a portion of Adell Street to intersect with Kennedy Street represent a benefit to the project and would not otherwise be constructed without this incentive. As such, the Successor Agency will reimburse the developer for all costs of constructing the first segment of a realigned Adell Street up to an amount that does not exceed \$265,000. Those items that are reimbursable include: all elements of a sewer line and laterals up to the property line, all elements of a water line, blow-off assemblies, fire hydrants and laterals up to the property line and full street construction including paving, curb and gutter, sidewalk and streetlights.
62. 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.
63. Lot fill in excess of twelve (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 twelve (12") inches or more will require construction of a retaining wall.
64. 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.
65. Any construction work on MID facilities shall not interfere with either irrigation or storm water

flows, or MID operations. Prior to any encroachment permit upon, removal or modification of MID facilities, the sub-divider shall submit two (2) sets of preliminary plans for MID approval. Permits shall 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 shall require removal of MID facilities at the owner's expense. Turnouts and gates shall be salvaged and returned to the MID yard.

66. 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.
67. The developer of the property can expect to pay current and future development impact fees, including, but no limited to, sewer (special service area), water, streets, bridge, public works, parks, public safety and drainage, that are in place at the time of building permit issuance.
68. Final street names shall be approved by the Building Official 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 shall utilize the name of the nearest subdivision street.
69. 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.

**Fire Department**

70. Street fire hydrants shall be provided in accordance with City standards. Fire hydrants shall be installed and operable prior to construction of any new homes.

**Planning Department**

**General**

71. Project approval is conditioned upon acceptance of the conditions of approval contained herein within thirty (30) days, as evidenced by the applicant/owner's signature on the required Acknowledgement and Acceptance of Conditions of Approval form.

**Precise Plan**

72. Prior to any construction, grading or new development occurring, an application for a Precise Plan shall be approved by the Planning Commission for all nineteen (19) lots.
73. Subdivider shall provide payment of fees in-lieu of parkland dedication in accordance with the City's Parkland Acquisition Ordinance.

-END OF CONDITIONS-