

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

**COUNCIL CHAMBERS - CITY HALL
TUESDAY
NOVEMBER 13, 2018
6:00 pm**

CALL TO ORDER

ROLL CALL

Commissioner Robert Gran, Jr. (Chairperson)
Commissioner Israel Cortes (Vice Chairperson)
Commissioner Bruce Norton
Commissioner Kenneth Hutchings
Commissioner Pamela Tyler
Commissioner Richard Broadhead

INTRODUCTION OF STAFF

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

The first fifteen minutes of the meeting are reserved for members of the public to address the Commission on items which are within the subject matter jurisdiction of the Commission. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Chairperson has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Commission is prohibited by law from taking any action on matters discussed that are not on the Agenda and no adverse conclusions should be drawn if the Commission does not respond to public comment at this time.

MINUTES: September 11, 2018 and October 9, 2018

CONSENT ITEMS: None

PUBLIC HEARING ITEMS:

1. REZ 2018-02 and TSM 2018-04 – Rancho Santa Fe Subdivision

A continued noticed public hearing to consider a rezone and tentative subdivision map of two existing parcels. The rezone will change the zoning of the properties from the PD-8000 (Planned Development) Zone District to the PD-6000 (Planned Development) Zone District. The tentative subdivision map will subdivide the two parcels into 180-lot single-family subdivision. The project site is located approximately 2,000 feet west of the southwest corner of the intersection of North Westberry Boulevard and West Cleveland Avenue (APNs: 006-380-027 & 028). A Negative Declaration will also be considered by the Planning Commission.

2. PPL 2018-05 – Aspire at Riverbend

A noticed public hearing to consider a precise plan to construct single-family homes on 54 lots within Phase I of the Melanie Meadows subdivision located approximately 1,700 feet west of the intersection of North Westberry Boulevard and Fairfield Way in the PD-8000 (Planned Development) Zone District with a LD (Low Density) General Plan land use designation (APN: 006-380-010). An initial study and Negative Declaration were adopted by the Planning Commission in June of 2005.

3. CUP 2015-33 MOD and SPR 2015-38 MOD – Maranatha Building Addition

A noticed public hearing to consider an amendment to a conditional use permit and site plan review to allow for an addition to an existing restaurant and alteration to a previously approved outdoor dining area located on the northwest corner of the intersection of West 11th Street and South Gateway Drive in the I (Industrial) Zone District with a C (Commercial) General Plan land use designation (APN: 011-072-012). A categorical exemption under California Environmental Quality Act (CEQA) guidelines, Section 15303 (New Construction or Conversion of Small Structures) will be considered.

4. CUP 2018-21 – Xtreme Dance Fitness

A noticed public hearing to consider a conditional use permit to allow for a dance studio in an existing tenant suite within the Howard Plaza shopping center south of the intersection of Fairview Avenue and Howard Road (1516 Howard Road) in the C1 (Light Commercial) Zone District and the C (Commercial) General Plan land use designation (009-170-012). A categorical exemption under California Environmental Quality Act (CEQA) guidelines, Section 15301 (Existing Facilities) will be considered.

5. OTA 2018-01 – Zoning Ordinance Update

A noticed public hearing to consider an ordinance text amendment to update Title X, Chapter 3: Zoning of the Madera Municipal Code to provide for consistency with the General Plan. An environmental impact report for the General Plan was adopted by the Planning Commission in October of 2009 that anticipated an update to the zoning ordinance.

NON-PUBLIC HEARING ITEMS:

1. SPR 2018-20 – Mosquito Abatement Appeal

A public hearing to consider an appeal to Condition Nos. 13-19 of Site Plan Review (SPR) 2018-20 which allows for the construction of three (3) solar carports on property located at the northeast corner of the intersection of Yeager Drive and Airport Drive (3105 Airport Drive) in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 013-010-014). A categorical exemption under California Environmental Quality Act (CEQA) guidelines, Section 15321 (Enforcement Actions by Regulatory Agencies) will be considered.

ADMINISTRATIVE REPORTS:

COMMISSIONER REPORTS:

ADJOURNMENT:

The next regular meeting will be held on December 11, 2018.

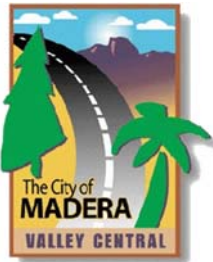
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation in the public meeting should be made at least seventy-two (72) hours before the meeting. If you need special assistance to participate in a City meeting or other services offered by this City, please contact the Planning Department office at (559) 661-5430. Those who are hearing impaired, may call 711 or 1-800-735-2929 for TTY Relay Services. Any and all persons interested in this matter may provide comments.

Any writing related to an agenda item for the open session of this meeting distributed to the Planning Commission less than 72 hours before this meeting is available for inspection at the City of Madera – Planning Department, 205 W. 4th Street, Madera, CA 93637 during normal business hours.

Pursuant to Section 65009 of the Government Code of the State of California, notice is hereby given that if any of the foregoing projects or matters is challenged in Court, such challenge may be limited to only those issues raised at the public hearing, or in written correspondence delivered to the Planning Commission at or prior to the public hearing.

All Planning Commission actions may be appealed to the City Council. The time in which an applicant may appeal a Planning Commission action varies from 10 to 30 days depending on the type of project. The appeal period begins the day after the Planning Commission public hearing. There is NO EXTENSION for an appeal period.

If you have any questions or comments regarding this hearing notice, you may call the Planning Department at (559) 661-5430. Si usted tiene preguntas, comentarios o necesita ayuda con interpretación, favor de llamar el Departamento de Planeamiento por lo menos 72 horas antes de esta junta (559) 661-5430.



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Rancho Santa Fe Subdivision
REZ 2018-02, TSM 2018-04 & Negative Declaration
Item #1 – November 13, 2018**

PROPOSAL: A rezone, tentative subdivision map, and negative declaration to allow for the development of an approximately 182-lot single-family subdivision map.

APPLICANT:	Rick Telegan	OWNER:	BP Investors, LLC
ADDRESS:	No address currently assigned.	APN:	006-380-027 & 028
APPLICATIONS:	REZ 2018-02 and TSM 2018-04	CEQA:	Negative Declaration

LOCATION: The project site is located approximately 2,000 feet west of the intersection of North Westberry Boulevard and West Cleveland Avenue.

STREET ACCESS: The proposed subdivision will create nine (9) new streets that will provide direct access to West Cleveland Avenue, a future subdivision to the east, the Melanie Meadows subdivision to the south and a future collector street to the west.

PARCEL SIZE: The project site consists of two (2) parcels encompassing approximately 39.33 acres.

GENERAL PLAN DESIGNATION: LD (Low Density Residential)

ZONING DISTRICT: Current – PD-8000 (Planned Development)
Proposed – PD-6000 (Planned Development)

SITE CHARACTERISTICS: The project site is generally surrounded by vacant land. Adjacent land to the east and south is zoned for low density residential, land to the north is zoned for industrial and open space, and the land to the west is outside the current City limits.

ENVIRONMENTAL REVIEW: An initial study and a negative declaration have been prepared for consideration by the Planning Commission in conformance with the California Environmental Quality Act (CEQA) Guidelines.

SUMMARY: The proposed rezone from the PD-8000 (Planned Development) Zone District to the PD-6000 (Planned Development) Zone District allows for the creation of more lots and better consistency with the target density requirement. The tentative subdivision map proposes the creation of approximately 182 single-family residential lots from two (2) existing parcels. A precise plan is required to address any subsequent development in the subdivision. The rezone and subdivision map are consistent with the General Plan's LD (Low Density) land use designation.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.1501 Amendments

MMC § 10-2.401 Subdivision Maps (five or more parcels)

PRIOR ACTION

There has been no prior action on the project site.

ANALYSIS

Rezone

The project site is currently in the PD-8000 (Planned Development) Zone District. The proposal will rezone the subdivision into the PD-6000 (Planned Development) Zone District. The rezone allows for the creation of more lots that will reach closer to the target density requirement while providing consistency with the LD (Low Density) General Plan land use designation.

Tentative Subdivision Map

The project site consists of two (2) existing properties encompassing approximately 39.33 acres. The proposal will subdivide the existing properties into an approximately 182-lot single-family subdivision. The parcels range in size from between 4,250 and 13,778 square feet, with the average lot size being 6,350 square feet. All interior streets of the subdivision will be local streets. Street connections to surrounding properties are provided.

Parkland Acquisition

The Quimby Act authorizes the City to require dedication of parkland or the payment of fees in lieu of such dedication in set amounts to meet the needs of the citizens of the community for parkland and to further the health, safety and general welfare of the community. The Quimby Act has been in effect since May 21, 2018 and this is the first subdivision map that has been submitted after the effective date. The proposal of an approximately 182-lot single-family subdivision would require a minimum park space size of 2.10 acres. The applicant proposes a 2.19-acre parcel that would serve as a public park to the subdivision. This park is consistent with the requirements of the City's parkland acquisition ordinance.

Density Requirements

The project consists of two (2) parcels that differ based on density calculation because of the target density requirement. The project site is located within the LD (Low Density) General Plan land use designation, which has a density requirement of between 2.1 and 7 units per acre. This calculation changes when a project consists of a parcel that is greater than 10 acres in size at time of the adoption of the General Plan, which requires the project to be consistent with the target density of the associated land use. The LD (Low Density) General Plan land use designation requires a target density of 5.25 units per acre.

Per the General Plan, calculating residential density consists of the gross acreage of the project parcels less any acreage required for the following:

- Collector and arterial street rights-of-way
- Public parks
- Public facilities
- Floodways or flood plains
- Protected biological habitats
- Other unique constraints applicable to the property, as determined by the City

Based on this calculation, the northern parcel equates to 6.5 acres requiring between 14 and 46 units. The southern parcel equates to 29.73 acres requiring a target density of 157 units. This equates to a requirement of between 171 and 203 units. The proposal of approximately 182 lots provides consistency with Policy LU-7 and LU-19 of the General Plan.

Public Infrastructure

Public infrastructure and utilities required by the Madera Municipal Code and the Madera General Plan will be constructed in support of the tentative subdivision map. Required infrastructure includes sewer, water, and storm drainage infrastructure consistent with the City's master plans. Street improvements include the completion of West Cleveland Avenue to the City's half-street cross section for an arterial street and the construction of nine interior local streets within the subdivision.

Rear property lines abutting West Cleveland Avenue and the proposed 2.19-acre park will be developed with a decorative split-faced masonry wall. The proposed lots will be included in the City's community facility district to collect assessments for increased demand on fire, police, storm water drainage and parks. The property is required to annex into a lighting and landscape maintenance district.

Street Names

The process for naming streets calls for the applicant to propose names on the face of the tentative map which are reviewed and approved as part of the overall project. With exception to the existing perimeter streets, the proposed street names are largely exclusive to the proposed subdivision. The internal streets in the subdivision are as follows:

- Alamosa Drive
- Barranca Drive
- Encantada Avenue
- Fairway Avenue
- Hawks Peak Drive
- Monte Vista Avenue
- Morro Rock Place
- Rancho Santa Fe Avenue
- Rinconada Drive
- Taos Way
- Waterway Drive
- White Sands Drive

Precise Plan

The properties being subdivided are located within a PD (Planned Development) Zone District, which requires approval of a precise plan by the Planning Commission when development is proposed. Precise plans, when applicable, typically accompany subdivision maps as a component of the project. The current property owner does not plan to construct homes as a component of the subdivision map. Staff recommends the approval of a precise plan by the Planning Commission after specific design details for the project are proposed by the home builder who will build out the subdivision.

Madera Countywide Airport Land Use Compatibility Plan (ALCUP)

The project site is located within the C2 Zone (Primary Traffic Pattern Zone) which is a risk concern primarily with uses for which potential consequences are severe, e.g. intensive uses and airspace hazards. The airspace concern is generally with object heights greater than 150 feet above runway elevation. According to the Madera Countywide ALUCP, single-family residential dwellings are normally compatible in the C2 Zone.

Other Department and Agency Comments

The project was 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.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

The first of the four core vision statements in the Vision Plan is “A Well-Planned City.” The Planning Commission, by considering how this development connects to other future developments and how the neighborhood and infrastructure can be maintained, is actively implementing this key concept of the Vision Plan. Moreover, approval of the project will help provide consistency with Strategy 131, which states, “Create well-planned neighborhoods throughout Madera that promote connectivity and inclusiveness with a mix of densities and commercial components.”

RECOMMENDATION

The information presented in this report supports adoption of the Negative Declaration, adoption of a Resolution recommending to the City Council the adoption of an Ordinance to rezone the property, and approval of the Tentative Subdivision Map, subject to the recommended conditions of approval.

PLANNING COMMISSION ACTION

The Commission will be acting on the Negative Declaration, Rezone 2018-02 and Tentative Subdivision Map 2018-04.

Motion 1a: Move to adopt a Negative Declaration, consistent with Section 15070(a) of the California Environmental Quality Act, with the findings as stated:

Findings

- An initial study and negative declaration have been prepared pursuant to the California Environmental Quality Act that determines that there is no substantial evidence that the project will have a significant effect on the environment, and that the document reflects the independent judgment of the Planning Commission of the City of Madera after considering all of the information in the record before it, and is hereby adopted in accordance with the California Environmental Quality Act.

Motion 1b: Move to adopt a Resolution recommending to the City Council the adoption of an Ordinance rezoning the subject properties to the PD-6000 (Planned Development) Zone District, consistent with the findings as listed;

Findings

- An initial study and negative declaration have been prepared pursuant to the California Environmental Quality Act that determines that there is no substantial evidence that the project will have a significant effect on the environment, and that the document reflects the independent judgement of the Planning Commission of the City of Madera after considering all of the information in the record before it, and is hereby adopted in accordance with the California Environmental Quality Act.
- The proposed rezone will provide the required consistency between the General Plan and zoning.
- The rezone is not expected to be detrimental to the health, safety, peace, comfort or general welfare of the neighborhood or the City.
- City services and utilities are available or can be extended to serve the area.

Motion 1c: Move to approve Tentative Subdivision Map 2018-04, subject to the findings and conditions of approval as listed.

Findings

- An initial study and negative declaration have been prepared pursuant to the California Environmental Quality Act that determines that there is no substantial evidence that the project will have a significant effect on the environment, and that the document reflects the independent judgement of the Planning Commission of the City of Madera after considering all of the information in the record before it, and is hereby adopted in accordance with the California Environmental Quality Act.
- Tentative Subdivision Map 2018-04 is consistent with the development standards of the PD-6000 (Planned Development) Zone Districts.
- The proposed approximately 182-lot tentative subdivision does not conflict with City standards or other provisions of the code.
- City services and utilities are available or can be extended to serve the area.

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 approval 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.

Engineering Department

General

4. Prior to recording of the final map, all action necessary for annexation into Community Facilities District 2005-01 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 (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 Citywide 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. The park land, as shown in the Tentative Map, shall be dedicated to the City in advance

of or in conjunction with recordation of the final subdivision map.

8. 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.
9. A benchmark shall be established per City Standards and related data shall be submitted to the Engineering Department prior to acceptance of the subdivision improvements. The City Engineer shall designate the location.
10. No temporary turn-arounds shall be permitted.
11. 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.
12. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
13. Development impact fees shall be paid at the time of building permit issuance.
14. Improvement plans shall be sealed by an engineer and shall be submitted to the Engineering Department according to the Engineering Plan Review Submittal Sheet and Civil Plan Submittal Checklist.
15. The developer shall pay all required fees for processing the subdivision map and completion of the 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.
16. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Division.
17. The improvement plans for the project shall include the most recent version of the City's General Notes.
18. 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.

Sewer

19. If not already installed by others, a sewer trunk main sized per the City master sewer plan shall be required to be installed in West Cleveland Avenue from the closest existing line on West Cleveland Avenue and along the entire frontage of the project five (5') feet past the section line on West Cleveland Avenue. The oversize component (difference in cost between the pipe installed and 8-inch pipe) of the construction of this entire line is considered reimbursable, subject to the availability of funds, under the City's Development Impact Fee Program. Half of the 8-inch component is reimbursable from adjacent properties as they develop and connect.

20. 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.
21. 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.
22. Existing septic tanks, if found, shall be removed with the appropriate building permit(s) required by the City of Madera Building Department.

Storm Drain

23. Storm runoff from this project site is planned to go to the Westberry and Fresno River Basin located to the southeast of the proposed project site. The developer shall, as may be necessary, construct sufficient facilities in accordance with criteria in the Storm Drainage Master Plan to convey storm runoff to the existing basin and excavate basin to an amount equivalent to this project's impact on the basin. A detailed drainage study shall be provided to support the chosen path of conveyance and design of any necessary conveyance facilities. The proposed subdivision to the south currently has storm drainage facilities that, when constructed approximately ten (10) years ago, were designed to intercept runoff from development to the north of its limits. If access to the existing storm drain system within the adjacent subdivision is not available, construction of a temporary basin within the limits of this subdivision is acceptable, subject to the sub-divider entering into a maintenance covenant with the City.

Streets

24. West Cleveland Avenue shall be developed to a 100-foot street with a 10-foot sidewalk pattern and a 16-foot landscape median across the frontage of the subdivision. The southern half shall include, but not be limited to, fire hydrants, streetlights, curb and gutter, park strip and sidewalk. The northern half shall include one permanently paved 12-foot lane and 8-foot shoulder. Adequate transition with the existing improvements relative to grade and alignment shall be provided. All improvements shall be constructed per current City standards. The center three lanes (40-foot total), which includes the median island, are eligible for reimbursement through the City's Impact Fee Program, subject to funds being available.
25. Interior streets shall be constructed in accordance with City standards to include 50- and 60-foot wide residential streets and a 5-foot sidewalk, curb and gutter, street lights, fire hydrants and all other components necessary to complete construction per City standards.
26. The driveway currently proposed on West Cleveland Avenue shall be located, at a minimum, 450 feet from the western property line to the driveway's west curb line. The driveway shall be restricted to left-turn in, right-turn in and right-turn out movements.
27. An Offer of Dedication shall be made to dedicate sufficient right-of-way along the entirety

of the parcel's frontage on West Cleveland Avenue to provide a half-street width of fifty (50') feet, south of the center line, to accommodate for an arterial standard roadway.

28. The developer shall dedicate a ten (10') foot wide Public Utility Easement (PUE) along the entirety of all parcel frontages on West Cleveland Avenue.
29. The developer shall dedicate a ten (10') foot wide Public Utility Easement (PUE) along all internal publicly dedicated streets.
30. Traffic-calming features, as approved by the City Engineer, shall be implemented throughout the interior subdivision streets. Maximum distance between calming devices shall be 300 feet.
31. The developer shall not oppose annexing into the existing Landscape Maintenance District (LMD) Zone 21D. If the expansion of LMD Zone 21D is not attainable, the developer shall, at their sole expense, form a Lighting and Landscape Maintenance District zone for West Cleveland Avenue. The sub-divider shall sign and submit a landscape district formation and inclusion form, an engineer's report and map prior to recording of any final map.
32. Access ramps shall be installed at all curb returns per current City Standards.
33. Driveway approaches shall be constructed per current City Standards.
34. "No Parking" signs shall be installed along the West Cleveland Avenue frontage per City standards.
35. The developer shall be required to install metered street lights along the West Cleveland Avenue frontage and interior subdivision streets in accordance with current City spacing standards. Street lights shall be LED using Beta Lighting standards or equal in accordance with City of Madera standards.
36. 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 uncompleted work in conjunction with the subdivision's public improvements will not be required.
37. 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.
38. 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 main 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. Street lights;
 - 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.

39. 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.

40. 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.
41. The applicant shall coordinate with the pertinent utility companies, as required regarding the establishment of appropriate easements and the under-grounding of service lines. A ten (10') foot public utility easement shall be required along all interior lot frontages.
42. All public utilities shall be undergrounded, except transformers, which may be mounted on pads. Public utility easements shall be dedicated outside and adjacent to all street 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.
43. 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.

44. 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.
45. 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.
46. 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), Storm Water Pollution Prevention Plan (SWPP) 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.
47. 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.

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. Unless the City Engineer or fire flow analysis specifies larger lines, water lines at a minimum of eight (8") inches in diameter shall be installed in all interior streets. 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. 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.
51. Water services shall be placed three (3') feet from either property line, opposite of street

light 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.

52. 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.
53. Water service connections shall be constructed per current City standards including water meters located within the City right-of-way.
54. Water connections not serving a residence shall be constructed per current City standards including water meters located within the City's right-of-way and backflow prevention device in private property.
55. Existing wells, if any, shall be abandoned as directed and permitted by the City of Madera for compliance with State standards.
56. A minimum of one water quality sampling station shall be installed within the subdivision and approved by the Public Works Department.
57. If not already installed by others, a 12-inch water line shall be installed in West Cleveland Avenue from the closest existing line on West Cleveland Avenue and along the entire frontage of the project. An 8-inch water line shall be looped through the subdivision and be installed in all local streets. Water mains shall be constructed per current City standards. The oversize component (difference in cost between 12-inch and 8-inch pipe) of the construction of this line is considered reimbursable, subject to the availability of funds, under the City's Development Impact Fee Program. Half of the 8-inch component is reimbursable from adjacent properties as the develop and connect.

Subdivision Improvement Inspections

58. The 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.
59. 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.
60. 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.
61. 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

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 removal or modification of the aforementioned encroachments. 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 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

68. The subdivision shall be provided with a minimum of two points of access for emergency vehicles.
69. Fire hydrants shall be provided at the streets and shall comply with the City of Madera Engineering standards and the California Fire Code (CFC).

Planning Department

General

70. 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.
71. Vandalism and graffiti on walls, fences and/or homes shall be corrected pursuant to the Madera Municipal Code.

Street Names

72. The internal street names shall be as follows:

- Alamosa Drive
- Barranca Drive
- Encantada Avenue
- Fairway Avenue
- Morro Rock Place
- Rancho Santa Fe Avenue
- Rinconada Drive
- Taos Way

- Hawks Peak Drive
- Monte Vista Avenue
- Waterway Drive
- White Sands Drive

Tentative Subdivision Map

73. There shall be no rear access provided on all properties along the perimeter of the subdivision. This includes lots 1-10, 48-85, and 143-182.
74. Direct access for the following lots shall only be provided along the northern property line:
- Lots 11, 28, 119 and 135
75. Direct access for the following lots shall only be provided along the southern property line:
- Lots 27, 47, 118 and 134

Fences and Walls

76. A six (6') foot tall decorative split-faced masonry block wall with capstone shall be developed within the subdivision as follows:
- Along all rear property lines abutting West Cleveland Avenue
 - 25 feet in length extending from the northern point of the exterior side-yard property corner of lots 159 and 160.
 - Along all rear property lines abutting the dedicated 2.19-acre park space.
77. Except as provided for in the above condition, six (6') foot tall wooden fencing shall be provided along all side and rear yards.
78. Any retaining walls greater than eighteen (18") inches in height shall be split-faced masonry block. Residential fencing shall have a gate that allows for easy access by an automated solid waste container provided by the City. The width of the gate shall be a minimum of thirty-six (36") inches.

(OR)

Motion 2: Move to continue the public hearing on Rezone 2018-02 and Tentative Subdivision Map 2018-04, to the December 11, 2018 Planning Commission hearing, for the following reasons: (specify)

(OR)

Motion 3: Move to deny Rezone 2018-02 and Tentative Subdivision Map 2018-04, based on the following findings: (specify)

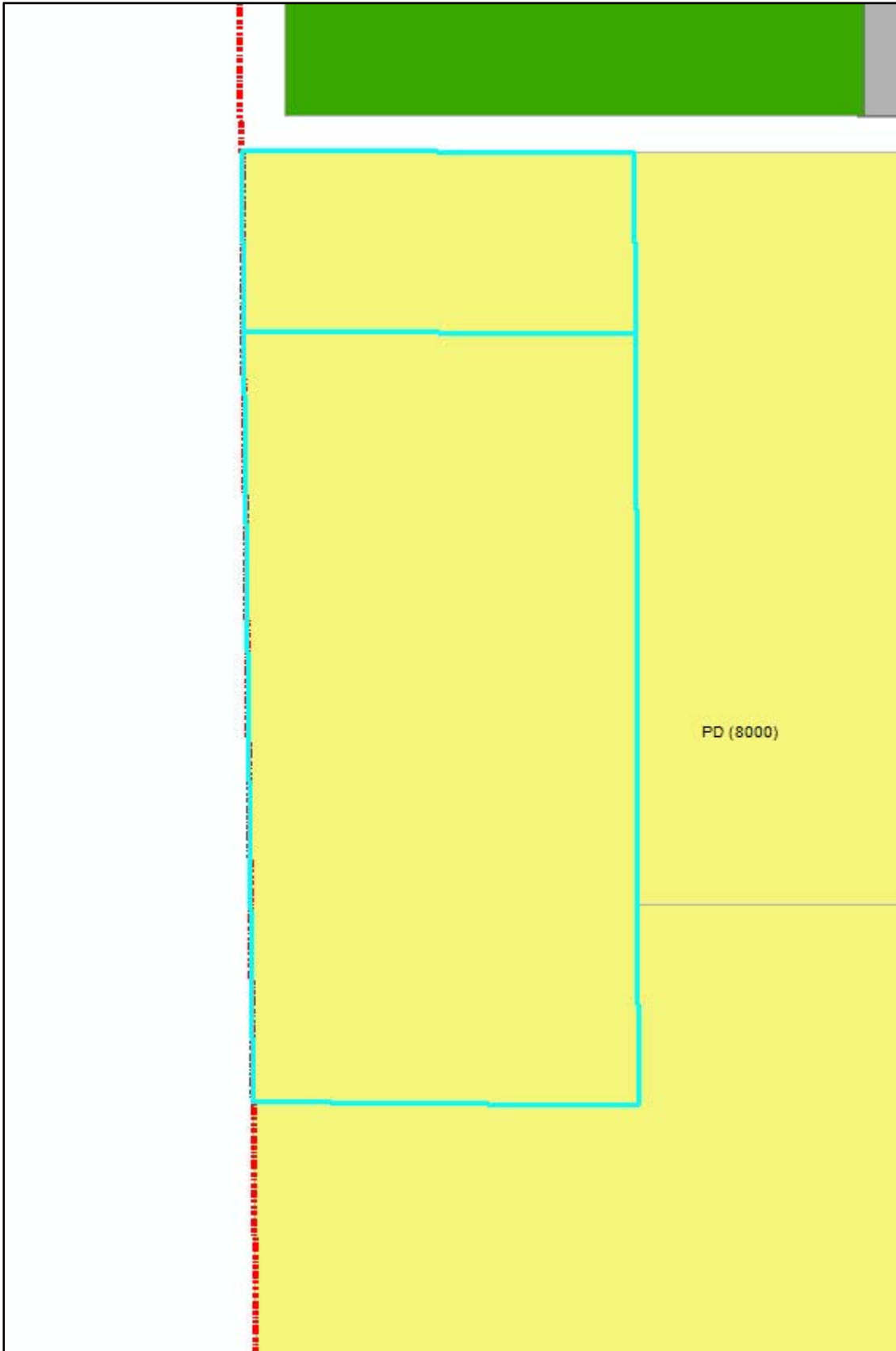
ATTACHMENTS

- Aerial Map
- Zoning Map
- Tentative Subdivision Map 2018-04
- Initial Study and Negative Declaration
- Resolution of Recommendation to the City Council
- Exhibit A - Amended Zoning Map
- Draft Ordinance

Aerial Map



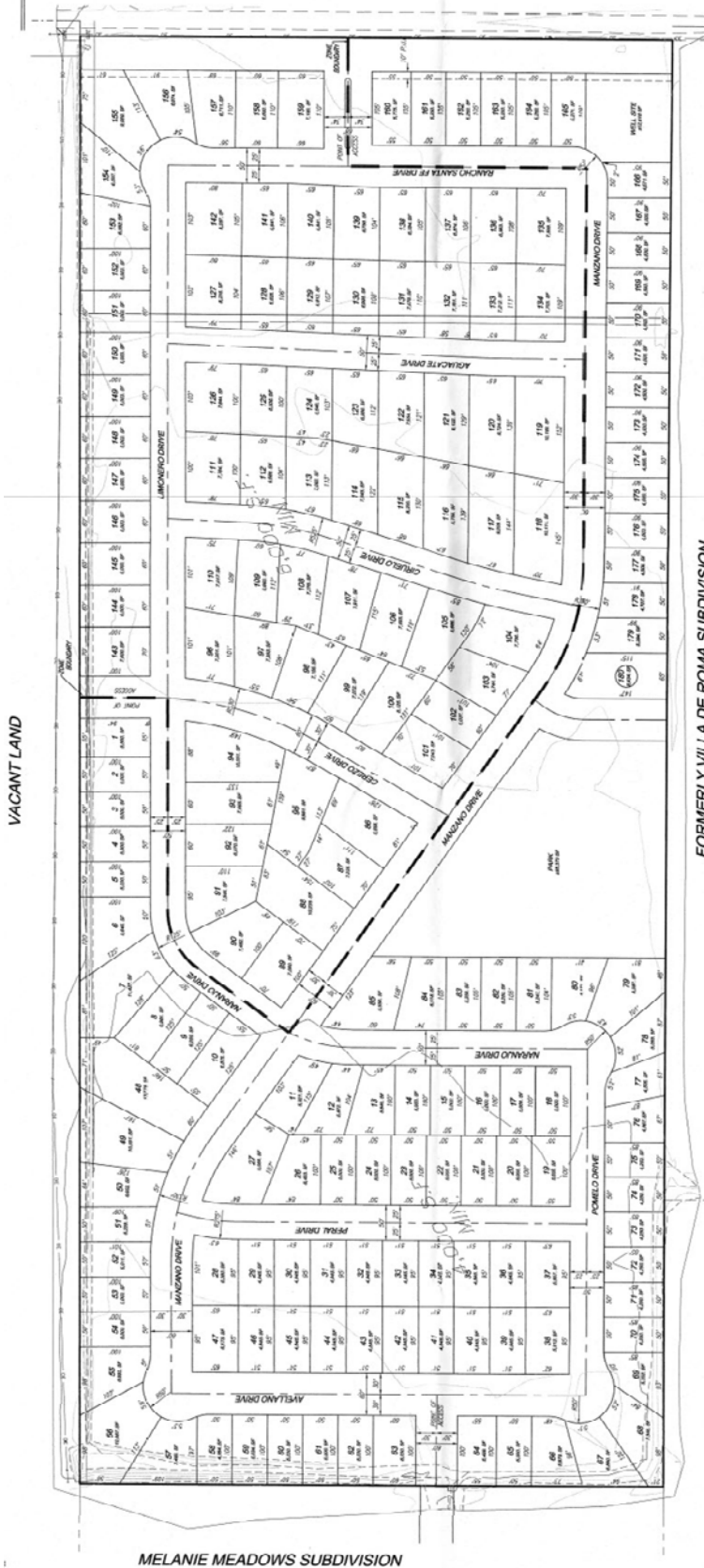
Zoning Map



Tentative Subdivision Map 2018-04

VICINITY MAP
WEST TO EAST

WEST CLEVELAND AVENUE
(15 1/2 AVENUE)



MELANIE MEADOWS SUBDIVISION

INITIAL STUDY AND ENVIRONMENTAL ASSESSMENT

Rancho Santa Fe Subdivision Rezone (REZ) 2018-02 Tentative Subdivision Map (TSM) 2018-04

This environmental assessment has been prepared to evaluate the impacts of the proposed project as required by the California Environmental Quality Act (CEQA). CEQA requires that public agencies consider the environmental consequences of projects over which they have discretionary authority before taking action on those projects (Public Resources Code [PRC] 21000 et seq.). For this project, the City is the lead agency under CEQA because it has the primary responsibility for approving and implementing the project, and therefore the principal responsibility for ensuring CEQA compliance.

Project: Rezone 2018-02 and Tentative Subdivision Map 2018-04

Applicant: Rick Telegan
2206 E. Muncie Avenue
Fresno, CA 93720

Owner: BP Investors, LLC
8050 N. Palm Avenue, Suite 300
Fresno, CA 93711

Location: The project site encompasses two parcels (APNs: 006-380-027 and 006-380-028) at a total of approximately 38.85 acres and is located south on West Cleveland Avenue, approximately 2,000 feet west of the intersection of West Cleveland Avenue and North Westberry Boulevard within the PD-8000 (Planned Development) Zone District and the LD (Low Density Residential) General Plan land use designation.

REZ 2018-02: An application for a rezone to allow for the change of zoning on the project site from the PD-8000 (Planned Development) Zone District to the PD-6000 (Planned Development) Zone Districts.

TSM 2018-03: An application for a tentative subdivision map which will subdivide the two (2) existing properties into an approximately 182-lot single-family residential subdivision. Parcels range in size from between 4,250 and 13,778 square feet, with an average lot size being approximately 6,350 square feet. Interior streets, utilities and infrastructure will also be developed within the boundaries of the subdivision to provide access and services to the parcels created by the map. All interior streets will be local streets that connect to West Cleveland Avenue to the north, a future subdivision to the east, a future collector street to the west and the Melanie Meadows subdivision to the south.

Zone District: Current – PD-8000 (Planned Development)
Proposed – PD-6000 (Planned Development)

General Plan Land Use Designation: LD (Low Density Residential)

Surrounding Land Uses and Zoning:

- South – Vacant residential
- North – Vacant industrial and open space
- West – Vacant residential (County)
- East – Vacant residential

Responsible and Interested Agencies:

Madera Irrigation District (MID)

Madera Unified School District (MUSD)

San Joaquin Valley Air Pollution Control Board (SJVAPCD)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project. None of these factors represents a "Potentially Significant Impact" as indicated by the checklist on the following pages

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology / Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Mat. | <input type="checkbox"/> Hydrology/Water Quality |
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Population/Housing | <input checked="" type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Tribal Cultural Resources | <input type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Mandatory Findings | | |

DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature: _____

Date: September 10, 2018

Printed Name: Robert Holt, Assistant Planner

Explanation of Environmental Checklist

I. AESTHETICS.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion: The project will not affect a scenic vista and will not have an overall adverse visual impact on the immediate area. The project will not affect a scenic highway and will not have an overall adverse visual impact on any scenic resources. The project would result in some sources of light. Existing City Standards will insure that the impact is less than significant and will not substantially degrade the existing visual character or quality of the property and its surroundings.

- a. **No Impacts.** The project will not result in the obstruction of federal, state or locally classified scenic areas, historic properties, community landmarks, or formally classified scenic resources such as a scenic highway, national scenic area, or state scenic area. The project will not have a substantial adverse effect on a scenic vista. The City of Madera is located in a predominantly agricultural area near the base of the Sierra Nevada Mountain Range, which provides for aesthetically pleasing views and open spaces. By developing land within the City's sphere of influence, the proposed project will reduce development pressure on rural lands.
- b. **No Impacts.** The project will not damage scenic resources, including, but not limited to, rock outcroppings, and historic buildings within a state scenic highway.
- c. **No Impacts.** The project would not substantially degrade the existing visual character or quality of the site and surroundings under examination. The proposed project would not alter the landforms, view sheds, and overall character of the area.
- d. **Less than Significant Impacts.** There will be an increase in light and glare and other aesthetic impacts associated with urban development as a result of the project, although it will be a less than significant impact because lighting will be down shielded and directed per the approval of the City Engineer.

II. AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: The project area is located on land identified as Grazing Land within the 2016 California Farmland Mapping and Monitoring Program.

- a. **No Impacts.** The project would not convert prime farmland, unique farmland, or farmland of statewide importance (as shown on the maps prepared pursuant to the farmland mapping and monitoring program of the California resources agency) to non-agricultural use. The project site is identified as Grazing Land on the 2016 Madera County Important Farmland Map. The project site has been identified for urban uses within the City of Madera General Plan, and the land has not been utilized for any agricultural purposes for an extended length of time.
- b. **No Impacts.** The project would not conflict with existing zoning for agricultural use and there are no Williamson Act contracts in the affected territory. The City of Madera General Plan identifies this site for commercial uses.
- c. **No Impacts.** The development of this property will not influence surrounding properties to convert from farmland to non-agricultural uses since this property is surrounded by property designated for residential development, consistent with the Madera General Plan.

III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: The project area is located within the San Joaquin Valley Air Basin (SJVAB). Air quality conditions in the SJVAB are regulated by San Joaquin Valley Air Pollution Control District (SJVAPCD). The region is classified as a State and Federal non-attainment area for PM10 (airborne particulate matter with an aerodynamic diameter of less than 10 microns), and ozone (O3).

Air quality is determined primarily by the type and amount of contaminants emitted into the atmosphere, the size and topography of the Basin, and its meteorological conditions. National and state air quality standards specify the upper limits of concentrations and duration in the ambient air for O3, CO, nitrogen dioxide (NO2), PM10, sulfur dioxide (SO2) and lead (Pb). These are “criteria pollutants.” The SJVAPCD also conducts monitoring for two other state standards: sulfate and visibility.

The State of California has designated the project area as being a severe non-attainment area for 1-hour O3, a non-attainment area for PM10, and an attainment area for CO. The EPA has designated the project area as being an extreme non-attainment area for 1-hour O3, a serious non-attainment area for 8-hour O3, a serious non-attainment area for PM10, and a moderate maintenance for CO.

The project will not conflict with or obstruct the implementation of applicable Regional Air Quality Control Plans. The SJVAPCD has determined that project specific emissions are not expected to exceed District significance thresholds of 10 tons/year NOX, 10 tons/year ROG, and 15 tons/year PM10. Therefore, the District concludes that project specific criteria pollutant emissions would have no significant adverse impact on air quality.

The type of proposed development is not subject to Rule 9510 (Indirect Source Review) by the SJVAPCD because the project would develop less than fifty (50) residential units. The project would not create substantial air emissions or deterioration of ambient air quality, and any future development would be subject to SJVAPCD review. Construction equipment will produce a small amount of air emissions from internal combustion engines and dust. The project will not violate any air quality standard or substantially contribute to an existing or projected air quality violation. The project will not result in a considerable net increase in non-attainment pollutants in this area. The project will not expose sensitive receptors to any significant amount of pollutants. The project will not create any objectionable odors.

The project will be required to comply with all applicable rules and regulations of the SJVAPCD, including but not limited to Rules 4102, 4601 and 4641.

- a. **Less than Significant Impacts.** The proposed project would not conflict with or obstruct implementation of the applicable air quality plan.
- b. **Less than Significant Impacts.** The proposed project would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.
- c. **Less than Significant Impacts.** The project will not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard, including releasing emissions which exceed quantitative thresholds for ozone precursors.
- d. **No Impacts.** The proposed project would not expose sensitive receptors to substantial pollutant concentrations.
- e. **No Impacts.** The proposed project would not create any new/permanent objectionable odors affecting a substantial number of people.

IV. BIOLOGICAL RESOURCES.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: With the preparation of the City of Madera General Plan, no threatened or endangered species were identified in the project area. The project area has been subjected to urbanization in the

past, resulting in a highly maintained and disturbed habitat. There is no record of special-status species in this project area. Development of the project area is consistent with the urbanization of the Madera area, as evaluated in the General Plan and its EIR; therefore, impacts in this category are not anticipated to exceed the impacts addressed in those documents.

- a. **No Impacts.** The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
- b. **No Impacts.** The proposed project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service.
- c. **No Impacts.** The project would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act, including, but not limited to, marsh, vernal pool, coastal, etc., through direct removal, filling, hydrological interruption, or other means.
- d. **No Impacts.** The project would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- e. **No Impacts.** The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- f. **No Impacts.** The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan.

V. CULTURAL RESOURCES.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: The project does not have the potential to cause a physical change that would affect unique historic, ethnic, or cultural values. The project will not disturb archaeological resources. The project will not disturb any unique paleontological or geologic resources. The project will not disturb any human remains. Prior clearances have been granted to the City of Madera relative to archeological surveys conducted in the same area. In the event any archeological resources are discovered with project construction, all activities shall cease and the Community Development Department shall be notified so that the procedures required by State Law may be applied.

- a. **No Impacts.** The proposed project would not cause a substantial adverse change in the significance of a historical resource as defined in §15064.5 of the CEQA Guidelines. There are no known historical resources located in the affected territory.
- b. **No Impacts.** The proposed project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 of the CEQA Guidelines. There are no known archaeological resources located in the project area.
- c. **No Impacts.** The proposed project would not directly or indirectly destroy unique paleontological resources or sites or unique geologic features. There are no known paleontological resources or sites or unique geologic features located in the affected territory.
- d. **No Impacts.** The project would not likely disturb any human remains, including those interred outside of formal cemeteries. If development occurs in the future and any remains are discovered, the requirements of CEQA that regulate archaeological and historical resources (Public Resources Code Section 21083.2 and 21084.1), and all local, state and federal regulations that regulate archaeological and historical resources would be complied with.

VI. GEOLOGY AND SOILS.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: There are no known faults on the project site or in the immediate area. The project site is subject to relatively low seismic hazards compared to many other parts of California. Potential ground shaking produced by earthquakes generated on regional faults lying outside the immediate vicinity in the project area may occur. Due to the distance of the known faults in the region, no significant ground shaking is anticipated on this site. Seismic hazards on the built environment are addressed in *The Uniform Building Code* that is utilized by the Madera Building Division to monitor safe construction in the City.

- a.
 - i. **No Impacts.** No known faults with evidence of historic activity cut through the valley soils in the project vicinity. The major active faults and fault zones occur at some distance to the east, west, and south of the project site. Due to the geology of the project area and its distance from active faults, the potential for loss of life, property damage, ground settlement, or liquefaction to occur in the project vicinity is considered minimal.
 - ii. **No Impacts.** Ground shaking generally decreases with distance and increases with the depth of unconsolidated alluvial deposits. The most likely source of potential ground shaking is attributed to the San Andreas, Owens Valley, and the White Wolf faults. Based on this premise, and taking into account the distance to the causative faults, the potential for ground motion in the vicinity of the project site is such that a minimal risk can be assigned.
 - iii. **No Impacts.** Liquefaction describes a phenomenon in which a saturated soil loses strength during an earthquake as a result of induced shearing strains. Lateral and vertical movement of the soil mass combined with loss of bearing usually results. Loose sand, high groundwater conditions (where the water table is less than 30 feet below the surface), higher intensity earthquakes, and particularly long duration of ground shaking are the requisite conditions for liquefaction. There is no evidence of the presence of these requisite conditions.
 - iv. **No Impacts.** The project will not result in or expose people to potential impacts from landslides or mudflows.
- b. **No Impacts.** Construction of urban uses would create changes in absorption rates, drainage patterns, and the rate and amount of surface runoff on the selected project site. Standard construction practices that comply with City of Madera ordinances and regulations, the California Building Code, and professional engineering designs approved by the Madera Engineering Division will mitigate any potential impacts from future urban development, if any.
- c. **No Impacts.** The project site would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in off-site landslide, lateral spreading, subsidence, liquefaction or collapse.
- d. **No Impacts.** The project will not result in or expose people to potential impacts from expansive soils.
- e. **No Impacts.** Should urban uses be approved in the project area, the City of Madera would provide necessary sewer and water systems.

VII. GREENHOUSE GAS EMISSIONS.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion: The San Joaquin Valley Unified Air Pollution Control District staff has concluded that existing science is inadequate to support quantification of impacts that project-specific GHG emissions have on global climatic change. This is readily understood when one considers that global climatic change is the result of the sum total of GHG emissions, both manmade and natural that have occurred in the past; that is occurring now; and may occur in the future. The Air District has advanced a methodology of reducing the (assumed) significance of impacts around performance measures applied to projects or alternatively, by comparing project-level impacts to an identified GHG emissions threshold.

In the absence of further regulatory or scientific information related to GHG emission and CEQA significance, it is currently too speculative to make a significant determination regarding this project’s direct and indirect impact with respect to climate change. The City General Plan includes policies in support of GHG emissions reduction and climate change. The City supports local, regional, and statewide efforts to reduce the emission of greenhouse gases linked to climate change.

VIII. HAZARDS AND HAZARDOUS MATERIALS.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: The project will not bring about a direct increase in the risk of accidental explosion or release of hazardous substances. The project site has not been identified as a hazardous material site. The project will not result in a substantial air safety hazard for people residing in the area or future residents of the project. The project will not emit hazardous emissions or handle hazardous materials within one-quarter mile of an existing or proposed school. The project will not result in any hazards to air traffic or be a substantial air safety hazard. The project will not interfere with any emergency response or evacuation plans. Truck traffic generated with construction of the project is expected to be insignificant. Traffic generated with development is not expected to be substantially higher than current volumes. The project will not bring about an increase in fire hazards in areas from flammable brush, grass, or trees.

- a. **No Impacts.** The proposed project would not create any hazards to the public or the environment through the routine transport, use, or disposal of hazardous materials.
- b. **No Impacts.** The proposed project would not create any hazards to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- c. **No Impacts.** The project would not emit hazardous emissions or require the handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.
- d. **No Impacts.** The land within the project site is not included on a list of hazardous materials sites. The Department of Toxic Substances Control's Hazardous Waste and Substances Site List (Cortese List) does not list any hazard waste and substance sites within the City of Madera (www.dtsc.ca.gov/database/Calsites/Cortese_List.cfm).
- e. **No Impacts.** The project site is located within the C2 Zone of the Madera Countywide Airport Land Use Compatibility Plan. The C2 Zone (Primary Traffic Pattern Zone) has a risk level of low to moderate and the risk concern is primarily with uses for which potential consequences are severe, e.g. intensive uses and airspace hazards. The airspace concern in the C2 Zone is generally with object heights greater than 150 feet above runway elevation. According to the Madera Countywide ALUCP, single-family residential dwellings are normally compatible in the C2 Zone. The proposed project would not bring about a safety hazard related to an airport or aviation activities for people residing or working in the project area.
- f. **No Impacts.** The project site is not located within the vicinity of a private airstrip and would not result in a safety hazard for people residing or working in the project vicinity related to an airstrip or aviation activities.
- g. **No Impacts.** The proposed project would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.
- h. **No Impacts.** The proposed project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires.

IX. HYDROLOGY AND WATER QUALITY.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| j. Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

The proposed project would not violate any water quality standards or waste discharge requirements. There will not be a significant reduction in the amount of groundwater otherwise available for public water supplies as a result of this project. Services will be provided in accordance with the City's Master Plans. The project will not change any drainage patterns or stream courses, or the source or direction of any water movement. During construction, the project site may be exposed to increased soil erosion from wind and water. Dust control will be used during construction. With completion, the project will not bring about erosion, significant changes in topography or unstable soil conditions.

The project will not expose people or property to water related hazards. During future construction, the project site may be exposed to increased soil erosion from wind and water. Dust control will be used during any future construction. With completion, the project will not bring about erosion, significant changes in topography or unstable soil conditions. Standard construction practices and compliance with City ordinances and regulations, *The Uniform Building Code*, and adherence to professional engineering design approved by the Madera Engineering Department will mitigate any potential impacts from this project. This development will be required to comply with all City ordinances and standard practices which will assure that storm water will be adequately drained into the approved storm water system. The project will not create any impacts on water quality.

Based on a review of the City's FEMA maps, the site is within Zone X, and the project will not place housing or other land uses in a 100-year flood hazard area. These are areas outside of the 500-year flood area. The project will not expose people or structures to a significant risk because of dam or levee failure. The project will not expose people or structures to a significant risk because of a seiche, mudflow, or tsunami.

- a. **No Impacts.** Development of the project site would be required to comply with all City of Madera ordinances and standard practices which assure proper grading and storm water drainage into the approved storm water systems. Any development would also be required to comply with all local, state, and federal regulations to prevent any violation of water quality standards or waste discharge requirements.
- b. **No Impacts.** The proposed project will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.
- c. **No Impacts.** The proposed project would not alter the existing drainage pattern of the site or area through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site.
- d. **No Impacts.** The proposed project would not alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off-site.

- e. **No Impacts.** The proposed project would not create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. All plant nutrient handling and/or transfer areas will include containment and capture features.
- f. **No Impacts.** The proposed project would not degrade water quality.
- g. **No Impacts.** The project would not place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.
- h. **No Impacts.** The project would not place within a 100-year flood hazard area structures that would impede or redirect flood flows.
- i. **No Impacts.** The project would not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.
- j. **No Impacts.** The project would not have any potential to be inundated by a seiche, tsunami, or mudflow.

X. LAND USE AND PLANNING.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but no limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: Development of the project area is consistent with the urbanization of the project area, as evaluated in the General Plan and its EIR; therefore impacts in this category are avoided.

- a. **No Impacts.** The project would not physically divide an established community. Rather, it logically allows development to occur in an orderly manner, adjacent to and within the urbanized area of the City.
- b. **No Impacts.** The proposed project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. The proposed project is consistent with the requirements.
- c. **No Impacts.** The project would not conflict with any applicable habitat conservation plan or natural community conservation plan.

XI. MINERAL RESOURCES.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a. **No Impacts.** The project would not result in the loss or availability of mineral resources.

b. **No Impacts.** The proposed project would not result in the loss of availability of any locally important mineral resource recovery sites.

XII. NOISE.

Would the project result in:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: These potential impacts were addressed in the General Plan EIR, and goals and mitigation measures were adopted to reduce potential impacts to a less than significant level. Development of the project area is consistent with the urbanization of the Madera area, as evaluated in the General Plan, and its EIR; therefore impacts in this category are not anticipated to exceed the impacts addressed in those documents.

- a. **No Impacts.** The proposed project would not result in exposure of persons to or the generation of noise.
- b. **No Impacts.** The proposed project would not result in exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels.

- c. **No Impacts.** The proposed project would not result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
- d. **Less than Significant Impacts.** The proposed project may result in some temporary increase in ambient noise levels in the project vicinity during construction of the site.
- e. **No Impacts.** The proposed project site is not located within an airport land use plan or within two miles of a public airport or public use airport.
- f. **No Impacts.** The project is not located within the vicinity of a private airstrip.

XIII. POPULATION AND HOUSING.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: The proposed project will not induce additional substantial growth in this area. The property involved does not have any existing residential uses and the project would not displace any housing. Likewise, the project would not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

- a. **Less than Significant Impacts.** The proposed project will provide employment opportunities which may induce a minimal growth in population by individuals and/or families who move to Madera in response to opportunities for employment. Roads and other infrastructure will be improved to handle the proposed development.
- b. **No Impacts.** The proposed project would not displace any existing housing, thereby necessitating the construction of replacement housing elsewhere, since the site is vacant.
- c. **No Impacts.** The proposed project would not displace any people.

XIV. PUBLIC SERVICES.

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
v. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion: The project will not result in substantial adverse physical impacts from new or altered public facilities. As development occurs, there will be a resultant increase in job opportunities, and a greater demand placed upon services, such as fire and police protection, and additional park and school facilities. There will be an increase in street, and water and sewer system maintenance responsibility because of this project. However, based on the nature of the proposal, the increase in manpower requirements for the Public Works Department will be minimal.

The project will not bring about the need for new wastewater treatment facilities. The project will not significantly increase the demand on water supplies. There will not be a significant reduction in the amount of groundwater otherwise available for public water supplies as a result of this project. The project will not increase the need for additional storm water drainage facilities beyond the existing and master planned drainage basin facilities that are available to serve the project. The project area will be required to provide additional facilities within the development, and comply with the City’s Master Plan, ordinances, and standard practices. The project will not bring about a significant increase in the demand for solid waste disposal services and facilities.

- i. Fire protection. **Less than significant Impacts.** The proposed project would not result in substantial adverse physical impacts to fire protection services.
- ii. Police protection. **Less than significant Impacts.** The proposed project would not result in substantial adverse physical impacts associated with the provision of police protection.
- iii. Schools. **Less than significant Impacts.** The Madera Unified School District levies a school facilities fee to help defray the impact of residential development. The proposed project would not generate a significant impact to the schools in Madera.

- iv. Parks. **Less than Significant Impacts.** The proposed project would not generate a significant impact to the park facilities in Madera.
- v. Other public facilities. **Less than significant Impacts.** The proposed project would not have any impacts on other public facilities.

XV. RECREATION

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: Commercial development is consistent with the City of Madera General Plan and Zoning Ordinance. Impacts in this category are not anticipated to exceed the impacts addressed in those documents.

- a. **No Impacts.** The project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.
- b. **No Impacts.** The project does not propose the construction of recreational facilities. The project will not have an adverse physical effect on the environment.

XVI. TRANSPORTATION/TRAFFIC.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a change in traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: The project site was included in the General Plan and its accompanying EIR and the potential traffic generated from the eventual development of this land is considered. The goals and policies of the General Plan serve to mitigate traffic impacts that occur as a result of new development.

- a. **Less than Significant Impacts.** The proposed project would not cause a significant increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system that would result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections.
- b. **No Impacts.** The project would not exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways.

- c. **No Impacts.** The proposed project would not result in a change in traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.
- d. **No Impacts.** The proposed project would not increase hazards to transportation systems due to design features such as sharp curves, dangerous intersections, or incompatible uses.
- e. **No Impacts.** The proposed project would not result in inadequate emergency access.
- f. **No Impacts.** The proposed project would not result in inadequate parking capacity.
- g. **No Impacts.** The project will not conflict with adopted policies, plans, or programs supporting alternative transportation.

XVII. TRIBAL CULTURAL RESOURCES

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in the Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place or object with cultural value to a California Native American tribe, and that is;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: The project site location is not listed or eligible for listing in the California Register of Historical Resources. It does not provide any significance of resource to a California Native American tribe. Cumulatively, the project proposal and site will not cause a substantial adverse change in the significance of a tribal cultural resource, as defined in the Public Resources Code Section 21074.

- a. **No Impacts.** The project will not cause a substantial adverse change in the significance of a tribal cultural resource. As defined in the Public Resources Code Section 21074, the project site is not a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place or object with cultural value to a California Native American tribe.

- i. **No Impacts.** The proposed project site is not listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources, as defined in Public Resources Code Section 5020.1(k).
- a) **No Impacts.** The proposed project is not a resource that is of significance to a California Native American tribe, as defined in Public Resources Code 5024.1(c).

XVIII. UTILITIES AND SERVICE SYSTEMS.

Would the project:

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion: The City's community sewage disposal system will continue to comply with Discharge Permit requirements. The project will not bring about the need for new wastewater treatment facilities. The project will not significantly increase the demand on water supplies, adequate domestic water and fire flows should be available to the property. There will not be a significant reduction in the amount of groundwater otherwise available for public water supplies as a result of this project. The project will not increase the need for additional storm water drainage facilities beyond the existing and master planned drainage basin facilities that are available to serve the project. The project area will be required to comply with the City's Master Plan, Ordinances, and standard practices. The project will not bring about a significant increase in the demand for solid waste disposal services and facilities.

- a) **No Impacts.** The project will not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.
- b) **No Impacts.** The proposed project would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.
- c) **No Impacts.** The proposed project would not require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.
- d) **No Impacts.** There will be sufficient water supplies available to serve the project.
- e) **No Impacts.** The project would not require a determination by a wastewater treatment provider.
- f) **No Impacts.** The project would be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs.
- g) **No Impacts.** Any development project that might be proposed on the project site would be required to comply with federal, state, and local statutes as well as regulations related to solid waste by the City of Madera.

XIX. MANDATORY FINDINGS OF SIGNIFICANCE.

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporation	Less than Significant Impact	No Impact
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Determination:

Based upon staff analysis and comments from experts, it has been determined that the proposed project could generate some limited adverse impacts in the areas of Aesthetics, Air Quality, Greenhouse Gas Emissions, Noise, Population, Transportation/Traffic and Housing and Public Services.

The potential impacts identified in this Initial Study are considered to be less than significant since they will cease upon completion of construction or do not exceed a threshold of significance. Therefore, a Negative Declaration is the appropriate level of documentation for this project.

RESOLUTION NO. 1833

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MADERA ADOPTION OF AN ORDINANCE REZONING APPROXIMATELY 39.33 ACRES OF PROPERTY (APN: 006-380-027 AND 006-380-028), APPROXIMATELY 2,000 FEET WEST OF THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH WESTBERRY BOULEVARD AND WEST CLEVELAND AVENUE, FROM THE PD-8000 (PLANNED DEVELOPMENT) ZONE DISTRICT TO THE PD-6000 (PLANNED DEVELOPMENT) ZONE DISTRICT.

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

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

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

WHEREAS, a proposal has been made to rezone approximately 39.33 acres of property (APN: 006-380-027 and 006-380-028), located approximately 2,000 feet west of the southwest corner of the intersection of North Westberry Boulevard and West Cleveland Avenue, resulting in a change from the PD-8000 (Planned Development) Zone District to the PD-6000 (Planned Development) Zone District, as shown in the attached Exhibit A; and

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

WHEREAS, the rezone is compatible with the neighborhood and is not expected to be detrimental to the health, safety, peace, comfort or general welfare of the neighborhood or the City; and

WHEREAS, the City of Madera, acting as the Lead Agency, prepared an initial study and negative declaration for the project in compliance with the California Environmental Quality Act; and

WHEREAS, the negative declaration and rezoning were distributed for public review and comment to various local agencies and groups, and public notice of this public hearing was given by mailed and published notice, in accordance with the applicable State and Municipal Codes and standard practices; and

WHEREAS, the Planning Commission has completed its review of the Staff Report and documents submitted for the proposed project, evaluated the information contained in the negative declaration, and considered testimony received as a part of the public hearing process.

WHEREAS, Based upon the testimony and information presented at the hearing, including the initial study and negative declaration and all evidence in the whole record pertaining to this matter, the Commission found that the negative declaration has been prepared pursuant to the California Environmental Quality Act, that there is no substantial evidence that the project will have a significant effect on the environment, and that the document reflects the independent judgment of the City of Madera, and the negative declaration adopted in accordance with the California Environmental Quality Act.

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

1. The above recitals are true and correct.
2. The Planning Commission hereby finds that proposed rezoning, as shown in Exhibit A, is consistent with the General Plan and is compatible with adjacent zoning and uses.
3. The Planning Commission hereby recommends the City Council adopt an ordinance rezoning property as indicated on the attached Exhibit A.
4. This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 13th day of November 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

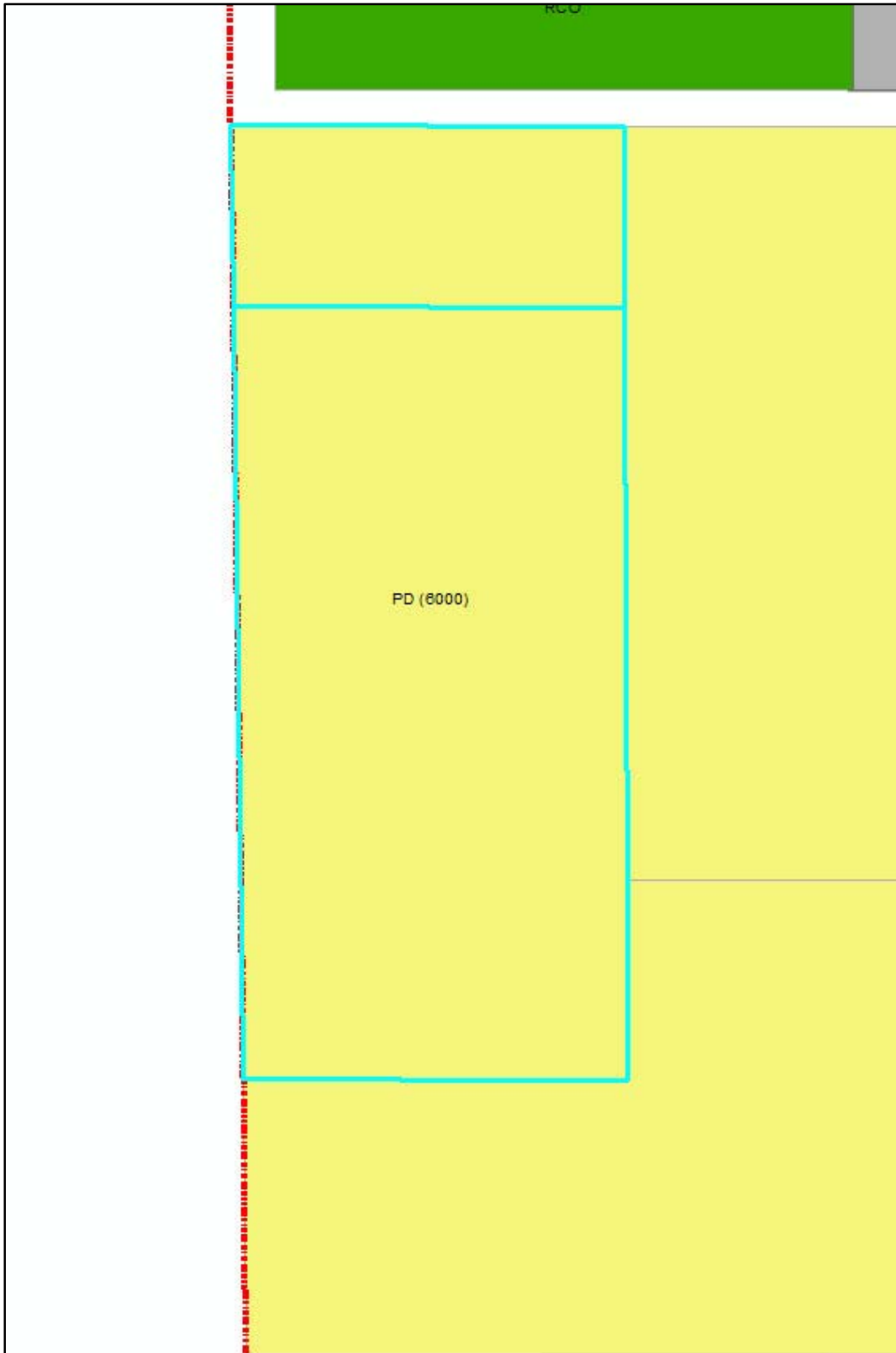
Robert Gran, Jr.
Planning Commission Chairperson

Attest:

Christopher F. Boyle
Planning Manager

PLANNING COMMISSION RESOLUTION NO. 1833

EXHIBIT 'A'



DRAFT ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP TO REZONE APPROXIMATELY 39.33 ACRES OF PROPERTY (APN: 006-380-027 AND 006-380-028), LOCATED APPROXIMATELY 2,000 FEET WEST OF THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH WESTBERRY BOULEVARD AND WEST CLEVELAND AVENUE, FROM THE PD-8000 (PLANNED DEVELOPMENT ZONE DISTRICT TO THE PD-6000 (PLANNED DEVELOPMENT) ZONE DISTRICT.

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

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

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

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

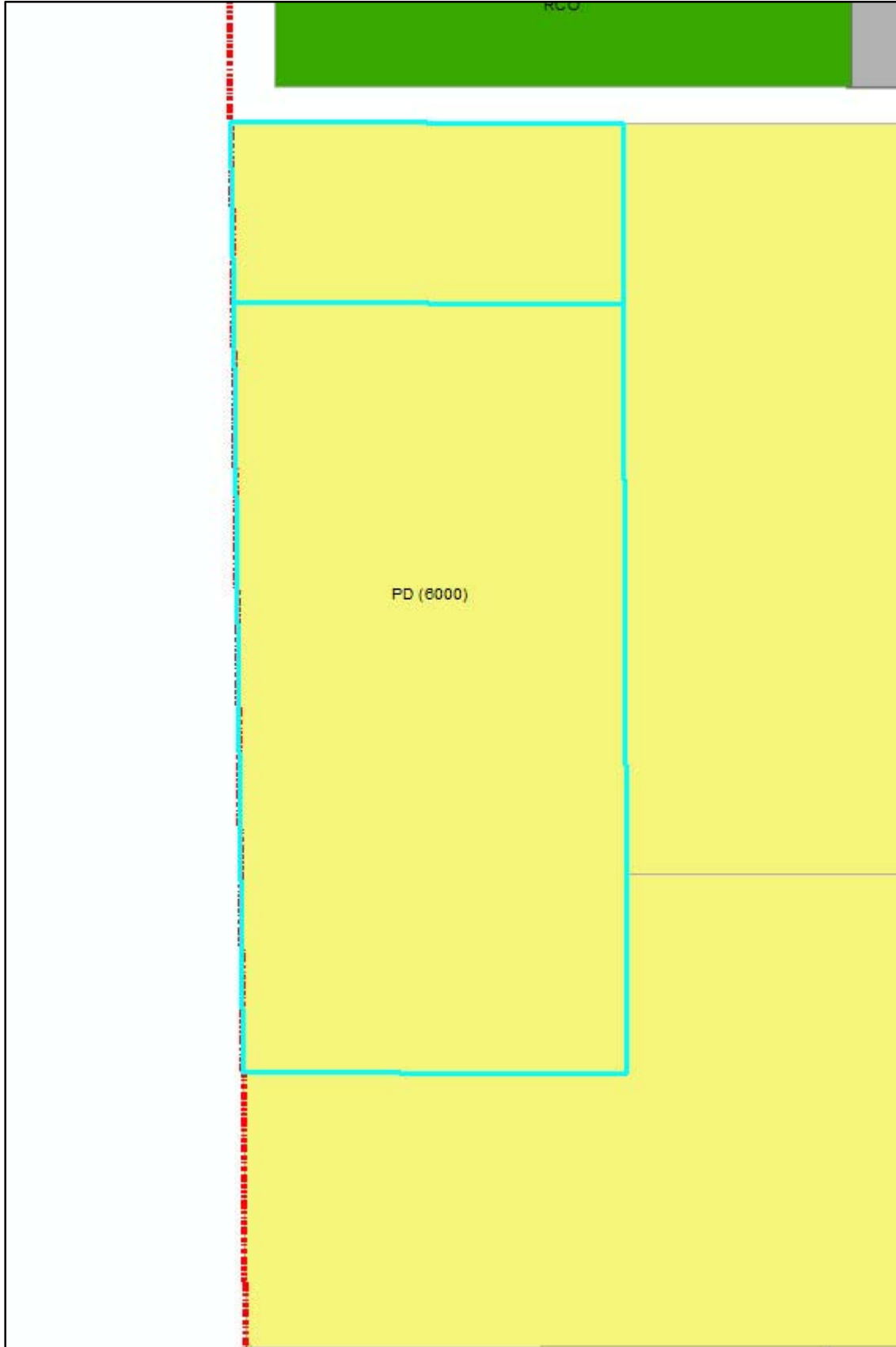
FINDINGS:

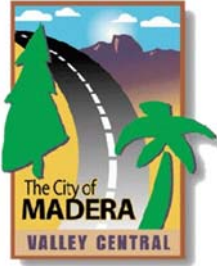
1. THE PROPOSED REZONE WILL PROVIDE THE REQUIRED CONSISTENCY BETWEEN THE GENERAL PLAN AMENDMENT AND ZONING.
2. THE REZONE IS NOT EXPECTED TO BE DETRIMENTAL TO THE HEALTH, SAFETY, PEACE, COMFORT OR GENERAL WELFARE OF THE NEIGHBORHOOD OR THE CITY.
3. CITY SERVICES AND UTILITIES ARE AVAILABLE OR CAN BE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

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

* * * * *

DRAFT ORDINANCE - EXHIBIT A





CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Aspire at Riverbend Precise Plan (Melanie Meadows)
PPL 2018-05 and Environmental Determination
Item #2 – November 13, 2018**

PROPOSAL: An application for a Precise Plan to allow for the development of single-family homes in the Melanie Meadows subdivision.

APPLICANT:	K. Hovnanian Homes/Debbie Stowers	OWNER:	K. Hovnanian at Melanie Meadows LLC
ADDRESS:	No given address	APN:	006-380-010
APPLICATIONS:	PPL 2018-05	CEQA:	Negative Declaration

LOCATION: The project area is located approximately 1,700 feet west of the intersection of Pamela Drive and North Westberry Boulevard.

STREET ACCESS: Access will be provided from future interior streets of the subdivision.

PARCEL SIZE: Approximately 13.13 acres

GENERAL PLAN DESIGNATION: LD (Low Density)

ZONING DISTRICT: PD-8000 (Planned Development)

SITE CHARACTERISTICS: The project site is generally surrounded by vacant residential land. Adjacent land to the east is zoned for low density residential, land to the north is a recently approved single-family subdivision (Rancho Santa Fe) and vacant residentially-zoned land, the Fresno River is to the south and land to the west is outside of the current City limits.

ENVIRONMENTAL REVIEW: A mitigated negative declaration was certified by the Planning Commission for the Melanie Meadows subdivision on September 14, 2004. The precise plan proposal is consistent with the development anticipated within the certified negative declaration.

SUMMARY: The precise plan will guide the overall development of the Melanie Meadows subdivision. The proposal includes five (5) different home models with three (3) different elevations for each model. The proposed home models provide garage subordinate designs and exterior architecture that vary with different styles and articulations resulting in a visual interest to the streetscape. Cumulatively, the garage subordinate designs and diverse architecture provide for conformance with the goals and policies of the General Plan.

APPLICABLE CODES AND PROCEDURES

MMC §10-3-4.101, Planned Development Zones

MMC §10-3-4.104, Precise Plan

California Public Resources Code §21000, California Environmental Quality Act "CEQA".

Precise plans are utilized within the PD (Planned Development) Zone District to establish the specific development and improvement standards for a proposed project. Precise plans address site features such as infrastructure and services, circulation and access, appearance, landscaping and open space.

The City's Zoning Ordinance allows for the granting of a precise plan by the Planning Commission subject to the Planning Commission being able to make findings that the establishment, maintenance or operation of the development 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 development, 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 precise plan to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

PRIOR ACTION

The project area subdivision and precise plan were originally approved in 2005. The subdivision includes a total of 172 lots across four (4) phases. The subdivision map and precise plan were extended in 2007. The precise plan has since expired, but the subdivision map is still active.

ANALYSIS

Precise Plan

Precise Plans are utilized within the PD (Planned Development) Zone District to establish the specific development and improvement standards for a proposed residential project. Precise plans address site features such as infrastructure and services, circulation and access, architecture, landscaping and open space.

The developer proposes five (5) different models with three (3) elevations for each model. The elevation styles include American Farmhouse, Italian Villa and Spanish Mission. The proposed models are as follows:

Model	Floor Area	Bed/Bath	Garage	% Buildable Lots
Plan 4080	1694 sq. ft.	3 bed / 2 bath	Dominant	93%
Plan 4090	1976 sq. ft.	4 bed / 2 bath	Neutral	93%
Plan 4094	2225 sq. ft.	4 bed / 2.5 bath	Neutral	100%
Plan 4075	2504 sq. ft.	4 bed / 2.5 bath	Neutral	100%
Plan 5035	2796 sq. ft.	4 bed / 2.5 bath	Neutral	96%

General Plan Conformance

Any project involving new construction requires findings of conformance with the General Plan. The following are the residential development standards of the General Plan:

- Garage Subordinate Design

General Plan policy CD-32 states, "Garages for new single-family houses, duplexes, and townhouses should be subordinate in visual importance to the house itself, especially the entry. This may be achieved in a number of ways, such as by locating garages toward the back of the

properties, constructing alleys, building garages as separate structures from the house, requiring garages to be set back from the front facade of the house and encouraging the orientation of garage doors at 90 degrees to the street.” Four of the five proposed models satisfy CD-32 with living space extending in front of the garage. One model doesn’t necessarily satisfy Policy CD-32, although it does provide an option for an extra suite that would extend living space in front of the garage. With the variety in models, options and elevations of the proposed models cumulatively comply with Policy CD-32 of the General Plan.

- Architecture

Policy CD-33 states, “The exterior of residential buildings shall be varied and articulated to provide visual interest to the streetscape.” The proposed models include two- and three-car garages, a mix of gable and hipped roofs with shingle roofing, decorative gables and shutters, board and batton accents and decorative stone veneer which cumulatively comply with Policy CD-33. The applicant also proposes front porches for all models, which complies with Policy CD-35. To comply with Policy CD-34, staff recommends all models on corner lots incorporate architectural treatments in keeping with the front elevation. Staff also recommends double-windows on the second story where bedroom(s) face the exterior side yard of corner lots.

Other Department and Agency Comments

The project was 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.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

The first of the four core vision statements in the Vision Plan which reflect the desires of the community. An Action Plan was developed with specific ideas to implement the vision statements. The first of the four vision statements, “A Well-Planned City,” states “Madera promotes affordable, quality housing that is accessible to all its residents.” Strategy 131 states “Create well-planned neighborhoods throughout Madera that promote connectivity and inclusiveness with a mix of densities and commercial components.” Approval of this project is specifically consistent with the aforementioned vision statement and Strategy 131.

RECOMMENDATION

The Precise Plan allows for the development of a residential neighborhood in conformance with the General Plan. The information presented in this report supports a recommendation of approval for the Precise Plan, subject to the recommended conditions of approval. It is recommended that the Commission consider this information, together with testimony provided at the public hearing, and approve Precise Plan 2018-05.

PLANNING COMMISSION ACTION

The Commission will be acting on Precise Plan 2018-05.

Motion 1: Move to approve Precise Plan 2018-05 to allow for the precise plan of the Melanie Meadows subdivision, based on and subject to the findings and conditions of approval:

Findings

- A negative declaration for the subdivision was certified by the Planning Commission on September 14, 2004. The proposed precise plan is consistent with development anticipated in the Negative Declaration.
- Precise Plan 2018-05 is consistent with the purpose and intent of the PD (Planned Development) Zone District and does not conflict with City standards or other provisions of the code.

- Precise Plan 2018-05 is consistent with the requirements for Precise Plans per Section 10-3-4.104.
- Precise Plan 2018-05 is consistent with the goals and policies of the General Plan.
- Precise Plan 2018-05 continues to implement the tentative map and conditions of approval for the Melanie Meadows Subdivision.
- The proposed precise plan is compatible with the neighborhood and is not expected to be detrimental to the health, safety, peace, comfort or general welfare of the neighborhood or the City.

CONDITIONS OF APPROVAL

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty days of the date of approval for Precise Plan 2018-05.
2. All conditions applicable to approval of Tentative Subdivision Map 2005-09 shall remain effective, except as modified herein.
3. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specifically noted in the conditions or mandated by statutes.
4. Any minor deviation from the approved plan or any condition contained herein shall require prior written request by the applicant and approval by the Planning Manager, at a minimum.
5. Any substantial future modifications to the subdivision lots involving, but not limited to, building exteriors, parking/loading areas, fence/walls, new buildings or landscaping shall require an amendment to the Precise Plan.
6. 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.
7. The project shall be developed in accordance with the site plan and elevation drawings, as reviewed and approved with the Precise Plan. Minor modifications to the Precise Plan necessary to meet regulatory or engineering constraints may be made with approval of the Planning Manager. All on- and off-site improvements shall be completed in advance of any request for building permit final inspection.

Engineering Department

8. The developer shall comply with all of the conditions of approval as presented in the Melanie Meadows Tentative Subdivision Map VIII-05-11, approved on August 9, 2005.
9. Any existing improvements that may have become substandard or deficient over time due to weathering, vandalism or updated standards shall be replaced per current City standards.

Fire Department

10. All dwellings shall be equipped with residential fire sprinklers, smoke alarms and carbon

monoxide detectors.

11. The subdivision shall provide a minimum of two means of fire access with compliant fire roads in accordance with the California Fire Code (CFC).
12. Fire hydrants shall be placed in accordance with the California Fire Code (CFC) and City of Madera regulations.
13. Illuminated addresses shall be provided at certificate of occupancy and temporary construction address shall be provided during construction.

Planning Department

Precise Plan

14. Five (5) models are approved as part of Precise Plan 2018-05. They shall be constructed upon the 172 lots encompassed within the Melanie Meadows subdivision. The models are as follows:

Plan	Sq. Ft.	Bedrooms	Bathrooms	Garage
4080	1,694	3	2	Dominant
4090	1,976	4	2	Neutral
4094	2,225	4	2.5	Neutral
4075	2,504	4	2.5	Neutral
5035	2,796	4	2.5	Neutral

15. Each proposed model shall be constructed consistent with the approved elevations. Each elevation of each model shall have at least three (3) different three-color paint schemes.
16. All standards for the location and design of buildings (including accessory structures) and fences which are not specifically included in the Precise Plan shall conform to R1 (Residential) zoning standards.
17. Except as noted above, all driveways and encroachments shall conform to City standards in regard to setbacks from adjacent property lines, and near intersections. All approaches shall conform to City standards.
18. The floor plans of all units shall be reversible and driveway approaches on corner lots shall be located on the interior side of the property.
19. The following criteria shall be applied to the location of homes on individual lots:
 - The appearance of a home is affected by at least three (3) primary features, including:
 - home model
 - alternative elevations for each plan
 - color
 - Homes built on side-by-side lots shall not repeat more than two of these primary home features. The model floor plans shall not be repeated on more than two consecutive lots.
20. The minimum setbacks for all lots shall be:
 - Front yard: Minimum 12 feet depth to living space
 - Interior side yard: Minimum 5 feet
 - Exterior side yard: Minimum 10 feet on corner lots

- Rear yard: Minimum 15 feet on reverse corner lots
Minimum 15 feet

21. The front setback shall vary from the minimum of 12 feet to living space to a maximum of 20 feet to living space, with at least a two (2') foot variation amongst any two adjacent lots, and a five (5') foot variation over any five consecutive lots, regardless of home model.
22. A ten (10%) percent minor variation for rear setbacks may be granted with approval by the Community Development Director when deemed necessary.
23. Any variation to the development standards of Precise Plan 2018-05 shall require an amendment to the precise plan.
24. Vandalism and graffiti on walls, fences and homes shall be corrected pursuant to the Madera Municipal Code.

Building Colors, Materials and Lighting Considerations

25. The applicant shall submit a color and materials presentation board as part of the Precise Plan. The color and materials presentation board shall be approved by the Planning Manager and shall be included in the Precise Plan.
26. The construction of buildings approved as part of the Precise Plan shall be consistent with the approved color and materials presentation board as reviewed and approved by the Planning Department. Any alteration shall require, at a minimum, approval by the Planning Manager.
27. For corner and reverse corner lots, where side and/or rear exterior elevations of residential buildings are visible from any street or public rights-of-way, they shall incorporate architectural treatments in keeping with the front (primary) elevation.
28. All exterior lighting shall be down-shielded and directed in such a way as to not interfere with the driving safety of vehicular traffic. Exposed bulbs shall not be permitted.
29. The specifications and types of exterior lighting fixtures to be installed in the subdivision area shall be submitted to and approved by the Planning Department prior to issuance of building permits.

Construction Trailer & Sales Center

30. The development of any temporary construction trailer and/or materials storage yard on any lot in the subdivision requires the approval of a Zoning Administrator Permit in advance of installation/placement.
31. The development of any model home sales center on any lot in the subdivision requires the approval of a Zoning Administrator Permit.

Fences and Walls

32. Along all side and rear yards, wood fencing shall be required for all single family homes. Any retaining walls greater than 18 inches in height shall be split block masonry. Residential fencing shall have a gate that will allow for easy access by an automated solid waste container provided by the City. The width of the gate shall be a minimum of 36 inches.

HVAC and PG&E Utility Placement Considerations/Screening Requirements

33. HVAC units shall be ground mounted. No roof mounted air conditioning and heating ventilation units shall be allowed. All ground-mounted HVAC equipment shall be located

in the interior side or rear yard behind six (6') foot tall fencing. There shall be no allowance for placement in the exterior side yard.

34. If fireplaces are installed, they must be either gas-burning or EPA certified wood-burning. Natural gas and electric outlets are recommended to be installed in the back yard for barbecues. Outside electric outlets are recommended in the front and rear yards of the units to facilitate the use of electric lawn mowers, edgers, etc. Electric or low nitrogen oxide (Nox) emitting gas-fired water heaters should be installed.

Landscaping and Open Space

35. A detailed landscaping and irrigation plan shall be prepared by a licensed landscape architect, stamped and submitted as part of the submittals for a building permit plan check. Each home model shall have its own landscape and irrigation plan. Landscape and irrigation plans shall be approved by the Planning Department prior to issuance of building permits. Landscape and irrigation plans shall be designed for front yards for the entire subdivision as a whole. Installation shall be completed in conjunction with occupancy of the individual homes. The plans shall:

- Demonstration of compliance with the State of California's Model Water Efficient Landscape Ordinance (MWELO).
- Landscaped areas shall be provided with permanent automatic irrigation systems.
- At least one City approved street tree planted in each front yard. Trees should be carefully selected and located to shade the buildings during the summer months. This measure should be implemented on southern and western exposures. Deciduous trees should be preferentially considered since they provide shade in the summer and allow the sun to reach the buildings during winter months.
- Ground cover not used as turf shall be a three (3") inch layer of mulch. Wood chips shall not be substituted for mulch.
- A detailed planting list for landscaping, with the number, size, spacing (where applicable) and specie of all plantings shall be included as part of the approved landscaping plan prepared by a licensed landscape architect.

36. The property owner(s) shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the City. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, mowing lawns consistent with residential standards, and replacing dead or unhealthy vegetation.

(OR)

Motion 2: Move to continue the public hearing on Precise Plan 2018-05 to the December 11, 2018 Planning Commission hearing, for the following reasons: (specify)

(OR)

Motion 3: Move to deny the application for Precise Plan 2018-05, based on the following findings: (specify)

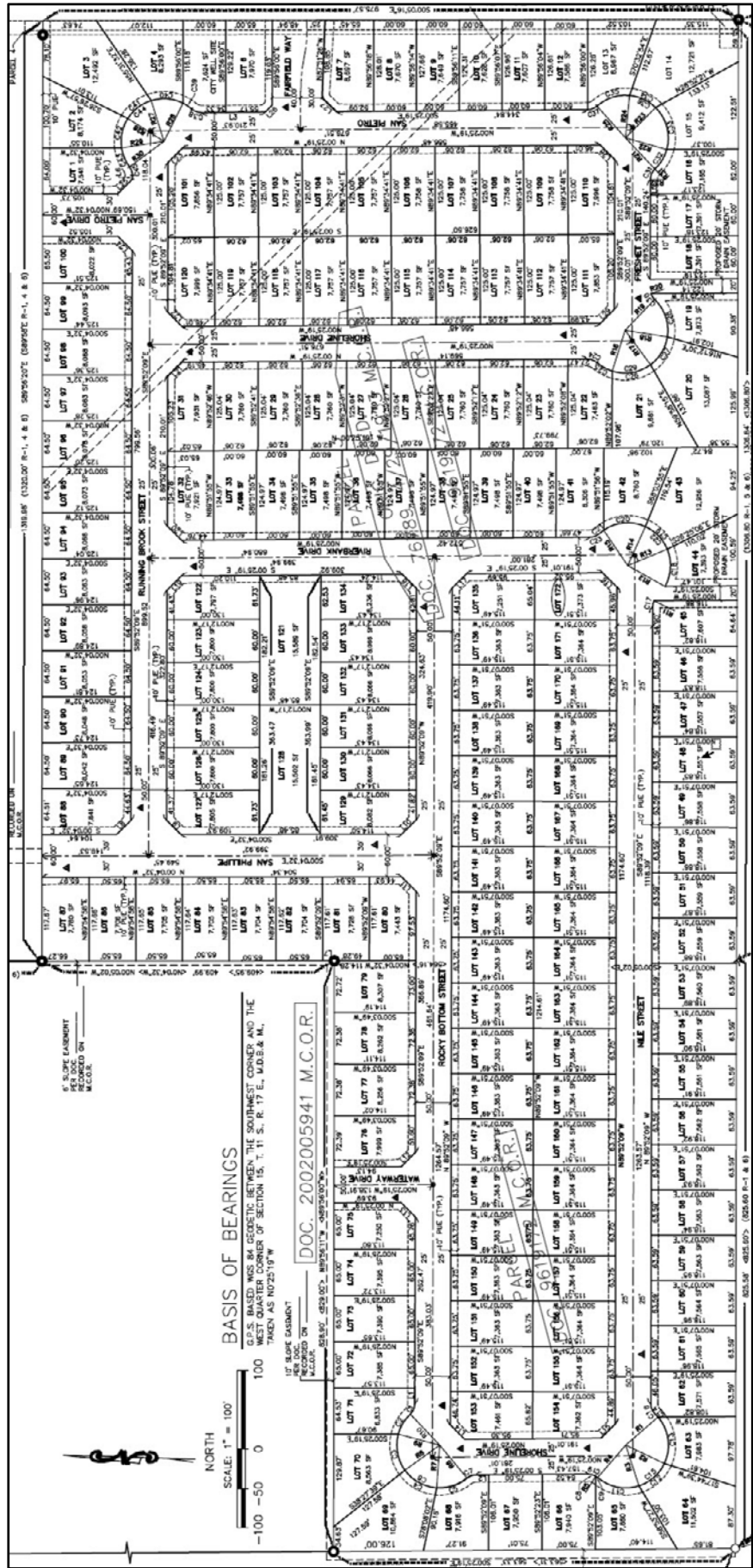
ATTACHMENTS

Aerial Map
Melanie Meadows Subdivision Map
San Joaquin Valley Air Pollution Control District (SJVAPCD) Letter
Madera Unified School District (MUSD) Letter
Precise Plan Exhibits

Aerial Photo



Melanie Meadows Subdivision Map



SJVAPCD Letter



September 25, 2018

Robert Holt
City of Madera
205 W. Fourth Street
Madera, CA 93637

Project: PPL 2018-05

District CEQA Reference No: 193-20180009

Dear Mr. Holt:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above consisting of single family with a total of 54 dwelling units (Project), located at 006-380-010 in Madera, CA. The District offers the following comments:

1. Significance Impact for Annual Criteria Pollutants Emissions - The Project specific annual emissions of criteria pollutants are not expected to exceed any of the following District significance thresholds: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SOx), 15 tons per year of particulate matter of 10 microns or less in size (PM10), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM2.5). Therefore, the District concludes that the Project would have a less than significant impact on air quality when compared to the above-listed annual criteria pollutant emissions significance thresholds.
2. District Rule 9510 (Indirect Source Review) - District Rule 9510 is intended to mitigate a project's impact on air quality through project design elements or by payment of applicable off-site fees. The Project may be subject to District Rule 9510 if it equals or exceeds 250 residential dwelling units and has or will receive a project-level approval from a public agency. For assistance with determining if the Project is subject to Rule 9510, please call the District at (559) 230-6000 or email ISR@valleyair.org.

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: 661-392-5500 FAX: 661-392-5585

www.valleyair.org www.healthyliving.com

SJVAPCD Letter (cont.)

District CEQA Reference No 193-20180009

Page 2 of 3

In the case the Project is subject to Rule 9510 an AIA application is required and the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval. Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>. The AIA application form can be found online at: <http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

3. Regulation VIII (Fugitive PM10 Prohibitions) - The Project will be subject to Regulation VIII. The project proponent is required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan, if applicable prior to commencing any earthmoving activities as described in District Rule 8021 - Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities. Information on how to comply with Regulation VIII can be found online at: http://www.valleyair.org/busind/comply/PM10/compliance_PM10.htm
4. Other District Rules and Regulations - The above list of rules is neither exhaustive nor exclusive. For example, the Project may be subject to the following District rules, including: Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). To identify other District rules or regulations that apply to this Project or to obtain information on the District's permit requirements, such as an Authority to Construct (ATC), the project proponent is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888 or e-mail SBA@valleyair.org. Current District rules can be found online at the District's website at: www.valleyair.org/rules/1ruleslist.htm.
5. Potential Air Quality Improvement Measures - The District encourages the following air quality improvement measures to further reduce Project related emissions from construction and operation. A complete list of potential air quality improvement measures can be found online at: <http://www.valleyair.org/ceqaconnected/aqimeasures.aspx>.
 - a. Cleaner Off-Road Construction Equipment - This measure is to utilize off-road construction fleets that can achieve fleet average emissions equal to or cleaner than the Tier III emission standards. This can be achieved through any combination of uncontrolled engines and engines complying with Tier III and above engine standards.
 - b. Improve Walkability Design - This measure is to improved design elements to enhance walkability and connectivity. Improved street network characteristics within a neighborhood include street accessibility, usually measured in terms of average block size, proportion of four-way intersections, or number of intersections per square mile. Design is also measured in terms of sidewalk coverage, building setbacks, street widths, pedestrian crossings, presence of street trees, and a host of other physical variables that differentiate pedestrian-oriented environments from auto-oriented environments.
 - c. Improve Destination Accessibility - This measure is to locate the project in an area with high accessibility to destinations. Destination accessibility is measured in terms of the number of jobs or other attractions reachable within a given travel time, which tends to be highest at central locations and lowest at

SJVAPCD Letter (cont.)

District CEQA Reference No 193-20180009

Page 3 of 3

given travel time, which tends to be highest at central locations and lowest at peripheral ones. The location of the project also increases the potential for pedestrians to walk and bike to these destinations and therefore reduces the VMT.

- d. Increase Transit Accessibility - This measure is to locate the project with high density near transit which will facilitate the use of transit by people traveling to or from the Project site. The use of transit results in a mode shift and therefore reduced VMT. A project with a residential/commercial center designed around a rail or bus station, is called a transit-oriented development (TOD). The project description should include, at a minimum, the following design features:
- A transit station/stop with high-quality, high-frequency bus service located within a 5-10 minute walk (or roughly ¼ mile from stop to edge of development), and/or
 - A rail station located within a 20 minute walk (or roughly ½ mile from station to edge of development)
 - Fast, frequent, and reliable transit service connecting to a high percentage of regional destinations
 - Neighborhood designed for walking and cycling

The District recommends that a copy of the District's comment letter be provided to the project proponent.

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call the District's Technical Services staff at (559) 230-6000 or e-mail ceqa@valleyair.org. When calling or emailing the District, please reference District CEQA number 193-20180009 .

Sincerely,

Arnaud Marjollet
Director of Permit Services



Brian Clements
Program Manager

MUSD Letter

MADERA UNIFIED SCHOOL DISTRICT
1902 Howard Road, Madera, California 93637

(559)675-4500
FAX: (559) 675-1186
www.madera.k12.ca.us



Board of Trustees:
Ed McIntyre, President
Ray Seibert, Clerk
Trustees:
Ricardo Arredondo; Brent Fernandes,
Philip Huerta; Ruben Mendoza
Superintendent:
Todd Lile

September 26, 2018

Robert Holt
Assistant Planner
City of Madera
205 W 4th St.
Madera, CA 93637

SUBJECT: PPL 2018-05 – Aspire at Riverbend (Melanie Meadows)

Dear Mr. Holt:

The purpose of this letter is to provide school district information relative to the above-referenced applications and to comply with Business and Professions Code section 11010, subdivision (b)(11)(A) regarding the provision of school-related information to the subdivider/owner and the State Department of Real Estate.

Residential development resulting from the project will affect the District by generating students that will need to be housed in District schools. Using the approximate dwelling units and the District's student generation rates, we have estimated the number of students potentially generated by the proposed plan. Assuming the project is a 54 lots of a 172-lot single-family subdivision, located approximately 2,100 feet south of West Cleveland Avenue and 3,200 feet west of North Westberry Boulevard:

1. The number of students generated by the project is estimated as follows:

Grade Group	Rate	Units	Students
TK-6	0.353	54	19.06
7-8	0.092	54	4.97
9-12	0.169	54	9.13
	0.614		33.16

2. Elementary School Information:

- a. The subject land is presently within the attendance area of the elementary school (grades TK-6) listed below:

School Name: Lincoln Elementary School
Address: 650 Liberty Lane, Madera, CA 93637
Telephone: (559) 675-4600
Capacity: 850
Enrollment: 823
School Schedule: Traditional

- b. It is possible that (1) adjustment of school attendance areas could occur in the future such that students residing in the project area may be required to attend an elementary school other than the above school, and (2) students residing in the project area may attend more than one elementary school within the District during their TK-6 school years.

MUSD Letter (cont.)

MADERA UNIFIED SCHOOL DISTRICT
1902 Howard Road, Madera, California 93637

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Board of Trustees:

Ed McIntyre, President
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Trustees:

Ricardo Arredondo; Brent Fernandes,
Philip Huerta; Ruben Mendoza

Superintendent:

Todd Lile

3. Intermediate School Information:

- a. The project area is currently served by the following middle school (grades 7-8):

School Name: Thomas Jefferson Middle School
Address: 1407 Sunset Ave., Madera, CA 93637
Telephone: (559) 673-9286
Capacity: 1,000
Enrollment: 998
School Schedule: Traditional

- b. It is possible that (1) adjustment of school attendance areas could occur in the future such that students residing in the project area may be required to attend a middle school other than the above school, and (2) students residing in the project area may attend more than one middle school within the District during their 7-8 school years.

4. High School Information:

- a. The project area is currently served by the following high school (grades 9-12):

School Name: Madera High School
Address: 200 S L Street, Madera, CA 93637
Telephone: (559) 675-4444
Capacity: 2,200
Enrollment: 2,061
School Schedule: Traditional

- b. It is possible that (1) adjustment of school attendance areas could occur in the future such that students residing in the project area may be required to attend more than one high school within the District during their 9-12 school years.

5. The Madera Unified School District currently levies a fee of \$4.10 per square foot for residential development. Any new development on the subject property will be subject to the development fee in place at the time fee certificates are obtained.

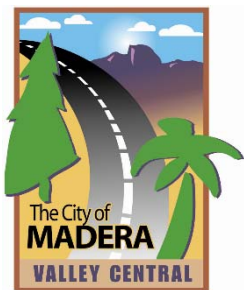
The District hereby requests that the information in this letter be provided by the owner/subdivider to all prospective purchasers of property within the project.

Thank you for the opportunity to comment on the project. Please contact my office if you have any questions regarding this letter.

Sincerely,

A handwritten signature in blue ink that reads "Rosalind Cox".

Rosalind Cox
Director of Facilities Planning and
Construction Management



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Maranatha Building Addition
CUP 2015-33 MOD, SPR 2015-38 MOD & Categorical Exemption
Item #3 – November 13, 2018**

PROPOSAL: An application to amend Conditional Use Permit 2015-33 and Site Plan Review 2015-38 to allow for an approximately 600 square foot addition to an existing restaurant and an alteration to the approved outdoor dining area.

APPLICANT:	Bulmaro Barrera	OWNER:	Bulmaro Barrera
ADDRESS:	624 South Gateway Drive	APN:	011-072-012
APPLICATION:	CUP 2015-33 MOD & SPR 2015-38 MOD	CEQA:	Categorical Exemption

LOCATION: The property is located on the northwest corner of the intersection of South Gateway Drive and West 11th Street.

STREET ACCESS: The site has access to South Gateway Drive and West 11th Street.

PARCEL SIZE: Approximately 0.34 acres

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: I (Industrial)

SITE CHARACTERISTICS: The project site is a commercial site that has served as a restaurant for an extended time. Commercial and industrial development are in both directions along the Gateway Drive business corridor. Residential homes are located on the other side of the alley behind the restaurant and two homes (on commercially-zoned land) are located directly north of the site.

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

SUMMARY: The Maranatha restaurant relocated to their current location approximately four (4) years ago. The owners received approval of a conditional use permit and site plan review to allow for outdoor dining and a redesign of their site in February of 2016. The owners are now proposing an amendment to allow for an addition to the front of their building and an alteration to their previously approved outdoor dining area. As proposed, the building addition and outdoor dining area alteration do not change the parking requirements for the restaurant. The architecture of the proposed building addition is consistent with the high-quality standards of the General Plan.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.1002 Industrial Zones – Uses Permitted

MMC § 10-3.4.0101 Site Plan Review

MMC § 10-3.1202 Parking Regulations

MMC § 10-3.1301 Use Permits

MMC § 10-3.416 Outdoor Retail Sales

The City's Zoning Ordinance allows for the granting of a use permit by the Planning Commission subject to the Planning Commission being able to make findings that the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

PRIOR ACTION

The earliest information available on the subject property is a 1984 photograph where the property operated as Tommie's Drive-In. No record of the initial development of the site is on file. Prior to the Maranatha restaurant occupying the property, the site had been vacant and for sale for an extended period. The outdoor dining area had been illegally enclosed, and the site had unresolved Code Enforcement violations.

The owners of Maranatha restaurant came to the City in July of 2014. Their then-current location was being converted into a Jack in the Box and they were facing eviction without having found a new location. In good faith, the Maranatha owners quickly completed a minor site plan review to understand the nature of the prevalent issues at the 624 South Gateway Drive property. Because the site plan was completed without the benefit of revised exhibits sufficient to address those issues, the requirement of a future site plan was used to allow the restaurant to establish itself while devising a revised site plan that would ultimately reconcile the existing condition of the property.

In the February 9, 2016 Planning Commission hearing, a conditional use permit and site plan review were approved to allow for outdoor dining at the existing Maranatha restaurant. As a component of the use permit, a site plan review was also approved that allowed for a redesign of the property, to include the desired outdoor dining and associated on and off-site improvements.

ANALYSIS

Amendment

The owners of the Maranatha restaurant are proposing to construct an approximately 600 square foot addition at the front of the restaurant requiring an amendment to Site Plan Review 2015-38. The proposal also includes a decrease of the overall area of the originally approved outdoor space from 1,104 square feet to 303 square feet, requiring an amendment to Conditional Use Permit 2015-33.

Parking

The number of seats inside the restaurant will decrease from the original approval of 48 interior seats to 43 interior seats. The number of outdoor dining seats will increase from the original

approval of 12 seats to 16 seats. The original approval included only booths, which allows for more customers per table, but less flexibility for larger groups and number of tables. The proposed amendment will provide for nearly double the number of tables and allow for larger groups to combine tables, which the previous approval could not provide.

Overall, the parking requirements for the restaurant do not change with this amendment with a minimum requirement of 20 parking stalls. The parking lot does not have any proposed changes from the originally approved site plan and the proposed 21 parking stalls provide an adequate number of stalls to serve the restaurant. It should be noted that an additional two (2) parking stalls are dedicated for taco trucks. Staff recommends that the seating capacity for the restaurant (inside and outside) not exceed 63 seats.

Architecture

The front addition of the building proposes to mimic the existing frontage, except with the addition of a stucco exterior to provide higher quality architecture, consistent with the goals and policies of the General Plan. As proposed, the entire building will implement a stucco exterior.

Site Improvements

The site needs on-site improvements to comply with current City standards. The improvements include a rehabilitation of existing landscaping, the construction of a trash enclosure and corrections to their ADA parking. These improvements are included within the recommended conditions of approval.

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

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of building additions and outdoor eating spaces is not specifically addressed in the vision or action plans, the overall project does indirectly support **Action 115.2** – *As a component of the General Plan Update, increase retail outlets and promote Shop Madera ...*”

RECOMMENDATION

The information presented in this report supports conditional approval of the conditional use permit amendment and site plan review amendment request. It is recommended that the Planning Commission consider the information in this report, as well as testimony in the public hearing, and approve Conditional Use Permit 2015-33 MOD and Site Plan Review 2015-38 MOD, subject to the findings and conditions of approval outlined in this report.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permit 2015-33 MOD and Site Plan Review 2015-38 MOD, determine to either:

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

Any action by the Commission approving or denying the applications is subject to appeal to the City Council within 15 calendar days of the Commission’s action.

Motion 1: Move to approve the requested Conditional Use Permit 2015-33 MOD and Site Plan Review 2015-38 MOD, based on and subject to the findings and conditions of approval as listed below.

Findings

- This project is categorically exempt under Section 15301(e) (Existing Facilities) of the California Environmental Quality Act (CEQA) guidelines.
- The construction of a building addition and alteration to a previously approved outdoor space is consistent with the purposes of the C (Commercial) General Plan land use designation and the I (Industrial) Zone District, which provides for the use subject to the issuance of a conditional use permit.
- There is adequate parking to serve the restaurant business.
- As conditioned, the development will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or, be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

CONDITIONS OF APPROVAL

General Conditions

1. All conditions applicable to approval of Conditional Use Permit 2015-33 and Site Plan Review 2015-38 shall be replaced by the herein listed conditions of approval of Conditional Use Permit 2015-33 MOD and Site Plan Review 2015-38 MOD.
2. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty days of the date of approval for this use permit.
3. All on-site and off-site improvements shall be completed prior to issuance of a final building permit for the outdoor dining area and building addition.
4. The applicant's failure to utilize Conditional Use Permit 2015-33 MOD within one year following the date of this approval shall render the conditional use permit null and void unless a written request for extension has been submitted to and approved by the Planning Commission.
5. Conditional Use Permit 2015-33 MOD may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
6. Site Plan Review 2015-38 MOD will expire one year from date of issuance unless positive action is taken on the project as provided in the Municipal Code or a request to extend the approval is received before the expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).

7. Conditional Use Permit 2015-33 MOD and Site Plan Review 2015-38 MOD shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to revoke the permit or modify the conditions of approval.
8. It shall be the responsibility of the property owner and management to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to the establishment of the use.

Building Department

9. 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 permit stage and shall be confirmed at final inspection. The requirements shall also apply to proposed future development.
10. Plans submitted for Building Permit and Plan Check shall address all ADA requirements to be approved by the City Building Official.

Engineering Department

General

11. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
12. Impact fees shall be paid at time of building permit issuance.
13. The developer shall pay all required fees for completion of the project. Fees due may include, but shall not be limited to, the following: plan review, encroachment permit processing and improvement inspection fees.
14. Improvement plans signed and sealed by an engineer shall be submitted to the Engineering Department in accordance with the submittal process.
15. Improvements within the City right-of-way shall require an Encroachment Permit from the Engineering Department.

Sewer

16. The sewer service connection shall be constructed or upgraded to current City standards.

Streets

17. The existing driveway approaches on South Gateway Drive shall be removed and replaced with a single street type opening driveway approach and curb and gutter where required. The driveway approach shall be constructed per City standards with handicap access ramps with a minimum face of curb radius of 15 feet. The driveway approach shall be located as far away as possible from the intersection of South Gateway Drive and West 11th Street at a minimum of 150 feet from the northern curb line.
18. Concrete sidewalk shall be constructed along the entire project parcel frontage on South Gateway Drive and West 11th Street per current City standards.
19. Private improvements within existing right-of-way shall be relocated onto private property.

20. Substandard and damaged sidewalk, curb and gutter shall be removed and replaced per City standards. The limitation of repairs shall be established by the City Engineering Inspector.

Water

21. Any new water service connection shall be constructed to current City standards including an Automatic Meter Reading (AMR) water meter installed within City right-of-way and a backflow prevention device installed within private property.
22. A separate water meter and backflow prevention device shall be required for landscape consumption.

Fire Department

23. The increase in the size of the building may affect the placement of the secondary egress. The two required exits shall be at least one-half ($\frac{1}{2}$) the diagonal length of the building apart.
24. The required sizing for HVAC will likely increase as it is affected by both occupant load for fresh air as well as overall size for heating and cooling. If the unit is increased to the point it exceeds 2,000 CFM, then a smoke detector-activated shut-off shall be required.
25. All furnishings and wall coverings shall comply with the California Building Code (CBC) Chapter 8 and the California Code of Regulations (CCR) Title 19 requirements for flame spread and smoke generation.
26. Existing fire protection systems and features shall remain unchanged.

Planning Department

General

27. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
28. The applicant shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
29. The applicant shall comply with all federal, state and local laws. Material violations of any of those laws concerning the use will be cause for revocation of this permit.
30. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster and refuse containers owned by the property owner.

Operations

31. Two mobile food trucks may be stored on-site. The trucks shall utilize the two additional parking stalls located in the northwest corner of the site. The parking stalls provided for the storage of the food trucks shall be signed/designated for the parking of the food trucks only.
32. There shall be no allowance for the outdoor display and/or storage of goods, merchandise and/or materials.

Use Permit Modification

33. Conditional Use Permit 2015-33 MOD allows for an approximately 600 square foot addition to the front of the restaurant building and an alteration to the outdoor dining area

that was originally approved with Conditional Use Permit 2015-33, consistent with the approved site plan, floor plan and elevations.

34. Construction activities approved as part of Site Plan Review 2018-38 MOD shall be consistent with the approved site plan, floor plan and elevations as reviewed and approved by the Planning Commission. Any alteration shall require Planning Commission approval.

Fences and Walls

35. A new masonry trash enclosure shall be constructed with a stucco exterior consistent with City standards. The color of the trash enclosure shall be painted to match the existing structure. The trash enclosure shall be located per the approved site plan.
36. A fence no taller than six (6') feet in height shall be constructed of wood or better-quality material along the western property line (alley). There shall be no allowance for a chain link fence on the property.

Landscaping

37. On-site and off-site landscape and irrigation shall be installed consistent with the landscape and irrigation plans approved on December 19, 2017.
38. The property owner shall maintain all landscaping in a healthy and well-manicured appearance. This includes, but shall not be limited to, the following: ensuring irrigation equipment is properly operating at all times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation with drought-tolerant plantings.

Lighting Considerations

39. The specifications and types of exterior lighting fixtures installed on the site shall be submitted to and approved by the Planning Department prior to issuance of building permits. All exterior lighting shall be directed away from adjoining properties and not interfere with the driving safety of vehicular traffic. Exposed bulbs shall not be permitted.

Parking

40. The seating capacity of the restaurant (inside and outside) shall not exceed 63 seats.
41. All parking and loading areas shall be marked and striped to City standards: Perpendicular (90 degree) parking spaces shall measure a minimum of nine feet (9') feet wide by 19 feet deep (17 feet deep with a 2-foot overhang). No compact stalls shall be incorporated into the parking field. Minimum drive aisle width shall be 26 feet for primary drive aisles.
42. On-site parking shall be provided at all times in conformance with the Municipal Code. All required parking shall be permanently maintained with all parking spaces to be shown on plans submitted for building permits. Any modifications in the approved parking layout shall require approval by the Planning Commission.

Signage

43. The maximum amount of allowable on-building signage shall be 65 square feet.
44. All signage shall comply with the Madera Sign Ordinance. All signage shall have an approved sign permit issued by the Planning Department per Madera Municipal Code Chapter 10-6.

(OR)

Motion 2: Move to continue the application for Conditional Use Permit 2015-33 MOD and Site Plan Review 2015-38 MOD to the December 11, 2018, Planning Commission meeting.

(OR)

Motion 3: Move to deny the request for Conditional Use Permit 2015-33 MOD and Site Plan Review 2015-38 MOD based on the following findings: (specify)

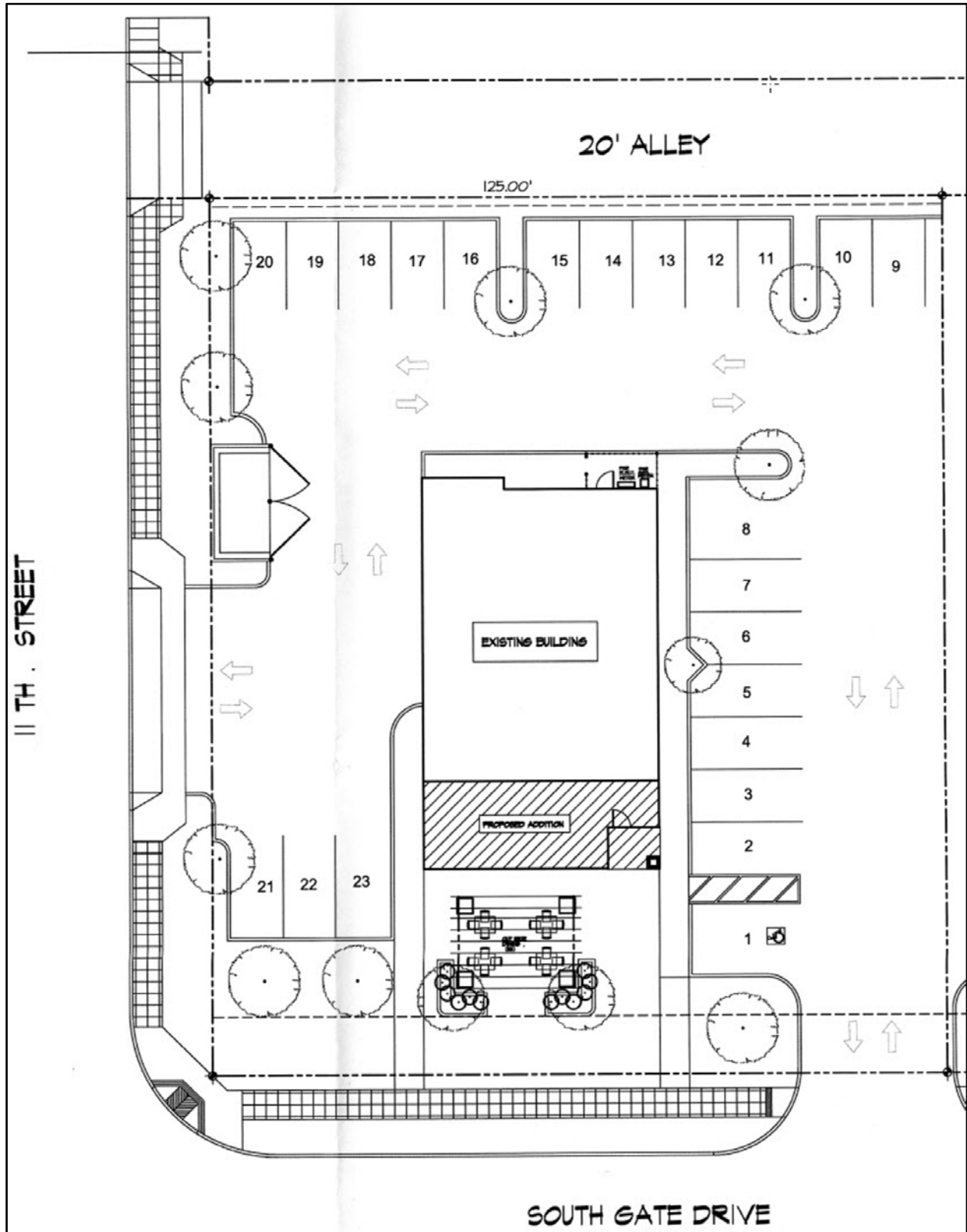
ATTACHMENTS

Aerial Photo
Site Plan
Floor Plan
Elevations

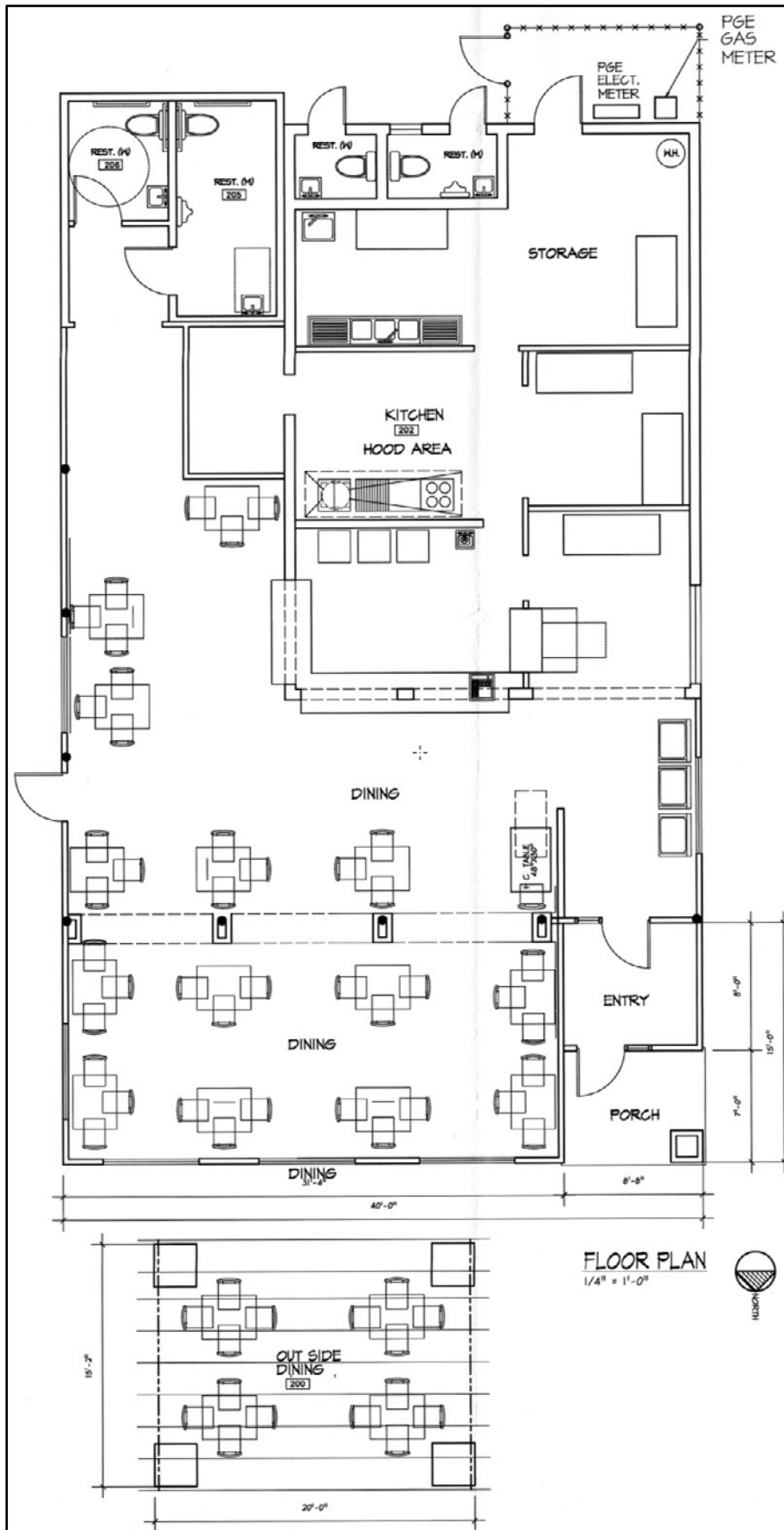
Aerial Photo



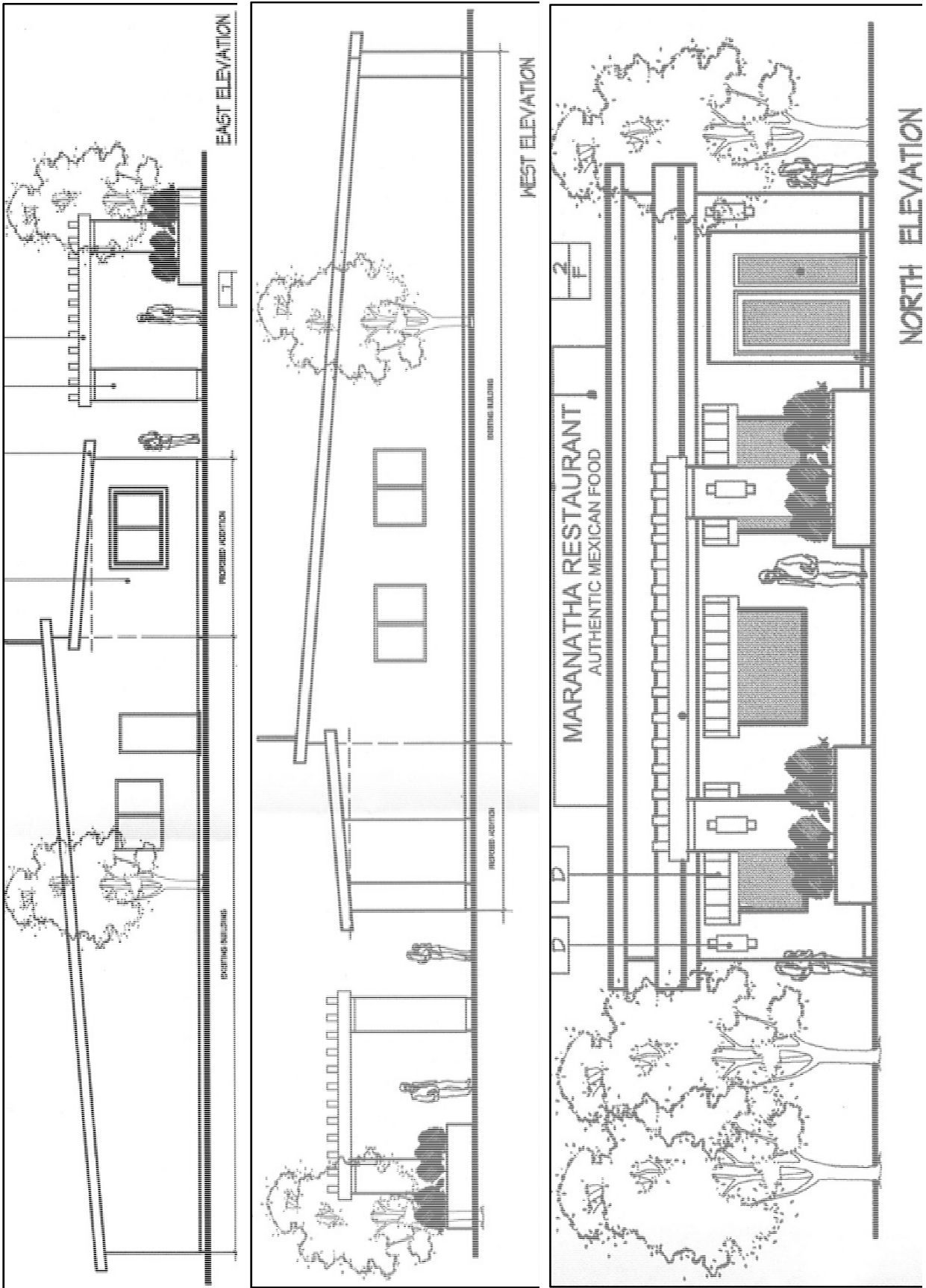
Site Plan

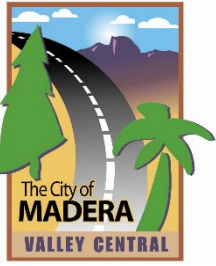


Floor Plan



Elevations





CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Xtreme Dance Fitness
CUP 2018-21 & Environmental Determination
Item #4 - November 13, 2018**

PROPOSAL: An application for a conditional use permit to allow for the establishment of a group exercise studio within the Howard Park Plaza.

APPLICANT:	Antonia Amezcua	OWNER:	Ron Gonzales
ADDRESS:	1516 Howard Road	APN:	009-170-011
APPLICATION:	CUP 2018-21	CEQA:	Categorical Exemption

LOCATION: The property is located on the southwest corner of Howard Road and Rotan Avenue.

STREET ACCESS: The site has access to Howard Road and Rotan Avenue.

PARCEL SIZE: 7.49 acres

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C1 (Light Commercial)

SITE CHARACTERISTICS: The site is a fully developed light commercial property with an existing McDonalds restaurant, a Save Mart Supermarket and Ramos Furniture store, alongside fifteen in-line tenant suites. The site is surrounding by mixed commercial and professional office uses to the north, east and west and vacant property the south.

ENVIRONMENTAL REVIEW: This project is categorically exempt under §15301 (Existing Facilities) of CEQA Guidelines.

SUMMARY: Xtreme Dance Fitness proposes to establish a group exercise use in an approximately 1,922 square foot suite formerly occupied by a cigarettes and tobacco store. The business operator will offer Zumba, Pilates, yoga and group aerobic exercises. Establishment of the use will require minimal improvements to the site. The hours of operations and the use's parking requirements will have no impact on surrounding uses. The proposed group exercise use is consistent with the Zoning Ordinance and the General Plan.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.802 Light Commercial Zones
MMC § 10-3.1202, Parking Regulations
MMC § 10-3.1301, et seq., Use Permit Procedures

The City's Zoning Ordinance allows for the granting of a use permit by the Planning Commission subject to the Planning Commission being able to make findings that the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

PRIOR ACTION

The Howard Park Plaza has been associated with a number of various entitlements, including site plan reviews, conditional use permits and a parking variance. The suite proposed for group exercises was formerly occupied by Cole's Book & Bagels and Madera Cigarettes. The only entitlement on file for the project suite is CUP1996-29 which allowed for the bagel shop's outdoor seating.

ANALYSIS

Operations

The operator is proposing to occupy a vacant 1,922 square foot suite for a group exercise business. Fitness classes entail hour-long group sessions ranging from 15 and up to 25 patrons per session. Contingent on the demand for sessions, there is a proposal to hold up to five sessions per day. Fitness sessions will vary from yoga and Pilates to Zumba dancing. Other fitness segments will include aerobic exercise which incorporate steppers, free weights, exercise balls, bands and mats. The operator is proposing to use portable speakers for music during sessions at a level that will not disturb neighboring tenants. Hours of operations are proposed to occur as early as 7:00 AM and as late as 9:00 PM. No tenant improvements are proposed as a component of establishing the fitness use. There will no allowance for outdoor activities as a component of establishing the use.

Parking

The site was developed with approximately 400 parking stalls, though the number has fluctuated as a component of past site plan reviews. Currently there are approximately 395 parking stalls that are distributed throughout the plaza's primary parking field and in the rear of the shopping plaza.

The site has struggled with meeting parking stall requirements in the past. At one point, the site accommodated uses which cumulatively required more parking stalls per the Zoning Ordinance than what was available on the site. In efforts to remedy the shortage of parking stalls, the McDonalds restaurant secured a parking variance as a component of their remodel in 2011. Since the approval of the parking variance, several uses which significantly impacted the parking requirements have vacated.

The parking ordinance requires that the fitness use provide one parking stall for every 200 square feet of gross floor area, or at a rate of one stall per three (3) students, and one stall for every two (2) employees, whichever is greater. The use will require ten (10) parking stalls when applying either criteria to the suite's use. With the current uses and the proposed fitness use, the site has sufficient parking stalls. The table below indicates the parking requirements per individual use.

Business Name	Parking Ratio	Square Footage	Parking Stall Regs.
Save Mart	1 stall per 250 sq. ft.	Approx. 46,000	184 stalls required
Eye Candy Boutique	1 stall per 300 sq. ft.	Approx. 3,219	11 stalls required
H & R Block	1 stall per 300 sq. ft.	Approx. 900	3 stalls required
Vacant	1 stall per 300 sq. ft.	Approx. 1,800	6 stalls required
Xtreme Dance Fit.	1 stall per 3 students 1 per 2 instructors	Approx. 1,922	10 stalls required
Serenity	1 stall per 300 sq. ft.	Approx. 900	3 stalls required
Dojo/Karate	1 stall per 3 students 1 per 2 instructors	Approx. 2,700	17 stalls required
Salon One	1 stall per 300 sq. f.t	Approx. 1,200	4 stalls required
Frozen Yogurt	1 stall per 250 sq. ft.	Approx. 1,200	5 stalls required
Vacant	1 stall per 300 sq. f.t	Approx. 3,800	13 stalls required
Ramos Furniture	1 stall per 300 sq. ft.	Approx. 23,160	58 stalls required
Shoe Shack	1 stall per 300 sq. ft.	Approx. 3,219	11 stalls required
Chinese Restaurant	1 stall per 3 seats	Approx. 1,600	8 stalls required
Deli Delicious	1 stall per 250 sq. ft.	Approx. 2,424	10 stalls required
Laundromat	per CUP 2008-20	Approx. 1,776	13 stalls required
Premier Pizza	1 stall per 3 seats	Approx. 1,800	12 stalls required
Pittsburgh Paints	1 stall per 300 sq. ft.	Approx. 1,800	6 stalls required
McDonalds	1 stall per 3 seats	Approx. 3,507	25 stalls required
		Total Required: 392 stalls	
		Available: 395 stalls	

Athletic / group fitness uses are known to utilize parking counts beyond what is required by the Zoning Ordinance, which requires only ten (10) parking stalls for the proposed use. With a proposal to allow up to 25 patrons per session it is improbable that the required ten (10) parking stalls will satisfy parking demands for individual group sessions. A more probable outcome would be that the number of patrons attending a session will utilize more than ten (10) parking stalls. Noting that the shopping center has struggled to accommodate parking requirements for its uses, it is recommended that fitness patrons park in the rear parking area of the shopping center during peak hours. Utilization of all available parking areas by the group exercise use will facilitate accessibility of primary parking areas by current and future uses. This arrangement has been reviewed with the shopping center owner and the applicant for the group exercise studio and both have agreed.

Site Improvements

This proposed conditional use permit was 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. The recommended improvements will facilitate compliance with all applicable codes necessary to establish the group exercise use.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

The proposed business will offer residents a place to exercise. Madera 2025 **Goal HS-2** encourages “A healthy and fit population with access to healthcare, healthful food, and places to be active and exercise.”

RECOMMENDATION

The information presented in this report supports conditional approval of the use permit and site plan review request.

PLANNING COMMISSION ACTION

The Planning Commission will be acting on the Use Permit to allow for the establishment of a group exercise use, determining to either:

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

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission’s action.

Motion 1: Move to approve Conditional Use Permit 2018-21, based on and subject to the findings and conditions of approval:

Findings

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) since there will be no expansion of the existing structure.
- The establishment of a group exercise use is consistent with the purposes of the C (Commercial) General Plan designation and the C1 (Light Commercial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- As conditioned, there is adequate parking and site features to allow for the proposed use.
- As conditioned, the development will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

CONDITIONS OF APPROVAL

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty (30) days of the date of approval for this use permit.
2. The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
3. The applicant's failure to utilize this use permit within one year following the date of this approval shall render the conditional use permit null and void unless a written request for extension has been submitted to and approved by the Planning Commission.
4. Conditional Use Permit 2018-21 will expire and be rendered null and void if the use is discontinued for a twelve-month period unless a written request for extension has been submitted to and approved by the Planning Commission.
5. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.
6. Any proposed future modifications to the site, including but not limited to building exteriors, parking/loading areas, fence/walls, new buildings or landscaping shall require an approval for a site plan review.
7. It shall be the responsibility of the property owner and/or operator to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to establishment of the use.

Building Department

8. 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 permit stage, shall be confirmed at final inspection and shall apply to proposed and future development.
9. Additional items identified as not complying with current codes and ordinances which require correction or attention may be identified. Any item not in conformance with current codes and ordinances must be corrected.

Fire Department

10. 2A10BC-rated portable fire extinguishers are required within 75 feet of all areas.
11. A second exit may be required. A floor plan showing the proposed use and associated occupant load is needed for a proper analysis. If the occupancy load is 50 or more, then panic hardware is required. A final determination shall be made prior to the issuance of

business license. Necessary improvements or installations shall be made prior to final occupancy.

12. Any changes to the building shall require a building permit which may also require alternations of the existing fire sprinklers.

Planning Department

13. This use permit allows for the establishment of a group exercise fitness studio within an approximately 1,922 square foot tenant suite at 1516 Howard Road to include the use of steppers, free weights, exercise balls, bands and mats.
14. The maximum number of group exercise participants is 25, plus two employees, or as determined by the Fire Marshall, whichever is less. At no time shall the occupancy of the space exceed the occupancy load as determined by the Fire Marshal.
15. The group exercise studio use shall be contained within the tenant suite at all times. No outdoor activities are permitted as a component of the business. Outdoor storage of goods and/or materials shall not be allowed.
16. The group exercise studio use shall only be permitted to operate from between the hours of 7:00 AM and 9:00 PM daily, seven days per week.
17. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
18. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties. All amplified music and/or voice shall be kept below a volume that would represent a nuisance to the surrounding businesses, residents and neighborhood as a whole. Amplified music and/or voice shall also only be used within an entirely enclosed structure.
19. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster/refuse containers owned by the property owner.
20. The applicant shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause for revocation of this permit.
21. On-site parking shall be provided at all times in conformance with the Municipal Code. All required parking shall be permanently maintained.
22. Parking stalls located on the rear of the shopping center shall be restriped sufficient to accommodate the maximum number of group exercise patrons. The operator and its patrons shall utilize the rear entrance of the suite for all sessions after 4:00 PM.
23. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the City. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation.
24. All signage shall be in compliance with the Madera Sign Ordinance. All signage is required to have an approved Sign Permit issued by the Planning Department per MMC §10-6.

(OR)

Motion 2: Move to continue the application for Conditional Use Permit 2018-21 to the December 11, 2018 Planning Commission meeting.

(OR)

Motion 3: Move to deny the application for Conditional Use Permit 2018-21, based on the following findings: (specify)

ATTACHMENTS

Aerial Photo
Site Plan
Site Photos

Aerial



Site Plan



Site Photos



Open area to be used for group exercises.



Storage and Office Space



Rear Entrance to Suite



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Zoning Ordinance Update
OTA 2018-01
Item #5 - November 13, 2018**

PROPOSAL: Consideration of adoption of a resolution recommending to the City Council adoption of a comprehensive ordinance updating Title X, Chapter 3: Zoning of the Madera Municipal Code to provide for consistency with the 2009 General Plan.

APPLICANT:	City of Madera	OWNER:	N/A
ADDRESS:	N/A	APN:	N/A
APPLICATIONS:	OTA 2018-01	CEQA:	2009 General Plan EIR

LOCATION: Citywide

STREET ACCESS: N/A

PARCEL SIZE: N/A

GENERAL PLAN DESIGNATION: N/A

ZONING DISTRICT: N/A

SITE CHARACTERISTICS: N/A

ENVIRONMENTAL REVIEW: The proposed ordinance was contemplated as a component of implementation of the 2009 General Plan. Adoption of the Zoning Ordinance update is consistent with the activities anticipated by and analyzed within the 2009 General Plan Environmental Impact Report adopted by the City Council of the City of Madera on October 7, 2009.

SUMMARY: The 2009 General Plan includes multiple Action Items which direct staff to update the zoning ordinance to provide consistency between zoning and the General Plan. The proposed Zoning Ordinance update addresses those directives, providing a comprehensive reformatting and recodification of Chapter 3: Zoning that implements the goals and policies of the General Plan. Five new zoning districts are proposed as an element of the update, reflective of changes in land use since the last update in 1992.

APPLICABLE CODES AND PROCEDURES

Government Code Section 65860
2009 Madera General Plan

PRIOR ACTION

The zoning ordinance was last updated in 1992.

BACKGROUND

On October 7, 2009, the City Council approved the 2009 update to the General Plan of the City of Madera. Per Government Code Section 65860, the City is required to update the Zoning Ordinance to be consistent with the General Plan. Adoption of the Zoning Ordinance update would provide the required consistency.

In advance of this public hearing, the Planning Department has held the following Planning Commission workshops meant to educate on the form and content of the ordinance update.

- January 9, 2018 Workshop
- February 13, 2018 Workshop
- April 10, 2018 Noticed Workshop
- May 8, 2018 Noticed Workshop
- June 12, 2018 Noticed Workshop

Additionally, two Workshops scheduled specifically with and for the development community were held on May 31, 2018 and June 4, 2018.

Lastly, a joint meeting of the City Council and Planning Commission was held on September 18, 2018, where staff was directed to schedule public hearings for the adoption of the ordinance update. Comments received as part of the cumulative workshop process have been incorporated into the final ordinance update.

ANALYSIS

General Plan Consistency

A primary function of the Zoning Ordinance update is to provide consistency between the Zoning Ordinance and the General Plan. Consistency is facilitated through utilization of the Zoning Ordinance as a mechanism toward implementation of the principles, goals and policies of the General Plan. The two General Plan elements most reliant upon the Zoning Ordinance as an implementation tool are the Community Design Element and the Land Use Element.

An example of how the Zoning Ordinance implements the General Plan can be seen in Policy CD-22 of the Community Design Element of the General Plan, which states “Commercial developments should have public open space areas such as plazas, courtyards, expanded walkways, or other areas suitable for small gatherings. The facilities should be sized proportionate to the scale of the development.” The General Plan also includes Action Item CD-22.1, which states, “Amend the Zoning Code to include standards to implement Policy CD-22.” In order to satisfy the action item, the Zoning Ordinance includes requirements for public open space within various commercial zones. The C1 (Light Commercial) Zone District includes MMC § 10-3.816, which states:

§ 10-3.816 C1; PUBLIC OPEN SPACE REQUIREMENTS

On single or integrated sites where there is an aggregate of more than 50,000 gross square feet of building floor area, functional public open spaces designed for public interaction and repose consistent with the General Plan shall be provided. This may include features such as improved plazas, gathering areas, sitting and play areas. The areas shall be a minimum of 0.5% of the building area with no single area being less than 100 square feet. Space used for other uses such as circulation, walkways, parking, and loading shall not be included in satisfying this requirement.

Similar ordinance language is applied to the other commercial zones within the city.

Another example can be found in Goal 8, “A Downtown That Is Vibrant and the Heart of the City,” which has multiple policies associated with fulfilling that goal. The C3 (Downtown Commercial) Zone District includes the following section, which specifically satisfies Policy CD-43, in support of Goal 8:

§ 10-3.836 C3; PUBLIC OPEN SPACE REQUIREMENTS

(A) As development and/or redevelopment occurs in C3 Zone Districts, the recommendations of the General Plan shall be incorporated as integral components of the development and/or redevelopment, to be confirmed through the site plan review process consistent with §10-3.450 et. al.. General Plan recommendations include, but are not limited to, the following:

- Include human-scale details in the design of buildings such as windows on the street, awnings, and architectural features that create a visually interesting pedestrian environment.
- Include areas designed to create spaces where people can interact and socialize, such as parks, plazas or open air seating in cafes and restaurants, as well as pedestrian amenities such as awnings, pedestrian-scaled lighting, benches and trash cans.
- Street trees shall be incorporated into all development and street improvement projects.
- Loading facilities shall be screened from public view and located away from residential uses.
- Locate parking lots behind or on the side of buildings where possible to reduce their visual impact.
- Use shared parking where applicable to reduce the total number of parking spaces.

In total, the 2009 General Plan is referenced over fifty times within the Zoning Ordinance update, demonstrating the mandate that the Zoning Ordinance implements the General Plan.

New Zones

In implementing the General Plan through the Zoning Ordinance, five new zones have been created so as to address the vision of the General Plan and acknowledge the changing dynamic of land use. The new zones are as follows:

- The C3 (Downtown Commercial) Zone District is proposed for the downtown area so as to promote an attractive, pedestrian-oriented environment that functions as the historical central business district of the City, with commercial, office, financial, civic, and entertainment services. The C3 zone would span the East Yosemite Avenue and Gateway Drive corridors and their surroundings, replacing the C1 and C2 zoning that dominates the area currently.
- The LI (Limited Industrial) Zone District is proposed for the area commonly called the Span Industrial Park. The LI zone district is intended to provide areas appropriate for low-intensity industrial uses including light manufacturing, warehousing and distribution, and a complement of service-oriented commercial activities, and to protect these areas, to the extent feasible, from the disruption and competition for space from unrelated retail

uses, primary office uses, and general industrial uses. The LI zone district will function as a bridge between predominantly commercial and industrial land uses.

- The PCD (Planned Commercial Development) Zone District is intended to provide for a wide range of commercial opportunities through the development of a precise plan that insures that the project area integrates with and is compatible with the surrounding area. The required precise plan may allow the project to vary from the normal development standards in order to achieve an overall improved project quality focused upon implementation of goals and policies of the General Plan. PCD Zone Districts shall only be created as a method of implementing a defined development vision for a specific site. PCD zoning shall not be assigned to land where a specific commercial development project, proposed within an application for precise plan, does not accompany the request for rezoning. The PCD zone will allow for the implementation of creative commercial designs, much as the current planned development zone currently allows for unique residential design.
- The R4 (High Density Multiple Family Residential) Zone District is intended for areas appropriate for high-density, multi-family housing. The predominant style of development is larger apartment complexes, as well as vertical mixed-use projects. The R4 zoning district is intended to be applied to lands within walking distance of existing or planned shopping districts, and Village Centers (General Plan, Land Use Element). The allowable density ranges from 15.1 to 50 dwelling units per acre. The R4 Zone District is consistent with the High Density Residential (HD) land use classification of the General Plan.

The R4 zone is a byproduct of a refinement of the residential zoning matrix. R1 remains the low density single family residential zone. R2 zones are proposed to be divided into two medium density zone districts – R2 as the medium density single family zone and R3 being the medium density multiple family zone district. R4 becomes the high density zone for residential development. This refinement addresses the need for a denser residential form as the city grows.

- The SP (Specific Plan Area) Zone District is intended to provide a framework through a standard process and general regulations that accomplish the following:
 - (1) Implement the goals, objectives, and policies of the General Plan. The SP (Specific Plan Area) Zone District shall provide consistency with all land use designations of the General Plan.
 - (2) Provide a land use planning process for the initiation, review, and regulation of comprehensively planned urban development, including land use pattern, development standards, design guidelines and development review processes.
 - (3) Opportunity for creative, comprehensive planning approaches for the use and development of land including innovative land use planning, quality architectural value and comprehensive site design.
 - (4) Provide necessary public services and facilities.
 - (5) Establish a development review framework for comprehensively planned communities pursuant to Government Code Section 65450 to 65457 for the preparation of Specific Plans.

As the City expands into the VR (Village Reserve) areas of the General Plan, specific plans are required as components of development of those village reserve areas. The SP zone provides a pathway for development of those areas based upon development standards and land use patterns spelled out not within the standard zoning matrix but within the specific plan document itself.

Three zones currently utilized are being discontinued and absorbed into the revised zoning matrix. The CR (Restricted Commercial) Zone District functioned very similarly to the CN (Neighborhood Commercial) Zone District and will largely be incorporated into the CN zone. The U (Unclassified) Zone District has been discontinued. Properties currently within the U zone will be assigned zoning consistent with the underlying General Plan land use designation. The WY (West Yosemite Overlay Zone) has been re-designated to function not as an overlay to the PO (Professional Office) Zone District but as the professional office zone applicable to the West Yosemite Avenue corridor. The overlay designation will be abandoned.

Structure

A secondary but just as important priority of the proposed ordinance update was to provide greater clarity throughout the document. This was accomplished through the following approaches:

- **Recodification**
Over the twenty-six year lifespan of the existing ordinance, insertions and amendments to the ordinance resulted in confusing numerical sequencing within an illogical order. Although the majority of the existing code was not textually altered in any significant way, all of the existing code was renumbered and ordered in such a way as to provide a more logical organization within the code with the ability for logical expansion as might be necessary in the future. The updated ordinance resets the numbering system of Title X, Chapter 3: Zoning, cleaning up the unfortunate necessities of the past while providing a logical organization that is expandable into the future.
- **Specificity/Completeness**
The proposed ordinance includes an expansive set of definitions that provide specificity to the terminology applied throughout the amended document. This provides more functionality within the document, how it is interpreted and how it is applied on a daily basis. The current ordinance, in many instances, is left to interpretation, resulting in uneven application on a case by case review and over time.
- **Formatting**
The proposed ordinance implements a tabular approach in many sections where lists had been previously utilized. In many cases, the tables include links to other sections of the ordinance that include additional information specific to the applicable use, enhancing access to applicable ordinance on many activities and uses. This approach provides a more digestible format where it is utilized. As an example, the use schedules of the current ordinance are arranged in long lists. Those lists are not exhaustive and no references to additional ordinance are made available.
- **Integration**
There are many moving parts within any zoning ordinance. If those individual parts function independent of one another, a document can become unwieldy and difficult to utilize. The individual components that cumulatively make up the proposed zoning ordinance update are integrated together into a document that functions in a unified fashion. There are inherent linkages between definitions, use schedules, parking requirements, development standards. These linkages simplify comprehension and consequently enhance the utility of the document.

Zoning Map Update

Upon adoption, the Planning Department will begin the process of amending the Zoning Map to provide consistency with the General Plan while, at the same time, incorporating the new zones into the map. This separate process will begin immediately after City Council adoption of the Zoning Ordinance. Approximately 2,000 parcels are currently anticipated for consideration of zone district changes.

RECOMMENDATION

Staff recommends approval of a resolution of the Planning Commission recommending approval of the ordinance to the City Council as the next step in the adoption of the Zoning Ordinance update.

PLANNING COMMISSION ACTION

The Planning Commission will be acting on the ordinance amendment.

The Commission would be taking action regarding Ordinance Text Amendment 2018-01, determining to either:

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

Motion 1: Move to adopt a resolution recommending to the City Council of the City of Madera approval of Ordinance Text Amendment 2018-01, replacing in its entirety Title X, Chapter 3 of the Madera Municipal Code in order to provide consistency with the 2009 General Plan.

(OR)

Motion 2: Move to adopt a resolution recommending to the City Council of the City of Madera approval of Ordinance Text Amendment 2018-01, subject to the following recommendations: (insert revised ordinance)

(OR)

Motion 3: Move to adopt a resolution recommending to the City Council denial of Ordinance Text Amendment 2018-01.

Motion 4: Move to continue the public hearing for Ordinance Text Amendment 2018-01 to the December 11, 2018 meeting of the Planning Commission.

ATTACHMENTS

Planning Commission Resolution
Draft Ordinance

RESOLUTION NO. 1837

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MADERA ADOPTION OF AN ORDINANCE REPLACING CHAPTER 3 OF TITLE X OF THE MADERA MUNICIPAL CODE IN ITS ENTIRETY IN ORDER TO PROVIDE THE REQUIRED CONSISTENCY WITH THE 2009 GENERAL PLAN.

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

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

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

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

WHEREAS, Government Code Section 65860 requires that all cities and counties update the Zoning Ordinance to be consistent with their respective General Plans;

WHEREAS, the City of Madera has held numerous publicly noticed workshops specific to the proposed Zoning Ordinance update, and considered comments received from all interested parties; and

WHEREAS, the Planning Commission recommends to the City Council of the City of Madera adoption of an ordinance amendment deleting Chapter 3 of Title X of the Madera Municipal Code in its entirety and adding a new Chapter 3 of Title X in order to provide the required consistency with the 2009 General Plan; and

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

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

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

1. The above recitals are true and correct.
2. The proposed ordinance was considered as part of the Environmental Impact Report prepared in support of the adoption of the 2009 General Plan and is in compliance with the requirements of California Environmental Quality Act "CEQA."
3. It is recommended that the City Council of the City of Madera adopt the ordinance replacing Chapter 3 of Title X of the Madera Municipal Code in its entirety in order to provide the required consistency with the 2009 General Plan, as set forth in the attached Exhibit 'A'.
4. This resolution is effective immediately upon adoption.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 13th day of November 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr., Chairperson
City Planning Commission

Attest:

Christopher Boyle
Acting Planning Manager

PLANNING COMMISSION RESOLUTION NO. 1837

EXHIBIT 'A'

DRAFT ORDINANCE

AN ORDINANCE REPLACING CHAPTER 3 OF TITLE X OF THE MADERA MUNICIPAL CODE IN ITS ENTIRETY IN ORDER TO PROVIDE THE REQUIRED CONSISTENCY WITH THE 2009 GENERAL PLAN.

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

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

SECTION 2. The Planning Commission and this City Council have determined the ordinance text amendment to be consistent with the purpose and intent of Chapter 3 of Title X of the Madera Municipal Code.

SECTION 3. Chapter 3 of Title X: Zoning, is hereby replaced in its entirety, as follows:

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PURPOSE AND TITLE

§ 10-3.101 PURPOSE AND INTENT.

The zoning ordinance has been prepared in accordance to the following principles:

- (A) This chapter is adopted to protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare; and further, the purpose of this ordinance is to encourage, classify, designate, regulate, restrict and segregate the highest and best location and use of buildings, structures and land for residence, commerce, trade, manufacturing, recreation, community facilities, or other purposes in appropriate places; to regulate and limit the height, number of stories and size of buildings and other structures hereafter designated, erected or altered; to regulate and determine the size of yards and other open places; and to regulate and limit the density of population, and for said purposes to divide the City into zones of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement. Further, such regulations are deemed necessary in order to encourage the most appropriate use of land; to enhance and stabilize the value of property; to provide open space for light and air and to prevent and fight fires; to prevent undue dispersion or concentration of population; to promote orderly and healthy community development; to lessen the congestion of streets; to facilitate adequate provisions for community facilities such as transportation, schools, parks, infrastructure and other public requirements.

- (B) This chapter is intended to be in conformance with the Madera General Plan and all environmental documents adopted pursuant thereto. Future amendments of these plans shall be reflected in amendments of this zoning ordinance and future amendments to this zoning ordinance shall only be made in conformity with the General Plan and environmental documents.

- (C) If any section, subsection, paragraph, sentence, clause or phrase of this chapter for any reason shall be held invalid or unconstitutional, the validity of the remaining portions shall not be affected. The City Council of the City of Madera hereby declares that it would have enacted this ordinance and each section, subsection, paragraph, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases are declared to be invalid or unconstitutional.

§ 10-3.102 SHORT TITLE.

This chapter shall be known as the “Zoning Ordinance” of the City of Madera.

§ 10-3.103 RESPONSIBILITY FOR ADMINISTRATION.

(A) Responsible bodies and individuals.

This Zoning Ordinance shall be administered by: the Madera City Council, hereafter referred to as the "Council;" the Planning Commission, referred to as the "Commission;" the Planning Manager, referred to as the "Director;" or as the "Zoning Administrator," and the Madera Planning Department, hereafter referred to as the "Department." This Zoning Ordinance may refer to these bodies and individuals individually and collectively as the "review authority."

(B) Exercise of discretion.

If a provision of this Zoning Ordinance allows a review authority to exercise discretion in the application of a specific standard or requirement, but does not identify specific criteria for a decision, the following criteria shall be used in exercising discretion:

- (1) The application of the specific standard or requirement does not conflict with all applicable provisions of this Zoning Ordinance;
- (2) The exercise of discretion will act to ensure the compatibility of the proposed project with its site, surrounding properties, and the community; and
- (3) The decision is consistent with the General Plan, Specific Plans, Master Plans, Precise Plans, and other Standards adopted by the City of Madera.

DEFINITIONS

§ 10-3.201 DEFINITIONS.

(A) Purpose of Definitions

This section provides definitions of terms and phrases used in the Zoning Ordinance that are technical, specialized, and may not reflect common use. If any of the definitions in this section conflict with definitions in other chapters of the City Code, these definitions shall prevail for the purpose of interpreting and enforcing this Ordinance. If a term is not defined in this section, or other Sections of the City Code, the most common dictionary definition is assumed to be correct.

(B) Land Use Definitions

The following land use definitions are listed in alphabetical order.

ABUTTING. Having common property boundaries or lot lines which are not separated by a street, alley, or other vehicular right-of-way such as a railroad.

ACCESS. The means (pedestrian, vehicular, etc.) of ingress to or egress from a location.

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

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

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

ACCESSORY STRUCTURE. See Structure, Residential Accessory.

ACREAGE, GROSS DEVELOPABLE. For the purposes of calculating residential density, gross developable acreage means the gross acreage as specified by the Madera County Assessor’s records, less any acreage required for the following: collector and arterial street right of way; public parks as defined in the General Plan Parks Element, public facilities such as schools, fire stations, and police facilities; floodways or flood plains; protected biological habitats, and other unique constraints applicable to the property as determined by the City.

ADJACENT. Either abutting or being directly across a street or alley.

ADULT DAY CARE CENTER. Any facility licensed by the State of California which provides non-medical care primarily to adults in need of personal services, rehabilitation, supervision, or assistance essential for sustaining activities of daily living or for the protection of the individual on less than a twenty-four (24) hour a day basis. Adult Day Care Facilities have no resident clients.

ADULT ORIENTED BUSINESS. See § 10-7.02 (Adult-Oriented Businesses)

AGRICULTURE, EXTENSIVE. Lands that have relatively low productive yield due to topography or soil classification and that are used primarily for the grazing of livestock.

AGRICULTURE, INTENSIVE. Lands that have relatively high productive yield due to topography or soil classification and that are used primarily for the growing of vegetable and grain crops, orchards, vineyards and the like.

AGRICULTURAL PROCESSING. The processing of crops after harvest, to prepare them for off-site marketing or processing and packaging elsewhere, including the listed activities below, provided that any of the activities performed in the field with mobile equipment not involving permanent buildings under "Crop Production". May include agricultural seasonal sales as an accessory use with approval.

- Alfalfa and hay baling
- Corn shelling
- Cotton ginning
- Custom milling of flour, feed, and grain
- Dairy products (not including animal feed lots)
- Drying of corn, rice, hay, fruits, and vegetables
- Grain cleaning and custom grinding
- Pre-cooling and/or packaging of fresh or farm-dried fruits and vegetables
- Tree nut hulling and shelling
- Wineries and alcohol fuel production

AGRICULTURE SEASONAL SALES. An open-sided structure with less than 400 square feet in floor area used for the seasonal retail sale of agricultural products located on the site or in the area of the property where the products are being grown.

AIRPORT. Any area of land or water used for the landing and take-off of aircraft as well as any incidental areas used for airport buildings, aircraft operations, and related facilities, including aprons and taxiways, control towers, hangars, safety lights, and structures, and retail tenant space serving airport patrons. Airports shall also include agricultural, personal, restricted and public use landing strips.

ALLEY. A public thoroughfare or way not less than ten (10') feet nor more than twenty (20') feet in width, serving as a secondary means of access to abutting property, and which has been deeded or dedicated to the City.

AMBULANCE SERVICE. Provision of emergency medical transportation, including incidental sleeping quarters, storage, and maintenance of vehicles.

ANIMAL CLINIC OR GROOMING. Establishment providing veterinary services during normal business hours and/or grooming, training, and other services to small animals with no overnight boarding.

ANIMAL HOSPITAL. Establishment where animals receive medical care and surgical treatment on a 24-hour basis. This classification includes overnight boarding of animals receiving medical care.

ANIMAL KEEPING. The keeping of animals determined not to be household pets. Animal keeping includes horses, cows, goats, sheep, or other equine, bovine, ovine, or ruminant animals, pigs (except Vietnamese potbellied pigs), predatory wild animals, chickens, ducks, geese, turkeys, pigeons, game birds and fowl which normally constitute an agricultural use. Animal keeping shall be permitted only where the use is listed as a permitted use to a maximum of four (4) animals listed herein.

ANIMAL KENNEL. Commercial or non-profit shelter for five (5) or more small domestic and farm animals, typically less than 100 pounds, e.g., dogs and cats. This definition includes activities such as

feeding, exercising, grooming, and incidental medical care. This classification does not include shelters for large animals, which are classified under “Animal Stable.”

ANIMAL STABLE. An agricultural use for the shelter of less than 50 large animals such as horses, cattle stock, llamas, or similar animals including incidental activities and structures such as grazing, feeding, corrals, and loading docks.

ANTIQUÉ AND COLLECTABLES SHOP. An establishment that sells collectable, rare, or novel merchandise, including coins, or stamp collectables, trading cards, and porcelain.

APARTMENT. A room or rooms including kitchen and bathroom facilities suitable for occupancy as a dwelling in a multiple family dwelling.

ART GALLERY. An establishment that sells art, usually including, but not limited to, paintings but often including sculpture, decorative arts, furniture, textiles, costume, drawings, pastels, watercolors, collages, prints, artists' books, photographs, and installation art and other artistic mediums.

ATHLETIC CLUB. Health and fitness centers, and gymnasiums, possibly including indoor sauna, common spa or hot tub facilities; tennis, handball, racquetball court, croquet/ bocce ball, and other sports activities, to include:

personal fitness studio/clubs
exercise/fitness clubs
cross-fit training
martial arts studio/dojos.

dance studio/clubs
membership gymnasiums
whole body bootcamps

ATTIC. An unimproved area at the uppermost level of a residence that is not permitted for human occupancy. An attic typically exhibits four of the following characteristics:

1. Is directly below the roof;
2. Has dimensions atypical of a habitable space (i.e., walls are not plumb, all or most of space is not sufficient for a human to stand erect, etc.);
3. Is located on a separate level of the house from other habitable spaces;
4. Is accessed indirectly (i.e., requires ladder to access or is accessed through a portal with dimensions atypical of a standard room door); and/or;
5. Has minimal features that allow light to enter.

AUCTION. The sale of merchandise to the highest bidder. For the purpose of this Ordinance, an auction may include both retail and wholesale sales. For an auction to be classified as an indoor auction, all auction activities shall occur within an enclosed building, including storage and processing of items to be auctioned.

AUTOMOTIVE ACCESSORIES. See Vehicle Accessory Equipment Sales.

AUTOMOBILE COURT. See Motel.

AUTOMOBILE AND TRUCK RENTAL. Rental of automobile and trucks, including storage and incidental maintenance.

AUTOMOBILE AND VEHICLE REPAIR, MAJOR. All types of repair to automobiles, trucks, motorcycles, motor homes, recreational vehicles, or boats including the sale, installation, and servicing of related parts and equipment. This classification includes engine and transmission repair, auto body and upholstery repair shop, vehicle painting, and repairs to other primary mechanical components that typically require more than a single day to complete. This classification excludes vehicle dismantling or salvage and tire retreading or recapping.

AUTOMOBILE MAINTENANCE AND REPAIR, MINOR. Establishment replacing and replenishing motor vehicle fluids and lubrication (excluding fuel), performing maintenance and minor repair (tune-ups, tires, shocks, brakes, etc.), washing, waxing, or detailing vehicles, emissions testing with minor repair, and other similar maintenance or minor repair of light vehicles primarily if not exclusively involving same day service.

This classification does not include removal and repair of primary mechanical components, e.g., engine, transmission, differential, and similar components, which is classified under “Automobile and Vehicle Repair, Major.

AUTOMOBILE SALES, NEW. An establishment which sells or leases new automobiles, trucks, and/or motorcycles. Ancillary uses and services that are incidental to and supporting of the new auto sales use to include the sale and installation of automobile parts, accessories and equipment; repair, maintenance, bodywork and other service of automobiles; loaning of vehicles to service patrons; storage of vehicles outdoors; and automobile washes. This classification excludes auctions.

AUTOMOBILE SALES, USED. An establishment which sells used automobiles, trucks, and/or motorcycles, including ancillary uses and services that are incidental to and supporting of the used auto sales use to include minor repair/safety check of vehicles for sale, detailing of vehicles for sale, and display of vehicles outdoors. This classification excludes parts and service departments typical of new car sales dealerships, body work, and auctions.

AUTOMOBILE SERVICE STATION. An establishment selling gasoline, diesel fuel, alternative fuels, lubricants, and accessories. This classification includes incidental maintenance and repair when performed in conjunction with the sale of fuels, but excludes body work or repair of heavy trucks, construction equipment, and similar vehicles. Also included in this classification is a convenience market that, when combined with an automobile service station, is less than 500 square feet in total.

BAIL BOND SERVICE. An establishment offering security in exchange for the temporary release and due appearance of a prisoner.

BAR. An establishment where alcoholic beverages are sold for on-site consumption. Includes bars, cocktail lounge areas, taverns, night clubs, pubs, and similar establishments where food service is subordinate to the sale of alcoholic beverages. A bar may also include beer brewing.

BED AND BREAKFAST INN. An establishment offering transient lodging on less than a weekly basis, typically in a converted single family dwelling, with incidental food service for guests from one on-site kitchen.

BILLBOARD. Any sign containing advertising, not appurtenant to any permitted use on the site where the sign is located, over six square feet in area.

BILLIARD PARLOR. The expression “Billiard Parlor,” “Pool Hall” or “Poolroom,” as used in this chapter, means any establishment where any billiard table or pool table is operated for hire.

BLOCK. An area of land within a platted subdivision that is entirely bounded by streets, or a street and railroad right-of-way, natural barrier, or adjacent municipal corporate boundary line.

BOARDING HOUSE. The renting of three or more individual rooms within a dwelling to separate households where each household is subject to a separate rental or lease agreement or other payment arrangement with the property owner. Meals may or may not be provided, but there is one common

kitchen facility. Boarding houses are not licensed by the State of California. Boarding houses do not function as Transitional Housing or Supportive Housing.

BUFFER. An improvement or area intended to separate, obstruct, or reduce the impact of two abutting land uses, properties, and/or rights-of-way, from one another.

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

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

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

BUILDING SITE. See Lot.

BUILDING AND LANDSCAPE MATERIAL SALES. Retail or wholesale sales of building and landscape materials, including lumberyards and establishments selling unpackaged landscape materials. This classification includes the sale of outdoor swimming pools. This classification excludes establishments devoted to the retail sales of paint, hardware, home furnishings, wholesale, distribution, and storage, and activities classified under large equipment sales or repair related services.

BUSINESS SUPPORT SERVICES. Establishments located primarily indoors providing services to businesses including, but not limited to:

1. business equipment repair services
2. window cleaning
3. computer-related services (rental, repair)
4. commercial publication, photocopying, quick printing, and blueprinting services
5. newspaper printing
6. janitorial services
7. mail advertising services (reproduction and shipping)
8. commercial art and design (production)
9. photofinishing

This classification does not include “Automobile or Vehicle Repair,” “Equipment Rental (outdoor),” and “Vehicle Storage or Impound Yard.”

CAMPGROUND. Camping facilities provided on a temporary basis for fee. Includes recreational vehicle campgrounds.

CARD ROOM. A building or structure, or portion thereof, for which a card room operating license is obtained and in which legal gambling or gaming is conducted. The term shall include any restaurant, bar, assembly room, meeting room or office which is a part of or appurtenant to the room or rooms in which legal gambling or gaming is conducted. The term shall also include the business of operating the card room and those business enterprises which are a part thereof.

CARETAKER’S RESIDENCE. One permanent dwelling unit devoted solely to the rental and/or management of facilities on the same parcel. Also, a permanent dwelling unit inhabited by the property manager/security guard of a mini-warehouse/self-storage facility or agricultural activity.

CARPORIT. An attached or detached structure enclosed on no more than three (3) sides intended for use as a covered area for the storage of vehicles.

CATERING SERVICES. The preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption. This use may be conducted as an accessory use to a restaurant, grocery market, or bakery.

CEMETERY. A facility that provides interment of the dead below ground.

CHECK CASHING SERVICE. Establishment whose primary function is to cash checks for customers for a fee, excluding institutions commonly referred to as “Banks.”

CHILD DAY CARE CENTER. A facility that provides non-medical care and supervision of children for periods of less than 24 hours. These facilities include commercial or non-profit child day care facilities or preschools (not including large and small family day care homes) designed and approved by the California State Department of Social Services for the care and supervision of children under the age of 18. These may be operated in conjunction with a school or church, or as an independent land use.

CHURCH OR OTHER PLACE OF WORSHIP. Facilities operated for worship or to conduct religious activities, including churches, mosques, synagogues, and religious instruction. May include accessory uses associated directly with the worship service, religious education functions, or other ongoing regular activities at the church that are located on the same site, such as living quarters for clergy and staff, and child or senior day care facilities. Other establishments maintained by religious organizations, or uses not associated with the worship services and regular activities of the church, such as reading rooms, full time educational institutions, full time day care facilities, hospitals or recreational camps are classified according to their respective activities and regulated accordingly.

CLUB, LODGE, AND MEETING HALL. Any place that provides private meeting facilities. This classification includes business and professional organizations, labor unions, civic, social and fraternal organizations, and political organizations. This classification does not include offices dedicated to the administration of such organizations, which are classified under “Office, Administrative, Business, or Professional.”

COMMERCIAL RECREATION. A commercial establishment that provides recreation and entertainment to customers that participate in games, sports, or other recreation activities. This classification includes the following uses:

1. bingo parlors
2. bowling alleys
3. billiard parlor
4. dance hall
5. ice or roller skating rinks
6. laser tag facilities
7. miniature golf or golf driving range
8. pinball arcade or electronic game center having four or more game machines

This classification does not include card rooms, race tracks, stadiums, and outdoor arenas.

COMMERCIAL VEHICLE. A commercial vehicle is a type of vehicle used or maintained for the transportation of persons for hire, compensation, or profit (for example, a taxi or limousine), or designed, used, and/or maintained primarily for the commercial transportation of materials or property (for example, a box van, heavy duty truck, or dump truck). Most (but not all) commercial vehicles exceed a 10,000 pound GVWR. All commercial vehicles are typically purposed for commercial activities as opposed to being used as personal passenger vehicles.

COMMISSION. The Planning Commission of the City of Madera.

COMMUNITY CENTER/BANQUET HALL. Multi-purpose meeting and recreational facility typically consisting of one or more meeting or multi-purpose rooms, kitchen and/or outdoor barbecue facilities, that are available for use by the general public for such activities as meetings, parties, receptions, dances, etc.

CONGREGATE CARE FACILITY. A primarily residential land use that provides individual dwelling units with limited nursing and other services available on site. Congregate care facilities typically have group facilities for dining and cooking, centralized food service, and can offer social programs and other group amenities.

CONTRACTOR'S YARD. Storage yard for a contractor's large equipment, vehicles, construction materials, or other items commonly used in the contractor's business; repair and maintenance of a contractor's own equipment; and buildings or structures for uses such as offices and repair facilities. This classification excludes vehicle storage and impound yards.

CORPORATION YARD. A maintenance and storage yard operated by a government agency or public utility used primarily for equipment and construction material supply storage, vehicle repair and maintenance, staff offices, and other related activities.

COUNCIL. The City Council of the City of Madera.

CROP PRODUCTION. Agricultural uses including the production of grains, field crops, vegetables, melons, fruits, tree nuts, flower fields, seed production, ornamental crops, tree and sod farms, associated crop preparation services and harvesting activities including mechanical soil preparation, irrigation system construction, spraying not involving the use of aircraft, crop processing and sales in the field not involving a permanent structure.

CUSTOM HOME. Single-family housing plans that:

1. Are not an approved production home for the residential subdivision in which it is located; and
2. Are not constructed more than once in a residential subdivision;
3. Or are located in a subdivision that consists of single lots sold individually to purchasers who contract individually for house plans.

DENSITY. The number of dwelling units per gross developable acre as defined under "Acreage, Gross Developable."

DEVELOPMENT. The act of "Development" is considered to have occurred whenever a property is physically changed to improve its use or function, or any entitlement or ministerial approval is undertaken including but not limited to: rezoning, land divisions, use permits, or plan amendments.

DISTRICT. A Zoning District as established by the provisions of this chapter.

DONATION STATION. A facility in a building or parking lot that accepts donated personal household items for resale or distribution to other parties.

DRIVE-THROUGH RESTAURANT. Service of patrons in vehicles from a window adjacent to a drive aisle or lane operated in conjunction with a restaurant or a food and beverage sales business.

DRIVE-UP/DRIVE-IN USES. Any business which serves customers who remain in a vehicle.

DUPLEX. Two dwelling units located on the same property, attached to each other. This definition shall include housing developments where property owners of individual homes collectively own common areas for access, use, and maintenance purposes.

DWELLING, CONDOMINIUM. A multifamily housing type characterized by ownership of airspace, not land. Can include townhouses, flats, apartment-style units, and lofts, including units located in mixed-use buildings.

DWELLING, TOWNHOUSE. An attached multifamily housing type characterized by the ownership of the building and a legal parcel of land, typically the footprint of the building and any attached patios, garden areas, or other land area owned by the property owner in question.

DWELLINGS, MULTI-FAMILY. Three or more attached dwelling units. Examples of multifamily dwellings include but are not limited to apartments, condominiums, and residential units located above a storefront. This definition shall include housing developments where property owners of individual dwelling units collectively own common areas for access, use, and maintenance purposes.

DWELLING, SINGLE-FAMILY DETACHED. A single dwelling unit located on a single property, detached from all other units.

DWELLING UNIT. One or more habitable rooms physically arranged to create an independent housekeeping establishment for occupancy by one household, with separate exterior access, bathroom(s), and facilities for cooking and sleeping.

ELECTRIC VEHICLE CHARGING STATION. A facility designed and built in compliance with Article 625 of the California Electrical Code that delivers electricity for the purpose of charging a plug-in electric vehicle.

EMERGENCY MEDICAL CARE. A facility providing medical care to persons requiring immediate attention on a 24-hour basis with no provision for continuing medical care on an inpatient basis, includes incidental medical testing and services.

EMERGENCY SHELTER. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of inability to pay. See § 10-3.413.

ENTERTAINMENT (IN CONJUNCTION WITH ANY FOOD AND BEVERAGE SERVICES USE). An establishment where live entertainment occurs or where recorded music is played at a noise level of 70 dBA or more (as measured from a dance floor or nearest seating from the noise source). Live entertainment includes any performance, act, dancing, or sport, regardless of whether or not the performers are compensated or where patrons participate, e.g., karaoke. Coin-operated music player machines, i.e., jukeboxes, or other recorded music shall typically be exempt if operated below the above noise limit.

ENTITLEMENT. An approval, either ministerial or discretionary, that allows the grantee a particular right to develop property and/or establish a particular use on a property. Examples of an entitlement include but are not limited to General Plan amendments and rezones, conditional use permits and variances, and site plan reviews and zoning permits.

EQUESTRIAN FACILITY. A commercial stable offering shelter and care of horses or other equine animals including incidental paddocks, exhibition facilities, barns, and similar accessory buildings and structures. May include personal horsemanship training, day rental, one single family dwelling, second dwelling unit, and a caretaker's residence.

EQUIPMENT RENTAL, INDOOR. An establishment whose primary income is derived from renting machinery, tools, sports gear, furnishings, and other articles to be used by customers off the premises and where storage of rental merchandise occurs entirely within an enclosed building.

EQUIPMENT RENTAL, OUTDOOR. An establishment whose primary income is derived from renting machinery, tools, sports gear, furnishings, and other articles to be used by customers off the premises, where storage of rental of merchandise occurs outdoors.

FAMILY. One or more persons related by blood or legal status or persons not so related who are functioning as a family or single-housekeeping unit, meaning that they have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, expenses and responsibilities.

FAMILY DAY CARE HOME, SMALL. A day care facility located in a dwelling where an occupant of the residence provides care and supervision for eight or fewer children, subject to State law. Children under the age of 10 years who reside in the home count as children served by the day care facility.

FAMILY DAY CARE HOME, LARGE. A day care facility located in a dwelling where an occupant of the residence provides care and supervision for 9 to 15 children, consistent with Cal. Health and Safety Code § 1596.78(b). Children under the age of 10 years who reside in the home count as children served by the day care facility. See § 10-3.409.

FARM LABOR HOUSING. Includes dwellings, mobile homes, room and boarding houses, and dining halls for farm or other agricultural workers employed in land occupied by the property owner on which the quarters are located.

FENCE. An artificially-constructed barrier consisting of permitted materials as allowed for in § 10-3.425 and § 10-3.543 intended to enclose or screen an area of land.

FINANCIAL INSTITUTION. Includes banks, credit unions, savings and loans, and other financial institutions. This classification does not include bail bond services, check cashing services, pawn shops, and the like.

FIREARM OR ARCHERY RANGE. A facility used for the discharge of weapons. May occur indoors or outdoors. Includes incidental buildings or structures and the training of patrons as a personal improvement service.

FISHING OR GAME CLUB. A facility used for the assembly of persons participating in hunting and similar field sports. Includes duck blinds, piers, observation stands, and similar accessory structures.

FLOOR AREA, GROSS. The sum area of all floors in a building as measured from the exterior faces of the walls. Gross floor area does not include unenclosed porches or balconies, and attics or cellars not used for human occupancy. Gross floor area shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

FOOD AND BEVERAGE SALES. Establishments serving a single type of food or beverage products prepared for either on- or off-site consumption. Includes bakery shops; coffee, bagel or donut shops; ice cream parlors; and similar uses.

FREEWAY. A highway for through traffic, with control of access and grade separation at intersections.

FRONTAGE. The property lines bordering a public or private street.

FUNERAL AND INTERMENT SERVICES. An establishment providing services involving care, preparation, or disposition of the deceased. Typical uses include a crematory or mortuary, but excludes cemeteries and mausoleums.

FURNITURE, FIXTURES, AND APPLIANCE SALES. An establishment engaged in the retail sale of furniture, flooring, and appliances; bathroom and kitchen fixtures and cabinets; and similar products. The business space shall incorporate more than 70% of the floor area for retail display with no more than 30% of the area devoted to warehousing or storage of merchandise. The business shall be open to foot traffic during periods of typical business hours. This classification includes incidental storage and repair services of the products sold, but excludes the sale of used appliances and furniture, which is classified under “Retail Sales - Used Merchandise (General Merchandise).”

GARAGE, PRIVATE. A detached structure or portion of a main building intended for use as parking or temporary storage of automobiles exclusively for specific occupants/employees of the premises.

GARAGE, PUBLIC. See Parking Facility, Nonresidential.

GATED COMMUNITY. An enclave of housing found as a component of conventional suburban development that is typically surrounded partially or entirely by a wall and where multiple individual home sites are accessed by a single gated vehicular entrance with a private street system within.

GENERAL PLAN. The City of Madera General Plan, including all elements thereof and all amendments thereto, as adopted by the Council under the provision of Sections 63500 et seq. of the Government Code, and referred to in this Zoning Ordinance as the “General Plan.”

GOLF COURSE. Outdoor facilities for golfing, including any uses that may be ancillary to the course, such as a pro-shop, restaurant, coffee shop, and similar subordinate uses.

GRAZING. The raising or feeding of horses, beef cattle, sheep and goats, and other similar animals, on a parcel or contiguous group of parcels 10 gross acres or more by allowing the land these animals occupy to provide most of their food (e.g. irrigated pasture, dry pasture, range grasses, etc.). Does not include feed lots, which are separately defined.

GROUP HOME. Any home or facility not defined in this section or elsewhere in this chapter pertaining to zoning, and involving any living situation including motels and hotel buildings that are not for temporary use, which accommodates two (2) or more individuals who are not members of a family and where support services are provided to the occupants; where cooking, living or support sanitary facilities are shared in common between the occupants; or where there is a formal program, established rules of conduct, and purpose of the facility. A group home may be a facility licensed by the State of California or an unlicensed facility.

GUEST HOUSE. A separate structure, clearly ancillary to and located upon the same parcel as a primary residential structure, that is designed to provide overnight accommodations for visiting guests. A guest house may include one bedroom, sitting area, and bathroom. A guest house shall not include any kitchen food storage, food preparation or cooking facilities.

HANDICRAFT SHOP. An establishment producing goods by hand manufacturing involving the use of hand tools and small-scale equipment, including ceramic studios, candle makers, custom jewelry manufacturing. Includes the retail sale of those products produced on-site.

HARDSCAPE. The incorporation of durable materials, either alone or incorporated within a landscape area(s), such as paved/concrete areas, retaining walls, stairs, walkways, pavers and stones etc. that serve to provide parking for vehicle(s), communal open space, patio area, and/or pathways of an aesthetic and/or functional purpose.

HELIPAD. A facility provided for the landing and take-off of helicopters only.

HELIPORT. A facility provided for the landing and take-off of helicopters, and associated repair, maintenance, refueling, and storage facilities.

HOME OWNERS' ASSOCIATION. A State-registered private organization composed of residents within a residential development who own in common certain property or facilities and are responsible for the maintenance and management of the commonly owned property or facilities.

HOME OCCUPATION. The conduct of an art or profession, the offering of a service, or the conduct of a business, or the handcraft manufacture of products within a house or garage in a residential district, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which use does not change the character thereof, consistent with § 10-3.404.

HOMELESS SHELTER. An establishment providing short-term transient shelter to homeless persons including incidental support functions, such as food service and counseling.

HOSPITAL. Hospitals and similar establishments primarily engaged in providing diagnostic services and extensive medical treatment including surgical and other hospital services. Such establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete or specialized health care. May include accessory retail uses and helipads.

HOTEL/MOTEL. An establishment offering transient lodging.

HOUSEHOLD PETS. Animals, birds, or fish ordinarily permitted in a dwelling and kept only for the company and pleasure provided to the occupants. Household pets shall not include horses, cows, goats, sheep, or other equine, bovine, ovine, or ruminant animals, pigs (except Vietnamese potbellied pigs), predatory wild animals, chickens, ducks, geese, turkeys, pigeons, game birds and fowl which normally constitute an agricultural use. The keeping of household pets shall be permitted only where the use is listed as a permitted use or when household pets are kept as an accessory use to lawfully maintained residences in other districts. The keeping of more than four (4) dogs, cats, Vietnamese potbellied pigs, or a combination thereof, for any reason, shall be considered as being a kennel. See "Animal Kennel."

INDUSTRIAL SERVICES. Establishments providing industrial services to individuals or businesses. This classification includes commercial printing and binding shops; dry cleaning plants; metal, machine and welding shops; cabinetry and woodworking shops; furniture upholstery shops; and similar businesses engaged in custom fabrication, assembly, and repair.

INFILL. A development project constructed on vacant or underdeveloped property with development on two or more abutting properties.

INTENSIFICATION OF USE. A change in the use of a structure or site, where the new use is required by this Zoning Ordinance to have more off-street parking spaces than the former use; or a change in the operating characteristics of a structure or site (for example, new business or expanded activities), which generates more activity on the site and/or requires additional entitlements to be secured.

JUNK YARD. See "Scrap and Salvage Operation."

KENNEL. See “Animal Kennel.”

KITCHEN. A room or portion thereof intended for or designed to be primarily used for the purpose of storing, cooking and preparing food for human consumption.

LABORATORY, PROCESSING. An establishment or facility engaged in routine testing or analysis of medical specimens or chemical compounds; performing limited laboratory processing procedures, such as film developing; the small scale production of custom-made or custom-fitted products, such as eyeglasses, dentures and prostheses; and other similar activities. This use excludes establishments where product design and testing, industrial or scientific research, or prototype development is a primary activity.

LAND PRESERVE. The land and operation of fish hatcheries, fish and game sanctuaries, propagation, and interpretive centers. May include incidental observation stands, decks, piers, and maintenance facilities.

LANDSCAPE. The planting of trees, ground cover, shrubbery, and other plant material, decorative natural and structural features (hedges, trellises, fountains), earth patterning and bedding materials, and other similar site improvements that serve an aesthetic or functional purpose.

LARGE TRUCK AND MACHINERY - SALES AND LEASING. Retail sales or leasing of heavy-duty trucks, tractors, forklifts, construction or agricultural equipment. Ancillary uses and services that are incidental to and supporting of a large truck and machinery sales use to include the sale and installation of large truck and machinery parts, accessories and equipment; repair, maintenance, bodywork and other service of large truck and machinery; storage of vehicles outdoors; and vehicular washes. This classification excludes auctions.

LOADING SPACE. An off-street parking space or parking area meant for the temporary parking of commercial delivery vehicles while loading and/or unloading materials for delivery to individuals or establishments located on the premises.

LOT. A lot shall mean the following:

1. A parcel of real property shown on a subdivision or plat map, as required by the Subdivision Map Act or the City of Madera Municipal Code to be recorded before the sale, transfer, or lease of parcels on the map or plat, at the time the map was recorded;
2. A parcel of real property that has been issued a building permit or certificate of compliance as provided by Government Code Section 66499.35 or this Zoning Ordinance; or
3. A parcel of real property not described in (1) or (2) above, provided the parcel resulted from a lawful separate conveyance that was consistent with the applicable law at the time of the conveyance and/or recordation.

LOT AREA. Gross lot area is the total horizontal area included within the property lines exclusive of dedicated street rights-of-way and environmental mitigation areas. Net lot area excludes common areas, easements for: utilities; flood control channels; public landscape, which limit the ability to locate a building and are less than 10 feet wide in any horizontal dimension.

LOT DEPTH TO WIDTH RATIO. A ratio that compares the depth of a lot to the width of the lot. A 120 foot deep by 60 foot wide lot would have a depth to width ratio of 2:1, or two feet of depth for each one foot of width.

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

LOT LINE. The lines bounding a lot, including;

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

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

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

LOT TYPES. The types of lots referenced by the Zoning Ordinance are listed below and illustrated by Figure 10-3.201.L: Lot Types.

1. Corner. A parcel located at the intersection of two or more streets where they intersect at an interior angle of not more than 135 degrees. If the intersection angle is more than 135 degrees, the parcel is considered an “interior parcel.”
2. Flag. A parcel having access to a public or private street by means of private right of way strip that is owned in fee.
3. Interior. A parcel abutting only one street.
4. Irregular. Parcels with pentagonal, curvilinear, wedged, trapezoidal, or pie shape.
5. Key. An interior lot whose rear property line abuts the side property line of a corner lot.
6. Reversed Corner. A corner parcel, the rear of which abuts the side property line of another parcel.
7. Through-lot. A parcel with frontage on two approximately parallel streets with only one principal access.

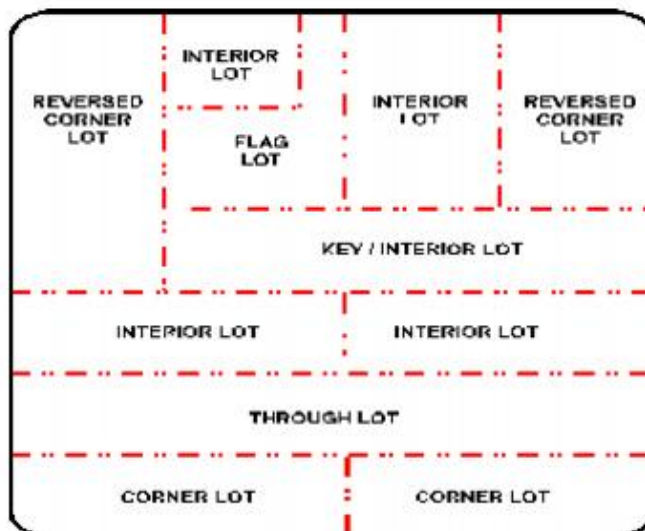


Figure 10-3.201.L: Lot type

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

MAINTENANCE AND MINOR REPAIR. See “Automobile and Vehicle, Maintenance and Repair, Minor.”

MAINTENANCE AND REPAIR, MACHINERY AND SMALL ENGINE. An establishment engaged in the maintenance and repair of machinery and equipment which may have small internal combustion engines typically less than 25 horsepower, including lawnmowers, rotary tillers, and similar equipment. All other engine repair establishments are classified under “Automobile and Vehicle Repair.”

MAINTENANCE AND REPAIR, PERSONAL AND HOUSEHOLD ITEMS. Service establishments where repair of consumer products is the principal business activity, including: bicycles;

electrical repair shops; television and radio and other appliance repair; watch, clock, and jewelry repair; re upholstery and furniture repair. Does not include shoe repair (included under “Personal Care and Domestic Services”).

MAJOR REPAIR. See “Automobile and Vehicle, Major Repair.”

MANUFACTURED HOME. A residential building or dwelling unit which is either wholly or partially constructed or assembled off the site in accordance with Section 18551 of the Health and Safety Code and certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 4401 et seq.).

MANUFACTURING AND ASSEMBLY. Manufacturing and assembly activities are defined and categorized below. If a particular land use is identified as an example of one category but exhibits the characteristics of another, the use shall be categorized under the latter.

1. Light. Product assembling or mixing, where previously processed components or manufactured parts produced off-site are fitted together into a complete machine or blended together to form a non-combustible and non-explosive product. Product packaging, including bottling, canning, packing, wrapping, and boxing of products assembled or manufactured off-site. The assembling or packaging shall not produce noise, vibration, hazardous waste materials, or particulate that create significant negative impacts to adjacent land uses. Odors produced on-site shall not negatively affect other businesses or properties in the area.

Examples of assembling include, but are not limited to, the production of the following: clothes; furniture (where wood is milled off-site); pharmaceuticals; hardware; toys; mechanical components; electric or electronic components; small vehicle assembly; and computer software. Examples of packaging include facilities for bottling beverages, canning and wrapping foods, and boxing electronic components.

2. Medium. Manufacturing of products from processed or unprocessed raw materials, where the finished product is non-combustible and non-explosive. This manufacturing may produce noise, vibrations, illumination, or particulate that is perceptible to adjacent land uses, but is not offensive or obnoxious. Odors produced on-site shall not have a material negative effect on other businesses or properties in the area. This use shall include any packaging of the product being manufactured on-site.

Examples include, but are not limited to, the production of the following: glass products made from manufactured glass; clay and pottery products; foods and beverages; candy and other confectionery products; computer hardware; products made from rubber, plastic, or resin; converted paper and cardboard products; fabricated metal products made from semi-finished metals.

3. Heavy. Manufacturing of products from raw or unprocessed materials, where the finished product may be combustible or explosive. This category shall also include any establishment or facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes, storage silos, or similar equipment, that cannot be integrated into the building design, or engaging in large-scale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or particulate that may be offensive or obnoxious to adjacent land uses, or requires a significant amount of on-site hazardous chemical storage shall be classified as under this land use. This use shall include any packaging of the product being manufactured on-site.

Examples include, but are not limited to, the production of the following: large-scale food and beverage operations including a brewery and all production-related activities of a brewery; lumber, milling, and planing facilities; aggregate, concrete, and asphalt plants; foundries, forge shops, open air welding, and other intensive metal fabricating facilities; chemical blending, mixing, or production; and plastic processing and production.

MARKET, CONVENIENCE. An establishment with a gross floor area of less than 5,000 square feet offering for sale a comparatively limited variety of primarily prepackaged food and beverage products, alcoholic beverages for off-site consumption, household items, and similar products. This use may include a market that is combined with another use, such as an automobile service station, when the market net floor area is between 500 and 1,000 square feet.

Except for when the convenience market will sell alcoholic beverages for off-site consumption, a convenience market with less than 500 square feet combined with an automobile service station shall be considered ancillary to and a part of the service station use (see definition for "Automobile Service Station").

MARKET, GROCERY OR SUPERMARKET. An establishment offering for sale fresh and prepackaged food products, household items, and similar products, and having a gross floor area of 6,000 square feet or more. Includes ancillary delicatessens, bakeries, and financial services (e.g., bank tellers or automated teller machines).

MARKET, NEIGHBORHOOD. An establishment with a gross floor area of less than 6,000 square feet offering for sale a variety of fresh and prepackaged food and beverage products consistent with the needs of the surrounding neighborhood the neighborhood market is intended to serve.

MARKET, SPECIALTY FOOD AND BEVERAGE. An establishment offering specialty food and beverage products in a distinct category of merchandise generally not prepared for immediate consumption, such as seafood or meat, imported ethnic products, wine, or other specialty foods. This use is distinct from other food or beverage stores in that the type or selection of products offered is not readily available at a convenience market, liquor store, or grocery.

MARTIAL ARTS STUDIO. An establishment that provides instructional services to individuals or groups for training in any of several Asian arts of combat or self-defense, such as aikido, karate, judo, or tae kwon do, usually practiced as sport, to include mixed martial arts (see definition for "Athletic Club").

MASSAGE ESTABLISHMENT. An establishment that offers massage therapy in exchange for compensation, whether at a fixed place of business or at a location designated by the customer or client through outcall massage services. "Massage" or "massage therapy" means and refers to any method of treating the external parts of the body for remedial, health, or hygienic purposes for any form of compensation by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice; or by baths, including but not limited to Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

MATERIAL RECOVERY RESOURCE FACILITY (MRRF). A facility used to collect, sort, and consolidate household recyclable materials including paper, paperboard, glass, plastic, and aluminum, for use as raw material to produce new items at other locations, including interim facilities. This activity may include incidental storage, office, and maintenance facilities. A MRRF is not a recycling center, as it may accept all types of recyclable materials.

MAUSOLEUM. A facility, including columbarium, that provides entombment of the dead in above-ground compartmentalized structures.

MINI-STORAGE. Establishments primarily offering individualized enclosed storage spaces for rent or lease to the general public, including self-storage and mini-storage facilities. These uses may include a

caretaker's residential unit or moving trucks and trailer rentals, as accessory uses to the facility. This use excludes establishments where the primary use is outdoor vehicle storage.

MOBILE HOME. A structure, transportable in one or more sections, designed and equipped to maintain no more than two dwelling units to be used with or used without a foundation system. Mobile home does not include a recreational trailer, commercial coach or trailer, and factory built housing.

MOBILE HOME PARK. A facility as defined in Health and Safety Code, Section 18200 et. seq. Mobile home park shall not include any vacant site subdivided to accommodate mobile homes for residential purposes, which is instead considered a subdivision.

MORTUARY, FUNERAL HOME. Funeral homes and parlors, where deceased are prepared for burial or cremation, funeral services may be conducted, and cremation may occur.

MOVING AND DRAYAGE SERVICES. A business engaged in the pickup, delivery, transportation, and short-term storage of personal or business goods or possessions not intended for subsequent resale by the moving and drayage service. Includes associated warehouse space as well as space for parking and/or storage of trucks and trailers associated with the activities of the business.

MUSEUM. A public or quasi-public institution of a non-commercial nature that procures, cares for, studies, and displays objects of lasting interest or value. Examples of museums include art and historical museums, aquariums, planetariums, botanical gardens, arboretums, and historical sites and exhibits. The display of animals for public viewing are under "Zoo."

NEW MERCHANDISE SALES. An establishment engaged in indoor retail sales of goods, including, but not limited to, the retail sale of new merchandise not specifically listed under another land use classification. The classification includes the following uses:

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| apparel and accessory store | specialty stores |
| art supplies | sporting goods |
| bookstores | flowers and houseplants |
| department stores | hobby stores |
| paint and wallpaper stores | jewelry |
| automotive parts and accessories, indoor | kitchen supplies |
| general stores | musical instruments |
| hardware | newsstands |
| fabrics and sewing supplies | nursery products, indoor |
| cameras and photographic supplies | music stores |
| pet stores | religious goods |
| drug and discount stores | office supply and stationary stores |
| gift shops | video rentals |

This classification does not include the sale of furniture, flooring (including carpet), appliances, or bathroom and kitchen fixtures, which are classified under "Furniture, Fixtures, and Appliance Sales."

NONCONFORMING, EXISTING. A building, structure, or portion thereof, or use of building or land which met the applicable Zoning Ordinance requirements at the time it was established but which fails by reason of adoption, revision or amendment of the Zoning Ordinance to conform to the present requirements of the zone in which it is located.

NON-PROFIT ORGANIZATION. An organization that:

1. Is exempt from federal income tax pursuant to Section 501 of the United States Internal Revenue Code;
2. Devotes its net earnings exclusively to religious, charitable, scientific, literary, educational or fraternal purposes; and
3. Has received from the Secretary of State its certificate of nonprofit corporation, association or society.

NURSING HOME. Residential facilities providing nursing and health-related care as a principal use with in patient beds, such as: skilled nursing facilities (facilities allowing care for physically or mentally disabled persons, where care is less than that provided by an acute care facility); extended care facilities; convalescent and rest homes; board and care homes. Long term care that provides limited health-related care are classified as “Congregate Care Homes.” Long term residential facilities that do not emphasize medical treatment are classified in “Group Homes.”

OFFICE, ADMINISTRATIVE, BUSINESS, OR PROFESSIONAL. Offices for businesses and organizations providing services of a non-retail character to clients, where items are not typically offered for sale on the premises. These uses include, but are not limited to:

accounting and tax preparation	insurance agencies
auto broker (no on-site storage or display)	legal services
civic or charitable organization office	management and public relations
consulting services	mortgage or title companies
court reporting services	professional membership organizations
counseling services	real estate offices
detective agencies	social service organizations
employment and secretarial agencies	word processing services
engineering and environmental services	

This classification does not include offices operated by a local, State, or Federal agency which are classified under “Offices, Government”, nor offices providing outpatient medical services, which are classified under “Offices, Medical and Dental,” nor medical marijuana dispensaries, which are prohibited.

OFFICE, GOVERNMENT. Administrative offices for a local, State, or Federal agency.

OFFICE, MEDICAL AND DENTAL. Offices providing outpatient medical, mental health, surgical, and other personal health services. Includes general practitioner, specialized medicine, chiropractic, psychiatric, psychological, ophthalmic, blood banks, and similar offices. This classification does not include any facility to which ambulance service is provided on a regular basis. This classification also does not include medical marijuana dispensaries, which are prohibited.

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

OPEN SPACE, COMMON. Open space within a project owned, designed, and set aside for use by all occupants of the project or by occupants of a designated portion of the project. Common open space is not dedicated to the public and is maintained by a private organization made up of open space users. Common open space includes common recreational facilities, open landscaped areas, greenbelts, but excluding pavement or driveway areas, or parkway landscaping within public rights-of-way.

OPEN SPACE, PRIVATE. The private area directly abutting a dwelling that is intended for the private enjoyment of the occupants of the dwelling. Private open space shall in some manner be defined such that its boundaries are evident. Required private open space for multifamily units include patios or balconies (excluding any walkway to the principal building entry). Required open space for single family dwellings may be located in a permitted yard area exclusive of the required front or side street yard setback.

PARK. Publicly owned land used for active or passive recreation. May include incidental uses such as a community center, sport courts and similar recreation, and open space.

PARKING FACILITY, NON-RESIDENTIAL. A parcel, or portion thereof, used or designed for daily storage of motor vehicles as the principal land use on the parcel.

PARKING STALL. See § 10-3.1207 for parking standards.

PAWN SHOP. An establishment that buys and sells new or used merchandise, and offers loans in exchange for personal property.

PERSONAL CARE AND DOMESTIC SERVICES. Establishments providing non-medical services of a retail character to patrons which may involve the sale of goods associated with the service being provided. These establishments include but are not limited to:

beauty and barber shops	interior decorating
shoe repair shops	clothing rental
self-service laundries	portrait photography
tanning salons	diet center or weight reduction centers
tailoring establishments	

This classification does not include any establishment providing outpatient medical services, which are classified under “Offices, Medical and Dental.”

PERSONAL INSTRUCTION STUDIO. An establishment that provides instructional services to groups of individuals for development of personal improvement skills, including but not limited to:

personal safe driving instruction	music instruction
fine arts	crafts and hobby skills
yoga studios	scholastic tutoring services
language learning	

This classification does not include vocational training. This classification does not include a martial arts dojo, dance studios, exercise/fitness clubs or other fitness training facilities (See Athletic Club).

PERSONAL SPECIALTY CARE. Establishments and uses that may impact quality of life, neighborhood character or public health and safety, to include but not limited to tattoo shops, psychic readers, massage establishments, and specialty day spa services.

PETS, HOUSEHOLD. See “Household Pets.”

PHARMACY. Retail establishments engaged in, and limited to, the sale of prescription drugs, patent medicines, and surgical supplies. The sale of books, hardware, household appliances, magazines, newspapers, tobacco products, other sundry goods, or other general merchandise (e.g., drinks or food) shall not be permitted. Prescription pharmacies generally employ not more than three registered pharmacists and occupy a floor area of less than one thousand (1,000) square feet.

PLANT NURSERY - AGRICULTURAL. A non-retail agricultural establishment engaged in the production of ornamental or crop plants grown outdoors or within large-scale greenhouses for wholesale distribution or on-site crop production. May include one caretaker's residence, one single family dwelling, and seasonal sales not to exceed 30 days per calendar year. Nurseries with retail sales are defined under "Plant Nursery - Landscape" or "New Merchandise Sales", as applicable.

PLANT NURSERY - LANDSCAPE. Commercial establishments selling landscape nursery products and related supplies. Growing ornamental plants and other nursery products, grown under cover or outdoors, is allowed as an ancillary use. The classification excludes bulk sales of landscape materials, but includes the sale of prepackaged materials (e.g., soil amendments in sealed bags). The sale of house plants or other nursery products entirely within an enclosed building is included under "New Merchandise Sales."

PLAYGROUND. Land used for active recreation with an emphasis on youth activities or active recreation areas within residential projects.

PRIVATE TRANSPORTATION SERVICE. Establishments providing non-public transportation services for a fee, including limousine, bus, taxi, or airport shuttle services. This use includes the storage of vehicles, offices, and maintenance facilities related to the transportation service.

PROPERTY LINE, FRONT. On an interior parcel, the parcel boundary abutting a public right-of-way. For corner parcels, the front shall be the side with the shorter dimension. In the case of corner parcels having equal frontages, the front shall be the side where the extension of the front boundary line which is coincidental with the greatest number of interior parcels.

PROPERTY LINE, REAR. The parcel boundary or boundaries most distant and closely parallel to the front property line.

PROPERTY LINE, SIDE. All other property boundaries that are not a front property line or rear property line.

PUBLIC SAFETY FACILITY. A facility operated by a government agency for public safety and emergency services, including a facility that provides police and fire protection.

QUASI-PUBLIC BUILDING. Any building principally dedicated to use by any quasi-public organization.

QUASI-PUBLIC ORGANIZATION. Any nongovernmental organization which is devoted to public service and welfare.

READING ROOM. Establishment that provides reading material to patrons who read the material primarily on-site with little or no retail sales. Religious study may occur in conjunction with a reading room where such uses are clearly ancillary to the reading room.

RECREATIONAL VEHICLE, BOATS, AND TRAILER SALES. An establishment which sells or leases new or used motor homes, trailers, and boats. Ancillary uses and services that are incidental to and supporting of a motor home, trailer, and boat sales use to include the sale and installation of motor home, trailer, and boat parts, accessories and equipment; repair, maintenance, bodywork and other recreational vehicle services; storage of vehicles outdoors; and vehicular washes. This classification excludes auctions.

RECYCLING CENTER. A center for the acceptance by donation, redemption or purchase of recyclable materials from the public, typically handling California Redemption Value (CRV) glass,

plastic and aluminum products in small household quantities from the public. A recycling center may take the form of one or a grouping of reverse vending machine(s), but will typically be developed on a site sufficient to provide parking, storage, and all other appurtenances sufficient to operate a recycling center business. A recycling center is not a Material Recovery Resource Facility, as it may only accept CRV recyclable materials.

RESEARCH AND DEVELOPMENT. An establishment or facility engaged in industrial or scientific research, product design, development and testing, and limited manufacturing necessary for the production of prototypes.

RESIDENTIAL CARETAKER UNIT. See Caretaker's Residence.

RESTAURANT, COUNTER SERVICE. An establishment serving food and beverages prepared on-site where customers may order full meals from a walk-up counter for either on- or off-site consumption. This classification typically includes delicatessens, fast-food franchises and similar establishments where table seating is provided.

RESTAURANT, TABLE SERVICE. An establishment serving food and beverages prepared on-site where food orders are taken and delivered at a customer's seating area. This classification may include the sale of beer and wine, catering, or take-out business as ancillary uses and permits full-bar service ancillary to the restaurant use as defined under "Bar" above.

RUBBISH. All waste, matter and other similar item and material of residential, commercial or industrial nature existing in an unusable, inoperative, deteriorated, rusted, torn, neglected, discarded or abandoned condition, which includes but is not limited to:

- (1) Animal or human offal, asphalt, bicycle parts, boards, inoperative boats and parts, bottles, boxes, bricks, cans, cartons, cement, cinder blocks, concrete, containers, crates, dirt, doors, equipment, glass, gravel, hoses, lumber, machinery, metal, paint, pallets, paper, pipe, plaster, rebar, rocks, rubber, sand, siding boards, stucco, tile, windows, wire, wood, and other similar materials.
- (2) Trimmings, clippings and cuttings from lawns, shrubs and trees, and all dead vegetation or uprooted grass, sod, shrubs, trees, vegetables and dirt, and firewood piles.
- (3) Rugs, bedding, furniture, utensils, clothing, toys, appliances, household supplies and equipment and miscellaneous chattel.
- (4) Vehicle frames, motors, tires, parts and accessories.

SCHOOL, BUSINESS. A public or private establishment offering business, professional, secretarial, or computer education and training in an office or classroom setting. Also includes specialized non-degree granting schools offering such subjects as personal growth and development (including health awareness, environmental studies, communications, and management, as well as academies for commercial art, acting, music, dancing, culinary training, and similar establishments providing educational tutoring or educational courses by mail.

SCHOOLS, COLLEGE OR UNIVERSITY. Community colleges, public or private colleges, universities and professional schools granting associate in arts degrees, certificates, undergraduate and graduate degrees and requiring for admission at least a high school diploma or equivalent general academic training.

SCHOOLS, ELEMENTARY AND SECONDARY. Public and private elementary, middle, junior high, and high schools serving grades kindergarten through 12, including boarding schools, charter schools and military academies. Pre-schools and child day care facilities are included under the definitions of "Child Day Care Center" and "Family Day Care Home."

SCHOOL, PERSONAL AND SOCIAL DEVELOPMENT. A public or private establishment offering education and training in social skills, life skills, employment counseling and basic job training, and similar educational programs for the unemployed, the disabled, and youth. This education occurs in an office/classroom setting.

SCHOOL, VOCATIONAL. A public or private establishment offering specialized trade and commercial courses for the purpose of technical, vocational or occupational training. These schools typically involve workshops, laboratories, or similar facilities as well as outdoor instruction and outdoor storage. This classification includes specialized non-degree-granting schools offering such subjects as: professional driving schools for commercial licenses, welding, woodworking or material fabrication, and engineering and/or automotive design and/or repair. Education occurring primarily in an office or classroom setting will be classified as “School, Business” or “School, Personal and Social Development.”

SCRAP AND SALVAGE OPERATION. An establishment where materials are collected in bulk quantities for use as raw material to produce new items at other locations, or dismantled for wholesale use or direct sale to the public. This classification includes vehicle salvage, but excludes collection of household recyclable materials.

SETBACK. The required distance that a building, structure, parking, or other designated object must be located from a property line.

SHIPPING CONTAINER. Cargo containers, railroad cars, storage containers, shipping containers, freight containers, C-trains, and similar prefabricated items and structures originally built for the purposes of storage and/or transportation of goods, materials, trash, refuse, or waste.

STADIUM. An unroofed building with bleachers or tiers of seats for spectators at sports events.

STORAGE, OUTDOOR. The storage of materials and goods not within an enclosed structure for more than 72 hours. Includes the storage of operable and inoperable vehicles.

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

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

STRUCTURE, RESIDENTIAL ACCESSORY. Those structures customarily incidental and subordinate to the residential use of the land including but not limited to: children’s playhouses, patios, decks, fences, landings, porches, gazebos, storage sheds, greenhouses, spas and hot tubs customary and incidental to the use of a residential parcel. Residential accessory structures are primarily less than 120 square feet and are determined by the Building Official as not requiring a building permit. Residential accessory structures shall not include mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes, and the storage of tractor-trailers or separate tractors or cargo trailers; which shall be expressly prohibited in residential zones.

STRUCTURAL ALTERATION. Any construction or physical change to a structure, including an increase in floor area, change to the internal arrangement of rooms, change to the supporting members of structure, or change in the appearance of any building or structure.

SUPPORTIVE HOUSING. Housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Consistent with Government Code Section 65583, supportive housing shall be permitted in all zones allowing residential uses, subject to the same permit requirements of other residential uses of the same type in the same zones.

TANDEM PARKING. Two parking spaces, one located behind the other.

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

TELECOMMUNICATIONS TOWER. And other definitions associated therewith. See § 10-3.413.

THEATER. An establishment providing indoor or outdoor facilities for motion pictures or dramatic or musical performances and concerts. Outdoor facilities include amphitheaters but excludes stadiums, arenas, and racetracks.

TOBACCO SALES (SPECIALTY) AND SMOKE SHOPS. Establishments engaged primarily in the retail sale of tobacco products, including cigarettes, cigars, pipes, pipe tobacco, rolling papers, hookah products, vape products, flavored smoking products and marijuana paraphernalia. This definition includes humidors, smoking rooms, head shops, vape lounges and hookah bars. This definition does not include stores where more than 20% of the product displayed and sold is not specialty tobacco sales related. This classification does not include stores where alcohol is sold or consumed.

TRANSIT STATION OR TERMINAL. Passenger and freight nodes for vehicular and rail mass transit systems; also terminal facilities providing maintenance and service for the vehicles operated in the transit system. Includes buses, taxis, railway, etc.

TRANSITIONAL HOUSING. An establishment providing intermediate shelter to persons for up to nine months. Consistent with Government Code Section 65583, transitional housing shall be permitted in all zones allowing residential uses, subject to the same permit requirements of other residential uses of the same type in the same zones. This classification does not include facilities licensed for residential care by the State of California and homeless shelters.

TRUCK STOP. A facility primarily used for temporary, daily, or overnight parking of commercial motor vehicles (any vehicle or combination of vehicles which requires a class A or class B license, or a class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278 of the California Vehicle Code), trucks including truck tractors, and similar vehicles with two or more rear axles for free or for a fee that is charged independently of any other use on the premises. This use shall include any ancillary uses on the same property such as the sale or provision of fuel, food, and/or shower or sleeping facilities.

UNENCLOSED. A structure open on at least two sides.

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

USED MERCHANDISE SALES. An establishment that sells any used item, including clothing, kitchen utensils, toys, furniture, appliances, and similar items but excluding antique or collectibles and automobiles, vehicular, and similar equipment.

VEHICLE ACCESSORY EQUIPMENT SALES. An establishment engaged in the retail sale of audio equipment, window tinting, camper shells, equipment racks, and similar equipment, including incidental storage, installation, and maintenance.

VEHICLE STORAGE OR IMPOUND YARD. A lot for the temporary storage of automobiles, trucks, buses, recreational vehicles, and similar vehicles. This use excludes vehicle repair or dismantling (See “Scrap and Salvage Operation” under “Waste Diversion and Material Recovery.”)

WHOLESALE, STORAGE AND DISTRIBUTION. Includes the following:

1. Light. An establishment, or multi-tenant building, having 50,000 square feet or less of building area engaged solely in the wholesale, storage, or distribution of goods to other vendors. This land use does not involve sale to the public or any vehicle sales. Excluded from this use are wholesale, storage, and distribution activities that are accessory to an on-site manufacturing/assembly operation.
2. Medium. An establishment, or multi-tenant building, having 250,000 square feet or less of building area engaged solely in the wholesale, storage, or distribution of goods to other vendors. This land use does not involve direct sale to the public, any vehicle sales, or any “high cube warehouse,” as defined in Wholesale, Storage, or Distribution - Heavy. Also, excluded from this use are wholesale, storage, and distribution activities that are accessory to an on-site manufacturing/assembly operation.
3. Heavy. An establishment, or multi-tenant building, having more than 250,000 square feet of building area engaged solely in the wholesale, storage, or distribution of goods to other vendors. Also included in this land use are “high cube” warehouses. These warehouses shall be defined as buildings that contain more than 100,000 square feet of floor area, are 50 feet in height or greater, and use vertical storage racking systems. This land use does not involve direct sale to the public or any vehicle sales activities. Excluded from this use are wholesale, storage, and distribution activities that are accessory to an on-site manufacturing/assembly operation. This land use shall include any establishment engaged in the storage or distribution of any combustible or explosive substance, including any petroleum product, as a primary use.

YARD. The open space between the required setback and the nearest property line.

YARD, FRONT. The full width of the parcel between the front property line and the setback line required by the zone district, extending to the side property lines.

YARD, REAR. The full width of the parcel between the rear property line(s) and the rear yard setback line required by the zone district. In case of a corner or flag lot, the rear yard is that portion of the lot opposite to the front yard.

YARD, SIDE. A yard between the side property line and the required setback line extending from the front setback to the rear setback.

YARD, STREET SIDE. A yard between the side property line bounding a street extending from the front setback line to the rear property line.

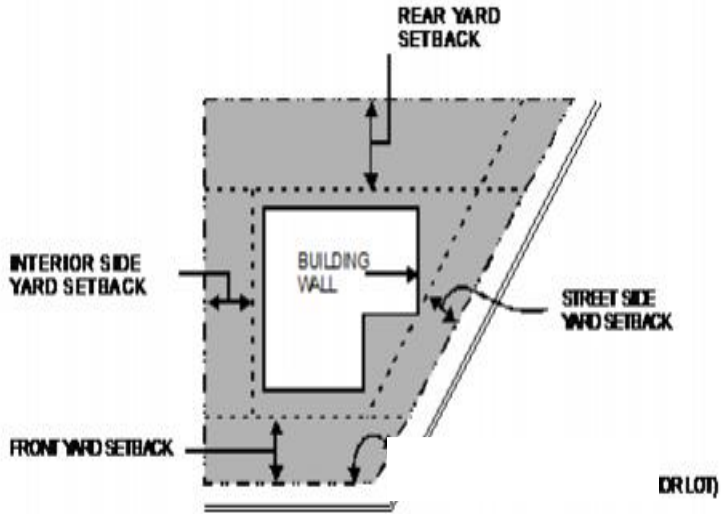


Figure 10-3.201.2Y: Setbacks

ZONE. See “District.”

ZONE DISTRICT. See “District.”

ZOO. An establishment providing care and maintenance for exotic animal species for display to the public. This classification includes avian and small animal rehabilitation or rescue centers. This definition excludes facilities owned and operated by the City.

ZONES

§ 10-3.301 ESTABLISHMENT.

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

- | | | |
|------|------------|---|
| (1) | PRD | Planned Residential Development |
| (2) | PCD | Planned Commercial Development |
| (3) | SP | Specific Plan Area |
| (4) | RA | Rural Residential Zone |
| (5) | RI | Low Density Single Family Residential Zone |
| (6) | R2 | Medium Density Single Family Residential Zone |
| (7) | R3 | Medium Density Multi Family Residential Zone |
| (8) | R4 | High Density Multi Family Residential Zone |
| (9) | RCO | Resource Conservation and Open Space Zone |
| (10) | UR | Urban Reserve Zone |
| (11) | PF | Public Facilities Zone |
| (12) | PO | Professional Office Zone |
| (13) | WY | West Yosemite Avenue Office Zone |
| (14) | CN | Neighborhood Commercial Zone |
| (15) | CI | Light Commercial Zone |
| (16) | C2 | Heavy Commercial Zone |
| (17) | C3 | Downtown Commercial Zone |
| (18) | CH | Highway Commercial Zone |
| (19) | LI | Limited Industrial Zone |
| (20) | I | General Industrial Zone |
| (21) | IP | Industrial Park Zone |
| (22) | SP | Specific Plan |
| (23) | EC | Economic Center Overlay |

§ 10-3.302 ZONING MAPS.

(A) Adoption. The boundaries of the various land use districts within the City of Madera are shown upon the map designated as the “City of Madera Zoning Map”, sometimes referred to in this chapter as “Zoning Map,” signed and on file in the office of the City Clerk, which map is hereby adopted and made a part of this Chapter, and said map and all of the notations, references, and other information shown thereon shall be as much a part of this Chapter as if the matters and information set forth by said map were all duly described in this Chapter.

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

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

§ 10-3.303 ANNEXATION POLICY.

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

(B) Rezoned land shall carry a "PZ" prefix before the zone classification(s) and shall be so designated on the official Zoning Map. The zone(s) established by rezoning shall become effective and the "PZ" prefix shall be automatically removed when the property is annexed. Unless specifically stated otherwise in the ordinance adopting the rezoning, if within two years of City Council approval of a rezoning the subject property has not yet been annexed to the City, the approval shall be subject to reconsideration by the Planning Commission and City Council.

§ 10-3.304 ZONE BOUNDARIES.

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

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

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

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

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

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

§ 10-3.305 CONFORMANCE TO ZONE REGULATIONS.

(A) Except as provided in this chapter:

- (1) *Use.* No building shall be erected, reconstructed, or structurally altered in any manner, nor shall any land, building, or premises be used, designed, or intended to be used for any purpose or in any manner other than a use listed in or determined to be an allowable use as provided for by this chapter in the specific zone in which such land, building, or premises are located, and then only after applying for, and securing all permits, approvals, and licenses required by law.
- (2) *Height.* No building shall be erected, reconstructed, or structurally altered in any manner to exceed in height the limit established by this chapter for the zone in which such building is located.
- (3) *Area.* No building shall be erected, reconstructed, or structurally altered in any manner, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner except in conformity with the building site requirements and the area and yard regulations established by this chapter for the zone in which such building is located.
- (4) *Design.* No building, structure, or site improvement shall be erected, improved, reconstructed or altered in any manner that is not consistent with the goals and policies of the Madera General Plan.

(B) No required yard or other open space provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building or structure; nor shall any required yard or other open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected, unless it is a part of a planned development where approved provisions to provide for common use and maintenance are in place.

GENERAL PROVISIONS

§ 10-3.401 INTERPRETATION.

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

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

§ 10-3.402 PROHIBITED USES.

(A) In addition to those uses specifically excluded and/or prohibited in one or more zone districts, other uses may also be excluded and/or prohibited, provided such additional uses are, in the opinion of the Zoning Administrator or Planning Commission, as evidenced by a resolution or written record of determination, equally or more obnoxious, or detrimental to the welfare of the community than the excluded uses specifically mentioned for the respective zone or zones.

§ 10-3.403 DETERMINATION OF USES.

(A) When a request is made to establish a use that is not included in the applicable Zone District use schedule, and no reasonably similar use is identified within the applicable use schedule, a Determination of Use by the Planning Commission is required. In such cases, an applicant shall submit an application for Determination of Use to the Planning Department for processing to the Planning Commission.

(B) The application shall include a completed application form, a fee as determined by the Council, a completed operational statement, and such information necessary to discern the exact nature and extent of the requested use as may be required by the Planning Director.

(C) The Planning Department shall schedule the request for Determination of Use to the next available regular meeting of the Planning Commission for public hearing.

(D) The ruling on the Determination of Use shall provide the applicant with a written decision, that includes, at a minimum;

- (1) A definition of the proposed use, which may or may not include edit of or insertion into previously existing definitions, and;
- (2) A classification of the use within the use schedule of the Zoning Ordinance for all applicable Zone Districts; and
- (3) The classification of the use may be determined to be a prohibited use, a permitted use, a

- permitted use subject to the approval of a zoning administrator permit, and/or a permitted use subject to the approval of a conditional use permit; and
- (4) In all cases where a use is permitted to be established, the Planning Commission must make the findings that the Determination of Use is:
 - (a) Consistent with the purpose and intent of the zone district(s) and underlying General Plan land use designation(s) as assigned, and;
 - (b) Not more obnoxious or detrimental to the welfare of the community than the permitted or conditionally permitted uses specifically mentioned for the respective zone(s), and;
 - (c) Similar to and compatible with other uses allowed or conditionally allowed in the designated zone district(s).

(E) The Determination of Use may dictate that additional entitlements be approved prior to the establishment of the use, and that operational limits and/or development requirements may be applied to the use as a component of those entitlements.

(F) The Planning Director shall cause a list of such determinations and clarifications to be maintained and shall periodically initiate an amendment to the Zoning Ordinance to incorporate such changes into the Zoning Ordinance.

(G) The decision of the Planning Commission may be appealed to the City Council consistent with § 10-3.1309.

§ 10-3.404 HOME OCCUPATION PERMITS.

(A) Home occupations shall be permitted in all residential zones. The conduct of all home occupations as defined by § 10-3.201 shall only be allowed after obtaining approval of a home occupation permit and shall comply with the following regulations:

- (1) Use and Appearance of Residence.
 - (a) The home occupation shall only be conducted as an incidental use of the home.
 - (b) The home occupation shall be restricted to one room of the dwelling unit, and an accessory structure or garage.
 - (c) The use shall not be conducted outside.
 - (d) In no way shall the appearance of the residential structure be altered so that the structure may be recognized as serving the home occupation use.
 - (e) There shall be no use of materials or equipment not recognized as being typical of normal household activities.
- (2) Storage.
 - (a) Outdoor storage is prohibited, except for vehicles and equipment as allowed in § 10-3.404(A)(5) below.
 - (b) On-site storage of hazardous materials (including toxic, explosive, combustible or flammable) beyond that normally incidental to residential use is prohibited.
 - (c) Storage of inventory, products, all other equipment, fixtures and/or activities associated with the business shall be allowed consistent with § 10-3.404(A)(1)(b) above except that only portions of a garage that are not required parking spaces the residential uses may be used for storage.
 - (d) Consistent with subsection (c) above, neither storage of goods and/or materials nor any other home occupation activity shall encroach into required parking.
- (3) Employees.
 - (a) Only individuals living at the residence may be employed to work at the home at any time.
 - (b) Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or visit at the home.

- (4) Advertising and Signage.
 - (a) No signs are permitted either on or off the premises to identify the business or solicit customers.
 - (b) No display of products and/or equipment produced or used by the home occupation may be displayed so as to be visible from outside the home.
 - (c) Removable vehicle signage is allowed, but shall be removed whenever the vehicle is located at the home occupation permit property.
- (5) Vehicles, Parking and Traffic.
 - (a) One vehicle and/or one utility trailer shall be allowed to be parked at the residence if the following criteria are met:
 - (i) The presence of the vehicle and/or trailer shall not be visible from adjacent properties or detectable by noise, odors or any other factors.
 - (ii) The vehicle and/or trailer shall not utilize the required covered or uncovered parking for the residence, unless the vehicle is also the primary vehicle of the resident.
 - (iii) No structures or devices for screening shall be employed if they are not aesthetically consistent with the existing structures and the aesthetic values of the surrounding neighborhood.
 - (iv) If placed in a rear yard, the storage of any vehicle, trailer, and/or specialized piece of equipment shall not result in a reduction of usable rear open space to less than 150 square feet with a minimum of ten (10) feet in width.
 - (v) No vehicle or trailer shall be allowed access via an alley if the loaded weight exceeds 10,000 lbs.
 - (b) There shall be no commercial vehicle deliveries to or from the home occupation premises beyond what is normally incidental to residential uses, including normal residential deliveries (e.g. UPS, etc) as typically being no more than one time per day, during normal business hours of 8 a.m. to 6 p.m.
 - (c) No more than two vehicles can be parked at any one time at the residence in conjunction with the home occupation.
- (6) Nuisance Issues.
 - (a) No activity which produces radio or TV interference, noise, glare, vibration or odor discernable beyond the property boundary is allowed.
 - (b) No use of utilities or community facilities, including the material and volume of trash disposal, beyond that normal to the use of the property for residential purposes is allowed.
- (7) Issuance of a home occupation permit under this chapter shall not relieve the applicant from the duty and responsibility to comply with all other rules, regulations, ordinances or other laws governing the use of the premises and structures thereon, including, but not limited to Business Licenses, the Uniform Building Code, the Uniform Fire Code or any private restrictions relative to the property.
- (8) Clients or customers are not permitted at the home.
- (9) The following types of businesses are explicitly not allowed as a home occupation:
 - (a) Vehicle repair, vehicle accessory installation, or vehicle services of any kind, including mobile vehicle repair and/or services.
 - (b) Vehicle repossession.
 - (c) Vehicle brokerage.
 - (d) Vehicle towing and related services.
 - (e) Beauty salons, barber shops or any other personal services.
 - (f) Sale of furniture, appliances, or any other bulky items which involve on-site delivery or storage.
 - (g) Freight dispatch and/or trucking services.
 - (h) Party equipment rental services.
 - (i) Weapons sales.

- (10) Representatives of the City may visit and inspect the site of a home occupation permitted in this chapter periodically to ensure compliance with all regulations and conditions to which the permit is subject, during normal business hours.
- (11) Permit Process.
 - (a) Applicants shall submit an application to the City Planning Department, provide all the requested information regarding the proposed home occupancy permit and pay the applicable fee.
 - (b) A notice of the proposed home occupation will be circulated by the Planning Department to property owners within 150 feet of the proposed site as listed in the County Assessor's records and to the applicant at the address of the proposed home occupation. The notice shall invite the public to comment on the proposed home occupation permit within a ten (10) calendar day time period.
 - (c) At the conclusion of the ten day comment period, a decision shall be made by the Planning Director (or their designee) to either approve or deny the home occupation permit. If approved, the home occupation permit may be issued with or without conditions to keep the home occupation compatible with the residential nature of the area.
 - (d) If, at the conclusion of the ten day comment period, written adverse comments have been received from the surrounding residential area, and such comments are deemed to have merit by the Planning Director, the home occupation permit application shall be denied.
 - (e) The decision of the Planning Director may be appealed as provided for by § 10-3.465.
 - (f) Any application for home occupation permit that has been denied may be resubmitted for processing consistent with this subsection only after one year has transpired since denial of the request.
- (11) Expiration.
 - (a) Home Occupation Permits that are not maintained by the issuance of an annual business license shall expire and be deemed null and void.
- (12) Revocation.
 - (a) All Home Occupation Permits which have been granted as provided in this chapter may be revoked by the Planning Manager after a public hearing, in the event the user of such permit, or his or its successor in interest to the real property in favor of which the permit was granted, breaches or fails to abide by any of the conditions designated in such permit, or conducts any use or activity on such property contrary to the provisions of this code.

§ 10-3.405 ZONING ADMINISTRATOR.

(A) Zoning Administrator created; authority.

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

(B) Matters considered by Zoning Administrator. The Zoning Administrator shall decide upon the following matters:

- (1) Land use approvals as specified by this section and the provisions of this Code pertaining to the various zoning districts.
- (2) Modifications to certain requirements specified in this chapter to the following extent;
 - (a) In residential districts, building lot coverage modifications not exceeding 5% of the total lot area.
 - (b) In residential districts, common open space modifications not exceeding 10% of the

- minimum open space requirements.
- (c) In residential districts, side yard setback modifications not resulting in a setback of less than three feet on any interior setback.
- (d) In residential districts, front and rear yard setback modifications not exceeding five feet.
- (e) In residential districts, all cottage food industries.
- (f) In allowed residential districts, all accessory dwelling units, per § 10-3.548.
- (g) In allowed residential districts, all garage conversions, per § 10-3.545.
- (h) In any district, building height adjustments not exceeding five feet.
- (i) In any district, an increase in fence heights to improve the site plan or architectural design and where scenic views and solar access on surrounding properties are not significantly affected, not to exceed one (1) foot above permitted height.
- (j) In any commercial district, reductions in parking standards contained in this Title, not to exceed a ten percent (10%) reduction in the number of parking stalls provided, subject to the required findings being made.

(C) Zoning Administrator Findings. The Zoning Administrator may only provide the allowed actions if the following findings can be made:

- (1) The strict or literal interpretation of the specific regulation would result in a detrimental impact to the project site and/or the surrounding area.
- (2) The strict or literal interpretation of the specific regulation would result in a practical difficulty and/or unnecessary hardship, depriving the applicant of privileges enjoyed by other property owners in the same district.
- (3) The action will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

(D) Rules and procedures. The general rules and procedures necessary or convenient for the conduct of business of said Zoning Administrator shall be as follows.

- (1) The Zoning Administrator shall consider all applications for Zoning Administrator Permits, which shall include a complete application form, a fee as determined by the Council, a completed operational statement, and such information necessary to discern the exact nature and extent of the request.
- (2) Any application for a Zoning Administrator Permit shall be initiated in one of the following manners:
 - (a) By application of the interested party, consistent with § 10-3.405(D)(1);
 - (b) By resolution of the City Council or Planning Commission requesting the Zoning Administrator to hear the same.
- (3) Any application for a Zoning Administrator Permit shall be considered at a public hearing noticed in the following manner:
 - (a) Not less than ten days before such public hearing, direct mailing to the owners and/or occupants of the property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the hearing.
 - (b) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Planning Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The City may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.
 - (c) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this section.
- (4) The Zoning Administrator shall render a decision on the application within ten (10) days after the date of public hearing.

- (5) In the granting of any permit, the Zoning Administrator may apply conditions of approval upon the entitlement to include, but not limited to:
 - (a) Operational limitations.
 - (b) Development standards.
 - (c) Time limitations within which the permit is valid.
 - (d) Other conditions of approval necessary for favorable findings in support of approval of the permit.
 - (6) Upon receipt of the approved Zoning Administrator Permit, the applicant/owner shall execute an acknowledgment and acceptance of the terms and conditions of the permit to be returned to the Planning Department within thirty (30) days.
- (E) Appeal of Zoning Administrator's decision.
- (1) Within ten (10) calendar days following the date of a decision by the Zoning Administrator, the decision may be appealed in writing to the Planning Commission by the applicant or any other interested party. Such an appeal shall be filed with the Planning Director and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Zoning Administrator or wherein the decision is not supported by evidence in the record. Appeals shall be accompanied by an appeal fee as prescribed by Resolution of the City Council. The appeal fee shall be refunded if the appeal is granted by the Planning Commission. Additional copies of the plans may be required by the Director.
 - (2) The Planning Director shall give notice to the applicant and to the appellant (if the appellant is not the applicant) of the date, time, and place the appeal will be considered by the Planning Commission.
 - (3) The Planning Commission shall hear the appeal at its next regular meeting to be held not earlier than 14 calendar days after the filing of the appeal. The Commission may affirm, modify, or reverse a decision of the Zoning Administrator, provided that if the decision is modified or reversed, the Commission shall, on the basis of the record and such additional evidence as may be submitted, make the applicable findings prerequisite to the approval of a Zoning Administrator Permit. The decision of the Commission shall be final unless appealed to the City Council.
 - (4) Any application for Zoning Administrator Permit that has been denied may be resubmitted for processing consistent with this subsection only after one year has transpired since denial of the request.
- (F) When Zoning Administrator action is final.
- (1) Upon expiration of the time within which an appeal may be filed, and no appeal being filed within such time, the decision of the Zoning Administrator shall be deemed final; but if an appeal is filed within such time, the decision of the Zoning Administrator shall be stayed pending determination of the appeal or its withdrawal by the appellant.
 - (2) Until the appeal has become final, no Zoning Administrator Permit shall be issued.
- (G) Term of permit: Expiration
- (1) Any Zoning Administrator Permit granted by the Zoning Administrator, Planning Commission, or City Council as herein provided shall be conditioned upon the privileges granted therein being utilized within 12 months after the effective date thereof. Failure to utilize such permit within such 12-month period shall render the permit null and void unless a written request for extension is submitted to the Planning Department prior to the expiration of the permit.
 - (2) Any Zoning Administrator Permit utilized but later abandoned for a period of 12 consecutive months shall automatically be terminate unless a written request for extension is submitted and approved as described in this section.

(H) Revocation.

- (1) All Zoning Administrator Permits which have been granted as provided in this chapter may be revoked by the Zoning Administrator after a public hearing, in the event the user of such permit, or his or its successor in interest to the real property in favor of which the permit was granted, breaches or fails to abide by any of the conditions designated in such permit, or conducts any use or activity on such property contrary to the provisions of this code.

§ 10-3.406 CONDITIONAL USES.

(A) The following uses, in all cases stated, shall require the approval of a use permit by the Planning Commission:

- (1) No circus, carnival, amusement park, open air theater, race track, private recreation center, or similar establishment shall be established in any zone unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use.
- (2) No dance hall, road house, nightclub, hookah bar, billiard parlor, commercial club or commercial place of amusement or recreation, or any such place where entertainers are provided, whether as social companions or otherwise, shall be established in any zone where such uses may be otherwise allowed, unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use.
- (3) No establishment where liquor is served or sold for consumption on or off the premises shall be established in any zone where such uses may be otherwise allowed unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use.
- (4) No church may be permitted in any zone where such use may be otherwise allowed unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use.
- (5) No school may be permitted in any zone unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use.
- (6) No hospital may be permitted in any zone where such use may be otherwise allowed unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use.
- (7) No removal of minerals, earth, and other natural materials may be permitted in any zone unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use.
- (8) No recycling center may be established in any zone where such use may be otherwise allowed unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use consistent with § 10-3.407.
- (9) No card room may be established in any zone district where such use may be otherwise allowed unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use consistent with § 10-3.408.
- (10) No Large Family Day Care Home may be established in any residential zone district unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use consistent with § 10-3.409.

§ 10-3.407 RECYCLING FACILITIES.

(A) Recycling facilities as hereinafter described are permitted as set forth in this section. Recycling facilities are either a Recycling Center or a Material Recovery Resource Facility.

- (1) A Recycling Center shall act as a collection center for receipt of California Redemption Value (CRV) bottles, cans, and plastic only, and shall not complete any processing of recyclable materials except limited bailing, batching, and sorting of redeemed materials. See the definition of Recycling Center at § 10-3.201.

(2) A Material Recovery Resource Facility (MRRF) shall act as a processing facility for recyclable materials (including CRV materials if so desired) and may be used to collect, sort, and consolidate household recyclable materials including but not limited to paper, paperboard, glass, plastic, aluminum, wood, other metals, and used motor oil. See the definition of a MRRF at § 10-3.201.

(B) Recycling facilities are permitted as follows:

- (1) A Recycling Center may be permitted in any commercial or industrial zone district after first securing a conditional use permit.
- (2) A MRRF may be permitted in a C2, LI, or I zone district after first securing a conditional use permit. A MRRF may not be permitted if it is proposed within ¼ of a mile of an existing or permitted Recycling Center or MRRF, or within 300 feet of any residential zone or residential dwelling.

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

§ 10-3.408 CARD ROOMS.

(A) Card rooms as hereinafter described and regulated are permitted as set forth in this section.

(B) A card room shall be defined as any building or structure, or portion thereof, for which a card room operating license is obtained and in which legal gambling or gaming is conducted. The term shall include any restaurant, bar, assembly room, meeting room or office which is a part of or appurtenant to the room or rooms in which legal gambling or gaming is conducted. The term shall also include the business of operating the card room and those business enterprises which are a part thereof.

(C) It is the stated purpose of this chapter to regulate card rooms in the City concurrently with the state, and to impose local controls and regulations upon card rooms as permitted in the "Gambling Control Act".

(D) Card rooms, subject to the licensing requirements and limitation in number cited at § 6.3.01 et.al. of this code are permitted in any C1, C2, C3, or LI zone district, except as otherwise prohibited. In each case, a Use Permit must first be approved by the Planning Commission. Application for a Use Permit shall be made in accordance with § 10-3.1301 et seq. of this code.

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

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

- (1) 500 feet from the exterior property limits of any public or private elementary school, junior high school or high school; and
- (2) 500 feet from any public park; and
- (3) 500 feet from the exterior property limits of any church or place of worship; and
- (4) 1,000 feet from the exterior wall structure of each business or premises lawfully occupied by another card room, a massage establishment, adult entertainment establishment, or any other adult oriented business establishment.

All distances referred to in division (F) of this section shall be measured in a straight line without regard to intervening structures, from the closest exterior structural wall of the card room. Said distance standards shall be applied regardless of jurisdictional boundaries.

(G) Exempt organizations.

- (1) Exempt organizations may provide card tables and card games for the exclusive use of their members and shall be exempted from obtaining a card room license pursuant to this section, whether or not a fee or any other charge is made to the players, as long as the exempt organization is not required to register under the Gaming Registration Act, and providing that such exempt organization complies with all of the subsections of this section.
- (2) An authorized representative of the exempt organization shall file a Declaration of Exemption executed under penalty of perjury with the Chief of Police that sets forth the name and address of the exempt organization, the number of tables to be operated, and a declaration that the exempt organization and its members qualify for exemption from the Gaming Registration Act and from licensing hereunder; the Declaration of Exemption shall be accompanied by proof of the valid and unrevoked tax exempt status of the exempt organization granted by the Franchise Tax Board and/or the Internal Revenue Service. No registration fees shall be required.
- (3) No exempt organization shall operate, conduct, or carry on legal gaming as defined in this chapter more than one day of any calendar week.
- (4) No exempt organization shall operate, conduct, or carry on legal gaming as defined in § 6.3.01 et.al. of this code within any building, structure, lot, or premises within any calendar week, if any other exempt organization has conducted, carried on, or operated legal gaming within such building, structure, lot or premises during the same calendar week.

§ 10-3.409 LARGE FAMILY DAY CARE HOMES.

(A) *Application procedure.* No Large Family Day Care Home may be established in any residential zone district unless and until a use permit is first secured for the establishment, maintenance, and operation of each such use consistent with this section.

- (1) Applications for large family day care homes shall be processed in accordance with the provisions of this section. For the purposes of this section, **LARGE FAMILY DAY CARE HOME(S)** shall mean a day care facility located in a dwelling where an occupant of the residence provides care and supervision for 8 to 14 children, consistent with Cal. Health and Safety Code § 1596.78(b).
- (2) The applicant shall pay a fee as set forth in the Madera Planning Processing Fee Schedule as set by resolution of the City Council.
- (3) Application for a large family day care home use permit shall be filed with the Planning Department in accordance with the requirements of §10-3.1301.
- (4) No less than ten days prior to the date on which the decision will be made on the application, the Planning Director, or his or her designee, shall give notice of the proposed use by mail to all owners shown on the last equalized assessment roll as owning real property within 100 feet of the exterior boundaries of the site of the proposed use.
- (5) If no hearing is requested in writing by the applicant, or other affected person, the Planning Director shall approve, approve in modified form, or deny the application. The Planning Director shall grant the use permit if the proposed large family day care home, as applied for or as conditioned, complies with the standards set forth in this section.
- (6) If a hearing is requested in writing by the applicant, or other affected person, a public hearing shall be held before the Planning Commission prior to a decision being made. No public hearing shall be held unless such a hearing is requested.
- (7) Upon close of the public hearing, if a hearing has been requested in writing, the Planning Commission shall approve, approve in modified form, or deny the application. The Planning Commission shall grant the use permit if the proposed large family day care home, as applied for or as conditioned, complies with the standards set forth in this section.
- (8) Any action of the Planning Director on the application of a use permit for a large family day care home may be appealed to the Planning Commission. Any action on the application of a

use permit for a large family day care home of the Planning Commission may be appealed to the City Council.

- (9) No person shall operate a large family day care home in any single-family residential zone without first obtaining a use permit in compliance with the standards as set forth in division (B) of this section.

(B) *Large family day care standards.* The Planning Director or Planning Commission shall grant an application for a use permit to operate a large family day care home if it finds that all of the following standards have been met, and shall require that such standards be met at all times and maintained throughout the use of the permit by the proposed operator:

- (1) The operator shall reside in the home, and the home shall be the operator's legal principal residence. The operator shall provide adequate written evidence of its residency.
- (2) The use of the home as a large family day care home shall be clearly incidental and secondary to the primary residential use of the home and property.
- (3) The property and home shall not have been altered or structurally changed in a way which is adverse to the character or appearance of the neighborhood or residential zone.
- (4) One off-street parking space shall be provided for each non-resident employee. Such parking space shall be in addition to the minimum parking requirements applicable to the property consistent with the provisions of this chapter, including, but not limited to, provisions applicable to legal, non-conforming residential buildings. The residential driveway is acceptable so long as the parking space does not conflict with any required child drop-off/pickup area and does not block the public sidewalk or right-of-way.
- (5) The garage shall not be used for any purpose relating to the care giving of the children unless it has been converted in accordance with the provisions of this chapter. Replacement parking (if needed) shall be sufficient to comply with the requirements of this chapter, including the provisions of this section.
- (6) Sufficient procedures for the loading and unloading of children from vehicles shall have been submitted by applicant. If there is not sufficient on-street parking to allow for the safe loading and unloading of children from vehicles, the driveway shall be used for this purpose. The public sidewalk and/or right-of-way shall not be blocked while completing the loading and unloading process. Double parking in the street is prohibited. The applicant shall be responsible for the safe loading and unloading of children and shall distribute a notice of loading and unloading procedures to all persons that utilize services of the large family day care home. The day care provider is responsible for adherence to these rules.
- (7) If the residence is located on a major arterial street, there must be a drop-off/pickup area designed to prevent vehicles from backing onto the major arterial roadway.
- (8) No signs or other indicia may be used to identify the residence as a large family day care home, and no such signs or indicia may be visible from the right-of-way.
- (9) There shall be a minimum distance of 300 feet between the parcel on which the large family day care home is located and the nearest parcel containing a licensed large family day care home.
- (10) No more than one large family day care home shall be permitted within a 500 foot radius of any child day care facility or elementary school.
- (11) The applicant shall be in compliance with all applicable regulations of the Fire Department and the Building Official regarding health and safety requirements.
- (12) The applicant shall have applied for a large family day care home license from the State of California, Department of Social Services.
- (13) The applicant shall not allow smoking within the residence when any of the children being cared for are present in the residence.
- (14) Large family day care homes shall not create noise levels in excess of those allowed in single-family residential areas in the noise element of the General Plan. The Planning Commission may impose reasonable limits on the hours of operation of the large family day care home in order to ensure that these limits are met.

§ 10-3.410 GARAGE AND YARD SALES.

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

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

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

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

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

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

(G) Violation - penalty. Violations of any provisions of this subsection shall subject the violator to suit for civil remedy, criminal penalty, administrative enforcement, or any combination thereof. The

criminal penalty for a first or second offense shall be punishable as an infraction. The criminal penalty for a third offense or more shall be punishable as a misdemeanor.

(H) Non-profit organizations shall be permitted to hold no more than two Garage or Yard Sales on non-residential property within a twelve month period. Non-profits holding such Garage or Yard Sales must obtain a permit from the Neighborhood Revitalization Department prior to holding the event.

§ 10-3.411 NONCONFORMING BUILDINGS AND USES.

(A) The following regulations shall apply to all nonconforming buildings and structures, or parts thereof, all nonconforming uses of buildings and/or nonconforming parcels of land:

- (1) A building, structure, or portion thereof, or use of building, or parcel land which met the applicable Zoning Ordinance requirements at the time it was established or created but which fails by reason of adoption, revision or amendment of the Zoning Ordinance to conform to the present requirements of the zone in which it is located shall be deemed to be a nonconforming building, structure, use or parcel of land, and may only be continued as provided in this section:
 - (a) The existing lawful use of buildings or structures in place on January 1, 2019, or on the effective date of an applicable amendment to this title, may be continued even though such building or use does not conform to the regulations specified for the zone in which such building or use is located.
- (2) The Planning Commission shall not consider a conditional use permit that would substantially delay the potential for the property to be redeveloped with conforming uses that are permitted within the zone district.
- (3) The nonconforming use of a portion of a building or structure may be extended throughout the building provided in each case a conditional use permit shall first be approved by the Planning Commission.
- (3) The nonconforming use of a building or structure may be changed to a use of the same or more restricted nature provided in each case a conditional use permit shall first be approved by the Planning Commission.
- (4) Construction of buildings or structures, or the establishment of uses on vacant existing non-conforming parcels of land shall be permitted, provided in each case a conditional use permit shall first be approved by the Planning Commission.
 - (a) The construction of buildings or structures, or the establishment of uses on vacant existing non-conforming parcels of land shall, in all cases, closely conform to the regulations specified for the zone in which such parcel of land is located.
- (5) If the nonconforming use of a building or structure ceases for a continuous period of six months, it shall be considered abandoned and shall thereafter be used only in accordance with the regulations for the zone in which such building, structure, or parcel is located and the nonconforming right shall be lost.

(B) Maintenance or repairs. Ordinary maintenance and repairs may be made to any non-conforming use providing there is no structural alterations of any building, or additions to the area or intensity of the use; and providing the value of such ordinary maintenance and repairs in any 12 month period, does not exceed 15% of the value of the improvements on the parcel, as shown on the last equalized Assessor's Tax Role.

(C) Reconstruction of damaged nonconforming building. Nothing in this chapter shall prevent the reconstruction, repair, or rebuilding and continued use of any nonconforming building or structure partially damaged by fire, or act of God, wherein the expense of such reconstruction, repair, or rebuilding does not exceed 50% of the appraised value of the improvements to the parcel, as shown on the last equalized Assessor's Tax Role prior to it being damaged. All such reconstruction may only be performed

under one set of building permits and issued at one time within a period of one year from the date of damage and be diligently pursued to completion.

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

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

(F) Exceptions; powers of eminent domain. No parcel of land shall be considered non-conforming solely as the result of the taking of a part of such land for street widening or public utility purposes under the power of eminent domain or by consensual sale to the City or State.

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

§ 10-3.412 OUTDOOR RETAIL SALES.

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

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

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

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

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

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

OUTDOOR RETAIL. The conducting of activities including but not limited to sales,

merchandising, display, exhibitions, entertainment, vending, demonstration or distribution of any product or service outside of a fully enclosed structure built in accordance with the provisions of the Madera Municipal Code.

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

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

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

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

USE PERMIT. The land use permit issued pursuant to §10-3.1301 to a vendor by the Planning Commission authorizing the holder to engage in the business of vending a product from a lunch wagon, stand, mobile food preparation unit, pushcart, or any other business at a fixed location on any sidewalk, street, alley, or highway, or on public or private property, on a long term or permanent basis.

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

VENDING MACHINES. Any mechanism or system that displays or offers goods for sale or lease.

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

- (1) Newspaper vending from coin operated machines, where there are no more than two such machines within 100 feet.
- (2) Temporary flower stands, plants and floral displays, subject to the requirements for a minor temporary use permit specified at division (F) (5) below and the standards specified in division (C) (6) below or permanent flower and plant sales which require a use permit as specified in division (F) (2) below.
- (3) Those outdoor land uses and activities specifically allowed by other sections of this code.
- (4) Vehicular fuel which are subject to a use permit as specified in division (F) (2) below.
- (5) Vending machines, that are screened from general public view and specifically approved as part of a site plan review or use permit.
- (6) Sales of Christmas trees and fireworks as further regulated by division (C) (6) below.
- (7) Garage or yard sales as allowed by § 10-3.410.
- (8) Special events and sales activities conducted at City-owned facilities as may be authorized by the appropriate City Department Head.
- (9) Incidental short term outdoor fund-raising sales and activities conducted by schools, charitable or non-profit organizations if the sale is carried on wholly by the organization and it will derive, both directly and indirectly, any and all profits from the sale, except that events held on private property shall be subject to administrative approval and conditions issued by

the Planning Director.
(10) Mobile vendors as authorized in this section.

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

- (1) The sale of raw or processed foodstuffs is subject to applicable regulations of the County Health Department, State Health Codes, and California Food and Agriculture Codes, including but not limited to obtaining and displaying a current proof of health inspection sticker.
- (2) All food preparation and vending units shall be inspected at least annually by the County Health Officer or designated representative and shall display a current sticker issued by and as directed by that agency.
- (3) Sale of food products or beverages from any portable box, bag or similar container, other than a County Health Department approved container shall be prohibited, except that food previously inspected by a duly appointed government inspector, prepackaged in sealed containers may be displayed or offered for sale if otherwise in compliance with all applicable health and safety regulations.
- (4) No vendor shall operate within 300 feet of any school ground prior to 4:00 p.m. on any day school is in session.
- (5) No more than two vendors shall assemble, gather, collect or otherwise join for any purpose at any location except as otherwise authorized by an approved conditional use permit.
- (6) In no case shall a vendor operate in the following described areas except as permitted in writing by the City Council or its authorized representative:
 - (a) Within 15 feet of any crosswalk or fire hydrant:
 - (b) In marked diagonal parking spaces:
 - (c) On any sidewalk or street within six (6) feet of a curb which has been designated as a white, yellow, blue, green or red zone:
 - (d) Within 12 feet of the outer edge of any entrance way to any building or facility used by the public measured in each direction parallel to the building;
 - (e) At a location where pedestrian passage will be reduced to less than six (6) feet:
 - (f) At any location where such operation may create a traffic hazard. For the purpose of this section, the judgment of a Madera police officer or the City Engineer shall be deemed conclusive as to whether the operation is creating a hazard.
 - (g) Vendors shall not be permitted to operate at any publicly-owned off-street location in the Downtown Business District, including but not limited to parking lots and pocket parks. This section shall not be construed to prohibit vendors from operating in the Downtown Business District pursuant to a valid use permit or temporary use permit.

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

- (1) Each unit shall have affixed to it in plain view or available for immediate inspection a Madera City Business License, Health Certificate and any other permit required by this or any other applicable code.
- (2) The maximum dimensions of any pushcart shall be six feet in length and four feet in width.
- (3) The only signs used in conjunction with any unit shall be signs affixed to or painted on the unit or its canopy, with a maximum area of eight square feet.
- (4) The operator of any unit, if such a person is an employee, contractee, or lessee of an owner, shall carry his operator's permit upon his person.
- (5) No artificial lighting of any pushcart is permitted except as required by the California Vehicle Code.
- (6) A refuse bin of at least one cubic foot shall be provided in or on the unit and shall be accessible by customers.
- (7) No shouts, calls, horns or other noise nor amplified sound which can be heard 50 or more feet

- from the unit shall be permitted.
- (8) No person shall stop, park or cause any lunch wagon or mobile food preparation unit or motor vehicle from which is offered food beverages, goods or merchandise to remain stopped in any public street right-of-way within 75 feet of any street intersection.
 - (9) No person shall stop, park or cause any unit from which is offered food, beverages, goods or merchandise to remain stopped in any public right-of-way for more than 30 minutes except pursuant to the order of a lawful authority or for the purpose of making emergency repairs to the vehicle. In no event shall any person sell or give away any food or beverage product from a lunch wagon, pushcart or mobile food preparation unit vehicle while on any other public property including parking lots or pocket parks except as otherwise allowed in this code.
 - (10) No person shall stop, park or cause a lunch wagon, pushcart or mobile food preparation unit to remain on any private property for the purpose of selling, giving away, displaying or offering for sale any food or beverage product to any person other than the owner, his agents or employees without first securing a use permit for such activity. Permission for sales only to the owner, his agents or employees must be granted by the owner of such property and must be in writing and shall be carried by the vendor and/or exhibited in the unit and shall not exceed the time limits established by § 10-3.411(D)(17).
 - (11) All mobile food preparation units, lunch wagons or pushcarts shall comply with all applicable regulations set forth in Articles 10 and 10.1 of Title 17 of the California Administrative Code.
 - (12) Each mobile food preparation unit shall be equipped with a fully charged fire extinguisher in good operating condition and with a current inspection tag. The driver shall be advised of the location of the type of extinguisher used and instructed in its operation.
 - (13) No cooking or food preparation shall be done while the mobile food preparation unit is in motion.
 - (14) Waste water shall not be discharged from a unit except at an approved disposal site.
 - (15) All units shall clearly exhibit the name of the owner of the unit, business address and business phone number of the person, firm, association, organization, company or corporation.
 - (16) Removal of trash. The operator of each unit shall be responsible for collection and proper disposal of all trash and debris accumulated by reason of any vending operation.
 - (17) Units may stop at sites or businesses (on-site) for no more than 30 minutes without moving to a new business location or site and may not return to that location for a period of one hour.

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

- (1) Units proposing to operate on private property on a semi-permanent basis in the City shall not be allowed in any Residential or Professional Office Zones.
- (2) No unit will be authorized to operate on private property on a semi-permanent basis in any established shopping center in the City.
- (3) A unit may be authorized to operate on a property occupied by another land use, with the authorization of both the land-owner and the operator of the primary business, and as accessory to the primary land use.
- (4) Except for restroom facilities, a unit on private property must operate as a separate and independent land use. The primary land use must continue to function without infringement on its access, circulation and parking requirements.
- (5) The unit must comply with standard yard area and open space requirements as required by the zone for the primary business operation.
- (6) Minimum site area for a unit shall be based on the setback requirements and on-site parking requirements for the operation and in no case shall be less than 1,000 square feet.
- (7) A minimum of three standard on-site parking spaces in conformance with City standards shall be required in conjunction with the location of a unit on private property on a semi-permanent

basis.

- (8) The site on which the unit shall be located must be paved with asphalt concrete in accordance with City standards.
- (9) A unit operating on private property on a semi-permanent basis shall be limited in its operation to daylight hours only, except as otherwise allowed by an approved use permit.
- (10) Prior to approving a conditional use permit for outdoor, the Planning Commission must be able to make affirmative findings regarding the use as listed below.
 - (a) The proposed outdoor use or mobile vendor does not directly compete with other commercial business within the area.
 - (b) There is not reasonable opportunity for the same commercial operation to be conducted in a building due to limited market or lack of available commercial space.
 - (c) Approval of the use permit will not substantially compete with other permanent local businesses.

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

- (1) Business license. Every vendor shall obtain a business license in accordance with the provisions of Title 6 of this Code.
- (2) Use permit. No vendor may stop, stand or park at a fixed location for the purpose of vending or exhibiting merchandise at or on any publicly or privately-owned property or conduct sales activity outside a building or structure without first securing a use permit in accordance with Article 13 of this Code.
- (3) Operators permit. No itinerant vendor shall operate without first obtaining a license under the provisions of § 6-1.53 of this Code.
- (4) No person except the holder of a business license pursuant to § 6-1.53 of this code may be issued a use permit. No person may be issued such use permit unless he or she has obtained any required approvals from the County Health Department.
- (5) Temporary use permits. The temporary use of land for those activities permitted in this section may be authorized for a limited and specified period of time not to exceed one year in duration as set by the Planning Director within the terms and conditions of each particular temporary use of land permit. The Planning Director may consider and take appropriate action on a request for extension of a temporary use of land permit for one additional one-year period upon review of a written request to be submitted no later than 30 days prior to the expiration of the approved temporary use of land permit. Outside sales of seasonal merchandise (Christmas trees, fireworks, pumpkins, produce stands, flower stands and the like) in one location may be permitted through a minor temporary use permit up to a maximum cumulative total of 90 days within a calendar year on a single property, with a limitation of no more than three non-consecutive separate events of a maximum of 30 days per each event.
- (6) For applications for temporary use of land permits which allow for a vendor, the following minimum provisions and conditions shall also be applicable:
 - (a) A vendor sales stand and/or use shall not be located upon the paved or any unpaved portion of a public right-of-way nor impede the free and unobstructed use of any sidewalk or right-of-way. Push carts may use the public sidewalk as long as the cart does not impede the movement of pedestrians.
 - (b) The vendor sales activity, including the display of all related merchandise or products for sale, shall be limited to the immediate confines of the temporary street side stand, trailer, vehicle or other enclosure approved as part of the permit.
 - (c) All uses shall be located in such a manner that will not impede the normal use of driveways serving the property where the use is proposed nor in such a manner that encourages customers to stop in the street or driveway to obtain vendor service.
 - (d) Uses providing for temporary street side stands, trailers, or vehicles shall comply with the setback/yard provisions of the specific commercial or industrial zone the use is proposed

to be located in. Temporary outdoor promotional/sales event for a commercial business may be allowed by conditional use permit.

- (7) In authorizing an application for a temporary use of land permit, the Planning Director shall include as conditions of approval the following minimum provisions:
- (a) The use will be limited to the dates and times (or period of time), nature and extent prescribed by the Planning Director.
 - (b) All works including building, electrical, and plumbing will conform to all requirements of applicable codes and regulations:
 - (c) Provisions for fire protection and fire vehicle access will be made as prescribed by the Fire Chief:
 - (d) Signage will be limited to that approved by the Planning Director;
 - (e) The site will be continuously maintained free of weeds, litter and debris:
 - (f) Within three days after discontinuing the temporary use the site will be completely cleaned: all trash debris signs and sign supports, and temporary electrical service and other equipment will be removed:
 - (g) Any additional limitations or conditions as required by the Planning Director as conditions of approval.

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

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

§ 10-3.413 EMERGENCY SHELTERS.

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

- (A) Facility compliance with applicable state and local standards and requirements.
 - (1) Federal, state and local licensing as required for any program incidental to the emergency shelter.
- (B) Physical Characteristics.
 - (1) Compliance with applicable state and local uniform housing and building code requirements.
 - (2) The facility shall have on-site security during all hours when the shelter is open.
 - (3) Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall reflect away from residential areas and public streets.
 - (4) Facilities shall provide secure areas for personal property.
- (C) Limited Number of Beds per Facility. Emergency shelters shall not exceed 50 beds.

(D) Limited Terms of Stay. The maximum term of staying at an emergency shelter is 6 months in a consecutive 12-month period.

(E) Parking. The emergency shelter shall provide on-site parking at a rate of 2 spaces per facility for staff plus 1 space per 6 occupants allowed at the maximum capacity.

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

§ 10-3.414 TELECOMMUNICATION TOWERS, ANTENNAS AND STRUCTURES.

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

AIRPORT LAND USE COMMISSION. The Madera County Airport Land Use Commission required to review any structure in excess of 150 feet in height for conformance with the Airport Land Use Compatibility Plan.

ALTERNATIVE TOWER STRUCTURE. Man-made trees, clock towers, bell steeples, light poles, slim-line monopole, stealth and similar alternative antenna mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA. Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves. This includes antennas relating to personal wireless services. Antennas include microwave dishes, satellite dishes, whips, and panels.

ARRAY. A set of antennas for one carrier or service that are placed on a mount at a given height and spaced so as to avoid internal interference. An array is usually sectorized into three directions and separated vertically from another carrier's array co-located on the same mount.

CO-LOCATION. The use of a single mount on the ground by more than one carrier, or by several mounts on an existing building or structure by more than one carrier.

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

GUYED TOWER. A tower that is tied to the ground or other surface by diagonal cables.

HEIGHT. When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

LATTICE TOWER. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

MONOPOLE. A type of mount that is self-supporting with a single shaft of wood, steel, or concrete and a platform (or racks) for panel antennas arrayed at the top. Vertical co-locations often have arrays at intermediate positions on the monopole.

MOUNTS. The structure or surface upon which antennas are mounted, and include monopoles, lattice towers, guyed towers, and buildings.

OMNIDIRECTIONAL (WHIP) ANTENNA. A thin rod that beams and receives a signal in all directions.

PANEL ANTENNA. A flat surface antenna usually developed in multiples covering three sectors of 120 degrees each.

PERSONAL WIRELESS SERVICES. Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services. Commercial mobile radios services include cellular services, personal communication services, enhanced specialized mobile radio services, and paging services.

PERSONAL WIRELESS SERVICE FACILITY. A facility for the provision of personal wireless services, as defined by the Telecommunications Act. A personal wireless service facility is the appropriate term for "cell site".

PRE-EXISTING TOWERS AND ANTENNAS. Any existing tower or antenna for which a permit has been properly issued prior to the effective date of this section. Any such towers or antennas shall be referred to in this section as "pre-existing towers" or "pre-existing antennas" and shall not be required to meet the requirements of this section, other than those of subsection (E) of this section.

SLIMLINE MONOPOLE ANTENNA. A structure not exceeding 70 feet in height, 18 inches in diameter at the base, and ten inches in diameter at the top, upon which are mounted not more than three vertical panel antennas not exceeding one foot in width or seven inches in depth.

TELECOMMUNICATION FACILITY. A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment building, parking area, or other accessory development.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

VERTICAL ANTENNA. A flat panel or vertical pole or whip type antenna.

(B) Applicability.

- (1) *District height limitations.* The requirements set forth in this section shall govern all antennas and towers proposed for installation in the City of Madera. Special provisions are created to regulate the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall apply to towers and support structures but shall not apply to antennas attached to existing towers.
- (2) *Public property.* Towers located on property owned, leased or otherwise controlled by the City shall be allowed as provided herein, subject to the provisions of this section.

- (3) *Amateur radio receive-only antennas.* This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- (4) This section shall also be inapplicable to a satellite dish antenna with a height not exceeding 15 feet, or a ground or building mounted residential receive-only radio or television antenna less than 35 feet high, or a citizens band radio antenna if the height does not exceed 20 feet above the building on which it is mounted or 60 feet above the ground.
- (5) This section also does not apply to the installation of a ground or building mounted receive only radio or television satellite dish antenna which does not exceed 36 inches in diameter for the sole use of the resident occupying a residential parcel on which the satellite dish is located.

(C) *General guidelines and requirements.*

- (1) *Purpose and goal.* The purpose of this section is to establish general guidelines for the siting of towers and antennas. The goals of this section are to:
 - (a) Encourage the location of towers in non-residential areas and minimize the total number of towers required throughout the City;
 - (b) Encourage strongly the co-location at new and existing tower sites consistent with an aesthetically pleasing appearance;
 - (c) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (d) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
 - (e) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
- (2) *Principal or accessory uses.* Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with zoning district standards and regulations, the evaluation shall include, but not be limited to, set-back, lot-coverage, and other such requirements. The dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a non-conforming use or structure.
- (3) *Submittal requirements.* Each applicant requesting a land use approval under this section shall submit a scaled site plan and a scaled elevation view, a series of computer generated simulated photographs portraying the appearance of the proposed tower from critical points of view, and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, as required by § 10-3.453 of this chapter and other information deemed by the Community Development Director/City Engineer or Planning Commission to be necessary to assess compliance with this section. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.
- (4) *Inventory of existing sites.* Each applicant for an antenna and or tower shall provide to the Community Development Department a grid map depicting an inventory of all existing towers, as well as all of its planned towers, that are either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the (proposed) location, height, and design of each tower. The Community Development Department may share such information with other applicants applying for administrative approvals or special

- use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the City for purposes of encouraging co-location where such policy is found consistent with a pleasing appearance in the community, provided, however, that the Community Development Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (5) *Co-location.* It is the purpose of this section, except where inconsistent with the goal of maintaining an aesthetically pleasing community, to encourage strongly the co-location of antennas and antenna arrays at new and existing tower sites in order to limit or reduce the number of towers within the community. Based on the required inventory of sites, and inventories previously filed with the Community Development Department, the applicant is required to justify why other existing sites are not suitable for co-location, or provide documentation that a tower which might serve as an alternative site is either not available for co-location or not structurally capable of sustaining any co-location. The intention of this analysis is to present alternative strategies which would minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the City and surrounding areas. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. The encouragement of co-location shall not extend to towers or other structures which would present a clearly unattractive appearance in the judgment of the Community Development Director if such co-location were carried out.
- (6) *Aesthetics and lighting.* The guidelines set forth in this subsection shall govern the aesthetics and lighting of all tower antennas governed by this section; provided, however, that the Planning Commission may waive or modify these requirements if it determines that the goals of this subsection are better served thereby.
- (a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
- (b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
- (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (d) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Planning Commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- (7) *Federal and state requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, the California Public Utilities Commission and any other agency of the federal or state government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(D) *Required approvals.*

- (1) *Administrative approvals.* The addition of a tower or antenna may be permitted through the building permit process in accordance with this section provided the project is considered to be a minor expansion or an accessory use allowed in the zone in which the project is located,

and further provided that the total height of the antenna and the structure to which it is attached does not exceed the height or setback restrictions for the zone in which it is located. All such structures shall comply with subsection (C)(6) of this section, unless a modification is granted, and subsection (E) of this section and all other application provisions of the Municipal Code.

- (a) Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other free standing nonresidential structure) that is less than 50 feet in height, so long as such addition does not add more than 20 feet to the height of the existing structure;
 - (b) Installing an antenna on any existing tower of any height, so long as the addition of said antenna adds no more than 20 feet to the height of said existing tower and said tower is not a pre-existing tower; provided, however, that such specific permitted use shall not include the placement of additional buildings or other supporting equipment used in connection with said antenna.
- (2) *Site plan approvals.* Planning Director may approve the uses listed in subsections (a), (b) and (c) below. Each application shall be processed in accordance with the provisions of § 10-3.450 et seq. of this chapter. In connection with any such site plan review approval, the Planning Director may, in order to encourage shared use or use of alternative tower structures, administratively waive any zoning district setback requirements by up to fifty percent and may administratively waive any zoning district height restriction by an amount not to exceed 20 feet. The following uses may be approved by the Planning Director after conducting a site plan review:
- (a) Locating a tower, including the placement of additional buildings or other supporting equipment used in connection with said tower, in any industrial or commercial zoning district; provided, however, that such tower shall be subject to the height limitations for the zoning district in which the project is proposed, except as waived in subsection (D)(2), immediately above.
 - (b) Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower or other free-standing nonresidential structure that is 50 feet in height or greater, so long as said additional antenna adds no more than 20 feet to the height of said existing structure.
 - (c) Installing an antenna on an existing tower of any height, including a pre-existing tower and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than 20 feet to the height of said existing tower.
 - (d) Locating any alternative tower structure in any zoning district that in the judgment of the Community Development Department is in conformity with the goals set forth in subsection (C)(6) of this section; provided, however, that such tower shall be subject to the height limits of the zoning district in which the tower is proposed.
 - (e) Installing a ground or building mounted receive only radio or television satellite dish, with a diameter exceeding 36 inches but less than eight feet in diameter, and a height in excess of 15 feet, subject to the following restrictions:
 - 1. In a residential zone, the antenna must be for the sole use of the resident occupying a residential parcel on which the satellite dish is located.
 - 2. In a residential zone, no more than one antenna or satellite dish may be permitted, which must conform to residential height restrictions and setbacks, and must have a rear yard or rear-of-house orientation unless these options preclude a usable satellite signal.
 - 3. In a commercial or industrial zone, no more than three antennas or satellite dishes may be permitted where adequate screening is provided and which are solely for the use of the project site tenants.
 - 4. The antenna or satellite dish cannot be located in any required yard setback area of the zoning district in which it is located with the exception of possible encroachment

of the antenna array into airspace over said setback.

5. Satellite dishes and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.
- (3) *Use permits.* Towers or antennas not permitted pursuant to subsections (1) and (2) shall be subject to approval of a use permit in accordance with § 10-3.1301 et seq. of this title.
- (a) In granting a use permit, the Planning Commission may impose conditions to the extent it concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties. The Planning Commission shall consider the following factors in determining whether to issue a use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this section are better served thereby.
 1. Height of the proposed tower;
 2. Exact location of the tower in relation to the Madera Municipal Airport and the distance of the tower from residential structures and residential district boundaries;
 3. Nature of uses on adjacent and nearby properties;
 4. Surrounding topography;
 5. Surrounding tree coverage and foliage;
 6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 7. Proposed ingress and egress; and
 8. Availability of suitable existing towers and other structures as discussed in the following subsection.
 - (b) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
 1. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antennae.
 5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - (c) The following setbacks and separation requirements shall apply to all towers and antennas for which a use permit is required; provided, however, that the Planning Commission may reduce the standard setbacks and separation requirements if the goals of this section would be better served thereby.
 1. Towers must be set back a distance equal to the height of the tower, including antennas, plus 20 feet from any off-site residential structure.
 2. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.
 3. In zoning districts other than industrial or heavy commercial zoning districts, towers over 90 feet in height shall not be located within one-quarter of a mile from any existing tower that is over 90 feet in height

- (d) All towers and telecommunication facilities, with the exception of slimline monopole structures, shall be designed to promote facility and site sharing. To this end, towers and necessary appurtenances, including but not limited to parking areas, access roads, utilities, and equipment buildings shall be designed to allow for potential shared use by other telecommunication services. The facility shall make available unutilized space for co-location of telecommunication facilities, including space for those entities providing similar, competing services. A good faith effort in achieving co-location shall be required. Request for utilization of facility space and responses to such requests shall be made in a timely manner and in writing with copies provided to the City.
- (e) Towers, equipment shelters, and any guy wires, either completely or individually, shall be enclosed by security fencing not less than eight feet in height, and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Planning Commission may waive or modify such requirements, as it deems appropriate. "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency on a twenty-four hour basis.
- (f) The following requirements shall govern the landscaping surrounding towers for which a use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this section would be better served thereby.
 1. The applicant shall enter into an indemnification agreement with the City to defend, indemnify, and hold harmless the City and its officers or employees from any claim, action, or proceeding against the City as a result of the action or inaction of the City and its officers or employees in approving an application pursuant to this section.
 2. Tower facilities shall be landscaped with a buffer of plant materials which effectively screen the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
 3. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
 4. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(E) *Removal of abandoned antennas and towers.* Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the Community Development Director/City Engineer notifying the owner of such abandonment. If such antenna or tower is not removed within said 90 days, the Community Development Director/City Engineer may remove such antenna or tower at the owner's expense. The City Council declares that such abandoned towers are a public nuisance and may be summarily abated as provided in this Code and as may be provided under the applicable laws of the state, and the expenses of such abatement shall constitute a lien against the underlying property upon which the tower is located and a personal obligation against the owner of such underlying property. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

§ 10-3.415 INTERIM AGRICULTURE

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

(B) "Interim Agriculture" shall be defined as the tilling of the soil for the raising of grains, crops,

orchards, horticulture and/or viticulture as an interim activity for a defined period of time. Interim agriculture includes the normal maintenance of equipment (including wells) necessary for the successful harvesting of crops, so long as such repair or replacement does not represent an expansion of use or intensification of activities beyond those permitted by the Planning Commission.

Interim Agriculture shall not include small livestock farming, dairying and/or animal husbandry, nor any other uses customarily incidental thereto such as slaughter houses, fertilizer yards, or rendering plants. Interim Agriculture shall not include the repair or replacement of irrigation facilities or other equipment which is essential to the continued operation of a legally established agricultural use, so long as such repair or replacement does not represent an expansion of use or intensification of activities beyond those previously established.

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

- (1) The establishment, maintenance, or operation of the interim agricultural use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.
- (2) The interim agricultural use will not be detrimental or injurious to the infrastructure of the City. Interim agriculture shall use techniques to maximize water efficiency and minimize erosion. All grading and/or excavation shall be compatible with the City's Storm Drain Master Plan.

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

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

(E) The Planning Commission may apply conditions of approval whenever necessary to ensure compatibility with surrounding land uses and compliance with Section 10-3.416(C).

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

§ 10-3.416 RESERVED.

§ 10-3.420 LOCATION OF BUILDINGS.

(A) All buildings hereafter designed or erected, and existing buildings which may be reconstructed, altered, moved or enlarged shall comply with the building requirements of the district in which such buildings may be located.

(B) Except in multiple dwelling developments or where otherwise provided for in this chapter, every dwelling shall face or front upon a street or permanent means of access to a street. While dwellings may have vehicular access from an alley the pedestrian access and orientation shall be to the street.

§ 10-3.421 HEIGHT OF BUILDINGS.

(A) Chimneys, cupolas, water tanks, ventilating fans, towers, steeples, smokestacks, and similar structures and mechanical appurtenances may be further permitted in excess of height limits specified in the individual zones provided a use permit is first obtained.

(B) In order to encourage shared use of telecommunication towers and the use of alternative tower structures or stealth antennas, the Planning Director may approve an exception to the height restrictions specified in the individual zones by an amount not to exceed 10 feet.

§ 10-3.422 RESERVED.

§ 10-3.423 THROUGH LOTS.

Creation of through lots shall be prohibited upon adoption of this ordinance. Where through lots have been created, either lot line separating such lot from a public thoroughfare may be designated as the front property line. In such cases, the minimum rear yard shall be the average of the yards on lots next adjoining. If such lots next adjoining are undeveloped, the minimum rear yard shall conform to the front yard setback for the zone in which the property is located.

§ 10-3.424 YARD ENCROACHMENTS.

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

(A) *Structures.* All structures shall comply with the structural setbacks of the applicable zone unless otherwise provided for within this chapter. See § 10-3.201 for the definition of a structure.

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

(C) *Porches.*

- (1) Covered porches, landing spaces, or outside stairways, which do not extend above the level of the entrance floor of the building may project into any required side yard not more than three feet and not exceeding six feet into any required front yard. An open work railing, not more than 36 inches in height, may be installed or constructed on any such porch or landing space.
- (2) Open porches, landing spaces, or outside stairways, if unroofed and unenclosed, which do not extend above the level of the entrance floor of the building, are not limited as to projection into side yards. Such improvements may extend eight feet into the required front yard. Such improvements shall have no restrictions within a required rear yard.

(C) *Decks.*

- (1) When a deck is constructed above the level of the entrance floor of the building, the deck may occupy up to 30% of a required rear yard area, but may not extend any closer than five feet to the rear or side property lines. Such a deck may not be located in the front setback area.
- (2) When a deck is constructed level to the entrance floor of the building, the deck is not limited as to projection into side yards. Such improvements may extend eight feet into the required front yard. Such improvements shall have no restrictions within a required rear yard.

(D) *Accessory structures.* Except as provided elsewhere in this title, the following regulations shall apply to the location of accessory structures. See § 10-3.201 for the definition of an accessory structure.

- (1) *Attached accessory structures.* Where an accessory structure is considered to be attached to and made a part of the main building, it shall be made structurally an integral part of, and have a common wall with the main building, and shall comply in all respects with the requirements of this chapter applicable to the primary structure.
- (2) *Detached accessory structures.* A detached accessory structure to be constructed in any residential zones, or PRD zones (unless otherwise provided by an approved precise plan) shall be subject to the following standards:
 - (a) Detached accessory structures shall not be placed in the required front yard setback.
 - (b) Detached accessory structures shall have no restrictions within a required side or rear yard.
 - (c) In all cases detached accessory structures shall be located within the fenced portion of the property. Where no fences are provided, detached accessory structures shall not be placed within any required front, side or rear yard setback.
 - (d) In the case of a corner lot, such structures shall meet the street side yard setback requirements for the primary dwelling unit on the lot.
 - (e) Detached accessory structures shall maintain at least five feet of separation from all structures on the property.

§ 10-3.425 FENCES, WALLS, AND HEDGES.

(A) This section shall govern the installation and maintenance of fences, walls and hedges within all zone districts except R and PRD zones. Fences, walls and hedges within R zones shall comply with § 10-3.543. Fences, walls and hedges within PRD zones shall comply with the standards as identified within the required precise plan. When no standards are identified by the precise plan, § 10-3.543 shall apply.

(B) No fence, wall or hedge of any kind shall be constructed (or grown) to exceed a maximum of six (6) feet in height along any rear property line or between the rear property line of a lot and the front line of any main building. No fence, wall or hedge shall be constructed (or grown) to exceed three (3) feet in height forward of the front line of any main building, or within any required street side yard or front yard, or within 25 feet of any street corner, except as may otherwise be permitted under this chapter.

(C) In commercial and office zones, defensive materials such as barbed wire, razor wire or similar materials shall not be used or maintained in, on, or about a fence, wall, hedge, or planting screen along the front, side or rear lines of any lot, or within three feet of the lines, and no sharp points shall project at the top of any fence or wall; unless the defensive material is not viewable from surrounding properties and public right-of-ways.

(D) All fences shall be constructed of attractive, long-lasting building materials. Materials shall be limited to wood, stone, rock, brick, concrete block, masonry brick, decorative wrought iron, vinyl, plastic composite, chain-link or other similar building materials approved by the Planning Director. A fence may not be constructed of cast-off, secondhand, or other materials not originally intended to be used for

constructing or maintaining a fence, including, but not limited to plywood, particle board, scrap metals, plastic tarps, scrap wood or similar materials.

(E) In commercial zones, chain-link shall only be allowed along rear and interior side yard property lines, and in such locations where visibility to the general public is substantially restricted. Chain-link shall not be allowed along front and street side yard property lines.

(F) Chain link and similar industrial fencing materials shall be allowed in industrial zone districts, except as may otherwise be restricted under this chapter.

(G) Properties developed with residential uses in nonresidential zones shall comply with the residential standards in section § 10-3.543.

(H) The height of walls and fences shall be measured based on an average elevation of the ground within three feet of the fence, unless the area is unoccupied and artificially raised such as in the case of a raised flower bed. Minor architectural features such as pilasters or lights, decorative caps, etc. shall not be considered part of the height. Where a fence or wall is arched, 25% or 12", whichever is less, of the top portion of the arch shall not be considered part of the fence height.

(I) All fences, walls and hedges shall be properly maintained so as to not create a hazard, public nuisance or blight.

(J) Minor exceptions from these standards may be approved through a Zoning Administrator Permit if it is determined that the exceptions will not be detrimental to the surrounding properties and public welfare.

§ 10-3.426 STORAGE OF COMMERCIAL VEHICLES.

(A) Except where specifically permitted elsewhere in this title and during brief loading and unloading operations, the storage or parking of commercial vehicles, and the storage of materials, supplies or equipment used for commercial purposes is prohibited in any residential zones.

(B) In certain residential zone districts, as identified in Table 10-3.502, the parking of one (1) commercial vehicle may be allowed, subject to the approval of a conditional use permit by the Planning Commission.

§ 10-3.427 RIGHT TO FARM.

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

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

in the Municipal Code.

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

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

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

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

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

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

"The undersigned in consideration of the approval of a land use development application by the City of Madera, do hereby covenant and agree with the City of Madera's declared policy to preserve, protect, and encourage development and continued operation of its agricultural lands consistent with California Civil Code Section 3482.5 (agricultural activity not a nuisance). Said policy provides that no agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes in the City or the unincorporated area of the County, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three (3) years, if it was not a nuisance at the time it began. The term "agricultural activity, operation, or facility, or appurtenance thereof" includes, but is not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural commodity, including timber, viticulture, apiculture, or horticulture, and any practices performed by a farmer or on a farm as incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market. Residents of property in or near agricultural districts should be prepared to accept the inconveniences and discomfort associated with normal farm activities. This covenant shall run with the land and be binding upon all future owners, heirs, successors, and assigns to such property."

(H) The City may cause to be mailed to all property owners of real property within the City with the annual tax bill the following notice: "The City of Madera has declared it a policy to protect and encourage

agricultural operations. If your property is located near an agricultural operation, you may at some times be subject to inconvenience or discomfort arising from agricultural operations. If conducted in a manner consistent with proper and accepted standards, said inconveniences and discomforts are hereby deemed not to constitute a nuisance for purposes of the Municipal Code."

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

§ 10-3.428 REASONABLE ACCOMMODATION.

Purpose. The purpose of this Chapter is to provide a procedure for individuals with disabilities to request reasonable accommodation in seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (hereafter "Acts") in the application of zoning laws and other land use regulations, policies, and procedures.

§ 10-3.428.1 APPLICABILITY

(A) A request for reasonable accommodation may be made by any person with a disability or their representative, when the application of a requirement of this zoning code or other City requirement, policy, or practice acts as a barrier to fair housing opportunities. For the purposes of this chapter, a "person with a disability" is any person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the Acts.

(B) A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

(C) A reasonable accommodation is granted only to the household that needs the accommodation and does not apply to successors in interest to the site.

(D) A reasonable accommodation may be granted in compliance with this Chapter without the need for the approval of a variance.

§ 10-3.428.2 PROCEDURE

(A) A request for reasonable accommodation shall be submitted on an application form provided by the Community Development Department or in the form of a letter to the Director of Community Development Department, and shall contain the following information:

- (1) The applicant's name, address, and telephone number;
- (2) Address of the property for which the request is being made;
- (3) The current use of the property;
- (4) The basis for the claim that the individual is considered disabled under the Acts, including verification of such claim;
- (5) The zoning code provision, regulation, or policy from which reasonable accommodation is being requested; and
- (6) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

(B) If the project for which the request for reasonable accommodation is being made requires some other discretionary approval (including use permit, design review, etc.), then the applicant shall file the information required by subsection (A) of this section for concurrent review with the application for discretionary approval.

(C) A request for reasonable accommodation shall be reviewed by the Director of Community Development Department or his/her designee, if no approval is sought other than the request for reasonable accommodation. The Director or his/her designee shall make a written determination within 45 days of the application being deemed complete and either grant, grant with modifications, or deny a request for reasonable accommodation.

(D) A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the Planning Commission. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the Planning Commission in compliance with the applicable review procedure for the discretionary review.

§ 10-3.428.3 APPROVAL FINDINGS

The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

(A) Whether the housing in the request will be used by a person with a disability under the Acts;

(B) Whether the request for reasonable accommodation is necessary to make specific housing available to a person with a disability under the Acts;

(C) Whether the requested reasonable accommodation would impose an undue financial, administrative or enforcement burden on the City;

(D) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning;

(E) Potential impact on surrounding uses;

(F) Physical attributes of the property and structures; and

(G) Other reasonable accommodations that may provide an equivalent level of benefit.

§ 10-3.428.4 CONDITIONS OF APPROVAL

In granting a request for reasonable accommodation, the Director of Community Development Department or his/her designee, or the Planning Commission as the case might be, may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings. The conditions shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site.

§ 10-3.428.5 APPEALS

(A) Any person dissatisfied with any action of the Director of the Community Development Department pertaining to this Chapter may appeal to the Planning Commission within 10 days after written notice of the Director's decision is sent to the applicant. The appeal is taken by filing a written

notice of appeal with the Director of Community Development Department and shall specify the reasons for the appeal and the grounds asserted for relief.

(B) Any person dissatisfied with any action of the Planning Commission pertaining to this Chapter may appeal to the City Council within 10 days after the rendition of the decision of the Planning Commission. The appeal is taken by filing a written notice of appeal with the Director of Community Development Department and shall specify the reasons for the appeal and the grounds asserted for relief.

(C) The City Council shall, by resolution, adopt and from time to time amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed has been paid.

(D) If an appeal is not filed within the time or in the manner prescribed in this section, the right to review of the action against which the complaint is made shall be deemed to have been waived.

(E) After filing an appeal, the appropriate hearing body shall conduct a public hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of hearing shall be given to the appellant, and to any other persons who have filed a written request for notice. Such notices shall be mailed to the appellant and the applicant at least ten days prior to the hearing.

(F) The Planning Commission or City Council shall review de novo the entire proceeding or proceedings relating to the decision, and may make any order it deems just and equitable, including the approval of the application. Any hearing may be continued from time to time.

(G) At the conclusion of the hearing, the hearing body shall prepare a written decision which either grants or denies the appeal and contains findings of fact and conclusions. The written decision, including a copy thereof shall be provided to the appellant and the project applicant.

§ 10-3.430 RESERVED.

§ 10-3.440 DESIGN AND DEVELOPMENT GUIDELINES.

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

SITE PLAN REVIEW

§ 10-3.450 PURPOSES.

(A) The City Council declares that in order to insure that the use and development of property in the City is in conformity with the intent and provisions of the City's General Plan, Municipal Code and other applicable plans, standards, and policies, review of proposed developments by the Planning Director or, as may be applicable, the Planning Commission, is necessary and desirable. More specifically, a site plan review process is necessary:

- (1) to ensure that new, expanded, or changed uses of property are regulated to insure that the structures, parking areas, walks, landscaping, street improvements, and other forms of development are properly related to the proposed sites and surrounding sites and structures;
- (2) to prevent creation of drainage hazards, destruction of trees and shrubs of ornamental value;
- (3) to avoid unsightly or hazardous site development;
- (4) to encourage quality in site design and development in a manner which will enhance the physical appearance and attractiveness of the community;
- (5) to ensure compliance with the General Plan, Zoning Ordinance, Building Code, and any other applicable standards; and
- (6) to provide for expeditious review of environmental impact assessments as may be required by official policy of the City.

(B) The Planning Director will be responsible for the coordination of the site plan review process with input from City department heads. It is the intent that the site plan review process be implemented with a cooperative spirit between project proponents and the City. Further, it is recognized that the size or nature of a project may necessitate a meeting of the project proponent, affected City department heads, and applicable review agencies to review the proposal.

§ 10-3.451 APPLICABILITY.

(A) The provisions of this subchapter shall apply to the following activities within the jurisdiction of the City of Madera:

- (1) All new construction or placement of structures upon a site not specifically exempted by this chapter.
- (2) All expansions of existing structures not specifically exempted by this chapter.
- (3) All refurbishing of existing structures where the exterior façade of the structure is altered (excepting the application of paint), except where specifically exempted by this chapter.
- (4) New improvements equating to an intensification of use of the site.
- (5) New uses of existing structures or site improvements which necessitate on-site improvements to comply with the provisions of the City Municipal Code.
- (6) New uses of existing structures which produce a change in building occupancy classification.
- (7) Uses or activities subject to an additional land use entitlement, including but not limited to a conditional use permit, variance, or other zoning entitlement.
- (8) Tentative subdivision maps in R (Residential) Zone Districts, subject to § 10-3.452.
- (9) Construction or placement of more than one single family home upon an R (Residential) Zone District property, including the construction of duplexes.
- (10) Other activities which, in the opinion of the Planning Director, alter a project site in such a way as to require the application of site plan review to achieve the purposes specified in § 10-3.450(A).

(B) The provisions of this subchapter shall not be applicable to the following activities within the jurisdiction of the City of Madera:

- (1) The construction, expansion, alteration or refurbishment of one legally-established conforming single-family detached dwelling upon an R (Residential) Zone District property, to include such improvements such as pools, walkways, decks, fences, patio covers,

- accessory structures, and landscaping.
- (2) Any alteration or improvement not affecting the external appearance of a structure, excepting changes in building occupancy classification, and not subject to an additional land use entitlement, including a conditional use permit, zoning administrator permit, variance, or other zoning entitlement.
 - (3) Any new construction, or alteration or expansion of a site, occurring within a Planned Development Zone District consistent with an approved Precise Plan, unless otherwise required.

§ 10-3.452 APPLICABILITY TO TENTATIVE MAP APPROVAL.

(A) For all tentative map applications submitted for subdivision of property within R zone districts, in order to confirm compliance with the principles, goals and policies of the General Plan, site plan review shall be completed prior to recordation of any final map and in advance of any construction activities taking place upon the property in question.

- (B) The site plan review application shall include the following submittals:
- (1) Completed application form along with the applicable filing fee.
 - (2) Proposed floor plans and elevations for homes to be built in the subdivision.
 - (3) Landscaping plans for proposed models and any areas to be maintained within a Landscape Maintenance District.
 - (4) Such additional information as may be required by the Planning Director.

§ 10-3.453 INFORMATION AND DRAWINGS TO BE SUBMITTED.

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

(B) A submittal shall consist of an application form provided by the Planning Department filled out to the satisfaction of the Planning Director, all applicable filing fees, and complete sets of plans and environmental information as required by the Planning Director. Additional sets of plans will be required for projects which require review by the Planning Commission. A complete application shall consist of plans with all information required in this section, a completed application form, a preliminary title report or lot book report not more than 30 days old for all affected parcel(s), and the filing fee. Incomplete applications may be returned to the applicant and may not be acted upon.

(C) Plans shall be drawn to scale in a professional manner and shall indicate clearly and with full dimensions, all information required by the Planning Department as being necessary for the processing of the site plan review request. Consult with the Planning Department for completion of a site plan review submittal checklist form.

§ 10-3.454 REVIEW AND ACTION.

(A) Applications for site plan review which require an environmental determination other than a categorical exemption shall be reviewed by the Planning Commission.

(B) Applications for site plan review which do not require action by the Planning Commission may be processed and approved by the Planning Department. The Planning Director shall disperse plans to affected City departments and agencies and coordinate the review process. Notification to the applicant

of approval, conditional approval, or disapproval of the application shall be provided in writing. The action of the Director shall be final unless appealed to the Planning Commission. The approved site plan, with any conditions shown thereon, or attached thereto, shall be dated and signed by the Director, with one copy mailed to the applicant and one copy filed with the Building Official.

(C) Whenever required by the provisions of this chapter, a public hearing before the Planning Commission shall be held on an application. Public notice procedures shall be as follows:

- (1) By one publication in a newspaper of general circulation in the City. Such notice shall state the name of the applicant, nature of the request, location of the property, the proposed environmental determination, and the time and place of the action or hearing.
- (2) Direct mailing to the owners of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.
- (3) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Planning Department for notification regarding the specific application. The City may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.
- (4) The public review period for the environmental determination of a negative declaration shall not be less than 21 calendar days (30 days if State Clearinghouse review is required) or as may be amended by the State legislature.
- (5) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

§ 10-3.455 APPROVAL DETERMINATIONS.

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

§ 10-3.456 CONDITIONS OF APPROVAL.

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

- (1) Special yards, spaces, and buffers;
- (2) Fences and walls;
- (3) Surfacing of parking areas and provisions for water drainage subject to City specifications;
- (4) Street dedications and improvements, subject to the provisions of § 10-3.457 including service roads or alleys where applicable;
- (5) Regulation of points of vehicular ingress and egress;
- (6) Regulation of signs, in accordance with the standards prescribed under Chapter 6 of this title;
- (7) Maintenance of grounds and landscaping;

- (8) Architectural features and designs, including the maintenance of color schemes.
- (9) Regulation of noise, vibration, odors, and other similar characteristics;
- (10) Measures necessary to eliminate or to effect mitigation to acceptable levels of adverse environmental impacts;
- (11) Public utility/infrastructure services;
- (12) Undergrounding of dry utilities;
- (13) Regulation of time for certain activities to be conducted on the site;
- (14) Time period within which the proposed use and/or improvement shall be completed;
- (15) A bond, deposit of money, recorded lien secured by deed of trust, or letter of credit for the completion of street improvements and other facilities, or for the removal of such use within a specified period of time, to assure conformance with the intent and purposes set forth in this title;
- (16) Periodic formal review of the project.

§ 10-3.457 STREET DEDICATIONS AND IMPROVEMENTS.

(A) Because of changes which may occur in the local neighborhood as the result of development including, but not limited to additions which expand or intensify uses such as secondary or second dwelling units, changes of uses or site configurations that increase vehicular or pedestrian traffic generated by the development, changes in drainage conditions, utility service requirements, and other impacts that are determined by the City Engineer to be the result of the project under consideration or required for the orderly development of the area; the dedications and improvements described in this section may be deemed necessary by the City Engineer and may be required as a condition to the approval of any site plan and/or the issuance of any building permit.

(B) No building permit shall be issued for any building or structure to be erected, altered, expanded, or enlarged on any lot to the extent that the cost of such work exceeds 50% of the estimated current cost as determined by the City Engineer to replace the present building or structure in kind, unless half of any right-of-way contiguous thereto has been dedicated and improvements to City standard specifications thereon have been provided for as provided in subsection § 10-3.457(E) below.

(C) *Plan Lines*

- (1) Right-of-way dedications shall be made of all land necessary to widen an existing street alley, or create a new street made necessary by a development or other public rights-of-way necessary for public purposes. Such rights-of-way shall be granted in conformity with adopted general, specific, or precise plans, or adopted plan lines, and the City's standard specifications for rights-of-way. If a conflict exists among plans, the adopted specific plan or plan line shall take precedence.
- (2) In the event official plan lines have not been established, the City Engineer shall determine all street widths for dedication to protect the public interest, safety, and general welfare, provided, however, the applicant for the permit may appeal the determination in the manner provided in this chapter.

(D) *Improvements.*

- (1) Street and alley right-of-way improvements adjacent to or traversing a development shall be improved to City standards including but not limited to pavement, curb, gutter, parkstrip, street trees and landscaping, sidewalk, street lights, fire hydrants, street signs, water, sewer, storm drainage and other utility lines and related appurtenances, driveway approaches, and handicap ramps. Such improvements are required on the principle that they are necessary because of the traffic, utility and other demands generated by the proposed development and the orderly development of the area.
- (2) Where it is found to be essential to the accommodation of storm drainage runoff and/or traffic, improvement of all or part of rights-of-way abutting adjacent properties may be

required in conjunction with the subject project with reimbursement provisions, as allowed by the Municipal Code, incorporated in conditions imposed.

(E) *Improvement criteria.*

- (1) Projects which abut on an existing or new street where development is anticipated to occur on both sides of the street shall be required to provide all improvements for a half right-of-way width on the project's respective frontages. In the event that it is found by the City Engineer or Planning Commission that the standard improvements do not provide sufficient pavement width for the planned travel lanes, parking lanes, and/or bicycle lanes, the review body may require any combination of additional dedication and/or pavement width and/or posting for no on-street parking as it deems appropriate.
- (2) Projects which include an existing or new street shall be required to provide all right-of-way improvements.
- (3) Projects abutting a frontage street shall be required to provide all right-of-way improvements provided that some adjustment from standard improvements may be permitted when such improvements will compliment the overall development of the area and provide for safe vehicular and pedestrian circulation. Where median or park strips are required, the property owner shall be responsible for the maintenance of the landscaping and improvements thereof by means of a maintenance district or other maintenance mechanism approved by the City.
- (4) Projects which abut upon or encompass an alley shall be required to provide all alley improvements to full width adjacent to the project site.

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

§ 10-3.458 REIMBURSEMENT PROVISIONS.

(A) Each developer of property has the responsibility for improvement of not less than half of the right-of-way including City utility lines that abut a parcel. In the event the development necessitates extension of service lines or other right-of-way improvements beyond those immediately abutting the developing parcel, the cost of such improvements may be eligible for reimbursement at the time of development of benefiting parcels which abut such improvements. An agreement for reimbursement must have been entered into with the City prior to occupancy of the structure(s) or acceptance of improvements, whichever comes first.

(B) Property owners whose properties benefit from extension of City utility lines and other right-of-way improvements by the City and other developers will be required to reimburse the value of permanent improvements that have been installed along their right-of-way frontages prior to development of their property as determined by the City Engineer or as specified by an applicable reimbursement agreement.

§ 10-3.459 RELATIONSHIP TO ENVIRONMENTAL ASSESSMENT PROCEDURES.

(A) Any site plans approved pursuant to the provisions of this chapter shall be considered in relation

to requirements addressing environmental impact assessments. It is the intent of this subchapter that, unless a project is determined to be categorically or statutorily exempt from the California Environmental Quality Act, an Evaluation of Environmental Impacts (Initial Study) be made concurrently with, and as part of, the site plan review process, and that a site plan may be approved with conditions that will permit the applicable review body to find that the proposed project will not have a significant effect on the environment and that a negative declaration should be prepared.

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

§ 10-3.460 REVISIONS OF APPROVED PLANS.

Revisions by the applicant of an approved plan necessary to meet conditions of approval or needed to practically implement the project shall be presented to the Planning Director in the manner required for drawings first submitted. Resubmittals shall be accompanied by the prescribed filing fee unless the revisions are determined by the Director to be of a minor nature not needing further documentation. The Director shall have the authority to approve the minor revisions on plans approved by the Planning Commission and the Planning Department. Revisions that are determined by the Director to be significant in nature shall require an application for an amended or new site plan.

§ 10-3.461 ACKNOWLEDGMENT AND ACCEPTANCE OF CONDITIONS.

Within thirty (30) days of receipt of the approved copy of a site plan and prior to applications for a building permit, the applicant/owner shall execute an acknowledgment and acceptance of the terms and conditions of the site plan and an agreement with the City certifying such acceptance and agreement to be bound thereby.

§ 10-3.462 BUILDING PERMIT.

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

§ 10-3.463 LAPSE OF SITE PLAN APPROVAL.

A site plan approval shall be void one year following the date on which approval by the review body became effective unless, within one year after approval, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan. Approval may be extended for one-year periods of time, if written application is submitted to the Director before expiration of the approval and the Director determines that a new application for the same site plan would result in the same requirements. In no case shall any site plan review approval be allowed more than four one-year extensions by the Director. All site plan reviews shall be considered null and void if construction has not commenced within five years.

§ 10-3.464 OCCUPANCY.

Before any building, structure, or use that is subject to site plan review may be occupied, the Building Official, Planning Director and the City Engineer (for off-site improvements) shall have certified that all required improvements have been completed.

Under special circumstances of hardship or conditions beyond the control of the applicant/developer, a temporary certificate of occupancy may be granted providing additional time for completion of required improvements provided a written request temporary occupancy is received and granted by the City, all fees applicable to completion of the site plan have been paid, and the following provisions are met:

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

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

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

(D) The agreement is secured by either cash deposited with the City, cash deposited in irrevocable escrow approved by the City Attorney, or other financial security approved by the City Attorney as the equivalent thereof. Such security shall be in the amount of at least 150% of the estimated cost of completion as determined by the City. In the event such work is not completed within the period provided, the City shall be authorized to take all necessary action to enforce the agreement, including the use of the security to cause the completion of all required improvements.

§ 10-3.465 APPEAL TO THE PLANNING COMMISSION.

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

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

(C) The Planning Commission shall hear the appeal at its next regular meeting to be held no earlier than 15 calendar days after the filing of the appeal. The Commission may affirm, modify, or reverse a decision of the Director, provided that if the decision is modified or reversed, the Commission shall, on the basis of the record and such additional evidence as may be submitted, make the applicable findings prerequisite to the approval of a site plan as prescribed in § 10-3.455 of this subchapter. The decision of the Commission shall be final unless appealed to the City Council.

§ 10-3.466 APPEAL TO THE CITY COUNCIL.

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

City Council.

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

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

(D) The City Council shall hear the appeal at its next regular meeting held no earlier than 15 calendar days after the filing of the appeal. The City Council may affirm, reverse, or modify a decision of the Planning Commission, provided that if a decision is modified or reversed, the City Council shall, on the basis of the record transmitted and such additional evidence as may be submitted, make the applicable findings prerequisite to the approval of a site plan as prescribed in § 10-3.455 of this subchapter.

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

§ 10-3.470 OPEN

ZONE DISTRICTS

PLANNED DEVELOPMENT ZONES

§ 10-3.480 PURPOSE

(A) The purposes of planned development zones are to provide for development that requires special consideration in the design, utilization, and/or operation of a site. The zone is intended to encourage creative and efficient land uses within development based on a high standard of performance and design. Such land development may require deviation from the normal zoning regulations and standards regarding lot size, yard requirements, bulk and structural coverage, and use schedules in an effort to maximize the benefits accruing to the citizens of Madera.

(B) There shall be two types of Planned Development Zone Districts. They are:
PRD – (Planned Residential Development); and
PCD – (Planned Commercial Development).

§ 10-3.481 APPLICABILITY

(A) The PRD (Planned Residential Development) Zone District is intended to encourage special residential development strategies where variation from normal zoning standards may be considered. It is the intent of this district to encourage unique residential community design of both single family and multifamily development at varying densities. In all cases, reduction in standards should be balanced with incorporation of subdivision and/or neighborhood amenities focused upon implementation of goals and policies of the General Plan.

(B) The PCD (Planned Commercial Development) zone is intended to provide for a wide range of commercial opportunities through the development of a precise plan that insures that the project area integrates with and is compatible with the surrounding area. The required precise plan may allow the project to vary from the normal development standards in order to achieve an overall improved project quality focused upon implementation of goals and policies of the General Plan. Development standards shall only be reduced when there is a corresponding increase in the project's quality of design and level of amenities. PCD Zone Districts shall only be created as a method of implementing a defined development vision for a specific site. PCD zoning shall not be assigned to land where a specific commercial development project, proposed within an application for precise plan, does not accompany the request for rezoning.

(C) All developments in Planned Development Zone Districts are subject to the provisions of Chapters 2 and 3 of Title 10 of the City Municipal Code. As such, any development in a Planned Development Zone District requiring public improvements to be dedicated to or accepted by the City shall also be subject to the City's Standard Specifications, with modifications to be approved only by action of the City Council.

(D) Mixed or multiple use projects are encouraged in the Planned Development Zones.

§ 10-3.482 LAND USES – PLANNED DEVELOPMENT ZONES.

(A) Land uses within a PRD (Planned Residential Development) shall be governed by a specific R (Residential) Zone District use schedule (determined by project density) within Table 10-3.502, or as specifically allowed for within the approved Precise Plan for the zone.

(B) Land uses within a PCD (Planned Commercial Development) shall be governed by Table 10-3.700, or as specifically allowed for within the approved Precise Plan for the zone.

§ 10-3.483 RESIDENTIAL DENSITY – PLANNED DEVELOPMENT ZONES.

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

<i>Density Sub-Designations</i>	
PRD 1500	One unit for each 1,500 square feet of site area.
PRD 2000	One unit for each 2,000 square feet of site area.
PRD 3000	One unit for each 3,000 square feet of site area.
PRD 4500	One unit for each 4,500 square feet of site area.
PRD 6000	One unit for each 6,000 square feet of site area.
PRD 8000	One unit for each 8,000 square feet of site area.
PRD 12000	One unit for each 12,000 square feet of site area.

The maximum densities may be averaged over a series of lots when they are part of the same precise plan.

§ 10-3.484 PRECISE PLAN APPROVAL REQUIRED

(A) No construction, grading, subdivision, or new development activity shall commence in any PD Zone prior to the approval of a precise plan of the development by the Planning Commission. The precise plan shall be processed under the procedural provisions for use permits as set forth in the subchapter on Use Permits in this chapter.

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

(C) For all other precise plans approved by the Planning Commission as provided herein, the precise plan approval shall be void one year following the date on which approval by the review body became effective unless, within one year after approval, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the precise plan. Approval may be extended for one-year periods of time, if written application is submitted to the Planning Commission prior to the expiration of the precise plan. The Planning Commission shall review the request, and may grant or conditionally grant an extension as it deems appropriate. In no case shall any precise plan approval be allowed more than four one-year extension requests. All precise plans shall be considered null and void if construction has not commenced within five years.

§ 10-3.485 PRECISE PLAN APPLICATION.

- (A) A precise plan application for development in any PD Zone District shall include:
 - (1) A completed operational statement;
 - (2) A completed environmental assessment;
 - (3) A preliminary title report or lot book report not more than 30 days old for all affected parcels;
 - (4) A use schedule describing the intended purpose of the development and the uses that are

- desired to be allowed (and/or conditionally allowed) within the development and any proposed operational requirements or restrictions.
- (5) Ten (10) set of plans which provide the following information;
 - a. Project name; street address; Assessor's parcel number;
 - b. Name, address, phone number of applicant, property owner, and contact person;
 - c. Vicinity map;
 - d. North arrow and scale;
 - e. Existing and proposed individual lot dimensions and square footage, and the total gross land area of the development;
 - f. The location of all existing and proposed easements;
 - g. All existing and proposed buildings and structures, including location, size, lot coverage, height, proposed use;
 - h. Location of all existing facilities, including pavement, curbs, gutters, sidewalks, utility lines, and existing street lights and fire hydrants within and adjacent to the site;
 - i. Yards and space between buildings,
 - j. Existing trees over 6" in diameter or significant landscape features;
 - k. Location of proposed walls and fences, including location, height, and materials;
 - l. Location of proposed trash receptacles and enclosures, including location, height, and materials;
 - m. Location of existing and proposed utility structures, both on the site and in the adjacent sidewalk. Including but not limited to, gas meters, electrical transformers, electrical service panels, switch boxes, back check valves, fire stand pipes, etc.
 - n. Location of proposed off-street parking and off-street loading, including location, dimensions of parking and loading areas, internal circulation pattern, plus a notation of the number of required and proposed spaces, including compact and handicapped parking spaces;
 - o. Location of proposed pedestrian, vehicular, and service ingress and egress to site and structures;
 - p. Generalized indication of size, height, and location of all existing and proposed signs;
 - q. Location and general nature and hooding devices of on-site lighting;
 - r. Street dedications and improvements on adjacent streets and alleys (detailed improvement plans shall be required at the building permit stage);
 - s. Proposed on-site fire protection requirements, including stand pipes, hydrants, turnarounds, and the like;
 - t. Landscape plan, to include location, size and type of plant materials to be used. A detailed irrigation plan must be submitted and approved prior to issuance of a building permit;
 - u. The design and furnishing of all walkways, transit facilities, trails, parks, and open areas for the use of the occupants of the proposed development.
 - v. General indication of grades, direction of drainage flow, and drainage facilities (a detailed site grading and drainage plan shall be required as a component of submittal for building permit);
 - w. Elevations of all sides of structure(s), notation of building and roofing materials, building heights;
 - x. Building elevations which also illustrate where various materials and colors are used.
 - (6) A color and materials board which identifies the type of material being used and the specific colors with representative samples.
 - (7) A representative color section rendering of the proposed building elevation, consistent with the color and materials board, using a scale similar to the exterior elevation drawings.
 - (8) Such other data and/or plans pertaining to development of the site as may be determined by the Planning Director to be necessary to make the required findings, ensure the public welfare of the area and community, and/or implement the requirements of the Municipal Code.
 - (9) In PRD (6000), PRD (8000), and PRD (12000) Zone Districts, the specific design and

location of each dwelling and site improvements on each lot may be postponed to separate site plans and/or minor site plan reviews, however general design concepts and development limitations shall be included as part of the precise plan.

(B) Waiver of submittal of information. Where the Planning Director finds that certain information as required by subsection (A) of this section is not required to assist in the implementation of this section, the submittal of such items of information may be waived by the Planning Director.

(C) Plan revisions. During the course of the precise plan review process, the Director may require the submittal of additional information or revised plans. The applicant shall be notified in writing of any revisions or additional information required and shall submit such information to the Planning Department within ten (10) days after the date of the notice or within such period of time as designated by the Planning Director.

§ 10-3.486 OPEN SPACE.

(A) For each residential unit in a planned residential development there shall be provided a minimum 750 square feet of open space exclusive of drives and off-street parking areas. Of that, no less than 33% of the open space shall be utilized in the development of communal open space serving the residents of the precise plan project area.

(B) For each planned commercial development, the site design shall incorporate elements that enhance the pedestrian environment, to include public open space areas such as plazas, courtyards, and other places of repose.

§ 10-3.487 YARD ENCROACHMENTS & ACCESSORY USES.

(A) Unless special standards are established through approval of the Precise Plan, the provision of § 10-3.424, Yard Encroachments, § 10-3.521, Development Standards – R1 Zone District, and § 10-3.540 et. al., Single Family Residential - Other Development Standards shall apply to all residential projects containing single family dwellings on individual lots.

§ 10-3.490 OPEN.

R – RESIDENTIAL ZONE DISTRICT

§ 10-3.501 PURPOSE AND APPLICATION

(A) This Chapter lists the land uses that may be allowed within the residential zoning districts established in MMC Section 10-3, determines the type of land use permit/approval required for each use, and provides basic standards for site layout and building size.

(B) The residential zoning districts are provided to preserve, enhance, and expand the housing stock while offering a range of safe housing opportunities for all members of the community. New residential neighborhoods should be developed as more than a collection of lots; they should incorporate design features and amenities that create a desirable living environment consistent with the goals and policies of the Madera General Plan.

(C) New residential development should be designed to avoid continuous blocks or clusters of dwellings that are connected only by streets, sidewalks, and hardscape. New development shall incorporate amenities which establish a sense of identity at the project or neighborhood level, create opportunities for community interaction, and enhance the visual appeal of the area. Features which accomplish these goals may include pathways, paseos, parks, community gardens, and other semi-public gathering places.

(D) Single family developments need to provide functional outdoor recreational space. The space can be provided either on individual lots or more efficiently as aggregated local public spaces, creating communal open space recreational opportunities.

(E) Multi-family projects shall include functional, accessible outdoor areas and improvements which provide space for both private and public gatherings. These may include tot lots for pre-school children; passive recreation areas for lounging, sun bathing, barbecuing, quiet conversation and reading; and private patios or balconies. To the extent possible, these areas shall be shaded by trees and/or shade structures. Residential uses may also be developed as mixed uses within planned commercial developments.

§ 10-3.502 LAND USES AND PERMIT REQUIREMENTS – RESIDENTIAL ZONES

(A) Table 10-3.502 identifies the uses of land allowed by this Zoning Ordinance in each residential zoning district, and the land use permit required to establish each use, in compliance with the Zoning Ordinance. Uses not specifically listed within the table are prohibited.

(B) Table 10-3.502 shall utilize the following abbreviations to define permitted uses, conditionally allowed uses, and prohibited uses within the various residential zone districts:

P	-	Permitted Use / An Allowed Activity
ZAP	-	Zoning Administrator Permit Required
CUP	-	Conditional Use Permit Required
N	-	Not Allowed / Prohibited

(C) The far right column of Table 10-3.502 noted as "Specific Use Regulations" provides a section number wherever applicable for regulations that apply to the particular use listed, in addition to the other general standards of this Zoning Ordinance.

Table 10-3.502 – Permit Requirements by Residential Zone District

Land Use Residential Uses	RA	R1	R2	R3	R4	Specific Use Regulations
Accessory Dwelling Units	ZAP	ZAP	ZAP	N	N	See § 10-3.548.
Accessory structures (including garages)	P	P	P	P	P	See § 10-3.540, 541 and 543.
Bed and Breakfast Inn	CUP	CUP	N	N	N	
Boarding House	CUP	CUP	CUP	CUP	CUP	
Caretaker's Residential	N	N	CUP	P	P	
Congregate Care Facility	N	N	CUP	CUP	P	
Cottage Food Operation	ZAP	ZAP	ZAP	ZAP	ZAP	
Duplex	CUP	CUP	P	P	P	
Emergency Shelter	N	N	CUP	CUP	N	
Garage Conversion (to living space)	ZAP	ZAP	ZAP	N	N	See§ 10-3.545.
Guest house	P	ZAP	ZAP	N	N	
Group homes	CUP	CUP	CUP	CUP	CUP	
Home occupations	P	P	P	P	P	See § 10-3.404.
Household pets	P	P	P	P	P	
Light Weight Metal-Framed Carport Structures	ZAP	ZAP	ZAP	N	N	See § 10-3.544.
Mobile Home Park	CUP	CUP	CUP	CUP	CUP	
Mobile Home	P	P	P	N	N	See§ 10-3.547.
Model homes and homes sales centers	ZAP	ZAP	ZAP	ZAP	ZAP	See§ 10-3.546.
Multi-family / Multi-residential dwellings	N	N	N	P	P	See individual zone districts.
Nursing Home	CUP	CUP	CUP	CUP	CUP	
Private greenhouse, flower or vegetable garden	P	P	P	P	P	
Single-family dwellings	P	P	P	N	N	
Supportive Housing	P	P	P	P	P	See Government Code Section 65583.
Swimming Pools	P	P	P	P	P	See § 10-3.549.
Transitional Housing	P	P	P	P	P	See Government Code Section 65583.
Zero lot line projects	N	N	N	N	N	Available in PRD Zones.
Agricultural Uses						
Animal keeping	P	N	N	N	N	
Community/Communal Garden	P	ZAP	ZAP	ZAP	ZAP	
Crop production and horticulture	CUP	CUP	CUP	CUP	CUP	See § 10-3.415.
Roadside Stands	CUP	N	N	N	N	
Recreational, Educational, and Assembly Uses						
Churches	CUP	CUP	CUP	CUP	CUP	
Club, Lodge, and Meeting Hall	CUP	N	N	CUP	CUP	
Community Center/Banquet Hall	CUP	N	N	CUP	CUP	
Equestrian Facility	CUP	N	N	N	N	
Golf Courses	CUP	CUP	N	N	N	
Open Space	P	P	P	P	P	
Parks and playgrounds	P	P	P	P	P	
Public Library	P	P	P	P	P	
Schools, Private Elementary and Secondary	CUP	CUP	N	N	N	
Schools, All other types of institutions of learning	N	N	N	N	N	
Services						
Adult day care facilities (6 or fewer clients)	P	P	P	P	P	
Adult day care facilities (7 or more clients)	CUP	CUP	CUP	N	N	
Cemeteries and mausoleums	CUP	N	N	N	N	
Parking of one commercial vehicle	CUP	CUP	N	N	N	See § 10-3.426.
Kennels	CUP	N	N	N	N	
Mini-Storage Facility	CUP	CUP	CUP	CUP	CUP	
Neighborhood Markets	CUP	N	N	N	N	
Small family day care homes	P	P	P	P	P	
Large family day care homes	CUP	CUP	CUP	CUP	CUP	See § 10-3.409.
Telecommunication towers	CUP	CUP	CUP	CUP	CUP	See § 10-3.414.
Advertising Structure	N	N	N	N	N	See § 10-6.02.

§ 10-3.503 EXEMPTIONS – RESIDENTIAL ZONES

(A) General requirements for exemption – Residential Zones. The land uses, structures, and activities identified by Subsection B below allowed “by right” only when:

- (1) The use, activity or structure is established and operated in compliance with the setback requirements, height limits, and all other applicable standards of this Zoning Ordinance, and;
- (2) Any permit or approval required by regulations other than this Zoning Ordinance is obtained (for example, a Building Permit).

(B) Exempt land uses – Residential Zones. The following are allowed by the Zoning Ordinance when in compliance with Subsection A. above.

- (1) Decks, paths and driveways. Decks, less than 30 inches above grade, on-site paths, and driveways that are not required to have a Building Permit or Grading Permit by the Madera Municipal Code.
- (2) Fences and walls. Fences and walls in conformance with the development standards of the applicable zone district.
- (3) Interior remodeling. Interior alterations that do not increase the number of rooms or the gross floor area within the structure, or a change in the permitted use of the structure.
- (4) Portable spas, hot tubs, and fish ponds. Portable spas, hot tubs, and fish ponds, etc., that do not: exceed 120 square feet in total area including related equipment; or contain more than 2,000 gallons of water; or exceed three feet in depth. These facilities shall comply with the setback requirements established for the various residential zones.
- (5) Repairs and maintenance. Ordinary repairs and maintenance, if the work does not change the approved land use of the site or structure, or add to, enlarge or expand the land use and/or structure; and/or any exterior repairs employ the same materials and design as the original construction.
- (6) Small, portable residential accessory structures. A total of no more than two (2) portable structures per lot or unit, including pre-manufactured storage sheds, small play structures/houses and other small structures in residential zoning districts that are exempt from Building Permit requirements in compliance with the Madera Municipal Code. Structures under this section are subject to the setback requirements established for the various residential zones.
- (7) Solar collectors. The addition of solar collection systems to the roofs or sides of existing structures, provided that the collectors comply with applicable height limit requirements.
- (8) Utilities. The erection, construction, alteration, or maintenance by a public utility or public agency of underground or overhead utilities intended to service existing or nearby approved developments shall be permitted in any zoning district. These include: water; gas; electric; telecommunication; supply or disposal systems; including wires, mains, drains, sewers, pipes, conduits, cables, fire-alarm boxes, police call boxes, traffic signals, hydrants, etc., but not including new transmission lines and structures. Satellite and wireless communications antennas are subject to a conditional use permit in all residential zones.

§ 10-3.504 PROHIBITED LAND USES – RESIDENTIAL ZONES

(A) The following are prohibited uses in all residential zone districts.

- (1) Commercial uses (except where indicated in Table § 10-3.502).
- (2) Industrial uses.
- (3) Recycling centers.
- (4) Storage/use of Shipping Containers.

§ 10-3.505 RESERVED

SINGLE FAMILY RESIDENTIAL ZONES

§ 10-3.510 RA (RURAL RESIDENTIAL) ZONE DISTRICT

The RA zoning district is intended for areas suitable for single-family residential development on larger parcels. The RA Zone District is intended to be limited in its application to areas which have an established pattern of rural residential development, generally located along the edge of the urbanized zone (General Plan, Land Use Element). The allowable density ranges from 0 to 2 dwelling units per acre. The RA Zone District is consistent with the Very Low Density Residential (VLD) land use classification of the General Plan.

§ 10-3.511 DEVELOPMENT STANDARDS – RA ZONE DISTRICT

(A) The following development standards shall apply to all land and structures in the RA (Rural Residential) Zone District. All subdivisions, development, new land uses, and alterations to existing land uses, structures, and site improvements, shall be designed, constructed, and/or established in compliance with the following regulations, except the activities and land uses specified in § 10-3.503 (Exemptions – Residential Zones).

(B) All lots henceforth created shall comply with the following lot dimensional standards;

Table 10-3.511	RA	Notes
Minimum Lot Area per dwelling unit (sq. ft.)	20,000	
Average Lot Size per dwelling unit (sq. ft.)	-	
Minimum Lot Width (feet), Interior Lot	80	
Minimum Lot Width (feet), Corner Lot	90	
Minimum Lot Width (feet), Reverse Corner Lot	100	
Minimum Lot Width Curved or Cul-de-sac Lot	60	
Minimum Lot Depth (feet)	120	See § 10-3.511(F)
Maximum Lot Depth to Width Ratio	2.5:1	
Standard Front Yard Setback	20	See § 10-3.511(C)
Minimum Side Yard Setback (Interior)	5	See § 10-3.511(D)
Minimum Side Yard Setback (Exterior)	10	See § 10-3.511(H)
Minimum Side Yard Setback (Reverse Corner)	15	See § 10-3.511(H)
Minimum Rear Yard Setback	25	See § 10-3.511(E)
Building Lot Coverage – Single Story Construction	30%	
Building Lot Coverage – Multi-Story Construction	25%	
Parking Spaces (within an enclosed garage)	2	See § 10-3.511(D)
Maximum Building Height – Primary Structure	35	
Maximum Building Height – Accessory Structure	16	

(C) Minimum front yard structural setbacks.

- 30 feet minimum — To Garage
- 25 feet minimum — To Side-Loaded Garages
- 20 feet minimum — To Structural Living Space
- 15 feet minimum — To Unenclosed Porches, Patios, and/or Courtyards

(D) All garages shall be placed on the interior side of all corner and reverse corner lots, except when the driveway is located greater than 150 feet from all street intersections. See § 10-3.544.

(E) Attached unenclosed patio covers may encroach by ten (10) feet into the required rear yard setback. In no case shall an attached unenclosed patio cover result in a rear yard setback of less than fifteen (15) feet.

(F) Lots shall not front onto arterial or collector streets. Lots backing onto railroad rights-of-way, freeways, highways, collector or arterial streets shall have a minimum depth of 140 feet. Where an existing improved lot has no other point of access available, the driveway shall be reconfigured to allow for vehicles to turn around on the site and avoid backing onto the street.

(G) Each developed lot containing a residential structure shall include no less than the following open space amenities:

- (1) No less than 50% of any front yard shall be improved with landscaping. Conversely, no more than 50% of any front yard shall be improved with hardscape.
- (2) Rear yards provide no less than 1,500 square feet of open space.

(H) Clear zone: On corner lots, the maximum height of any improvement within twenty-five (25) feet of that point of the lot nearest to the street intersection may not exceed three (3) feet, and provided further, that no fence, hedge, wall or other natural or structural object shall impair visibility at intersections in such a manner as to endanger life, health, or property.

(I) Reserved.

(J) Landscaping shall not obscure ingress or egress of neighboring properties so as to endanger health and safety.

(K) One street tree shall be planted for each thirty (30) feet of lot frontage.

(L) Distance between main buildings shall be a minimum of ten (10) feet, unless fire and/or building code requires a larger distance.

§ 10-3.512 USE SCHEDULE – RA ZONE DISTRICT

See § 10-3.502 for the use schedule for the RA Zone District.

§ 10-3.520 R1 (LOW DENSITY SINGLE FAMILY RESIDENTIAL) ZONE DISTRICT

The R1 zoning district is intended to represent the traditional single-family neighborhood with a majority of single-family detached homes (General Plan, Land Use Element). The allowable density ranges from 2.1 to 7 dwelling units per acre. The R1 Zone District is consistent with the Low Density Residential (LD) land use classification of the General Plan.

§ 10-3.521 DEVELOPMENT STANDARDS – R1 ZONE DISTRICT

(A) The following development standards shall apply to all land and structures in the R1 (Low Density Single Family Residential) Zone District. All subdivisions, development, new land uses, and alterations to existing land uses, structures, and site improvements, shall be designed, constructed, and/or established in compliance with the following regulations, except the activities and land uses specified in § 10-3.503 (Exemptions – Residential Zones).

(B) All lots henceforth created shall comply with the following lot dimensional standards;

Table 10-3.521	R1	Notes
Minimum Lot Area per dwelling unit (sq. ft.)	4500	
Average Lot Size per dwelling unit (sq. ft.)	6000	
Maximum Lot Size (sq. ft.)	20,000	
Minimum Lot Width (feet), Interior Lot	50	
Minimum Lot Width (feet), Corner Lot	60	
Minimum Lot Width (feet), Reverse Corner Lot	65	
Minimum Lot Width Curved or Cul-de-sac Lot	45	
Minimum Lot Depth (feet)	90	See § 10-3.521(F)
Maximum Lot Depth to Width Ratio	2.5:1	
Standard Front yard Setback	15	See § 10-3.521(C) § 10-3.521(D)
Minimum Side yard Setback (Interior)	5	See § 10-3.521(E)
Minimum Side yard Setback (Corner)	10	See § 10-3.521(G)
Minimum Side yard Setback (Reverse Corner)	15	See § 10-3.531(G)
Minimum Rear yard Setback	15	
Building Lot Coverage – Single Story Construction	50%	
Building Lot Coverage – Multi-Story Construction	40%	
Parking Spaces (within an enclosed garage)	2	See § 10-3.521(E)
Maximum Building Height – Primary Structure	35	
Maximum Building Height – Accessory Structure	16	

(C) Front yard setback adjustments shall provide variation in the overall visual aspect. All front yard setbacks shall be measured from the front lot line and vary from 15 to 20 feet to structure. No more than two homes with a like setback shall be placed side by side.

(D) Minimum front yard structural setbacks.

20 feet minimum — To Garage

15 feet minimum — To Side-Loaded Garages

15 feet minimum — To Structural Living Space

12 feet minimum — To Unenclosed Porches, Patios, and/or Courtyards

(E) All garages shall be placed on the interior side of all corner and reverse corner lots. See § 10-3.544.

(F) Lots shall not front onto arterial or collector streets. Lots backing onto railroad rights-of-way, freeways or highways shall have a minimum depth of 120 feet. Lots backing onto collector or arterial streets shall have a minimum depth of 110 feet. Where an existing lot has no other point of access available, the driveway shall be configured to allow for vehicles to turn around on the site and avoid backing onto the street.

(G) Clear zone: On corner lots, the maximum height of any improvement within twenty-five (25) feet of that point of the lot nearest to the street intersection may not exceed three (3) feet, and provided further, that no fence, hedge, wall or other natural or structural object shall impair visibility at intersections in such a manner as to endanger life, health, or property.

(H) Front yard and street side yard landscaping shall be provided as a component of all new homes. Front and street side yard landscaping shall not obscure ingress or egress of neighboring properties so as to endanger health and safety.

(I) One street tree shall be planted for each 30 feet of lot frontage. At least one tree shall be planted in the front yard of each lot.

(J) Distance between main buildings shall be a minimum of ten (10) feet, unless fire and/or building code requires a larger distance.

(K) Reserved.

§ 10-3.522 USE SCHEDULE – R1 ZONE DISTRICT

See § 10-3.502 for the use schedule for the R1 Zone District.

§ 10-3.530 R2 (MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL) ZONE DISTRICT

The R2 zoning district is intended for neighborhoods of single-family detached homes on smaller lots. This zone district may act as a transition from traditional single family development to multiple-family development. R2 development is an important part of a Village Center (General Plan, Land Use Element). The allowable density ranges from 7.1 to 15 dwelling units per acre. The lower end of the density range may be appropriate adjacent to the R1 zoning districts, with the higher end of the range being appropriate near R3 and R4 Zone District development, as well as neighborhood centers, parks, and transit stops. The R2 Zone District is consistent with the Medium Density Residential (MD) land use classification of the General Plan.

§ 10-3.531 DEVELOPMENT STANDARDS – R2 ZONE DISTRICT

(A) The following development standards shall apply to all land and structures in the R2 (Medium Density Single Family Residential) Zone District. All subdivisions, development, new land uses, and alterations to existing land uses, structures, and site improvements, shall be designed, constructed, and/or established in compliance with the following regulations, except the activities and land uses specified in § 10-3.503 (Exemptions – Residential Zones).

(B) All lots henceforth created shall comply with the following lot dimensional standards;

Table 10-3.531	R2	Reference
Minimum Lot Area per dwelling unit (sq. ft.)	2400	
Average Lot Size per dwelling unit (sq. ft.)	3600	
Maximum Lot Size	6000	
Minimum Lot Width (feet), Interior Lot	40	
Minimum Lot Width (feet), Corner Lot	50	
Minimum Lot Width (feet), Reverse Corner Lot	55	
Minimum Lot Width Curved or Cul-de-sac Lot	35	
Minimum Lot Depth (feet)	60	See § 10-3.531(F)
Maximum Lot Depth to Width Ratio	2.5:1	
Standard Front yard Setback	10	See § 10-3.531(C) § 10-3.531(D)
Minimum Side yard Setback (Interior)	5	See § 10-3.531(E)
Minimum Side yard Setback (Corner)	10	See § 10-3.531(G)
Minimum Side yard Setback (Reverse Corner)	15	See § 10-3.531(G)
Minimum Rear yard Setback	10	
Building Lot Coverage – Single Story Construction	60%	
Building Lot Coverage – Multi-Story Construction	50%	
Parking Spaces (within an enclosed garage)	2	See § 10-3.531(E)
Building Height – Primary Residential Structure	35	
Building Height – Accessory Structure	16	

(C) Front yard setback adjustments shall provide variation in the overall visual aspect. All front yard setbacks shall be measured from the front lot line and vary from 10 to 15 feet to structure. No more than two homes with a like setback shall be placed side by side.

(D) Minimum front yard structural setbacks.

20 feet minimum — To Garage

10 feet minimum — To Side-Loaded Garages

10 feet minimum — To Structural Living Space

8 feet minimum — To Unenclosed Porches, Patios, and/or Courtyards

(E) All garages shall be placed on the interior side of all corner and reverse corner lots. See § 10-3.544.

(F) Lots shall not front onto arterial or collector streets. Lots backing onto railroad rights-of-way, freeways or highways shall have a minimum depth of 90 feet. Lots backing onto collector or arterial streets shall have a minimum depth of 80 feet. Where an existing lot has no other point of access available, the driveway shall be configured to allow for vehicles to turn around on the site and avoid backing onto the street.

(G) Clear zone: On corner lots, the maximum height of any improvement within twenty-five (25) feet of that point of the lot nearest to the street intersection may not exceed three (3) feet, and provided further, that no fence, hedge, wall or other natural or structural object shall impair visibility at intersections in such a manner as to endanger life, health, or property.

(H) Front yard and street side yard landscaping shall be provided as a component of all new homes. Front and street side yard landscaping shall not obscure ingress or egress of neighboring properties so as to endanger health and safety.

(I) One street tree shall be planted for each 30 feet of lot frontage. At least one tree shall be planted in the front yard of each lot.

(J) Distance between main buildings shall be a minimum of ten (10) feet, unless fire and/or building code requires a larger distance.

(K) Reserved.

§ 10-3.532 USE SCHEDULE – R2 ZONE DISTRICT

See § 10-3.502 for the use schedule for the R2 Zone District.

SINGLE FAMILY RESIDENTIAL - OTHER DEVELOPMENT STANDARDS

§ 10-3.540 STRUCTURES (OPEN-SIDED)

(A) Open-sided structures shall be clearly subordinate and incidental to a primary residential dwelling. Examples include covered patios, carports, pergolas, etc.

(B) Open-sided structures shall be open on three or more sides.

(C) Attached Covered Patio structures shall not encroach into any required yard. The structure shall maintain the setbacks required of the primary dwelling on the property, except whereas otherwise permitted by this chapter.

(D) Detached Covered Patio structures shall maintain a five (5) foot interior side yard setback. Street-side side yards shall be maintained. Detached Covered Patio structures shall maintain a no less than five (5) foot rear yard setback. Detached Covered Patio structures shall not encroach into the front yard setback.

§ 10-3.541 STRUCTURES (ENCLOSED)

(A) Enclosed structures shall be clearly subordinate and incidental to the main building/primary residential dwelling. Examples include garages, workshops, storage sheds, etc.

(B) Enclosed structures shall not encroach into any required setback.

(C) Unless attached to the main building/primary residential dwelling, enclosed structures shall maintain at least ten (10) feet of separation from the main building/primary residential dwelling.

(D) Enclosed structures visible from the public street shall be compatible with the design of the main building in terms of form, exterior siding, roof materials, trim and color, and window placement and type.

(E) Enclosed structures shall not encroach into required rear yard open space.

(F) Enclosed structures shall comply with applicable fire and building code.

(G) Except for open-sided structures (open on three or more sides) and accessory dwelling units, no kitchen and bathroom combinations shall be allowed in any structure other than the main building/primary residential dwelling.

§ 10-3.542 ACCESSORY STRUCTURES

(A) Accessory structures are defined as those structures customarily incidental and subordinate to the residential use of the land including but not limited to: children's playhouses, patios, decks, fences, landings, porches, gazebos, storage sheds, greenhouses, spas and hot tubs customary and incidental to the use of a residential parcel. Residential accessory structures are typically less than 120 square feet and are determined by the Building Official as not requiring a building permit.

(B) All Accessory structures shall be constructed of attractive, long-lasting building materials. Accessory structures may not be constructed of cast-off, secondhand, or other materials not originally intended to be used for construction or maintaining of an accessory structure, including, but not limited to scrap materials, plastic tarps, or similar materials.

(C) Accessory structures shall be clearly subordinate and incidental to a main building/primary residential dwelling.

(D) Accessory structures shall not be located in the front yard setback.

(E) Accessory Structures shall maintain at least a one (1) foot side yard setback.

(F) Accessory structures shall maintain at least a one (1) foot rear yard setback.

(G) Accessory structures shall maintain at least five (5) feet of separation from the primary residential structure.

(H) Shipping containers (commonly referred to as “Seatrain” containers) of any and all sizes are expressly prohibited in all single family residential zones.

§ 10-3.543 RESIDENTIAL FENCES

(A) All fences shall be constructed of attractive, long-lasting building materials. Materials shall be limited to wood, stone, rock, brick, concrete block, masonry brick, decorative wrought iron, vinyl, plastic composite, chain-link or other similar building material(s) approved by the Planning Director. A fence may not be constructed of cast-off, secondhand, or other materials not originally intended to be used for constructing or maintaining a fence, including, but not limited to plywood, particle board, scrap metals, plastic tarps, corrugated metal, corrugated fiberglass, scrap wood or similar materials. No defensive materials such as barbed wire, razor wire or similar materials shall be used or maintained in, on, or about any fence in any residential zone.

(B) Fences may not exceed six (6) feet in height on interior property lines between the front line of the structure and the rear property line.

(C) Fences may not exceed three (3) feet in height within exterior setbacks. An exterior yard or setback shall be defined as all yards or setbacks adjacent to a public right-of-way.

(D) Fences may not exceed three (3) feet in height within the clear-zone. The clear-zone shall be identified as that area of land located within twenty-five (25) feet of the intersection of two (2) rights-of-way.

(E) On all corner and reverse corner lots, the exterior rear side yard fence may be six (6) feet in height. No fencing over three (3) feet tall shall be placed within any required exterior side yard setback area.

(F) On all reverse corner lots, an exterior side yard fence may be six (6) feet in height, set back fifteen (15) feet from the property line.

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

(H) Any fence that is constructed, replaced or repaired in a manner that is inconsistent with the provisions of this section as of the effective date of this ordinance shall constitute a violation of this section.

(I) Where a nonresidential or multi-family zoning district adjoins property in a single-family residential zoning district (other than a public right-of-way), an eight (8) foot tall solid masonry wall shall be constructed on the zone boundary line, subject to the approval of the Planning Director.

(J) Logical paths of pedestrian travel shall be incorporated into and made an integral part of single-family residential subdivision design and development.

(K) An increase in fence heights, not to exceed one (1') foot above permitted height, to improve the site plan or architectural design and where scenic views and solar access on surrounding properties are not significantly affected, may be allowed with the approval of a Zoning Administrator Permit.

§ 10-3.544 GARAGES AND CARPORTS

Each single-family residential lot containing a residential structure shall include no less than two (2) covered parking stalls.

(A) Garages. Garage structures shall be fully enclosed. Garage structures shall be designed in such a way as to be architecturally compatible with the single-family residential structure. Garages shall be constructed of similar building materials as the residential structure so as to closely complement the single-family residential structure.

(1) Garages shall be the following dimensions:

1-car – 10' by 22' minimum

2-car – 20' by 22' minimum

2-car Tandem – 10' by 42' minimum

3-car – 30' by 22' minimum

3-car Tandem – 20' by 22' w/ 10' by 20' tandem extension

4-car – 40' by 22' minimum

(2) Garages that face the street frontage shall be located not less than twenty (20) feet from the street frontage. Where a required setback is greater, such setback shall apply.

(3) Garages that face the alley shall be located not less than five (5) feet from the rear property line.

(4) Garages shall not encroach into any side yard setback.

(A) Carports. Open-sided carport structures constructed in conjunction with a single-family residential structure shall be constructed in such a way as to be architecturally compatible with the single-family residential structure. Carports shall be constructed of similar building materials as the residential structure so as to closely complement the single-family residential structure.

(1) Carports shall conform to the following minimum dimensions:

1-car – 10' by 22' minimum with ten feet clear between posts.

2-car – 20' by 22' minimum with ten feet clear between posts.

(2) Carports that face the street frontage shall be located not less than twenty (20) feet from the street frontage. Where a required setback is greater, such setback shall apply.

(3) Carports that face the alley shall be located not less than five (5) feet from the rear property line.

(4) Carports shall not encroach into any side yard setback.

(C) Light Weight Metal Carport Structures. Light Weight Metal Carport Structures shall only be allowed when they are located in the rear yard, behind the main building/primary residential dwelling, subject to the approval of a Zoning Administrator Permit.

(1) Light Weight Metal Carport Structures shall maintain a no less than five (5) foot rear yard setback.

(2) Light Weight Metal Carport Structures shall maintain a no less than five (5) foot side yard setback.

(3) Light Weight Metal Carport Structures shall not be considered to satisfy any of the required covered parking requirements of this chapter.

(D) Light Weight Prefabricated Fabric Carport Canopies. Light Weight Prefabricated Fabric Carport Canopies may not be used for permanent or temporary covered parking or storage in any residential zone. In all cases, permanent or temporary, fabric, canvas, plastic and/or vinyl covered structures designed for or utilized as a carport are prohibited from use in residential zones.

§ 10-3.545 GARAGE CONVERSIONS

(A) This Section establishes regulations for the conversion of an existing garage to habitable space for domestic use.

(B) Permit requirements. No person shall initiate any garage conversion without an approved Zoning Administrator Permit and the required building permits for the approved construction activities.

(C) Minimum lot size. No garage conversion shall be permitted on a lot less than 4,500 square feet.

(D) Parking requirements. A garage conversion shall only be permitted when one covered parking space is provided for each required covered parking space displaced by the conversion. The conversion of garage space required to meet the parking requirement for an accessory dwelling unit shall be prohibited.

(E) Design. The conversion and any new structures shall be architecturally consistent with the design of the house using one of the following alternatives:

- (1) The garage door is left intact in a permanently closed position;
- (2) The garage door remains intact and functional, with a storage area between a partition wall and the garage door; or
- (3) The garage door and all necessary remnants are removed and the garage door opening is treated with building materials and design detail to match the remainder of the house. An in-ground landscaped planter, or raised masonry planter, 30 inches in depth shall be installed between the driveway and where the garage door is to be removed. This planter shall be reduced in depth if necessary to maintain an 18 foot long driveway, measured from the back of the sidewalk to the landscaped planter. Where there is insufficient driveway depth to provide a planter of at least 18 inches, the alternatives in paragraph (E)(1) or (E)(2) above shall be used.

§ 10-3.546 MODEL HOMES – SUBDIVISION SALES CENTERS

(A) Model homes, subdivision sales offices, trailers, and subdivision model home complexes shall comply with the following regulations:

- (1) Permit requirements. No person shall establish any model home or home sales center without an approved Zoning Administrator Permit.
- (2) Limitation on office use. The sales office shall be used for selling new homes located within the subdivision where the office has been established, and/or another subdivision of the same builder located within the City.
- (3) Parking. Temporary parking facilities shall be constructed of asphalt and striped in compliance with City standards.
- (4) Conversion. Upon completion of sales activities, all installations related to such activity (e.g., display partitions, canopies, walls, etc.) shall be removed and any room used for sales activity shall be converted to the approved residential use prior to sale or occupancy of the dwelling unit. Temporary parking facilities installed to serve any model home or sales office shall be removed within 60 days after conclusion of sales activities.
- (5) Surety requirement. The applicant shall post the following bonds, refundable cash deposits, or other form of surety in the amount of \$25,000 to guarantee conversion of any office and/or display area to the approved residential use.

- (6) All signage associated with model homes and/or subdivision sales centers shall be approved via a subdivision sign permit, pursuant to § 10-6.14.
- (7) Design. Design standards for model home complexes shall be established as part of the required Zoning Administrator Permit. All temporary sales trailers shall comply with applicable building codes.
- (8) Land use map display. All subdivision model home and sales offices for residential developments shall prominently display a City of Madera General Plan Land Use Map. In addition, the sales office shall prominently display a map identifying all planned land uses within the subdivision and within 1/4 mile of the boundary of the subdivision, including the type and location of any public and/or private pedestrian and/or open space amenities that will be constructed in or adjacent to the subdivision.

§ 10-3.547 MODULAR, MOBILE, OR MANUFACTURED HOMES

(A) Where permitted within § 10-3.502 Land Uses and Permit Requirements – Residential Zones, all mobile home/manufactured housing units located outside of mobile home park shall comply with the requirements of this Section.

- (1) Site requirements. The site, and the placement of the mobile home on the site shall comply with all zoning, subdivision, and development standards applicable to a conventional single-family dwelling on the same parcel.
- (2) Mobile home design and construction standards. A mobile home outside of a mobile home park shall comply with the following design and construction standards.
 - (a) The exterior siding, trim, and roof shall be of the same materials and treatment found in conventionally built residential structures in the surrounding area, and shall appear the same as the exterior materials on any garage or other accessory structure on the same site.
 - (b) The roof shall have eave and gable overhangs of not less than 12 inches measured from the vertical side of the mobile home, and the roof pitch shall be no less than 2.5:12.
 - (c) The mobile home shall be placed on a foundation system, subject to the approval of the Building Official; and
 - (d) The mobile home shall be certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC Section 4401 et seq.), and been constructed after January 1, 1989.

§ 10-3.548 ACCESSORY DWELLING UNITS.

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

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

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

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

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

(C) General requirements. An accessory dwelling unit:

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

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

(E) Application and processing requirements.

- (1) Step One—Submittal. An application for a Zoning Administrator Permit to allow for an accessory dwelling unit shall be submitted to the Planning Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for a Zoning Administrator Permit to allow for an accessory dwelling unit shall include all of the following (except as noted in Subsection (1)(i) below):
 - (a) Plot plan. A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the accessory dwelling unit; the location and dimensioned setbacks of all existing and proposed structures on the site and structures located within 50 feet of the site; all easements, building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.
 - (b) Floor plan. A floor plan, drawn to scale, showing the dimensions of each room, and the resulting floor area. The use of each room shall be identified, and the size and location of all windows and doors shall be clearly shown.
 - (c) Elevations. Architectural elevations of each side of the proposed structure showing all openings, exterior finishes, original and finish grades, stepped footing outline, and roof pitch.
 - (d) Materials and color board. A materials and color board for the existing residence and the proposed second dwelling unit.
 - (e) Cross sections. Building cross sections including structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.
 - (f) Photographs. Color photographs of the site and adjacent properties, taken from each property line of the site, to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of each photograph.
 - (g) Deed Restrictions. Deed restrictions completed, signed and ready for recordation.
 - (h) Fee. A fee corresponding to the fee for a Zoning Administrator Permit shall be paid at time of submittal.

- (i) Applications for accessory dwelling units which do not modify a building's exterior are not required to submit c, d, or f above.
- (2) Step two—Decision. The Department shall act on the application for Zoning Administrator Permit to allow for an accessory dwelling unit within 120 days of submittal of a complete application. The Zoning Administrator Permit shall be issued only if the proposed accessory dwelling unit complies with all applicable standards in this Section.
- (3) Utility Connection Fees.
 - (a) Except as provided in subsection (3)(b), a separate new utility connection and payment of a connection fee or capacity charge pursuant to State law and City fee schedule will be required for any new accessory dwelling unit.
 - (b) No new or separate utility connection or related connection fee or capacity charge will be required for accessory dwelling units that are internal conversions of existing space within a single family residence or permitted accessory structure constructed as habitable space.

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

- (1) Setbacks.
 - (a) R (Residential) Zone District. An accessory dwelling unit shall comply with the setback requirements of the applicable residential zoning district for the primary dwelling, except as follows:
 1. A new detached single-story accessory dwelling unit shall observe a front setback of 20 feet, a rear setback of 5 feet, an interior side setback of 5 feet, and a corner side setback of 15 feet.
 2. A new detached two-story accessory dwelling unit shall observe a front setback of 20 feet, a rear setback of 15 feet, an interior side yard setback of 5 feet for a one-story portion, and 10 feet for a two-story portion, and a corner side yard setback of 15 feet.
 3. An accessory dwelling unit that is fully contained within the existing space of a single-family residence or within an approved accessory structure and has independent exterior access from the existing residence or structure shall adhere to the setback requirements of the residential zone it is located within.
 4. No portion of an attached or detached accessory dwelling unit shall be closer than 10 feet to a primary dwelling on an adjacent lot.
 5. A setback of no less than five feet from the side and rear property lines is required for any accessory dwelling unit. No existing nonconforming structures built within less than 5 feet of any property line may be converted to an accessory dwelling unit.
 6. A detached accessory dwelling unit shall always be located within 100 feet of the primary dwelling, but never closer to the primary dwelling than permitted by the California Building Code.
 - (b) PD (Planned Development) Zone District. An accessory dwelling unit shall comply with the setback requirements as defined within the approved Precise Plan applicable to the primary dwelling.
- (2) Maximum floor area.
 - (a) New detached unit. No newly constructed detached accessory dwelling unit may contain floor area in excess of 1,200 square feet.
 - (b) New attached unit. No newly constructed attached accessory dwelling unit may contain floor area in excess of 50% of the existing residential square footage or 1,200 square feet, whichever is less.
 - (c) Internal conversion. An accessory dwelling unit created entirely by the internal conversion of an existing single family dwelling shall not occupy more than 45 percent of the existing floor area of the residence, excluding the garage, nor shall it exceed 1,200 square feet, or a maximum of 1,200 square feet for detached accessory structures.

- (3) Height limit. A one-story accessory dwelling unit shall not exceed a maximum height of 16 feet. A two-story accessory dwelling unit shall not exceed a maximum height of 27 feet.
- (4) Open Space. An accessory dwelling unit shall provide an additional 500 square feet of open space, in addition to the open space requirements of the primary residential dwelling on the parcel.
- (5) Architectural compatibility. If visible from a public street, an accessory dwelling unit shall incorporate the same or substantially similar architectural features, building materials and colors as the main dwelling unit and/or compatible dwellings located on adjacent properties.
- (6) Privacy. A balcony, window or door of a second story accessory dwelling unit shall be designed to lessen privacy impacts to adjacent properties. Appropriate design techniques may include obscured glazing, window placement above eye level, screening treatments, or locating balconies, windows and doors toward the existing on-site residence.
- (7) Existing development. A single-family dwelling must already exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
- (8) Number per lot. A maximum of one accessory dwelling unit and one junior accessory dwelling unit shall be permitted on any lot.
- (9) Parking. One off-street parking space is required for an accessory dwelling unit, except as set forth below. The off-street parking shall be permitted uncovered, compact, tandem and in setback areas, unless the review authority determines that tandem parking or parking within a setback is not feasible due to specific site or topographical or fire and life safety conditions. No off-street parking shall be required if one or more of the following circumstances exist:
 - (a) The accessory dwelling unit is 750 square feet or less in area.
 - (b) The accessory dwelling unit is located within one-half mile of public transit.
 - (c) The accessory dwelling unit is located within a historic preservation district.
 - (d) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
 - (e) When on-street parking permits are required but not offered to the occupant of an accessory dwelling unit.
 - (f) When there is a car share vehicle located within one block of the accessory dwelling unit.
 - (g) To qualify for an exception, the applicant must provide supporting evidence, such as a map illustrating the location of the accessory dwelling unit and its proximity to a public transit stop or car share vehicle or its location within a historic preservation district, or proof of local parking permit requirements.
 - (h) If a garage, carport, or covered parking is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking spaces must be provided in any configuration on the lot, including as uncovered, compact, tandem parking and within a setback area.
- (10) Deed restrictions. Prior to occupancy of an accessory dwelling unit, the property owner shall file with the County Recorder a deed restriction containing a reference to the deed under which the property was acquired by the owner and stating that:
 - (a) The accessory dwelling unit shall not be sold separately from the single family residence;
 - (b) The accessory dwelling unit shall not exceed 1200 square feet and shall comply with the development standards in Subsection (E);
 - (c) The accessory dwelling unit shall be considered legal only so long as either the primary residence or the accessory dwelling unit is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or non-profit housing organization; and
 - (d) The restrictions shall run with the land and be binding upon any successor in ownership of the property. Lack of compliance shall void the approval of the accessory dwelling unit and may result in legal action against the property owner.
 - (e) The developer of a subdivision that includes accessory dwelling units shall record the deed restrictions required by this Subsection prior to the recordation of the Final Map or Parcel Map. Each lot with a accessory dwelling unit shall remain unoccupied until the

property transfers ownership, allowing for compliance with the recorded owner-occupancy restriction.

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

- (1) General requirements. A junior accessory dwelling unit:
 - (a) May be located on any R (Residential) Zone District lot that allows single family or multifamily dwellings and that contains only one single-family detached dwelling. Only one junior accessory dwelling unit and one standard accessory dwelling unit shall be permitted per parcel;
 - (b) May be located on any PD (Planned Development) Zone District lot wherein a Precise Plan allowing for the construction of junior accessory dwelling units has been approved. In all cases, the Precise Plan shall provide that only one junior accessory dwelling unit shall be permitted per parcel;
 - (c) Is not subject to the density requirements of the General Plan, but shall otherwise be consistent with the General Plan's principles, goals and policies.
 - (d) Shall not be allowed on, or adjacent to, real property that is listed in the California Register of Historic Places.
 - (e) Shall not be used for rentals with terms of less than 30 days.
 - (f) Shall not be sold separate from the primary residence.
- (2) Permit requirements. An application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit that complies with all applicable requirements of this Section shall be approved ministerially.
- (3) Application and processing requirements.
 - (a) Step One—Submittal. The application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be submitted to the Planning Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit shall include all of the following:
 1. Plot plan. A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the junior accessory dwelling unit; the location and dimensioned setbacks of all existing and proposed structures on the site and structures located within 50 feet of the site; all easements, building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.
 2. Floor plan. A floor plan, drawn to scale, showing the dimensions of each room, the area devoted to the junior accessory dwelling unit, and the resulting floor areas of the junior accessory dwelling unit and of the primary residence. The use of each room shall be identified, and the size and location of all windows and doors shall be clearly shown. The plan shall identify whether separate or shared sanitation facilities are proposed.
 3. Deed Restrictions. Deed restrictions completed, signed and ready for recordation.
 4. Fee. A fee corresponding to the fee for a Zoning Administrator Permit shall be paid at time of submittal.
 - (b) Step two—Decision. The Department shall act on an application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit within 120 days of submittal of a complete application. A Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be issued only if the proposed junior accessory dwelling unit complies with all applicable standards in this Section.
 - (c) Utility Connection Fees.

1. No new or separate utility connection and no connection fee for water, sewer, or power is required for a junior accessory dwelling unit.
- (4) Development standards. A Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be issued only if the unit complies with the following development standards:
- (a) Maximum floor area. The junior accessory dwelling unit shall not exceed 500 square feet in area.
 - (b) Existing development. The junior accessory dwelling unit shall be contained entirely within the existing walls of an existing single-family dwelling and shall utilize one of the existing bedrooms.
 - (c) Kitchen. The junior accessory dwelling unit must contain an efficiency kitchen with the minimum criteria:
 1. A sink with a maximum waste line diameter of 1.5 inches.
 2. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.
 3. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
 - (d) Sanitation. Bathroom facilities may be separate from or shared with the single family dwelling.
 - (e) Entrance. The junior accessory dwelling unit shall include an exterior entrance separate from the main entrance to the single family dwelling, and an interior entry into the main living area. The junior accessory dwelling unit may include a second interior doorway for sound attenuation.
 - (f) Parking. Off-street parking shall not be required for junior accessory dwelling units that meet the development standards.
- (5) Deed restrictions. Prior to occupancy of a junior accessory dwelling unit, the property owner shall file with the County Recorder a deed restriction containing a reference to the deed under which the property was acquired by the owner and stating that:
- (a) The junior accessory dwelling unit shall not be sold separately from the single family residence;
 - (b) The junior accessory dwelling unit shall not exceed 500 square feet and shall comply with the development standards in Subsection F;
 - (c) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence or the junior accessory dwelling unit is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or non-profit housing organization; and
 - (d) The restrictions shall run with the land and be binding upon any successor in ownership of the property. Lack of compliance shall void the approval of the junior accessory dwelling unit and may result in legal action against the property owner.
 - (d) The developer of a subdivision that includes junior accessory dwelling units shall record the deed restrictions required by this Subsection prior to the recordation of the Final Map or Parcel Map. Each lot with a junior accessory dwelling unit shall remain unoccupied until the property transfers ownership, allowing for compliance with the recorded owner-occupancy restriction.

§ 10-3.549 SWIMMING POOLS

(A) A swimming pool may encroach into any required rear yard, but must be set back at least one (1) foot from any property line.

(B) A swimming pool shall not encroach into any side yard setback, except where the side yard

setback area is within the rear yard setback for the property in question, wherein the provisions of § 10-3.548(A) shall apply.

(C) A swimming pool shall not encroach into any front yard setback.

MULTIPLE FAMILY RESIDENTIAL ZONE DISTRICTS

§ 10-3.550 R3 (MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL) ZONE DISTRICT

The R3 zoning district is intended for areas appropriate for multi-family housing, and is suitable near activity centers and along major thoroughfares. This zoning district allows for attached multiple family residential development such as apartment complexes. Detached single family development is not anticipated to occur in the R3 Zone District, instead being compatible within the R2 Zone District. R3 development is also an important part of a Village Center (General Plan, Land Use Element). The allowable density ranges from 7.1 to 15 dwelling units per acre. The R3 Zone District is consistent with the Medium Density Residential (MD) land use classification of the General Plan.

§ 10-3.551 DIMENSIONAL STANDARDS – R3 ZONE DISTRICT

(A) The following dimensional standards shall apply to all land and structures in the R3 (Medium Density Multiple Family Residential) Zone District. All new subdivision of land, new development, new land uses, and alterations to existing land uses, structures, and site improvements, shall be designed, constructed, and/or established in compliance with the following regulations, except the activities and land uses specified in § 10-3.503 (Exemptions – Residential Zones).

(B) Existing R3 parcels not consistent with the standards set forth below shall be considered existing non-conforming parcels. All lots henceforth created in the R3 Zone District shall comply with the following lot dimensional standards;

Table 10-3.551	R3	Reference
Minimum Lot Area	7500	
Minimum Lot Area per dwelling unit (sq. ft.)	2400	
Average Lot Area per dwelling unit (sq. ft.)	3500	
Maximum Lot Area per dwelling unit (sq. ft.)	6000	
Minimum Lot Width (feet), Interior Lot	60	
Minimum Lot Width (feet), Corner Lot	70	See § 10-3.551(C)
Minimum Lot Width (feet), Reverse Corner Lot	75	See § 10-3.551(C)
Minimum Lot Width Curved or Cul-de-sac Lot	50	
Minimum Lot Depth (feet)	120	
Maximum Lot Depth to Width Ratio	-	
Standard Front yard Setback	15	See § 10-3.551(D)
Minimum Side yard Setback (Interior)	5	See § 10-3.551(G)
Minimum Side yard Setback (Corner)	10	See § 10-3.551(D)
Minimum Side yard Setback (Reverse Corner)	15	See § 10-3.551(D)
Minimum Rear yard Setback	10	See § 10-3.551(E) See § 10-3.551(F)

(C) Clear zone: On corner lots, the maximum height within twenty-five (25) feet of that point of the lot nearest to the street intersection may not exceed three (3) feet, and provided further, that no fence, hedge, wall or other natural or structural object shall in any way impair visibility at intersections in such a manner as to endanger life, health, or property.

(D) No building shall encroach into any required exterior yard except as specifically allowed elsewhere in this chapter.

(E) Rear yard setbacks shall be increased by ten (10) feet when abutting single family residential zones or uses.

(F) A garage or carport that takes direct access to an alley shall have no less than a seven (7) foot rear yard setback.

(G) Interior side yard setback shall be increased to ten (10) feet for two-story and above construction when abutting single family residential zones or uses.

§ 10-3.552 USE SCHEDULE – R3 ZONE DISTRICT

See § 10-3.502 for the use schedule for the R3 Zone District.

§ 10-3.553 DEVELOPMENT STANDARDS – R3 ZONE DISTRICT

The following development standards shall apply to all land and structures in the R3 (Medium Density Multiple Family Residential) Zone District.

Table 10-3.553	R3	Reference
Parking		
Studio	1 stall per unit	See § 10-3.553(A)
One bedroom	1.5 stalls per unit	See § 10-3.553(A)
Two or more bedrooms	2 stalls per unit	See § 10-3.553(A)
Visitor	1 stall for each five units	See § 10-3.553(A)
Car washing area	Allowed	
Landscaping		
Street trees (one tree for every . . .)	30 feet of street frontage	See § 10-3.553(B)
Tree density (per sq. ft. of open space)	1 tree per 400 sq. ft. of open space	
Tree density (per uncovered parking space)	1 tree per 3 uncovered parking space	See § 10-3.553(C)
Minimum depth of landscaping	15 ft. at exterior property lines	See § 10-3.553(D)
	5 feet at interior property lines	
Recreational Amenities		
Major amenities (e.g. pool, recreation Building)	Based on number of dwelling units in project	See § 10-3.553(E)
Minor amenities (e.g. Barbeque picnic area,)	Based on number of dwelling units in project	See § 10-3.553(E)
Open Space		
Private open space (ground units)	100 sq. ft. per unit	See § 10-3.553(G)
Private open space (upper units)	60 sq. ft. per unit	See § 10-3.553(H)
Common open space (% of parcel)	30% of parcel	See § 10-3.553(F)
Laundry facilities	Private or common facilities required after 25 units	
Storage space (private, exterior area per unit)	100 cubic feet minimum	
Trash Enclosures	Minimum of 1 per each 12 units	
Building Separation		
Between any two buildings	10 feet minimum	See § 10-3.553(J)
Front to front	20 feet between buildings	See § 10-3.553(J)
Front to rear	20 feet between buildings	See § 10-3.553(J)
Building Lot Coverage	50%	
Building Height – Primary Residential Structure(s)	50 feet	See § 10-3.553(K)
Building Height – Accessory Structure(s)	15 feet	See § 10-3.553(K)

(A) A minimum of one covered parking space (a garage or carport) shall be provided for each unit. All parking spaces shall be located within convenient walking distance to each dwelling unit they are assigned to serve.

(B) Street trees shall be placed in logical proximity to the street.

(C) Trees satisfying parking lot stall standards shall be placed in such a way as to cumulatively provide shade to vehicles utilizing parking lot stalls.

(D) Landscaping shall not obscure sightlines for ingress or egress so as to endanger health and safety.

(E) Required amenities. The minimum number of recreational amenities required in a new multi-unit project is established in the Table below. The overall mix of facilities shall provide for a variety of activities, and shall consider the needs of the different age groups anticipated in the project. For the purpose of this section, recreational amenities are categorized as follows:

- (1) Major. Recreation buildings; swimming pools; tennis, baseball, or handball courts (regulation size and surface), child care facilities, gymnasiums and other such amenities requiring significant investment and appropriate to serve residents of the project as determined by the City; and
- (2) Minor. Children’s play areas, basketball half courts, a spa or sauna, picnic and barbecue areas and other such amenities requiring substantial investment and appropriate to serve residents of the project as determined by the City.

Dwelling Units								
Type	4 or less	5 - 25	26 - 50	51 - 100	101 - 150	151 - 200	201 - 300	301 or more
Major	0	0	1	1	2	2	3	plus 1 per 100 additional dwelling units
Minor	0	1	1	2	2	3	3	plus 1 per 50 additional dwelling units

(F) To qualify as common open space, the minimum dimension must be ten feet, provided, however, that balconies can qualify when the minimum dimension is five feet. Required off- street parking areas (spaces and driveways) may not be used in calculating required open space, and only a maximum of 50% of required yard areas under Table 10-3.551 may be used in calculating required open space.

(G) If a private patio is provided that is completely enclosed on all sides by a minimum five foot (5) tall fence with a minimum length and depth of ten feet, it shall be counted towards meeting as the requirement for common open space.

(H) If a private balcony is provided which has a minimum depth of five feet (5) and a minimum area of 60 square feet, it shall be counted towards meeting the requirement for common open space.

(I) Reserved.

(J) Building separation shall be increased by two feet (2) for every story/floor above two stories.

§ 10-3.554 REQUIRED ENTITLEMENTS – R3 ZONE DISTRICT

Before any R3 Zone District can be developed, and before any structures or improvements may be erected, the development standards of the R3 Zone District shall be applied via the site plan review application process. Dependent upon the specific proposal, additional entitlements may be required. See § 10-3.502, Land Uses and Permit Requirements -Residential Zones for additional information on required permits.

§ 10-3.560 R4 (HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL) ZONE DISTRICT

The R4 zoning district is intended for areas appropriate for high-density, multi-family housing. The predominant style of development is larger apartment complexes, as well as vertical mixed-use projects. The R4 zoning district is intended to be applied to lands within walking distance of existing or planned shopping districts, and Village Centers (General Plan, Land Use Element). The allowable density ranges from 15.1 to 50 dwelling units per acre. The R4 Zone District is consistent with the High Density Residential (HD) land use classification of the General Plan.

§ 10-3.561 DIMENSIONAL STANDARDS – R4 ZONE DISTRICT

(A) The following dimensional standards shall apply to all land and structures in the R4 (High Density Multiple Family Residential) Zone District. All new subdivision of land, new development, new land uses, and alterations to existing land uses, structures, and site improvements, shall be designed, constructed, and/or established in compliance with the following regulations, except the activities and land uses specified in § 10-3.503 (Exemptions – Residential Zones).

(B) Existing R4 parcels not consistent with the standards set forth below shall be considered existing non-conforming parcels. All lots henceforth created in the R4 Zone District shall comply with the following lot dimensional standards;

Table 10-3.561	R4	Reference
Minimum Lot Area (sq. ft.)	7,500	
Minimum Lot Area per dwelling unit (sq. ft.)	870	
Average Lot Area per dwelling unit (sq. ft.)	1940	
Maximum Lot Area per dwelling unit (sq. ft.)	2900	
Minimum Lot Width (feet), Interior Lot	60	
Minimum Lot Width (feet), Corner Lot	70	See § 10-3.561(C)
Minimum Lot Width (feet), Reverse Corner Lot	75	See § 10-3.561(C)
Minimum Lot Width Curved or Cul-de-sac Lot	50	
Minimum Lot Depth (feet)	120	
Maximum Lot Depth to Width Ratio	-	
Standard Front yard Setback	15	See § 10-3.561(D)
Minimum Side yard Setback (Interior)	5	See § 10-3.561(F)
Minimum Side yard Setback (Corner)	15	See § 10-3.561(D)
Minimum Side yard Setback (Reverse Corner)	15	See § 10-3.561(D)
Minimum Rear yard Setback	10	See § 10-3.561(E)

(C) Clear zone: On corner lots, the maximum height within twenty-five (25) feet of that point of the lot nearest to the street intersection may not exceed three (3) feet, and provided further, that no fence, hedge, wall or other natural or structural object shall in any way impair visibility at intersections in such a manner as to endanger life, health, or property.

(D) No building shall encroach into any required exterior yard except as specifically allowed for elsewhere in this chapter.

(E) Rear yard setbacks shall be increased by ten (10) feet when abutting single family residential zones or uses.

(F) A garage or carport that takes direct access to an alley shall have no less than a seven (7) foot rear yard setback.

(G) Interior side yard setback shall be increased to ten (10) feet when abutting single family residential zones or uses.

§ 10-3.562 USE SCHEDULE – R4 ZONE DISTRICT

See § 10-3.502 for the use schedule for the R4 Zone District.

§ 10-3.563 DEVELOPMENT STANDARDS – R4 ZONE DISTRICT

The following development standards shall apply to all land and structures in the R4 (High Density Multiple Family Residential) Zone District.

Table 10-3.563	R4	Reference
Parking		
Studio	1 stall per unit	See § 10-3.553(A)
One bedroom	1.5 stalls per unit	See § 10-3.553(A)
Two or more bedrooms	2 stalls per unit	See § 10-3.553(A)
Visitor	1 stall for each five units	See § 10-3.553(A)
Car washing area	Allowed	
Landscaping		
Street trees (one tree for every . . .)	30 feet of street frontage	See § 10-3.563(B)
Tree density (per sq. ft. of Open Space)	1 tree per 400 sq. ft. of open space	
Tree density (per uncovered parking space)	1 tree per 3 uncovered parking space	See § 10-3.563(C)
Minimum depth of landscaping	15 ft. at exterior property lines	See § 10-3.563(D)
	5 feet at interior property lines	
Recreational Amenities		
Major amenities (e.g. pool, recreation building)	Based on number of dwelling units in project	See § 10-3.563(E)
Minor amenities (e.g. Barbeque picnic area, tot lot playground)	Based on number of dwelling units in project	See § 10-3.563(E)
Open Space		
Private open space (ground floor)	100 sq. ft. per unit	See § 10-3.563(G)
Private open space (upper floor)	60 sq. ft. per unit	See § 10-3.563(H)
Common open space (% of parcel)	30% of net parcel	See § 10-3.563(F)
Laundry facilities	Private or common facilities required	
Storage space (private, exterior area per unit)	100 cubic feet minimum	
Trash Enclosures	Minimum of 1 per each 12 units	
Building Separation		
Between any two buildings	10 feet minimum	See § 10-3.563(J)
Front to front	20 feet between buildings	See § 10-3.563(J)
Front to rear	20 feet between buildings	See § 10-3.563(J)
Maximum Building Lot Coverage	60%	
Maximum Building Height – Primary Residential Structure(s)	65 feet	See § 10-3.563(K)
Maximum Building Height – Accessory Structure(s)	15 feet	See § 10-3.563(K)

(A) A minimum of one covered parking space (a garage or carport) shall be provided for each unit. All parking spaces shall be located within convenient walking distance to each dwelling unit they are assigned to serve.

(B) Street trees shall be placed in logical proximity to the street.

(C) Trees satisfying parking lot stall standards shall be placed in such a way as to cumulatively provide shade to vehicles utilizing parking lot stalls.

(D) Landscaping shall not obscure sightlines for ingress or egress so as to endanger health and safety.

(E) Required amenities. The minimum number or recreational amenities required in a new multi-unit project is established in the Table below. The overall mix of facilities shall provide for a variety of activities, and shall consider the needs of the different age groups anticipated in the project. For the purpose of this section, recreational amenities are categorized as follows:

- (1) Major. Recreation buildings; swimming pools; tennis, baseball, or handball courts (regulation size and surface), child care facilities, gymnasiums and other such amenities requiring significant investment and appropriate to serve residents of the project as determined by the City; and
- (2) Minor. Children’s play areas, basketball half courts, a spa or sauna, picnic and barbecue areas and other such amenities requiring substantial investment and appropriate to serve residents of the project as determined by the City.

Dwelling Units								
Type	4 or less	5 - 25	26 - 50	51 - 100	101 - 150	151 - 200	201 - 300	301 or more
Major	0	0	1	1	2	2	3	plus 1 per 100 additional dwelling units
Minor	0	1	1	2	2	3	3	plus 1 per 50 additional dwelling units

(F) To qualify as common open space, the minimum dimension must be ten feet, provided, however, that balconies can qualify when the minimum dimension is five feet. Required off- street parking areas (spaces and driveways) may not be used in calculating required open space, and only a maximum of 50% of required yard areas under Table 10-3.561 may be used in calculating required open space.

(G) If a private patio is provided that is completely enclosed on all sides by a minimum five foot (5) tall fence with a minimum length and depth of ten feet, it shall be counted towards meeting as the requirement for common open space.

(H) If a private balcony is provided which has a minimum depth of five feet (5) and a minimum area of 60 square feet, it shall be counted towards meeting the requirement for common open space.

(I) Reserved.

(J) Building separation shall be increased by two feet (2) for every story/floor above two stories.

§ 10-3.564 REQUIRED ENTITLEMENTS – R4 ZONE DISTRICT

Before any R4 Zone District can be developed, and before any structures or improvements may be erected, the development standards of the R4 Zone District shall be applied via the site plan review application process. Dependent upon the specific proposal, additional entitlements may be required. See § 10-3.502, Land Uses and Permit Requirements -Residential Zones for additional information on required permits.

AFFORDABLE HOUSING DENSITY BONUS

§ 10-3.570 PURPOSE OF CHAPTER

As required by Government Code Section 65915, this Chapter offers density bonuses, and incentives or concessions for the development of housing that is affordable to the types of households and qualifying residents identified in Section 10-3.571 (Eligibility for Bonus, Incentives, or Concessions) below. This Chapter is intended to implement the requirements of Government Code Section 65915 et seq., and the Housing Element of the General Plan.

§ 10-3.571 ELIGIBILITY FOR BONUS, INCENTIVES, OR CONCESSIONS

In order to be eligible for a density bonus and other incentives or concessions as provided by this Chapter, a proposed housing development shall comply with the following requirements and shall satisfy all other applicable provisions of this Zoning Ordinance, except as provided by Section 10-3.573 (Allowed Incentives or Concessions).

(A) Resident requirements. A housing development proposed to qualify for a density bonus shall be designed and constructed so that it includes at least any one of the following:

- (1) Ten percent (10%) of the total number of proposed units are for lower income households, as defined in Health and Safety Code section 50079.5;
- (2) Five percent (5%) of the total number of proposed units are for very low income households, as defined in Health and Safety Code section 50105;
- (3) The project is a senior citizen housing development as defined in Civil Code sections 51.3 and 51.12, or is a mobile home park that limits residency based on age requirements for housing older persons in compliance with Civil Code sections 798.76 or 799.5; or
- (4) Ten percent (10%) of the total dwelling units in a common interest development as defined in Civil Code section 1351 are for persons and families of moderate income, as defined in Health and Safety Code section 50093, provided that all units in the development are offered to the public for purchase.

(B) Applicant selection of basis for bonus. For purposes of calculating the amount of the density bonus in compliance with Section 10-3.572 (Allowed Density Bonuses), below, the applicant who requests a density bonus shall elect whether the bonus shall be awarded on the basis of Subsections A. 1., 2., 3., or 4., above.

(C) Bonus units shall not qualify a project. A density bonus granted in compliance with Section 10-3.572 (Allowed Density Bonuses), below, shall not be included when determining the number of housing units that is equal to the percentages required by Subsection (A), above.

(D) Minimum project size to qualify for density bonus. The density bonus provided by this Chapter shall be available only to a housing development of five or more dwelling units.

(E) Condominium conversion projects. A condominium conversion project for which a density bonus is requested shall comply with the eligibility and other requirements specified in Government Code section 65915.5.

§ 10-3.572 ALLOWED DENSITY BONUSSES

The review authority shall determine the amount of a density bonus allowed in a housing development in compliance with this Section. For the purposes of this Chapter, "density bonus" means a

density increase over the otherwise maximum allowable residential density under the applicable General Plan Land Use designation and zone as of the date of application by the applicant to the City.

(A) Density bonus. A housing development that complies with the eligibility requirements specified in Subsection 10-3.571(A) above, shall be entitled to density bonuses as follows, unless a lesser percentage is proposed by the applicant.

- (1) Bonus for units for lower income households. A housing development that is eligible for a bonus in compliance with the criteria specified in Section 10-3.571(A)(1) (ten percent (10%) of units for lower income households) shall be entitled to a density bonus calculated as follows:

TABLE 103.1 - BONUS FOR LOWER INCOME HOUSEHOLDS

Percentage of Low-Income Units Proposed	Percentage of Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

- (2) Bonus for units for very low-income households. A housing development that is eligible for a bonus in compliance with the criteria specified in Section 10-3.571(A)(2), (five percent (5%) of units for very low-income households) shall be entitled to a density bonus calculated as follows:

TABLE 103.2 - BONUS FOR VERY LOW-INCOME HOUSEHOLDS

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

- (3) Bonus for senior citizen development. A housing development that is eligible for a bonus in compliance with the criteria in Section 10-3.571(A)(3), (senior citizen development or mobile home park) shall be entitled to a density bonus of 20 percent.
- (4) Bonus for moderate income units in common interest development. A housing development that is eligible for a bonus in compliance with the criteria specified in Section 10-3.571(A)(4). (ten percent (10%) of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows:

TABLE 103.3 - BONUS FOR MODERATE INCOME HOUSEHOLDS

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

- (5) Density bonus for land donation. When an applicant for a tentative map, parcel map, or other residential development approval donates land to the City in compliance with this Subsection, the applicant shall be entitled to a density bonus for the entire development as follows; provided, that nothing in this Subsection shall be construed to affect the authority of the City to require a developer to donate land as a condition of development.
- (a) Basic bonus. The applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable Land Use Plan designation and zone for the entire development, and an additional increase as follows.

TABLE 103.4 - BASIC BONUSES

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

- (b) Increased bonus. The increase identified in Table 103.4 above shall be in addition to any increase in density required by Subsections (A)(1) through (A)(4), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required in compliance with this Subsection (A)(5), as well as the bonuses provided by Subsections (A)(1) through (A)(4).
- (c) Eligibility for increased bonus. An applicant shall be eligible for the increased density bonus provided by this Subsection if all of the following conditions are met:
 - (1) The applicant donates and transfers the land no later than the date of approval of the final map, parcel map, or residential development application.
 - (2) The developable acreage and zoning classification of the land being transferred are sufficient to allow construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.
 - (3) The transferred land is at least one acre in size, or of sufficient size to allow development of at least 40 units; has the appropriate Land Use Plan designation; is appropriately zoned for development as affordable housing; and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.
 - (4) No later than the date of approval of the final map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than Building Permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the City before the time of transfer.

- (5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 10-3.576 (Continued Availability), which shall be recorded on the property at the time of dedication.
- (6) The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the approved housing developer.
- (7) The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

(B) Greater or lesser bonuses. The City may choose to grant a density bonus greater than provided by this Section for a development that meets the requirements of this Section, or grant a proportionately lower density bonus than required by this Section for a development that does not fully comply with the requirements of this Section.

(C) Density bonus calculations. The calculation of a density bonus in compliance with this Section that results in fractional units shall be rounded up to the next whole number, as required by State law. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels.

(D) Requirements for amendments or discretionary approval. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

(E) Location of bonus units. The developer may locate density bonus units in the housing project in areas other than where the units for the lower income households are located.

§ 10-3.573 ALLOWED INCENTIVES OR CONCESSIONS

(A) Applicant request and City approval.

(1) An applicant for a density bonus in compliance with this Chapter may submit to the City a proposal for the specific incentives or concessions listed in Subsection (C) (Type of incentives), below, that the applicant requests in compliance with this Section, and may request a meeting with the Director. The applicant may file a request either before filing an application for City approval of a proposed project or concurrently with an application for project approval. The review authority shall grant an incentive or concession request that complies with this Section unless the review authority makes either of the following findings in writing, based upon substantial evidence:

- (a) The incentive or concession is not required to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Section 10-3.576(B) (Unit cost requirements); or
- (b) The incentive or concession would have a specific adverse impact, as defined in Government Code section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(2) The applicant shall show that a waiver or modification of development standards is necessary to make the housing units economically feasible.

(B) Number of incentives. The applicant shall receive the following number of incentives or concessions.

- (1) One incentive or concession. One incentive or concession for a project that includes at least 10 percent of the total units for lower income households, at least five percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.
- (2) Two incentives or concessions. Two incentives or concessions for a project that includes at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.
- (3) Three incentives or concessions. Three incentives or concessions for a project that includes at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(C) Type of incentives. For the purposes of this Chapter, concession or incentive means any of the following:

- (1) A reduction in the site development standards of this Zoning Ordinance (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements) (see also Section 10-3.574 (Parking Requirements in Density Bonus Projects)), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;
- (2) Approval of mixed-use land uses not otherwise allowed by this Zoning Ordinance in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;
- (3) Other regulatory incentives proposed by the applicant or the City that will result in identifiable, financially sufficient, and actual cost reductions; and/or
- (4) In its sole and absolute discretion, a direct financial contribution granted by the review authority, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.

(D) Effect of incentive or concession. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

§ 10-3.574 PARKING REQUIREMENTS IN DENSITY BONUS PROJECTS

(A) Applicability. This Section applies to a development that meets the requirements of Section 10-3.571 (Eligibility for Density Bonus, Incentives, and Concessions), above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this Section in compliance with Section 10-3-5.104 (Allowed Concessions and Incentives), above.

(B) Number of parking spaces required.

- (1) At the request of the applicant, the City shall require the following vehicular parking ratios for a project that complies with the requirements of Section 10-3.571 (Eligibility for Density Bonus, Incentives, and Concessions), above, inclusive of handicapped and guest parking.
 - (a) Zero to one bedroom: One on-site parking space.
 - (b) Two to three bedrooms: Two on-site parking spaces.
 - (c) Four and more bedrooms: Two and one half on-site parking spaces.

- (2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

(C) Location of parking. For purposes of this Section, a development may provide on-site parking through uncovered parking, but not through on-street parking.

§ 10-3.575 BONUS AND INCENTIVES FOR DEVELOPMENTS WITH CHILD CARE FACILITIES

(A) Housing developments. A housing development that complies with the resident and project size requirements of Subsections 10-3.571(A) and (B), above, and also includes as part of that development a child care facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to the development, shall be subject to the following additional bonus, incentives, and requirements.

- (1) Additional bonus and incentives. The City shall grant a housing development that includes a child care facility in compliance with this Section either of the following:
 - (a) An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or
 - (b) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
- (2) Requirements to qualify for additional bonus and incentives.
 - (a) The City shall require, as a condition of approving the housing development, that:
 - (1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with Section 10-3.576 (Continued Availability), below; and
 - (2) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with Subsection 10-3.571(A) (Resident requirements), above.
 - (b) The City shall not be required to provide a density bonus for a child care facility in compliance with this Section if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(B) Commercial and industrial developments. A developer of a commercial or industrial development project, containing at least 50,000 square feet of floor area, may be granted a density bonus when that developer agrees to set aside at least 2,000 square feet of interior floor area and 3,000 outdoor square footage to be used for a child care facility, other than a large or small family day care home, in compliance with Government Code section 65917.5 (Commercial density bonus).

- (1) Allowable density bonuses. The allowable density bonus may be one of the following:
 - (a) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility located in an existing child care facility; or
 - (b) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility located in a new child care facility.
- (2) Requirements. Requirements to qualify for the additional density bonus shall include all of the following:
 - (a) For purposes of calculating the allowable density bonus under this Subsection, both the total area contained within the exterior walls of the child care facility and all outdoor areas devoted to the use of the facility in compliance with applicable State child care licensing requirements shall be considered.

- (b) The child care facility shall be of a sufficient size to comply with all applicable State licensing requirements in order to accommodate at least 40 children.
- (c) This facility may be located either on the project site or may be located off-site as agreed upon by the developer and the City.
- (d) If the child care facility is not located on the site of the development project, the City shall determine whether the location of the child care facility is appropriate and whether it complies with the purpose and intent of this Section.
- (e) The granting of a density bonus shall not preclude the City from imposing necessary conditions on the development project or on the additional square footage in compliance with Government Code section 65917.5 (Commercial density bonus).

§ 10-3.576 CONTINUED AVAILABILITY

The units that qualified the housing development for a density bonus and other incentives and concessions shall continue to be available as affordable units in compliance with the following requirements, as required by Government Code Section 65915(c). See also Section 10-3.579 (Control of Resale).

(A) Duration of affordability. The applicant shall agree to, and the City shall ensure, the continued availability of the units that qualified the housing development for a density bonus and other incentives and concessions, as follows.

- (1) Low- and very low-income units. The continued affordability of all low- and very low-income qualifying units shall be maintained for 30 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or by City policy or ordinance.
- (2) Moderate income units in common interest development. The continued availability of moderate-income units in a common interest development shall be maintained for a minimum of 10 years, or a longer time if required by City policy or ordinance.

(B) Unit cost requirements. The rents and owner-occupied costs charged for the housing units in the development that qualify the project for a density bonus and other incentives and concessions, shall not exceed the following amounts during the period of continued availability required by this Section:

- (1) Lower income units. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Health and Safety Code section 50053; and
- (2) Owner-occupied units. Owner-occupied units shall be available at an affordable housing cost as defined in Health and Safety Code section 50052.5.

(C) Occupancy and resale of moderate-income common interest development units. An applicant shall agree to, and the City shall ensure that the initial occupant of moderate income units that are directly related to the receipt of the density bonus in a common interest development as defined in Civil Code section 1351, are persons and families of moderate income, as defined in Health and Safety Code section 50093, and that the units are offered at an affordable housing cost, as defined in Health and Safety Code section 50052.5. The City shall enforce an equity sharing agreement unless it is in conflict with the requirements of another public funding source or law. The following requirements apply to the equity sharing agreement.

- (1) Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.
- (2) The City shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code section 33334.2(e) that promote home ownership. For the purposes of this Section:
 - (a) The City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale, minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the

market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value; and

- (b) The City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

§ 10-3.577 LOCATION AND TYPE OF DESIGNATED UNITS

(A) Location/dispersal of units. Designated units shall be reasonably dispersed throughout the project where feasible, shall contain on average the same number of bedrooms as the non-designated units in the project, and shall be compatible with the design or use of remaining units in terms of appearance, materials, and finish quality.

(B) Phasing. If a project is to be phased, the density bonus units shall be phased in the same proportion as the non-density bonus units, or phased in another sequence acceptable to the City.

§ 10-3.578 DENSITY BONUS AGREEMENT

(A) Agreement required. An applicant requesting a density bonus shall agree to enter into a density bonus agreement (referred to as the "agreement") with the City in the City's standard form of agreement. The applicant shall prepare the draft agreement for submission to the City for review.

(B) Agreement provisions.

- (1) Project information. The agreement shall include at least the following information about the project:
 - (a) The total number of units approved for the housing development, including the number of designated dwelling units;
 - (b) A description of the household income group to be accommodated by the housing development, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with the California Department of Housing and Urban Development (HUD) Guidelines;
 - (c) The marketing plan for the affordable units;
 - (d) The location, unit sizes (square feet), and number of bedrooms of the designated dwelling units;
 - (e) Tenure of the use restrictions for designated dwelling units of the time periods required by Section 10-3.576 (Continued Availability);
 - (f) A schedule for completion and occupancy of the designated dwelling units;
 - (g) A description of the additional incentives and concessions being provided by the City;
 - (h) A description of the remedies for breach of the agreement by the owners, developers, and/or successors-in-interest of the project; and
 - (i) Other provisions to ensure successful implementation and compliance with this Chapter.
- (2) Minimum requirements. The agreement shall provide, at minimum, that:
 - (a) The developer shall give the City the continuing right-of-first-refusal to lease or purchase any or all of the designated dwelling units at the appraised value;
 - (b) The deeds to the designated dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for designated units without the written approval of the City;
 - (c) When providing the written approval, the City shall confirm that the price (rent or sale) of the designated dwelling unit is consistent with the limits established for low and very low-income households, as published by HUD;
 - (d) The City shall have the authority to enter into other agreements with the developer, or purchasers of the designated dwelling units, to ensure that the required dwelling units are continuously occupied by eligible households;

- (e) Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance. Any default or failure to comply may result in foreclosure, specific performance, or withdrawal of the Certificate of Occupancy;
 - (f) In any action taken to enforce compliance with the deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the City's costs of action including legal services; and
 - (g) Compliance with the agreement will be monitored and enforced in compliance with the measures included in the agreement.
- (3) For-sale housing conditions. In the case of a for-sale housing development, the agreement shall provide for the following conditions governing the initial sale and use of designated dwelling units during the applicable restriction period:
- (a) Designated dwelling units shall be owner-occupied by eligible households, or by qualified residents in the case of senior housing; and
 - (b) The initial purchaser of each designated dwelling unit shall execute an instrument or agreement approved by the City which:
 - (1) Restricts the sale of the unit in compliance with this Chapter, or other applicable City policy or ordinance, during the applicable use restriction period;
 - (2) Contains provisions as the City may require to ensure continued compliance with this Chapter and State law; and
 - (3) Shall be recorded against the parcel containing the designated dwelling unit.
- (4) Rental housing conditions. In the case of a rental housing development, the agreement shall provide for the following conditions governing the use of designated dwelling units during the applicable restriction period:
- (a) The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the designated dwelling units for qualified tenants;
 - (b) Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter;
 - (c) Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying the designated dwelling units, and which identifies the bedroom size and monthly rent or cost of each unit; and
 - (d) The applicable use restriction period shall comply with the time limits for continued availability in Section 10-3.576 (Continued Availability), above.

(C) Execution of agreement.

- (1) Following approval of the agreement, and execution of the agreement by all parties, the City shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the County Recorder's Office.
- (2) The approval and recordation shall take place at the same time as the final map or, where a map is not being processed, before issuance of Building Permits for the designated dwelling units.
- (3) The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

§ 10-3.579 CONTROL OF RESALE

In order to maintain the availability of for-sale affordable housing units constructed in compliance with this Chapter, the following resale conditions shall apply.

(A) Limits on resale price. The price received by the seller of an affordable unit shall be limited to the purchase price plus an increase based on the local consumer price index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less.

Before offering an affordable housing unit for sale, the seller shall provide written notice to the City of their intent to sell. The notice shall be provided by certified mail to the Community Development Director, or his/her designee.

(B) Units to be offered to the City. Home ownership affordable units constructed, offered for sale, or sold under the requirements of this Section shall be offered to the City or its assignee for a period of at least 90 days from the date of the notice of intent to sell is delivered to the City by the first purchaser or subsequent purchasers. Home ownership affordable units shall be sold and resold from the date of the original sale only to households as determined to be eligible for affordable units by the City in compliance with this Section. The seller shall not levy or charge any additional fees nor shall any "finder's fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

(C) Declaration of restrictions. The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions provided by the City, stating the restrictions imposed in compliance with this Section. The grant deed shall afford the grantor and the City the right to enforce the declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Section.

(D) City to monitor resale of units. The City shall monitor the resale of ownership affordable units. The City or its designee shall have a 90-day option to commence purchase of ownership affordable units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the City for appropriate action.

§ 10-3.580 JUDICIAL RELIEF, WAIVER OF STANDARDS

(A) Judicial relief. As provided by Government Code section 65915(d)(3), the applicant may initiate judicial proceedings if the City refuses to grant a requested density bonus, incentive, or concession.

(B) Waiver of standards preventing the use of bonuses, incentives, or concessions.

- (1) As required by Government Code section 65915(e), the City shall not apply a development standard that will have the effect of precluding the construction of a development meeting the criteria of Subsection 10-3.571(A) (Resident requirements), above, at the densities or with the concessions or incentives allowed by this Chapter.
- (2) An applicant may submit to the City a proposal for the waiver or reduction of development and zoning standards that would otherwise inhibit the utilization of a density bonus on a specific site, including minimum parcel size, side setbacks, and placement of public works improvements.
- (3) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(C) City exemption. Notwithstanding the provisions of Subsections (A) and (B), above, nothing in this Section shall be interpreted to require the City to:

- (1) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have a specific, adverse impact, as defined in Government Code section 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or
- (2) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

§ 10-3.590 OPEN.

MISCELLANEOUS ZONE DISTRICTS

RCO – Resource Conservation and Open Space

§ 10-3.600 RCO; PURPOSES AND APPLICATION.

This zoning is intended to provide for permanent open spaces in areas of the community which exhibit significant vegetation, scenic qualities, wildlife, or recreational potential. Examples of resource conservation include agricultural land and habitat preservation. Open space examples include publicly owned open space, public park lands and similar uses.

§ 10-3.601 RCO; PERMITTED USES.

The land uses permitted within the RCO zone are herein defined and delineated by location within the RCO zone and the required permit approval procedure.

- (A) P. Permitted use.
- (B) CUP. Conditional use permit required.
- (C) ZAP. Zoning Administrator Permit required.
- (D) N. Not allowed/permitted.

<i>LOCATION WITHIN RCO ZONE</i>			
	<i>Runway Protection Zone</i>	<i>Airport Approach Zone</i>	<i>Other RCO Areas</i>
Raising of field crops	P	P	P
Orchard and vineyards	N	CUP	P
Raising of livestock and rangeland	N	CUP	P
Flood control channels, water pumping station, ditches, and canals	P	P	P
Reservoirs, settling, and water conservation recharge basins	N	CUP	P
Streets and roads	N	CUP	P
Off-street parking and landscaping	N	CUP	ZAP
Bikeways and pedestrian trails	N	CUP	ZAP
Drainage ponds	N	CUP	ZAP
Recreation areas, parks, playgrounds, wildlife preserves, and related buildings, structures, and facilities	N	CUP	CUP
One-family dwelling related to agricultural and recreational uses	N	CUP	CUP

LOCATION WITHIN RCO ZONE			
	<i>Runway Protection Zone</i>	<i>Airport Approach Zone</i>	<i>Other RCO Areas</i>
Incidental and accessory structures and uses on site of a conditional use	N	CUP	CUP
Cemeteries	N	CUP	CUP
Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communication equipment and facilities, public service pumping stations, and elevated pressure tanks	N	N	CUP

§ 10-3.602 RCO; DISTANCES BETWEEN STRUCTURES.

The minimum distance between a one-family dwelling and another structure shall be twenty feet, provided, however, that no structure housing animals shall be closer than 25 feet to any dwelling on the site or to any side yard property line.

§ 10-3.603 RCO; SETBACKS.

Building and structures shall be located a minimum of 20 feet from any property line and 40 feet from any public right-of-way.

§ 10-3.604 RCO; BUILDING HEIGHT.

No building or structure shall have a height greater than 65 feet, provided that additional height may be permitted if a use permit is first secured.

UR – Urban Reserve

§ 10-3.610 UR; PURPOSE AND APPLICATION.

The Urban Reserve zone district is intended to provide opportunities for interim use of lands that are anticipated to develop at urban land use densities, but are constrained on an interim basis by growth management policies, availability of services, market conditions or other limitations.

§ 10-3.611 UR; PERMITTED USES.

(A) The following uses shall be permitted in UR zones:

- (1) Grazing and the raising of field crops, fruit and nut trees, vines, vegetables, horticultural specialties, and livestock;
- (2) The curing, processing, packaging, and shipping of agricultural products produced upon the premises where such activity is carried on in conjunction with, or as part of, a bona fide agricultural operation;
- (3) Single-family residences and farm employee housing which are incidental to and in support

- of a permitted use or conditional use;
- (4) Incidental and accessory structures and uses located on the same site with a permitted use, including barns, stables, coops, tank houses, storage tanks, wind machines, windmills, silos, and other farm outbuildings; private garages and carports; one accessory living quarters without a kitchen for each residence on the site; and storehouses, garden structures, greenhouses, and the storage of petroleum products for the use of persons residing on the site;
 - (5) Irrigation and flood control facilities; and
 - (6) Home occupations, as allowed per § 10-3.404.

§ 10-3.612 UR; CONDITIONAL USES; COMMISSION APPROVAL.

(A) The following uses may be permitted by the Commission with the issuance of a conditional use permit:

- (1) Agricultural service establishments primarily engaged in performing animal husbandry or horticultural services on a fee or contract basis, including plant nurseries and landscape gardening; landscape contracting; offices of veterinarians; animal hospitals; poultry farms; boarding and training horses; feed lots; and hog farms;
- (2) Commercial stables and riding academies;
- (3) Animal kennels;
- (4) Public and quasi-public uses of an educational, administrative, recreational, public service, cultural, or religious type;
- (5) Private and noncommercial clubs and lodges; and
- (6) Signs appurtenant to any conditional use may be erected in UR zones consistent with the purpose and intent of § 10-6, as applied within the conditions of approval of the use permit.

§ 10-3.613 UR; SPECIAL CONDITIONS.

(A) Any use involving a business, service, or process not completely enclosed in a structure shall be screened by a solid fence or masonry wall or a compact growth of natural plant materials six feet in height if the Commission finds such use to be unsightly.

(B) No conditional use shall be permitted and no process, equipment, or materials shall be used which are found by the Commission to be objectionable or injurious to property, crops, or livestock in the vicinity by reason of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, or unsightliness, or to involve any hazard of fire or explosion.

§ 10-3.614 UR; SITE AREA.

(A) The minimum site area shall be twenty (20) acres for permitted uses.

(B) On conditional uses, the minimum site area shall be specifically stated on the use permit, but will in no instance be less than twenty (20) acres.

(C) Each site shall have not less than five (5) acres of lot area for each dwelling unit located on the site. This shall not be construed to disallow the placing of the permitted dwelling units all in one area of the site.

(D) Existing parcels smaller than twenty (20) acres, which are consistent with the purpose and intent of the zone as identified in § 10-3.610 may be considered for rezone into the UR (Urban Reserve) on a case by case basis.

§ 10-3.615 UR; YARD REQUIREMENTS.

(A) *Front yard.* The minimum front yard shall be fifty (50) feet.

(B) *Side yard.* The minimum side yard shall be five feet except that on the street side of a corner lot the yard shall be not less than 40 feet.

(C) *Rear yard.* The minimum rear yard shall be 20 feet.

§ 10-3.616 UR; HEIGHT OF STRUCTURES.

(A) The maximum height of a building or structure for a permitted use shall be thirty-five (35) feet. Barns, tank houses, storage tanks, windmills, and silos may exceed thirty-five (35) feet in height, but in no case such structures exceed sixty-five (65) feet. Additional height may be permitted if a use permit is first secured.

(B) The maximum height of a structure occupied by a conditional use and its accessory structures shall be determined by the provisions of the use permit.

§ 10-3.617 UR; DISTANCE BETWEEN BUILDINGS.

The minimum distance between dwellings or dwellings and accessory structures shall be ten feet. The minimum distance between dwellings and accessory structures in which livestock or poultry is kept shall be 50 feet.

PF; Public Facilities

§ 10-3.620 PF; PURPOSE AND APPLICATION.

This zone provides for public facilities owned and/or operated by the City, Madera County, or other public agencies. Examples include City and County offices, school facilities, corporation yards, and storm drainage basins. This zone does not preclude public facilities, such as fire stations, well sites, and other governmental facilities, from being located in other zones and their development is considered to be consistent with all land use designations.

§ 10-3.621 PF; PERMITTED USES.

(A) All City, county, state, and federal offices or facilities, including, but not limited to civic centers, fire and police stations, libraries, and post offices.

(B) All City, county, state, and federal offices or facilities leased from private individuals or other government agencies for a period of more than five years.

(C) All City, county, state, or federally owned or operated parks, playgrounds, recreation areas, open spaces, drainage ponds, and landfills.

(D) All offices and facilities owned or operated by public school districts including state colleges and junior colleges.

(E) The offices and facilities owned or operated by any public governmental agency, or any body of persons charged with the responsibility of administering publicly owned or operated property including, but not limited to redevelopment agencies, water districts, school districts, and recreation

districts.

§ 10-3.622 PF; CONDITIONAL USES; COMMISSION APPROVAL.

(A) Property located in the PF (Public Facilities) Zone may be used for nongovernmental agency offices or facilities when a conditional use permit has been granted in accordance with § 10-3.1301 et.al..

(B) Property located in the PF (Public Facilities) Zone may be used for gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communication equipment and facilities, public service pumping stations, and elevated pressure tanks provided a use permit is first secured.

§ 10-3.623 PF; BUILDING HEIGHT.

No building or structure shall have a height greater than sixty-five (65) feet, provided that additional height may be permitted if a use permit is first secured.

§ 10-3.630 RESERVED

Office and Commercial Zones

§ 10-3.700 OFFICE AND COMMERCIAL USE SCHEDULES BY ZONE DISTRICT

(A) Table § 10-3.700 identifies uses of land allowed by this Zoning Ordinance in each professional office and commercial zoning district, and the land use permit required to establish each use in compliance with the Zoning Ordinance. Uses not specifically listed within the table require a determination of use by the Planning Commission.

(B) Table § 10-3.700 shall utilize the following abbreviations to define permitted uses, conditionally allowed uses, and prohibited uses within the various professional office and commercial zone districts:

P = Permitted Use / An Allowed Activity CUP = Conditional Use Permit Required
 ZAP = Zoning Administrator Permit Required N = Not Allowed / Prohibited

(C) The far right column of Table 10-3.700 noted as "Use Regulations" provides a section number wherever applicable for regulations that apply to the particular use listed, in addition to the other general standards of this Zoning Ordinance.

Commercial Uses	PO	WY	CN	C1	C2	C3	CH	PCD
Adult Day Care Center	N	N	N	CUP	CUP	CUP	N	N
Adult Oriented Business	N	N	N	N	CUP	N	CUP	N
Agricultural Processing	N	N	N	N	N	N	N	N
Sale of Alcoholic Beverages	N	N	CUP	CUP	CUP	CUP	CUP	CUP
Ambulance Service	CUP	N	N	ZAP	P	CUP	CUP	CUP
Animal Clinic or Grooming	ZAP	N	ZAP	P	P	P	N	ZAP
Animal Hospital	CUP	N	N	CUP	CUP	CUP	N	CUP
Animal Kennel	N	N	N	N	CUP	N	N	CUP
Antique and Collectables Shop	N	N	P	P	P	P	P	P
Art Gallery	ZAP	N	N	P	P	P	CUP	ZAP
Athletic Club	N	N	CUP	CUP	CUP	CUP	CUP	CUP
Automobile and Truck Rental	N	N	N	ZAP	ZAP	ZAP	P	ZAP
Automobile and Vehicle Major Repair	N	N	N	CUP	CUP	CUP	ZAP	CUP
Automobile Maintenance and Minor Repair	N	N	CUP	CUP	ZAP	CUP	P	CUP
Automobile Sales, New	N	N	N	CUP	CUP	CUP	P	CUP
Automobile Sales, Used	N	N	N	CUP	CUP	CUP	P	CUP
Automobile Service Station	N	N	N	CUP	CUP	CUP	CUP	CUP
Bail Bond Service	ZAP	CUP	N	P	P	P	N	P
Bar	N	N	CUP	CUP	CUP	CUP	CUP	CUP
Building and Landscape Material Sales	N	N	N	CUP	CUP	N	CUP	CUP
Business Support Services	P	P	N	P	P	P	N	P
Catering Services	N	N	N	P	P	P	N	N
Check Cashing Service	N	N	N	CUP	CUP	CUP	N	CUP
Child Day Care Center	CUP	N	CUP	CUP	CUP	CUP	N	CUP
Church	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Club, Lodge, and Meeting Hall	CUP	N	CUP	CUP	CUP	CUP	N	CUP
Commercial Recreation	N	N	N	CUP	CUP	CUP	CUP	CUP
Community Center/Banquet Hall	N	N	N	CUP	CUP	CUP	N	CUP
Congregate Care Facility	CUP	N	N	CUP	CUP	CUP	N	CUP

Commercial Uses	PO	WY	CN	C1	C2	C3	CH	PCD
Contractor's Yard	N	N	N	N	CUP	N	N	CUP
Donation Station	N	N	N	ZAP	ZAP	ZAP	N	CUP
Drive-Through Restaurant	N	N	N	CUP	CUP	CUP	CUP	CUP
Drive-Up/Drive-In Uses	N	N	N	CUP	CUP	CUP	CUP	CUP
Electric Vehicle Charging Station	P	P	P	P	P	P	P	P
Emergency Medical Care	CUP	N	N	CUP	CUP	CUP	CUP	CUP
Emergency Shelter	N	N	N	CUP	P	CUP	N	N
Entertainment w/ Food and Beverage Services	N	N	N	CUP	CUP	CUP	CUP	CUP
Equestrian Facility	N	N	N	N	N	N	N	N
Equipment Rental, Indoor	N	N	N	P	P	P	P	CUP
Equipment Rental, Outdoor	N	N	N	CUP	CUP	CUP	CUP	CUP
Financial Institution	CUP	CUP	N	P	P	P	P	P
Firearm or Archery Range	N	N	N	CUP	CUP	CUP	N	CUP
Food and Beverage Sales	CUP	N	P	P	P	P	P	P
Funeral and Interment Services / Mortuary	CUP	N	N	ZAP	ZAP	ZAP	N	CUP
Furniture, Fixtures, and Appliance Sales	N	N	N	P	P	P	P	P
Garage, Private	ZAP	ZAP	ZAP	ZAP	ZAP	ZAP	ZAP	ZAP
Handicraft Shop	N	N	P	P	P	P	P	P
Helipad/Heliport	CUP	N	N	CUP	CUP	CUP	N	CUP
Hospital	CUP	N	N	N	CUP	CUP	N	CUP
Hotel/Motel	CUP	N	N	CUP	CUP	P	P	CUP
Industrial Services	N	N	N	N	CUP	CUP	N	N
Junk Yard	N	N	N	N	N	N	N	N
Laboratory, Processing	P	N	N	P	P	P	N	P
Large Truck and Machinery – Sales/Leasing	N	N	N	N	CUP	N	CUP	CUP
Maint. & Repair, Machinery/Small Engine	N	N	N	ZAP	ZAP	ZAP	N	CUP
Maint. & Repair, Personal/Household Items	N	N	P	P	P	P	N	P
Material Recovery Resource Facility	N	N	N	N	CUP	N	N	N
Market, Convenience	N	N	CUP	CUP	CUP	CUP	CUP	CUP
Market, Grocery or Supermarket	N	N	CUP	P	P	P	CUP	P
Market, Neighborhood	N	N	P	P	N	P	N	P
Market, Specialty Food and Beverage	N	N	P	P	P	P	P	P
Manufacturing and Assembly (All)	N	N	N	N	N	N	N	N
Mini-storage	N	N	N	CUP	CUP	N	CUP	CUP
Mixed Use – Commercial/Residential	N	N	CUP	N	N	CUP	N	CUP
Moving and Drayage Services	N	N	N	N	CUP	N	N	CUP
Museum	ZAP	N	N	ZAP	ZAP	ZAP	ZAP	P

New Merchandise Sales	N	N	P	P	P	P	P	P
Nursing Home	N	N	N	N	N	N	N	N
Commercial Uses	PO	WY	CN	C1	C2	C3	CH	PCD
Office, Admin., Business, or Professional	P	P	P	P	P	P	P	P
Office, Government	P	P	N	P	P	P	P	P
Office, Medical and Dental	P	P	N	P	P	P	CUP	P
Outdoor Display of Merchandise / Sales Activity	N	N	N	ZAP	ZAP	ZAP	ZAP	ZAP
Parking Facility, Non-residential	ZAP	N	N	ZAP	ZAP	ZAP	CUP	CUP
Pawn Shop	N	N	N	CUP	ZAP	ZAP	N	CUP
Personal Care and Domestic Services	CUP	N	P	P	P	P	N	P
Personal Instruction Studio	CUP	N	N	ZAP	P	ZAP	N	CUP
Personal Specialty Care	N	N	N	CUP	ZAP	CUP	N	CUP
Pharmacy	CUP	N	CUP	P	P	P	P	P
Plant Nursery - Landscape	N	N	N	CUP	ZAP	CUP	N	CUP
Private Clubs and Lodges	CUP	N	CUP	N	N	CUP	N	CUP
Private Transportation Service	N	N	N	CUP	CUP	CUP	CUP	CUP
Public Safety Facility	P	P	P	P	P	P	P	P
Quasi-Public Organization	P	P	N	P	P	P	CUP	P
Recreational Vehicle, Boats, and Trailer Sales	N	N	N	CUP	CUP	CUP	P	CUP
Recycling Center	N	N	CUP	CUP	CUP	CUP	N	CUP
Research and Development	N	N	N	N	CUP	N	N	CUP
Restaurant, Counter Service	CUP	N	P	P	P	P	P	P
Restaurant, Table Service	CUP	N	P	P	P	P	P	P
School, Business	CUP	N	N	CUP	CUP	CUP	CUP	CUP
School, College or University	CUP	N	N	CUP	CUP	N	N	CUP
School, Elementary and Secondary	CUP	N	N	CUP	CUP	N	N	CUP
School, Personal and Social Development	CUP	N	N	CUP	CUP	CUP	CUP	CUP
School, Vocational	CUP	N	N	CUP	CUP	CUP	CUP	CUP
Scrap and Salvage Operation	N	N	N	N	CUP	N	N	N
Storage, Outdoor	N	N	N	N	CUP	N	N	CUP
Telecommunications Tower	CUP	N	CUP	CUP	CUP	CUP	CUP	CUP
Theater	N	N	N	CUP	CUP	CUP	CUP	CUP
Tobacco Sales (Specialty) and Smoke Shops	N	N	CUP	CUP	CUP	CUP	N	CUP
Truck Stop	N	N	N	N	CUP	N	CUP	N
Used Merchandise Sales	N	N	N	ZAP	ZAP	ZAP	N	N
Vehicle Accessory Equipment Sales	N	N	N	P	P	P	P	CUP
Vehicle Sales - Antique and Collector	N	N	N	CUP	CUP	CUP	P	CUP
Vehicle Storage or Impound Yard	N	N	N	N	CUP	N	N	N
Wholesale, Storage and Distribution (Light)	N	N	N	N	CUP	N	CUP	N
Wholesale, Storage and Distribution (Medium)	N	N	N	N	N	N	CUP	N
Wholesale, Storage and Distribution (Heavy)	N	N	N	N	N	N	N	N

(D) The uses listed in Table 10-3.700 as allowed subject to approval of a Zoning Administrator's Permit shall be determined to be compatible subject to the findings and conditions of approval of a Zoning Administrator's Permit as provided in §10-3.405.

(E) The uses listed in Table 10-3.700 as allowed subject to approval of a Conditional Use Permit shall be determined to be compatible subject to the findings and conditions of approval of a Conditional Use Permit as provided in §10-3.1301.

(F) The uses listed in Table 10-3.700 specific to the PCD (Planned Commercial Development) Zone District may be modified within the required Precise Plan for the zone as provided in §10-3.482(B).

PO – Professional Office

§ 10-3.710 PO (PROFESSIONAL OFFICE) ZONE DISTRICT.

The PO (Professional Office) zone is established to provide opportunities for the beneficial development of professional office and services development offering a general office and personal services. The aesthetic appeal and ability to blend with the surrounding residential uses is important. The Professional Office zone is differentiated from commercial zone districts by the lack of significant retail activity. Uses must also be limited in noise, odors, and other impacts in order to be compatible with adjacent neighborhoods.

§ 10-3.711 PO; USES PERMITTED.

- (A) See § 10-3.700 for the use schedule for the PO Zone District.
- (B) Residential uses per the following:
 - (1) Existing residential uses may continue to be utilized. Expansion or intensification of an existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
 - (2) New residential construction shall not be allowed on PO zoned property, except as allowed per Table 10-3.700

§ 10-3.712 PO; SITE AREA.

- (A) The minimum lot area shall be 10,000 square feet.
- (B) The minimum lot width shall be 150 feet on arterial & collector streets, 50 feet on all other streets frontages.
- (C) The minimum lot depth shall be 120 feet.
- (D) A non-conforming lot of record under separate ownership in the PO (Professional Office) Zone District at the time it became non-conforming may be developed for, and occupied by, any use allowed in the PO (Professional Office) Zone District.

§ 10-3.713 PO; HEIGHT OF STRUCTURES.

The maximum height of any building shall be one (1) story in height, no greater than twenty-five (25) feet unless approved for additional stories and/or height through a use permit. Maximum height for accessory structures shall be fifteen (15) feet.

§ 10-3.714 PO; LOT COVERAGE.

A maximum of 75% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings.

§ 10-3.715 PO; YARD REQUIREMENTS.

(A) *Front yards.* The minimum front yard setback shall be ten (10) feet, except where the frontage is adjacent to a residential zone, in which case the front yard shall be the same as required in such residential zone.

(B) *Side yards.* The minimum interior side yard setback shall be five (5) feet. The minimum exterior side yard setback shall be ten (10) feet. The exterior side yard setback on a reverse corner lot shall be the same as the required front yard setback.

(C) *Rear yards.* The minimum rear yard setback shall be ten (10) feet, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than fifteen (15) feet.

WY – West Yosemite Professional Office

§ 10-3.720 WY (WEST YOSEMITE PROFESSIONAL OFFICE) ZONE DISTRICT

The WY zone district is established:

(A) To provide for the orderly transition of the West Yosemite Avenue area from residential to nonresidential uses consistent with the General Plan;

(B) To recognize, maintain, and enhance the West Yosemite Avenue streetscape and architectural character of the neighborhood;

(C) To maximize the compatibility of uses and maintain the value of property through the establishment of development standards and review procedures.

§ 10-3.721 WY; APPLICABILITY.

(A) This zone is intended to be applied to any property adjacent to West Yosemite Avenue between J and Q Streets for a lot depth not to exceed 175 feet.

(B) This zone may be applied to any property identified in § 10-3.721(A) where the purpose and intent of the zone can be satisfied, and the development standards of the zone can be successfully applied.

§ 10-3.722 WY; USE PERMITS REQUIRED.

(A) In conjunction with any application to rezone to the WY zone, an application for use permit and site plan review shall be approved by the Planning Commission, ensuring compliance with the development standards of the zone as indicated in § 10-3.724. Applications for site plan review shall be consistent with § 10-3.453.

(B) All new construction, major exterior change, alteration, or addition shall be subject to the approval of a use permit and site plan review by the Planning Commission, ensuring compliance with the development standards of the zone as indicated in § 10-3.724. Applications for site plan review shall be consistent with § 10-3.453.

(C) The Planning Commission will review use permit applications for their compliance with the purpose and intent of the zone, and the development standards of the zone.

§ 10-3.723 WY; PERMITTED USES.

(A) See § 10-3.700 for the use schedule for the WY Zone District.

(B) Residential uses per the following:

- (1) Existing residential uses may continue to be utilized in their present form. Expansion or intensification of an existing residential use shall only be allowed with the approval of a use permit by the Planning Commission.
- (2) No new residential uses shall be allowed in the WY Zone District.

§ 10-3.724 WY; DEVELOPMENT STANDARDS.

The following development standards apply to all properties in the WY zone.

(A) *Setbacks.*

- (1) *Front yard.* 15 feet.
- (2) *Side yard.*
 - (a) Interior side yards shall be five feet. Exterior street-side side yards shall be ten feet.
 - (b) In no event shall a structure be placed within fifteen (15) feet of the West Yosemite Avenue right-of-way.
- (3) *Rear yard.* A ten (10) foot setback shall be maintained for all structural faces without windows. A fifteen (15) foot setback shall be maintained for all structural faces with windows.

(B) *Parking.*

- (1) Off-street parking space requirements shall be those set forth in the Off-Street Parking Regulations subchapter of this chapter, however, in no case shall there be less than five off-street spaces provided for nonresidential uses.
- (2) No parking shall be provided in the required front yard or within the West Yosemite Avenue setback. No parking stalls or parking field shall be developed between the West Yosemite Avenue right-of-way and any structure.
- (3) No parking shall be permitted within the required landscape areas except as provided in subsection § 10-3.724(C) below.
- (4) Parking areas shall be constructed to City standards, including twenty-four (24) foot wide drive approaches serving twenty-six (26) foot wide drive aisles accessing required parking stalls.
- (5) Access shall be provided between parking areas and business entries by means of a walkway of not less than four feet in width.
- (5) Lighting shall be arranged to reflect away from premises on which any dwelling unit is located.

(C) *Landscaping.* The following minimum standards shall apply to properties in this zone:

- (1) All required front yards and street-side yard setback areas, exclusive of walkways and driveways, shall be landscaped except that parking may encroach five feet into a required street side yard setback.
- (2) A landscaped area of not less than four feet in width shall be provided along all interior side and rear property lines except where this requirement conflicts with an access driveway leading to the rear of the lot, such landscaping requirement may be reduced to assure adequate access with Planning Commission approval; or when adjacent parcels share driveways and or parking areas, the landscaping along affected portions of common lot lines may be waived.
- (3) Screen planting and a six-foot solid fence or wall shall be provided along all interior side and rear property lines abutting an R zone. Shrubs and fences may not exceed three feet in the required front or street-side-yard.
- (4) In addition to landscaping required in paragraphs § 10-3.724 (C)(1) and (2) above, 5% of the parking area shall be landscaped.
- (5) Shade trees shall be planted within the parking area to provide 40% shade at high noon with full foliage within five years of planting.

- (6) Trees shall be a minimum size of fifteen gallons at planting; shrubs shall be a minimum of five gallon.
- (7) Retention and maintenance of existing trees is required. No tree, located in the street right-of-way or in a required front yard, which exceeds four feet in circumference at three feet above ground level shall be removed without first obtaining the approval of the Community Development Director. In the event of an emergency, where the tree poses a threat to persons or property, the Community Development Director may authorize the immediate removal of the tree.
- (8) Vegetative matter shall cover 75% of the landscaped areas.
- (9) All landscaping areas shall be fitted with an irrigation system and shall be maintained in accordance with the approved plan.
- (10) All trash areas shall be enclosed utilizing materials compatible with the structure.

(D) *Architectural character.* Structural style, scale, and quality of design shall be such that it blends with and is complementary to adjacent structures and the character of the area. Building colors and materials; roof pitch height and materials; screening of exterior appurtenances; lighting; and window placement will be factors considered in the architectural review element of the use permit. It is not the intent of this zone to control architecture style so rigidly that individual initiative is hindered, but rather it is the intent that any control exercised be the minimum necessary to sufficiently achieve the purpose and intent of this zone.

(E) *Signs.* See § 10-6.12 Design Districts, for the sign criteria for the WY (West Yosemite Professional Office) Zone District.

CN – Neighborhood Commercial

§ 10-3.800 CN (NEIGHBORHOOD COMMERCIAL) ZONE DISTRICT.

The CN district is established to provide sites for businesses serving the daily needs of nearby residential areas and for small-scale offices while establishing development standards that prevent significant adverse effects on adjacent residential areas. Uses must also be limited in noise, odors, and other impacts in order to be compatible with adjacent neighborhoods.

§ 10-3.801 CN; USES PERMITTED.

- (A) See § 10-3.700 for the use schedule for the CN Zone District.
- (B) Any commercial building containing more than 10,000 square feet of gross floor area shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
- (C) Residential uses per the following:
 - (1) Existing residential uses may continue to be utilized in their present form. Expansion or intensification of an existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
 - (2) New residential construction shall only be allowed with a use permit when in conjunction with and as a component of a mixed use project, where residential housing is located on the same site as a permitted commercial use, usually on a second floor above commercial activities.
 - (3) Consistent with § 10-3.801(C)(2), no new exclusively residential uses shall be allowed in the CN Zone District.

§ 10-3.802 CN; SITE AREA.

- (A) The minimum lot area shall be 10,000 square feet.
- (B) The minimum lot width shall be 100 feet.
- (C) The minimum lot depth shall be 100 feet.
- (D) A non-conforming lot of record under separate ownership in the CN (Neighborhood Commercial) Zone District at the time it became non-conforming, may be developed for and occupied by any use allowed in the CN (Neighborhood Commercial) Zone District.

§ 10-3.803 CN; HEIGHT OF STRUCTURES.

- (A) The maximum height of any building shall be 35 feet.

§ 10-3.804 CN; LOT COVERAGE.

- (A) A maximum of 40% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings.

§ 10-3.805 CN; YARD REQUIREMENTS.

- (A) *Front yards.* The minimum front yard setback shall be ten (10) feet, except where the frontage is adjacent to a residential zone, in which case the front yard shall be the same as required in such residential zone.

- (B) *Interior side yards.* The minimum interior side yard setback shall be five (5) feet.

- (C) *Street side yard.* The minimum street side yard setback shall be ten (10) feet, except when adjacent to the front yard of a residentially zoned property, in which case the setback shall be the same as required of the front yard of the adjacent residentially zoned property.

- (D) *Rear yards.* The minimum rear yard setback shall be five (5) feet, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than fifteen (15) feet.

§ 10-3.806 CN; OUTSIDE EQUIPMENT.

- (A) All roof and wall appurtenances, such as mechanical equipment, electrical transformers, air conditioners, and all other equipment on the roof or walls of any building shall be completely screened from view from public streets with materials compatible with the main buildings on the subject property. Such equipment shall be constructed in such a manner that noise emanating from them shall not be discernible beyond the property lines of the subject property.

- (B) All trash and storage areas shall be screened from view from public streets by a decorative masonry block wall or other materials architecturally compatible with the main buildings of the development. Access to such areas shall be closed at all times, except during loading and unloading.

§ 10-3.807 CN; LANDSCAPING AND FENCING.

- (A) In addition to any landscaping in the public right-of-way, perimeter landscaping shall be provided in front and street side yards at an average width of eight feet along the street frontages, exclusive of

driveways and walkways, but in no case may the landscape area width be less than four feet.

(B) In addition to perimeter landscape areas, 5% of all parking areas shall be landscaped.

(C) The provisions of the City's Approved Street Tree List for tree types and spaces shall be followed for tree planting in parkstrips and perimeter landscape areas unless an alternative plan is approved by the Community Development Director.

(D) All landscape areas shall be planted so as to have at least 75% coverage within three years of planting.

(E) All landscape areas shall be fitted with an automatic irrigation system.

(F) Perimeter concrete masonry unit fencing with a minimum height of eight feet shall be required along property lines adjacent to any R or PRD.

C1 – Light Commercial

§ 10-3.810 C1 (LIGHT COMMERCIAL) ZONE DISTRICT.

The C1 (Light Commercial) zone is established to provide sites for community and regional retail development containing a wide variety of commercial establishments including retail stores and businesses selling home furnishings, apparel, durable goods, and specialty items; restaurants; service stations; and business, personal, and financial services. The C1 zone is generally intended for application within the commercial corridors of the City, usually along arterial streets.

§ 10-3.811 C1; USES PERMITTED.

(A) See § 10-3.700 for the use schedule for the C1 Zone District.

(B) Residential uses per the following:

- (1) Existing residential uses may continue to be utilized in their present form. Expansion of the existing residential dwelling or intensification of the existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
- (2) New residential construction shall be prohibited in the C1 Zone District.

§ 10-3.812 C1; SITE AREA.

(A) The minimum lot area shall be 10,000 square feet.

(B) The minimum lot width shall be 100 feet.

(C) The minimum lot depth shall be 100 feet.

(D) A non-conforming lot of record under separate ownership in the C1 Zone District at the time it became non-conforming may be developed for, and occupied by, any use allowed in the C1 Zone District.

§ 10-3.813 C1; HEIGHT OF STRUCTURES.

(A) The maximum height of any building shall be 50 feet. Additional height may be permitted, subject to the approval of a use permit.

§ 10-3.814 C1; LOT COVERAGE.

(A) A maximum of 40% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings.

§ 10-3.815 C1; YARD REQUIREMENTS.

(A) *Front yards.* The minimum front yard setback shall be ten (10) feet, except where the frontage is adjacent to a residential zone, in which case the front yard shall be the same as required in such residential zone.

(B) *Side yards.* The minimum interior side yard setback shall be five (5) feet.

(C) *Street side yard.* The minimum street side yard setback shall be ten (10) feet, except when adjacent to the front yard of a residentially zoned property, in which case the setback shall be the same as required of the front yard of the adjacent residentially zoned property.

(D) *Rear yards.* The minimum rear yard setback shall be five (5) feet, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than fifteen (15) feet.

§ 10-3.816 C1; PUBLIC OPEN SPACE REQUIREMENTS

(A) On single or integrated sites where there is an aggregate of more than 50,000 gross square feet of building floor area; functional public open spaces designed for public interaction and repose consistent with the General Plan shall be provided. This may include features such as improved plazas, gathering areas, sitting and play areas. The areas shall be a minimum of 0.5% of the building area with no single area being less than 100 square feet. Space used for other uses such as circulation, walkways, parking, and loading shall not be included in satisfying this requirement.

C2 – Heavy Commercial

§ 10-3.820 C2 (HEAVY COMMERCIAL) ZONE DISTRICT.

The C2 (Heavy Commercial) zone is established to provide sites for community and regional retail development containing a diverse variety of commercial establishments. Uses allowed in the C2 zone include the activities of the C1 zone, additional auto-oriented commercial uses, and transitional activities. The C2 zone is generally intended for application within the commercial corridors of the City, especially when in proximity to State Route 99, State Route 145, or railroad corridors.

§ 10-3.821 C2; USES PERMITTED.

(A) See § 10-3.700 for the use schedule for the C2 Zone District.

(B) Residential uses per the following:

- (1) Existing residential uses may continue to be utilized in their present form. Expansion of the existing residential dwelling or intensification of the existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
- (2) New residential construction shall be prohibited in the C2 Zone District.

§ 10-3.822 C2; SITE AREA.

(A) The minimum lot area shall be 25,000 square feet.

(B) The minimum lot width shall be 150 feet.

(C) The minimum lot depth shall be 150 feet.

(D) A non-conforming lot of record under separate ownership in the C2 Zone District at the time it became non-conforming may be developed for, and occupied by, any use allowed in the C2 Zone District.

§ 10-3.823 C2; HEIGHT OF STRUCTURES.

(A) The maximum height of any building shall be 65 feet. Additional height may be permitted, subject to the approval of a use permit.

§ 10-3.824 C2; LOT COVERAGE.

(A) A maximum of 50% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings.

§ 10-3.825 C2; YARD REQUIREMENTS.

(A) *Front yards.* The minimum front yard setback shall be ten (10) feet, except where the frontage is adjacent to a residential zone, in which case the front yard shall be the same as required in such residential zone.

(B) *Side yards.* The minimum interior side yard setback shall be five (5) feet.

(C) *Street side yard.* The minimum street side yard setback shall be ten (10) feet, except when adjacent to the front yard of a residentially zoned property, in which case the setback shall be the same as required of the front yard of the adjacent residentially zoned property.

(D) *Rear yards.* The minimum rear yard setback shall be five (5) feet, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than fifteen (15) feet.

§ 10-3.826 C2; PUBLIC OPEN SPACE REQUIREMENTS

(A) On single or integrated sites where there is an aggregate of more than 50,000 gross square feet of building floor area; functional public open spaces designed for public interaction and repose consistent with the General Plan shall be provided. This may include such features such as improved plazas, gathering areas, sitting and play areas. The areas shall be a minimum of 0.5% of the building area with no single area being less than 100 square feet. Space used for other uses such as circulation, walkways, parking, and loading shall not be included in satisfying this requirement.

C3 – Downtown Commercial

§ 10-3.830 C3 (DOWNTOWN COMMERCIAL) ZONE DISTRICT.

The C3 (Downtown Commercial) zone is established to promote an attractive, pedestrian-oriented environment that functions as the historical central business district of the City, with commercial, office, financial, civic, and entertainment services.

§ 10-3.831 C3; USES PERMITTED.

- (A) See § 10-3.700 for the use schedule for the C3 Zone District.
- (B) Residential uses per the following:
 - (1) Existing residential uses may continue to be utilized in their present form. Expansion or intensification of an existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
 - (2) New residential construction shall only be allowed with a use permit when in conjunction with and as a component of a mixed use project, where residential housing is located on the same site as a permitted commercial use, usually on a second floor above commercial activities.
 - (3) Consistent with § 10-3.831(B)(2), no new exclusively residential uses shall be allowed in the C3 Zone District.

§ 10-3.832 C3; SITE AREA.

- (A) The minimum lot area shall be 2,500 square feet.
- (B) The minimum lot width shall be 25 feet.
- (C) The minimum lot depth shall be 100 feet.
- (D) A non-conforming lot of record under separate ownership in the C3 Zone District at the time it became non-conforming may be developed for, and occupied by, any use allowed in the C3 Zone District.

§ 10-3.833 C3; HEIGHT OF STRUCTURES.

- (A) The maximum height of any building shall be 80 feet.

§ 10-3.834 C3; LOT COVERAGE.

- (A) A maximum of 100% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings, provided parking demands are met through a parking district or similar means.

§ 10-3.835 C3; YARD REQUIREMENTS.

- (A) *Front yards.* There shall be no requirements for front yards, except where the frontage in a block is partially in a residential zone, in which case the front yard shall be the same as required in such residential zone.

- (B) *Side yards.* There shall be no requirements for side yards, except where the side of a lot abuts upon the side of a lot in a residential zone, in which case the side yard shall be not less than ten feet.

- (C) *Rear yards.* There shall be no requirements for rear yards, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than ten feet.

§ 10-3.836 C3; PUBLIC OPEN SPACE REQUIREMENTS

- (A) As development and/or redevelopment occurs in C3 Zone Districts, the recommendations of General Plan shall be incorporated as integral components of the development and/or redevelopment, to

be confirmed through the site plan review process consistent with §10-3.450 et. al.. General Plan recommendations include, but are not limited to, the following:

- Include human-scale details in the design of buildings such as windows on the street, awnings, and architectural features that create a visually interesting pedestrian environment.
- Include areas designed to create spaces where people can interact and socialize, such as parks, plazas or open air seating in cafes and restaurants, as well as pedestrian amenities such as awnings, pedestrian-scaled lighting, benches and trash cans.
- Street trees shall be incorporated into all development and street improvement projects.
- Loading facilities shall be screened from public view and located away from residential uses.
- Locate parking lots behind or on the side of buildings where possible to reduce their visual impact.
- Use shared parking where applicable to reduce the total number of parking spaces.

CH – Highway Commercial

§ 10-3.840 CH (HIGHWAY COMMERCIAL) ZONE DISTRICT.

The CH (Commercial Highway) zone is established to provide sites for auto-oriented commercial uses including hotels, motels, automobile service stations, automobile sales, drive-through and drive-in restaurants, offices, limited warehousing, and commercial services. The CH zone is generally intended for application in proximity to interchanges within the State Route 99 corridor through the City.

§ 10-3.841 CH; USES PERMITTED.

(A) See § 10-3.700 for the use schedule for the CH Zone District.

(B) Residential uses per the following:

- (1) Existing residential uses may continue to be utilized in their present form. Expansion or intensification of an existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
- (2) New residential construction shall be prohibited in the CH Zone District.

§ 10-3.842 CH; SITE AREA.

(A) The minimum lot area shall be 1 acre.

(B) The minimum lot width shall be 100 feet.

(C) The minimum lot depth shall be 100 feet.

(D) A non-conforming lot of record under separate ownership in the CH Zone District at the time it became non-conforming may be developed for, and occupied by, any use allowed in the CH Zone District.

§ 10-3.843 CH; HEIGHT OF STRUCTURES.

(A) The maximum height of any building shall be 80 feet.

§ 10-3.844 CH; LOT COVERAGE.

(A) A maximum of 50% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings, provided parking demands are met through a parking district or similar means.

§ 10-3.845 CH; YARD REQUIREMENTS.

(A) *Front yards.* The minimum front yard setback shall be fifteen (15) feet.

(B) *Side yards.* The minimum interior side yard setback shall be five (5) feet.

(B) *Street side yard.* The minimum street side yard setback shall be fifteen (15) feet.

(C) *Rear yards.* The minimum rear yard setback shall be five (5) feet, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than fifteen (15) feet.

§ 10-3.846 CH; PUBLIC OPEN SPACE REQUIREMENTS

(A) On single or integrated sites where there is an aggregate of more than 50,000 gross square feet of building floor area; functional public open spaces designed for public interaction and repose consistent with the General Plan, shall be provided. This may include such features such as improved plazas, gathering areas, sitting and play areas. The areas shall be a minimum of 0.5% of the building area with no single area being less than 100 square feet. Space used for other uses such as circulation, walkways, parking, and loading shall not be included in satisfying this requirement.

(B) On single or integrated sites where there is an aggregate of more than 250,000 gross square feet of building floor area; an integrated transit station, with enhanced architecture providing seating, shade, and protection from inclement weather shall be provided as an integral component of development.

Industrial Zones

§ 10-3.900 INDUSTRIAL USE SCHEDULE BY ZONE DISTRICT

(A) Table § 10-3.900 identifies uses of land allowed by this Zoning Ordinance in each industrial zoning district, and the land use permit required to establish each use in compliance with the Zoning Ordinance. Uses not specifically listed within the table are prohibited.

(B) Table § 10-3.900 shall utilize the following abbreviations to define permitted uses, conditionally allowed uses, and prohibited uses within the various professional office and commercial zone districts:

- P = Permitted Use / An Allowed Activity
- ZAP = Zoning Administrator Permit Required
- CUP = Conditional Use Permit Required
- N = Not Allowed / Prohibited

(G) The far right column of Table 10-3.900 noted as "Use Regulations" provides a section number wherever applicable for regulations that apply to the particular use listed, in addition to the other general standards of this Zoning Ordinance.

Industrial Uses	LI	I	IP
Adult Day Care Center	CUP	N	N
Adult Oriented Business	N	CUP	CUP
Agricultural Processing	CUP	P	P
Sale of Alcoholic Beverages	CUP	N	N
Ambulance Service	CUP	N	N
Animal Clinic or Grooming	P	N	N
Animal Hospital	CUP	CUP	N
Animal Kennel	CUP	CUP	N
Antique and Collectables Shop	N	N	N
Art Gallery	N	N	N
Athletic Club	CUP	N	N
Automobile and Truck Rental	CUP	N	N
Automobile and Vehicle Major Repair	CUP	P	N
Automobile Maintenance and Minor Repair	CUP	P	N
Automobile Sales, New and Used	CUP	N	N
Automobile Service Station	N	N	N
Bail Bond Service	CUP	N	N
Bar	N	N	N
Building and Landscape Material Sales	CUP	CUP	N
Business Support Services	CUP	N	N
Catering Services	CUP	N	N
Check Cashing Service	N	N	N
Child Day Care Center	N	N	N
Church	CUP	N	N
Club, Lodge, and Meeting Hall	CUP	N	N
Commercial Recreation	CUP	N	N

Industrial Uses	LI	I	IP
Community Center/Banquet Hall	N	N	N
Congregate Care Facility	N	N	N
Contractor's Yard	P	P	N
Donation Station	N	N	N
Drive-Through Restaurant	N	N	N
Drive-Through/Drive-In Uses	N	N	N
Electric Vehicle Charging Station	P	P	P
Emergency Medical Care	CUP	N	N
Emergency Shelter	N	N	N
Entertainment w/ Food and Beverage Services	N	N	N
Equestrian Facility	N	N	N
Equipment Rental, Indoor	P	CUP	N
Equipment Rental, Outdoor	CUP	CUP	N
Financial Institution	CUP	N	N
Firearm or Archery Range	CUP	CUP	N
Food and Beverage Sales	N	N	N
Funeral and Interment Services / Mortuary	N	N	N
Furniture, Fixtures, and Appliance Sales	CUP	N	N
Garage, Private	CUP	CUP	CUP
Handicraft Shop	P	N	N
Helipad/Heliport	N	CUP	CUP
Hospital	N	N	N
Hotel/Motel	N	N	N
Industrial Services	P	P	P
Junk Yard	CUP	CUP	N
Laboratory, Processing	CUP	P	P
Large Truck and Machinery – Sales/Leasing	CUP	CUP	N
Maint. & Repair, Machinery/Small Engine	P	P	N
Maint. & Repair, Personal/Household Items	P	N	P
Manufacturing and Assembly (Light)	CUP	P	P
Manufacturing and Assembly (Medium)	N	P	P
Manufacturing and Assembly (Heavy)	N	CUP	CUP
Material Recovery Resource Facility	N	CUP	N
Market, All	N	N	N
Mini-storage	CUP	CUP	N
Mixed Use – Commercial/Residential	N	N	N
Moving and Drayage Services	N	P	P
Museum	N	N	N

Industrial Uses	LI	I	IP
New Merchandise Sales	CUP	N	N
Nursing Home	N	N	N
Office, Admin., Business, or Professional	N	N	P
Office, Government	N	N	N
Office, Medical and Dental	N	N	N
Outdoor Display of Merchandise / Sales Activity	ZAP	N	N
Outdoor Storage of Goods/Materials	ZAP	P	P
Parking Facility, Non-residential	CUP	CUP	CUP
Pawn Shop	N	N	N
Personal Care and Domestic Services	CUP	N	N
Personal Specialty Care	CUP	N	N
Personal Instruction Studio	CUP	N	N
Pharmacy	N	N	N
Plant Nursery - Landscape	N	P	CUP
Private Transportation Service	CUP	CUP	N
Public Safety Facility	P	P	P
Recreational Vehicle, Boats, and Trailer Sales	CUP	CUP	N
Recycling Center	CUP	CUP	N
Research and Development	CUP	P	P
Restaurant, Counter Service	N	N	N
Restaurant, Table Service	N	N	N
School, Business	CUP	N	N
School, Personal and Social Development	CUP	N	N
School, Vocational	CUP	CUP	CUP
Scrap and Salvage Operation	N	CUP	CUP
Storage, Outdoor	N	P	P
Telecommunications Tower	CUP	CUP	CUP
Theater	N	N	N
Tobacco Sales (Specialty) and Smoke Shops	N	N	N
Truck Stop	CUP	CUP	N
Used Merchandise Sales	CUP	N	N
Vehicle Accessory Equipment Sales	CUP	N	N
Vehicle Sales - Antique and Collector	CUP	N	N
Vehicle Storage or Impound Yard	CUP	CUP	N
Vehicle Alternative Energy Fueling Station	P	P	P
Wholesale, Storage and Distribution (Light)	CUP	P	P
Wholesale, Storage and Distribution (Medium)	N	ZAP	P
Wholesale, Storage and Distribution (Heavy)	N	CUP	P

(H) The uses listed in Table 10-3.900 as allowed subject to approval of a Zoning Administrator's Permit shall be determined to be compatible subject to the findings and conditions of approval of a Zoning Administrator's Permit as provided in §10-3.405.

(I) The uses listed in Table 10-3.900 as allowed subject to approval of a Conditional Use Permit shall be determined to be compatible subject to the findings and conditions of approval of a Conditional Use Permit as provided in § 10-3.1301.

LI – Limited Industrial

§ 10-3.910 LI (LIMITED INDUSTRIAL) ZONE DISTRICT.

The regulations set forth in this subchapter shall apply in all LI – Limited Industrial zones unless otherwise provided in this chapter.

§ 10-3.911 LI; PURPOSE AND INTENT.

The LI zone district is intended to provide areas appropriate for low-intensity industrial uses including light manufacturing, warehousing and distribution, and a complement of service-oriented commercial activities, and to protect these areas, to the extent feasible, from the disruption and competition for space from unrelated retail uses, primary office uses, and general industrial uses. Accessory office uses, as a component of a permitted use on the site, are allowed. The LI zone is generally intended for application along the fringe of industrial districts of the City, acting as a buffer between commercial and residential districts and the industrial sectors of the City.

§ 10-3.912 LI; USES PERMITTED.

- (A) See § 10-3.900 for the use schedule for the LI Zone District.
- (B) Residential uses per the following:
 - (1) Existing residential uses may continue to be utilized in their present form. Expansion or intensification of an existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
 - (2) New residential construction shall be prohibited in the LI Zone District.

§ 10-3.913 LI; SITE AREA.

- (A) The minimum lot area shall be 1/2 acre.
- (B) The minimum lot width shall be 150 feet.
- (C) The minimum lot depth shall be 150 feet.
- (D) A non-conforming lot of record under separate ownership in the LI Zone District at the time it became non-conforming may be developed for, and occupied by, any use allowed in the LI Zone District, subject to the requirements of this section.

§ 10-3.914 LI; HEIGHT OF STRUCTURES.

- (A) The maximum height of any building shall be 35 feet, except upon approval of a conditional use permit by the Planning Commission.

§ 10-3.915 LI; LOT COVERAGE.

- (A) A maximum of 50% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings, provided parking requirements are satisfied.

§ 10-3.916 LI; YARD REQUIREMENTS.

(A) *Front yards.* The minimum front yard setback shall be twenty (20) feet.

(B) *Side yards.* The minimum interior side yard setback shall be ten (10) feet, except where the side of a lot abuts on a residential zone, in which case the side yard shall be not less than twenty (20) feet.

(C) *Street side yard.* The minimum street side yard setback shall be twenty (20) feet.

(D) *Rear yards.* The minimum rear yard setback shall be ten (10) feet, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than twenty (20) feet.

§ 10-3.917 LI; SITE PLAN REVIEW

(A) Before any parcel is developed, or any structure (temporary or permanent) is erected, or any use is established within the LI District, a site plan review shall have been submitted to and approved by the Planning Department pursuant to the provisions of § 10-3.450 et. al., Site Plan Review.

I – General Industrial

§ 10-3.920 I (GENERAL INDUSTRIAL) ZONE DISTRICT.

The regulations set forth in this subchapter shall apply in all I (General Industrial) Zone District unless otherwise provided in this chapter.

§ 10-3.921 I; PURPOSE AND INTENT.

The I (General Industrial) Zone District is established to provide for and protect existing and future industrial sites, allow for continued operation of existing general industry, manufacturing, extraction, salvage, and related activities, and for future expansion and establishment of new industrial activities, subject to performance standards and buffering requirements to minimize potential environmental impacts.

§ 10-3.922 I; USES PERMITTED.

(A) See § 10-3.900 for the use schedule for the I (General Industrial) Zone District.

(B) Residential uses per the following:

(1) Existing residential uses may continue to be utilized in their present form. Expansion or intensification of an existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.

(2) New residential construction shall be prohibited in the I (General Industrial) Zone District.

§ 10-3.923 I; SITE AREA.

(A) The minimum lot area shall be 1/2 acre.

(B) The minimum lot width shall be 150 feet.

(C) The minimum lot depth shall be 150 feet.

(D) A non-conforming lot of record under separate ownership in the I (General Industrial) Zone District at the time it became non-conforming may be developed for, and occupied by, any use allowed in the I (General Industrial) Zone District, subject to the requirements of this section.

§ 10-3.924 I; HEIGHT OF STRUCTURES.

(B) The maximum height of any building shall be 75 feet, except upon approval of a conditional use permit by the Planning Commission.

§ 10-3.925 I; LOT COVERAGE.

(A) A maximum of 50% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings, provided parking requirements are satisfied.

§ 10-3.926 I; YARD REQUIREMENTS.

(A) *Front yards.* The minimum front yard setback shall be twenty (20) feet.

(B) *Side yards.* The minimum interior side yard setback shall be ten (10) feet, except where the side of a lot abuts on a residential zone, in which case the side yard shall be not less than twenty (20) feet.

(C) *Street side yard.* The minimum street side yard setback shall be twenty (20) feet.

(D) *Rear yards.* The minimum rear yard setback shall be ten (10) feet, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than twenty-five (25) feet.

§ 10-3.927 I; SITE PLAN REVIEW

(A) Before any parcel is developed, or any structure (temporary or permanent) is erected, or any use is established within the I (General Industrial) Zone District, a site plan review shall have been submitted to and approved by the Planning Department pursuant to the provisions of § 10-3.450 et. al., Site Plan Review.

IP – Industrial Park

§ 10-3.930 IP (INDUSTRIAL PARK) ZONE DISTRICT.

(A) The regulations set forth in this subchapter shall apply in all IP – Industrial Park zones unless otherwise provided in this chapter.

§ 10-3.931 IP; PURPOSE AND INTENT.

(A) The purpose of the regulations set forth in this subchapter is to provide a set of regulations which will insure the creation of an environment exclusively for, and conducive to, the development and protection of modern, large-scale administrative facilities, research institutions, specialized manufacturing organizations, and distribution centers for major retail outlets, all of a type in which the architecture, landscaping, and operations of the uses are such that each is a credit to the other, and investments in well-designed and maintained plants and grounds are secured by the maintenance of the highest standards throughout the district.

§ 10-3.932 IP; USES PERMITTED.

(A) See § 10-3.900 for the use schedule for the IP Zone District.

(B) Residential uses per the following:

- (1) Existing residential uses may continue to be utilized in their present form. Expansion or intensification of an existing residential use shall only be allowed with the approval of a Conditional Use Permit by the Planning Commission.
- (2) New residential construction shall be prohibited in the IP Zone District.

§ 10-3.933 IP; PERFORMANCE STANDARDS.

All uses in IP zones shall meet the following performance standards.

(A) *Noise.* The maximum sound pressure level of activities other than street or highway transportation, temporary construction work, or temporary oil or gas drilling or exploration operations, as determined by the City Engineer, shall not exceed the standards for octave bands within the frequency limits given below after applying the correction factors:

- (1) *Noise at zone boundaries.* At no point on the boundary of an IP zone shall the sound pressure level of any individual operation, use, or plant exceed the decibel levels in the designated octave bands set forth below:

<i>Octave Band Cycles Per Second</i>	<i>Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm²)</i>
0 - 75	72
75 - 150	67
150 - 300	59
300 - 600	52
600 - 1,200	46
1,200 - 2,400	40
2,400 - 4,800	34
Above 4,800	32

- (2) *Noise at property lines.* At no point on the lot lines of any property shall the sound pressure level of any individual operation, use or plant exceed the decibel levels in the designated octave bands shown below:

<i>Octave Band Cycles Per Second</i>	<i>Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm²)</i>
0 - 75	80
75 - 150	75
150 - 300	70

<i>Octave Band Cycles Per Second</i>	<i>Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm²)</i>
300 - 600	64
600 - 1,200	58
1,200 - 2,400	53
2,400 - 4,800	49
Above 4,800	46

- (3) *Corrective factors in noise measurement.* To any irregular or impulsive noise, one or more of the following corrective factors shall be added to the values permitted sound level:

<i>Character of Noise</i>	<i>Correction in Decibels</i>
Occurs between 10:00 p.m. and 7:00 a.m.	Minus 10
Noise source operates less than a total of 30 minutes in any day	Plus 10
Noise of impulsive character, such as hammering	Minus 5

(B) *Air pollution.* There shall be no discharge into the atmosphere, from any source, of particulate matter in excess of 0.3 grams per cubic foot of gas at standard conditions. There shall be no emission of gas, smoke, particulate material, dust, or other air contaminants for a period or periods aggregating more than three minutes in any one hour which contaminants are:

- (1) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the US Bureau of Mines; or
- (2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection § 10-3.933 (B)(1).

(C) *Odor.* Odors from gases shall not be in such quantity as to be offensive beyond the lot lines of the use.

(D) *Vibration.* Vibration from any machine, operation, or process shall not cause a perceptible motion at the lot lines.

(E) *Glare and heat.* Glare and heat from any source shall not be produced beyond the lot lines.

(F) *Radioactivity and electrical disturbances.* The use of radioactive materials within IP zones shall be limited to measuring, gauging, and calibration devices, such as tracer elements in X-ray and like apparatus, and in connection with the processing and preservation of foods. All electrical and electronic devices and equipment shall be suitably wired, shielded, and controlled so that in operation they shall not, beyond the lot lines, emit any electrical impulses or waves which will adversely affect the operation and control of any other electrical or electronic devices and equipment.

§ 10-3.934 IP; SITE AREA.

- (A) The minimum lot area shall be 1 acre.
- (B) The minimum lot width shall be 150 feet.
- (C) The minimum lot depth shall be 150 feet.

(D) A non-conforming lot of record under separate ownership in the IP Zone District at the time it became non-conforming may be developed for, and occupied by, any use allowed in the IP Zone District.

§ 10-3.935 IP; HEIGHT OF STRUCTURES.

(A) The maximum height of any building shall be 60 feet, except upon approval of a conditional use permit by the Planning Commission.

§ 10-3.936 IP; LOT COVERAGE.

(A) A maximum of 50% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings, provided parking requirements are satisfied.

§ 10-3.937 IP; YARD REQUIREMENTS.

- (A) *Front yards.* The minimum front yard setback shall be forty (40) feet.
- (B) *Side yards.* The minimum interior side yard setback shall be ten (10) feet, except where the side of a lot abuts on a residential zone, in which case the side yard shall be not less than twenty (20) feet.
- (C) *Street side yard.* The minimum street side yard setback shall be forty (40) feet.
- (D) *Rear yards.* The minimum rear yard setback shall be ten (10) feet, except where the rear of a lot abuts on a residential zone, in which case the rear yard shall be not less than twenty-five (25) feet.

§ 10-3.938 IP; DEVELOPMENT STANDARDS.

The following development standards shall apply to all land and structures in the IP (Industrial Park) Zone District. All subdivisions, development, new land uses, and alterations to existing land uses, structures, and site improvements, shall be designed, constructed, and/or established in compliance with the following regulations:

- (A) All uses in IP zones shall be conducted wholly within a completely enclosed building, except for off-street parking and loading, storage, and the disposal of trash and refuse.
- (B) Trash and refuse collection and disposal facilities in IP zones shall be enclosed by a solid fence or hedge no lower in height than the facilities themselves.
- (C) All vehicle parking, including trucks, trailers, and employee and visitor parking, in IP zones shall be provided on the premises. All parking areas shall be paved. Parking shall not be located in the required front yard or street side yard of a corner lot, except that a visitor parking area shall be permitted

in the required front yard.

(D) Outside storage in IP zones shall not be permitted unless concealed from the view from a public street by a solid fence or hedge.

(E) No fence shall be permitted in the required front yard or in the required side yard for the street side of corner lots in IP zones.

(F) Off-street loading in IP zones shall be within the building or in side or rear yards separated and protected from any traveled way by a fence or hedge not less than six feet in height.

(G) A minimum of 15 feet of front and street side yards in IP zones shall be permanently landscaped.

(H) Manufacturing and industrial processes in IP zones shall use only natural gas or electricity as fuel unless otherwise authorized by a use permit.

(I) All buildings, except as noted in subsection § 10-3.938(I)(1) through (I)(3) below, shall be subject to site plan review per section § 10-3.939.

(1) Temporary buildings for temporary construction purposes are a permitted use.

(2) Temporary or portable-type buildings for uses other than that specified in subsection § 10-3.938(I)(1) may be permitted subject to approval of a use permit by the Planning Commission. The use permit review shall consider the need for the building, the time frame for its use, the location of the building, its compatibility with surrounding uses, and provision of skirting and screening of axles and mechanical equipment.

(3) Notwithstanding subsection § 10-3.938(I)(2), temporary buildings for a short-term use, not to exceed a total of six months, may be permitted with approval from the Planning Director subject to the review considerations set forth in subsection § 10-3.938(I)(2), above.

(J) Each parcel of land in IP zones shall be permitted a maximum of two signs, with a total aggregate surface area of 250 square feet but not to exceed 150 square feet per sign. The sign height shall be 15 feet. Signs shall only identify the on-site operation and products. All signs shall be subject to review and shall be approved by the Development Review Committee. All signs shall be subject to review and approval as required by Chapter 6 of this title.

§ 10-3.939 IP; SITE PLAN REVIEW

(A) Before any parcel is developed, or any structure (temporary or permanent) is erected, or any use is established within the IP (Industrial Park) Zone District, a site plan review shall have been submitted to and approved by the Planning Department pursuant to the provisions of § 10-3.450 et. al., Site Plan Review.

EC – Economic Center

(Insert Ordinance)

SP- Specific Plan

§ 10-3.1000 SP; PURPOSE AND INTENT.

(A) The purpose and intent of this chapter is to provide a framework for the SP (Specific Plan Area) Zone District through a standard process and general regulations that accomplish the following:

- (1) Implement the goals, objectives, and policies of the General Plan. The SP (Specific Plan Area) Zone District shall provide consistency with all land use designations of the General Plan.
- (2) Provide a land use planning process for the initiation, review, and regulation of comprehensively planned urban development, including land use pattern, development standards, design guidelines and development review processes.
- (3) Opportunity for creative, comprehensive planning approaches for the use and development of land including innovative land use planning, quality architectural value and comprehensive site design.
- (4) Provide necessary public services and facilities.
- (5) Establish a development review framework for comprehensively planned communities pursuant to Government Code Section 65450 to 65457 for the preparation of Specific Plans.

§ 10-3.1001 SP; APPLICABILITY

(A) The SP (Specific Plan Area) Zone District, including all standards and processes, is available to all new development proposals within the City of Madera, except those areas within the city limits already regulated by an existing adopted Specific Plan. Those areas shall be exempt from this chapter, and all activities within such areas shall be subject to the existing standards and procedures of the applicable Specific Plan.

(B) All SP (Specific Plan Area) Zone Districts must encompass an area of no less than five (5) acres of contiguous property.

§ 10-3.1002 SP; SPECIFIC PLAN REQUIRED

(A) A Specific Plan shall provide regulations and design standards governing the minimum and maximum development parameters of all real property within the SP (Specific Plan Area) Zone District. All Specific Plans prepared and adopted under this chapter shall be consistent with the requirements of Government Code Section 65450, and shall include, at a minimum, the following:

- (1) Purpose. State the relationship to the goals and policies of the General Plan.
- (2) Setting. State the existing and regional setting to establish the conditions and reasons for the project.
- (3) Proposed Land Uses. Establish the distribution, type, definitions of, and regulations for all proposed land uses. The uses described within the Specific Plan shall be designed and developed in a manner consistent with the General Plan and § 10-3.1003 below.
- (4) Development Standards. Establish all regulating policies and include all of the following for all building types:
 - (a) Building height, setbacks, massing, and design standards.
 - (b) Lot area, width, depth, and structural limitations.
 - (c) Maximum number of dwelling units and the maximum residential density (of the Specific Plan Area and any individual site or portion).
 - (d) Usable open space provisions and requirements within the development.
 - (e) Off-street parking and loading facilities.
 - (f) Design and development standards (architectural, landscape, streetscape, street furniture, utilities, fence/wall types, etc.), which may include design themes or similar architectural

- treatments to control future construction of buildings on parcels covered by the Specific Plan. Site planning at the perimeter of the Zone boundaries shall provide for the mutual protection of the Zone and the surrounding property.
- (g) Signage requirements shall be addressed, either through Section 10-6 (Sign Regulations) or by a unique sign program codified in the Specific Plan.
 - (h) All areas for storage of vehicles, maintenance equipment, refuse and collection facilities, manufactured products, or other similar materials used by or in a manufacturing/fabricating process on-site shall be prohibited or shall be enclosed by a decorative, block, or brick wall and/or landscape screening in combination.
- (5) Site Planning. Establish a comprehensive map of all streets, open spaces, private and public property, and land uses for all affected property, consistent with the intent of the General Plan.
- (a) Consider and preserve environmentally sensitive resources (water courses, view sheds, drainage areas, wooded areas, rough terrain [canyons, ravines, steep slopes, ridges, knolls, promontories], and other similar natural features) and make provisions to retain natural features and amenities found on-site.
 - (b) Provide landscape architectural concept plans and standards, including project entries, streetscapes, fencing details, lighting, signage, utility, and street furniture.
- (6) Infrastructure. Identify the proposed distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, sewers, solid waste disposal, water, and other essential facilities proposed.
- (a) Include physical and fiscal plans for the construction, improvement, or extension of transportation facilities, public utilities, and all other public facilities/services required to serve the properties.
 - (b) Dedicate all public right-of-ways and public park spaces within or abutting the development to applicable City specifications.
 - (c) Private streets and alleys shall be designed to public street standards, or proposed modifications, and be privately owned and maintained for their intended purpose without public cost or maintenance responsibility.
 - (d) Consideration of other forms of access, such as pedestrian ways, paseos, courts, plazas, driveways, horse trails, bike trails, or open public parking areas, may be made at the time of Specific Plan consideration by the City.
- (7) Maintenance. Provisions assuring the continued maintenance of private property, grounds, and all common areas shall be required.
- (8) Phasing. Provide project development phasing for the full life of the project and anticipated schedule, including start date and completion date of each construction phase.
- (a) Specific Plans developed in phases or neighborhoods over a period of time, not developed in a consecutive and uninterrupted manner, shall be required to process each phase or neighborhood through separate entitlement processes.

§ 10-3.1003 SP; ALLOWED LAND USES

(A) All use of lands within SP (Specific Plan Area) Zone Districts shall be compatible with the purpose and intent of this Zoning Ordinance.

(B) All use of lands within SP (Specific Plan Area) Zone Districts shall be consistent with the City of Madera General Plan Land Use Map, which may include varying densities of residential, commercial, and/or industrial development.

(C) Where the regulations of a Specific Plan are silent or not specifically referenced, the comparable regulations of this Zoning Ordinance and all adopted ordinances, regulations, standards,

and guidelines of the City shall apply, subject to the Planning Director's discretion, unless otherwise declared by the Planning Commission.

OFF-STREET PARKING REGULATIONS

§ 10-3.1201 GENERAL REQUIREMENTS.

(A) It is the purpose of this section to provide for off-street parking requirements of vehicles to prevent or lessen traffic congestion and parking problems on public streets. Off-street parking and off-street loading facilities shall be provided for new land uses and major alterations and enlargements of existing land uses. On-site parking is a normal part of land use development and satisfying Code requirement will be the rule and not the exception. The number of parking spaces and the number of loading berths prescribed in this subchapter, or to be prescribed by the Planning Commission, shall be proportional to the need for such facilities created by the particular type of land use. Off-street parking and loading areas shall be laid out in a manner that will ensure their usefulness, protect the public safety, and, where appropriate, insulate surrounding land uses from their impact. The provisions of this subchapter are intended to:

- (1) Provide clear standards for parking requirements;
- (2) Provide parking requirements that are appropriate for specified land uses;
- (3) Provide for flexibility in meeting parking requirements;
- (4) Provide parking that is aesthetically complimentary to the surrounding environment and provides natural elements through trees and landscaping.
- (5) Ensure that parking requirements are consistent with the land use goals of the community; and
- (6) Discourage unnecessary drive approaches onto arterials and collector streets that can cumulatively reduce traffic flows.
- (7) Discourage unnecessary excessive parking that is not utilized regularly.

The provisions of this subchapter are also intended to deal with major problems, conditions, and needs which are apparent in attempting to provide sufficient off-street parking facilities in areas of intense commercial development, including:

- (1) The difficulty in assembling land by private means;
- (2) The often excessive time required in assembling land by private means;
- (3) The varying financial capabilities and traffic generating characteristics among the various types of commercial enterprises;
- (4) The importance of avoiding the development of a fragmented pattern of off-street parking facilities which may bear little relation to the needs of a commercial area as a whole;
- (5) The importance of prescribing regulations which will not inadvertently discourage private investment within the community while alleviating or preventing traffic congestion; and
- (6) The importance of achieving a reasonable distribution of burden among private interests and the public at large consistent with their individual and collective responsibilities to provide off-street parking and loading facilities.

(B) Every building hereafter erected in the City shall be provided with parking spaces as provided in § 10-3.1202 of this subchapter, subject to the other provisions of this subchapter. Such parking spaces shall be made available and shall be maintained for parking purposes according to the required use of the building.

(C) Every building hereafter reconstructed, remodeled, structurally altered, or changed in use shall be provided with parking spaces as required by the new use of the building. The parking spaces required by this subsection shall be determined by subtracting the number of parking spaces required by the provisions of § 10-3.1202 of this subchapter for the building as used prior to its reconstruction, remodeling, structural alteration, or new use from the number of spaces required by § 10-3.1202 for the building for its proposed use after its reconstruction, remodeling, structural alteration, or change in use.

Such parking spaces shall be made available and shall be maintained for parking purposes according to the required use of the building. For buildings other than dwellings, if the number of parking spaces thus determined does not exceed the number of spaces required by the provisions of § 10-3.1202 for the building as used prior to its reconstruction, remodeling, structural alteration, or change in use by at least 10% or by five spaces, whichever is greater, no additional parking space need be provided by reason of the reconstruction, remodeling, or structural alteration of the building. In the event it is not possible to determine the number of parking spaces required for a particular building in the manner set forth in this subsection, the Commission shall determine an adequate number of parking spaces for such a building based on standards comparable to those set forth in § 10-3.1202.

(D) Every retail commercial building hereafter reconstructed, shall not construct more than 125% of the required number of parking spaces unless approved as part of a planned unit development or use permit, with specific findings being made that the additional parking is necessary for the specific use and will not conflict with policies of the Madera General Plan.

(E) Any required parking shall not be leased or rented and shall be made available free of charge, but may be restricted to use by patrons of the associated use requiring the parking. Excess parking may be leased or rented subject to a use permit.

§ 10-3.1202 PARKING SPACES REQUIRED.

Except as provided in § 10-3.1205 of this subchapter, the minimum number of off-street parking spaces shall be required outside of side yard setbacks as follows:

<i>Use</i>	<i>Parking Spaces Required</i>	<i>Downtown Parking District Standards</i>
<i>Residential uses</i>		
Single Family Residential Dwellings	Per the standards of the Zone District, as follows: RA – See § 10-3.511. R1 – See § 10-3.521. R2 – See § 10-3.531.	Same
Multi-family Residential housing projects	Per the standards of the Zone District, as follows: R3 – See § 10-3.553. R4 – See § 10-3.563.	Same
Planned Residential Developments	Per the approved Precise Plan development standards approved by the Planning Commission. See § 10-3.480-488.	Same
Senior citizen housing projects under § 10-3.570-591 Affordable Housing Density Bonus	One covered parking space for each unit, plus one guest parking space provided at the rate of one space for every four units, which shall be located in close proximity and easily accessible to the units they are designated to serve. Employee parking shall be provided at a rate of one space per every two employees. Parking for a manager's quarters shall be required at the standard residential rate.	Same
Congregate Care Facility, Nursing Home	One space per each four beds, and/or one space per each two units, plus one space per each two employees.	Same
Family Day Care Home	See § 10-3.409.	Same
Homeless Shelter	One space per each employee, and four spaces for visitors, and one loading zone.	Same
Group Homes	One space per each two beds.	Same
<i>Commercial and Industrial Uses</i>		
Adult Day Care	One space per 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area.

Animal Hospital, Veterinarian	Four spaces per each doctor and one space for each two employees.	Same.
Animal Kennel	Per the approved CUP, specific to the requested use/activity.	Same.
Art Gallery	See Museum.	Same.
Athletic Club	One space per 100 square feet of gross floor area.	One space for each 150 square feet of gross floor area.
Automobile and Truck Rental	One space per each 300 square feet of gross floor area, plus one space per each two employees.	Same.
Automobile/Vehicle Repair (Minor or Major)	One space per each 300 square feet of office and three spaces per each service bay.	Same.
Automobile/Vehicle Sales (New and Used)	One space per each 400 square feet of gross floor area, plus one space per each two employees, plus one space per each two service bays.	Same.
Bar	One space per 100 square feet of gross floor area.	One space for each 150 square feet of gross floor area.
Barber Shop/Beauty Parlor	Two spaces per each station.	Same.
Building and Landscape Material Sales	One space for each 400 square feet of gross floor area.	One space for each 600 square feet of gross floor area.
Business Support Services	One space for each 400 square feet of gross floor area.	One space for each 600 square feet of gross floor area.
Check Cashing Service	Per the approved CUP, specific to the requested use/activity.	Same.
Child Day Care Center	One space per every five children, plus one space per every two employees.	Same.
Church	One space for every four seats within the primary sanctuary.	Same.
Club, Lodge, and Meeting Hall	One space for every 25 square feet of gross floor area used for assembly. One space for every 300 square feet used for office activities.	Same.
Commercial Recreation	Per the approved CUP, specific to the requested use/activity.	Same.
Community Center, Banquet Hall	One space for every 25 square feet of gross floor area used for assembly. One space for every 300 square feet used for office activities.	Same
Contractor's Storage Yard (Commercial Zones)	Per the approved CUP, specific to the requested use/activity.	Same.

Drive-thru Restaurant	One space for every 100 square feet of gross floor area.	Same.
Emergency Medical Care	8 for first doctor plus 5 per each additional doctor.	6 for first doctor plus 4 per each additional doctor.
Entertainment w/ Food & Beverages	Per the approved CUP, specific to the requested use/activity.	Same.
Equipment Rental, Indoor	One space for each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area.
Equipment Rental, Outdoor	One space for each 300 square feet of gross floor area, plus 1 space per 2,500 square feet of outdoor equipment storage area.	Same.
Financial Institution	One space for each 250 square feet of gross floor area.	One space for each 400 square feet of gross floor area.
Food and Beverage Sales	See Markets.	Same.
Funeral Services / Mortuary	One space for each vehicle used in conjunction with the establishment, plus one space for each two employees, and one space for each four seats in the main chapel.	Same.
Hospital	One space for each two employees, plus one space for each doctor, plus one space per each three beds, or one space per each 1000 square feet of gross floor area, whichever is greater.	Same.
Hotel / Motel	One space per each sleeping room, plus one space per each two employees.	Same.
Industrial Services	One space for each 400 square feet of gross floor area.	Same.
Laundromat	One space per each 150 square feet of gross floor area.	One space per each 200 square feet of gross floor area.
Laboratory, Processing	One space per each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area.
Maintenance and Repair Shops (Non-vehicular)	One space for each 400 square feet of gross floor area.	One space for each 600 square feet of gross floor area.
Manufacturing and Assembly	One space for each two employees, plus one space for each 300 square feet of office space and customer net floor area, plus one loading space for each 10,000 square feet of gross floor area.	One space for each two employees, plus one space for each 450 square feet of office space and customer net floor area, plus one loading space for each 10,000 square feet of gross floor area.
Market, Convenience	One space per each 200 square feet of gross floor area.	One space for each 300 square feet of gross floor area.
Market, Grocery or Supermarket	One space per each 250 square feet of gross floor area.	One space for each 400 square feet of gross floor area.

Market, Neighborhood	One space per each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area.
Market, Specialty Food or Beverage	One space per each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area.
Mini-Storage	4 spaces, plus 2 spaces for resident manager's quarters.	Same
Mixed Use, Commercial/Residential	Per the conditions of approval of the required CUP.	Same.
Museum	One space for each 450 square feet of gross floor area.	One space for each 600 square feet of gross floor area.
New merchandise sales	One space for each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area.
New Merchandise sales, which handle only bulky merchandise, such as furniture, appliances, hardware, and similar establishments	One space for each 400 square feet of gross floor area, plus one space for each two employees.	One space for each 600 square feet of gross floor area.
Offices, Professional Business and Administrative	One space for each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area.
Offices, Professional Medical and Dental	8 for first doctor plus 5 per each additional doctor.	6 for first doctor plus 4 per each additional doctor.
Other Uses (Not Defined in this Table)	Per the Determination of the Planning Director.	Per the Determination of the Planning Director.
Outdoor Display / Sales Activity	Per the approved CUP, specific to the requested use/activity.	Same.
Personal Care and Domestic Services (except Barber Shop/Beauty Parlor)	One space for each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area.
Personal Instruction Studios	Per the approved CUP, specific to the requested use/activity.	Same.
Personal Specialty Care	Per the approved CUP, specific to the requested use/activity.	Same.
Plant Nursery	One space for each 500 square feet of display area.	One space for each 600 square feet of display area.
Private Clubs and Lodges	See Club, Lodge, and Meeting Hall.	Same.
Private Transportation Service	Per the approved CUP, specific to the requested use/activity.	Same.
Recreational Vehicle, Boat, and Trailer Sales	See Automobile/Vehicle Sales (New and Used)	Same.
Recycling Center	Per the approved CUP, specific to the requested use/activity.	Same.
Research and Development	Per the approved CUP, specific to the requested use/activity.	Same.
Restaurant	One space for each 100 square feet of gross floor area.	One space for each 150 square feet of gross floor area.
School, Business, Personal, and Vocational	Per the approved CUP, specific to the requested use/activity.	Same.
School, Elementary and Junior High	One space per each faculty member and employee.	Same.

School, High	One space per each faculty member and employee, plus one space for each four students.	Same.
School, College and Junior College	One space per each faculty member and employee, plus one space for each two students.	Same.
School Auditoriums, Gymnasiums, Stadiums	One space for each three seats. Spaces provided on the individual school campus per this table shall be counted toward satisfying this requirement.	Same.
Theater	One space per each four fixed seats or one space for each 35 square feet of gross floor area.	One space per each three fixed seats or one space for each 50 square feet of gross floor area.
Truck Stops	Per the approved CUP, specific to the requested use/activity.	Same.
Used merchandise sales	One space for each 250 square feet of gross floor area.	One space for each 400 square feet of gross floor area
Vehicle Accessory Equipment Sales	One space for each 300 square feet of gross floor area and two spaces for each service bay.	Same.
Vehicle Sales, Antique and Collector	Per the approved CUP, specific to the requested use/activity.	Same.
Vehicle Storage or Impound Yards	Per the approved CUP, specific to the requested use/activity.	Same.
Warehouses, Wholesale Storage and Distribution.	One space for each two employees, plus one space for each 450 square feet of office space and customer net floor area.	One space for each two employees, plus one space for each 650 square feet of office space and customer net floor area.

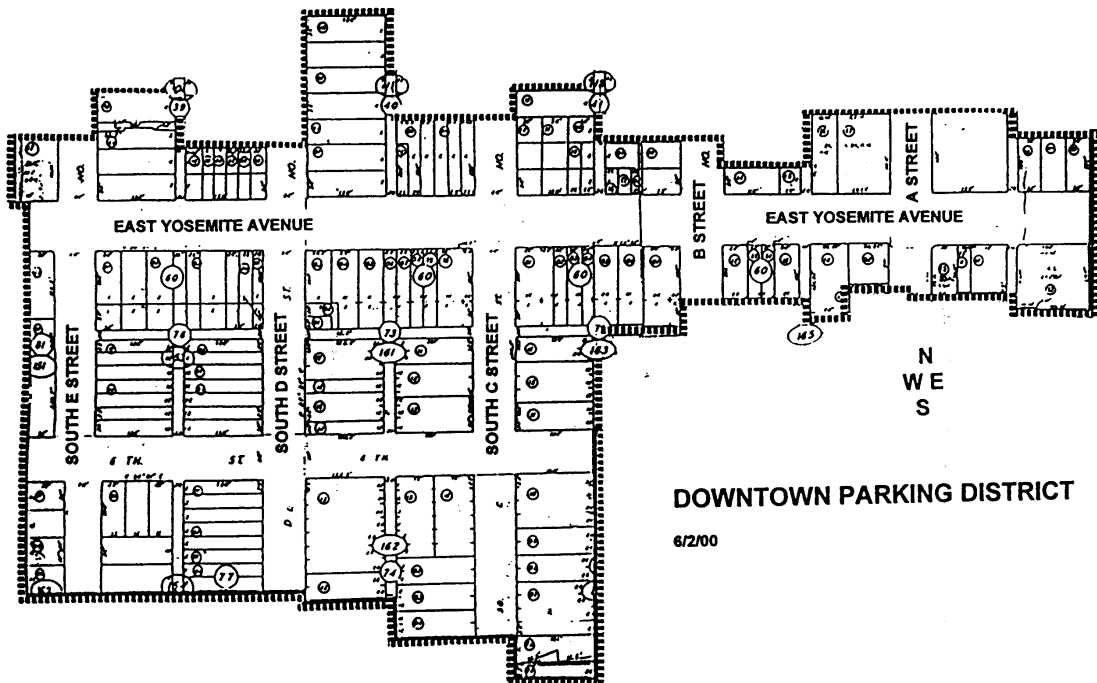
§ 10-3.1203 PARKING REQUIREMENTS FOR USES NOT SPECIFIED.

Where the parking requirements for a use are not specifically defined by this subchapter, the parking requirements for such use shall be determined by the Planning Director, and such determination shall be based upon the requirements for the comparable use specified in this subchapter.

§ 10-3.1204 IN LIEU PAYMENTS.

Within any parking district created under the Parking District Act of 1951 or any other Parking District Act approved by the City Council, in lieu of furnishing the parking spaces required by the provisions of this subchapter in case of the reconstruction, remodeling, or structural alteration of an existing building which has no existing off-street parking facilities or insufficient off-street parking facilities for its existing use, the parking requirements for such new, different, or expanded use may be satisfied by the payment to the City, prior to the issuance of a building permit, of the sum of \$4,500 per parking space for each parking space required by the provisions of this subchapter. Such funds shall be deposited with the City in a special fund and shall be used and expended exclusively for the purpose of acquiring and developing off-street parking facilities located, insofar as practical, in the general vicinity of the buildings for which the in lieu payments were made. Said parking fee shall be adjusted as required by the City Council based on the yearly increase in the Federal Consumers Price Index, or to more accurately reflect the cost of constructing off-street public parking facilities. Funds paid to the City for in-lieu parking shall not be refundable, in case of destruction or removal of the structure or land use for which the funds were paid. All in-lieu parking fees shall be paid prior to issuance of the first permit (any business license or building permit) for which the in-lieu fees are required.

(A) Downtown parking district.



(B) The determination for allowing payment of in-lieu fees for all or a part of the on-site parking otherwise required by the provisions of this subchapter shall be made by the Planning Commission on an individual basis in response to a request for exception filed by the applicant for the proposed new, different or expanded use. Parking adjustments provided under these provisions shall not decrease the number of parking spaces otherwise required by this subchapter.

(C) Payment of in-lieu fees will generally be allowed only as a special exception, or applicable only under special circumstances.

(D) The Planning Commission will utilize the followings guidelines when evaluating a request for on-site parking exceptions:

- (1) Payment of in-lieu fees may be considered for additions, expansions, or intensification.
- (2) Payment of in-lieu fees may be considered when parcel size, shape, location, or limitations on access prevent development of on-site parking that would meet the design standards of this subchapter.
- (3) If it is determined that providing parking on some sites will result in the loss of existing or potential on-street parking spaces due to the location of driveways or other improvements, the Planning Commission will consider the cumulative effect of providing off-street parking relative to the net gain in total parking spaces.
- (4) Requests for exceptions involving properties that would otherwise be able to provide on-site parking meeting the requirements of this subchapter may be approved subject to meeting specific conditions, including but not limited to:
 - (a) Providing sufficient on-site parking to meet employee demands based on the maximum number on a peak shift or peak hour;
 - (b) Providing sufficient on-site handicapped parking spaces to meet standard requirements based on the number of spaces which would otherwise be required by this subchapter without consideration of in-lieu fees;
 - (c) Provide loading spaces that would otherwise be required for the proposed use based on the provisions of this subchapter.
- (5) The following uses shall be excluded from requesting an exception to the parking provisions under this subsection:
 - (a) All residential uses;
 - (b) All places of assembly (theaters, churches, lodges, etc.);
 - (c) All educational uses;

(E) In granting an exception from the parking requirements of this subchapter and authorizing the payment of in-lieu fees, the Planning Commission must make at least one or more of the following findings:

- (1) The project site for which the parking requirement applies is 5,000 square feet or less in size and has less than fifty feet (50) of street frontage.
- (2) The construction of required driveway(s) for on-site parking would result in the excessive loss of curb parking on street.
- (3) Because of special circumstances applicable to the property, including size, shape, location, or surroundings, the proposed use cannot conform with the strict application of the parking regulations and the property would be deprived of privileges enjoyed by other property in the vicinity.
- (4) The applicant, as determined by the Planning Commission, has diligently pursued meeting the parking requirements both on-site and off-site, but has been unsuccessful in meeting the requirements.

(F) Exceptions shall be granted only when the establishment, maintenance, or operation of the use or

building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

(G) Any exception granted may be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

§ 10-3.1205 EXEMPTIONS FROM PARKING SPACE REQUIREMENTS.

(A) *Existing buildings and uses.* None of the requirements of this subchapter for off-street parking spaces shall apply to the use of a building in existence on August 1, 1978. No building, as it is used on August 1, 1978, shall be deemed to be nonconforming solely by reason of the lack of off-street parking spaces, provided that any portion of the premises available for off-street parking in connection with such building shall not be utilized for any purpose other than off-street parking if necessary to meet the requirements of this subchapter.

(B) *Parking districts.* None of the provisions of this subchapter which require the provisions of off-street parking spaces in connection with the use of property for commercial or industrial purposes shall apply to any parcel of existing improved property which is located within any parking district formed and existing under the Parking District Act of 1951 or any other parking district act approved by the Council, except any area within any such district which is available for off-street parking shall not be improved or changed without payment of the in lieu fees provided in § 10-3.1204. Determination of an area available for parking shall be made by the Planning Director whose determination shall be subject to appeal to the Planning Commission.

(C) *Vacant parcels demolition and new facilities.* None of the exemptions provided for in this section apply to vacant parcels of property or on parcels where existing buildings are demolished and a new facility is constructed, either in or out of a parking district.

(D) Existing residential buildings that are determined to be nonconforming due to insufficient parking may receive an exemption from the requirement for a covered parking space thru a zoning administrators permit if the following findings can be made.

- (1) Due to limited opportunities to locate the structure, enforcement of the covered parking provisions would result in placement of a structure that would be detrimental to the aesthetic character of the neighborhood.

§ 10-3.1206 REQUIRED IMPROVEMENT AND MAINTENANCE OF PARKING AREA.

Every lot used as a public or private parking area and having a capacity of five or more vehicles shall be developed and maintained in the following manner:

(A) *Surface of parking area.* Off-street parking areas shall be paved so as to eliminate dust or mud and shall be so graded and drained as to dispose of all surface water. In no case shall such drainage be allowed to cross sidewalks, unless approved by the City Engineer.

(B) *Border barricades, screening, and landscaping.*

- (1) Every parking area not separated by a fence from any street or alley property line upon which it abuts shall be provided with a suitable concrete curb or barrier not less than six inches in height, located not less than two feet from such street or alley property lines, and such curb or

- barrier shall be securely installed and maintained; provided, however, no such curb or barrier shall be required across any driveway or entrance to such parking area.
- (2) Every parking area abutting property located adjacent to any Residential zone shall be separated from such property by a solid wall, view-obscuring fence, or compact evergreen hedge a maximum of eight feet in height measured from the grade of the finished surface of such parking lot closest to the contiguous residentially zoned property or property with a residential structure, and a minimum of six feet in height as measured from the finished grade of the adjacent residential property; provided, however, no fence over three feet in height shall be constructed or grown to the front of any adjacent dwelling or within 25 feet of the street corner of any corner lot.
 - (3) The lights provided to illuminate any parking area or used car sales area permitted by this subchapter shall be arranged so as to reflect the light away from any premises upon which a dwelling unit is located.
 - (4) Every Parking lot with more than 10 spaces shall be developed and maintained with a minimum of 2% of the area in landscaping, and shall; provide shade trees spaced not to exceed one every three spaces.

§ 10-3.1207 GENERAL REGULATIONS AND CONDITIONS

The following regulations and conditions shall apply to all off-street parking facilities:

(A) *Size and access.* Each off-street parking space shall have a width of not less than ten (10) feet and a length of not less than twenty (20) feet, except that up to 50% of the required parking spaces may be designated for secondary use in parking lots provided for uses other than residential dwelling units and having at least ten spaces. Secondary spaces shall have a minimum width of nine (9) feet and a minimum length of nineteen (19) feet. Each space shall have adequate ingress and egress. Primary parking spaces shall be located closest to the public entrances of the structures served by the parking lot.

(B) *Location.* Off-street parking facilities shall be located as follows (where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facility to the nearest point of the building such facility is required to serve):

- (1) For single or multiple-family dwellings, parking facilities shall be located on the same lot or building site as the buildings they are required to serve, and uncovered parking may not occupy more than 50% of the area within the required front yard setbacks;
- (2) For hospitals, sanitariums, rest homes, asylums, orphanages, rooming houses, lodging houses, club rooms, and fraternity and sorority houses, not more than 150 feet from the buildings they are required to serve; and
- (3) For uses other than those set forth in subsections § 10-3.1207(B)(1) and (2) of this subsection, not over 300 feet from the building they are required to serve.

(C) *Mixed occupancies in a building.* In the case of mixed uses in a building or on a lot, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. The off-street parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except as set forth in subsection § 10-3.1207 (D) of this section for joint use.

(D) *Joint use.* The Building Department, upon an application by the owner or lessee of any property, may authorize the joint use of parking facilities by the following uses or activities under the conditions set forth:

- (1) Up to 50% of the parking facilities required by this subchapter for a use considered to be primarily a daytime use may be provided by the parking facilities of a use considered to be

- primarily a nighttime use; up to 50% of the parking facilities required by this subchapter for a use considered to be primarily a nighttime use may be provided by the parking facilities of a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to the conditions set forth in subsection § 10-3.1207(D)(4) of this section.
- (2) Up to 100% of the parking facilities required by this subchapter for a church or for an auditorium incidental to a public or parochial school may be supplied by parking facilities of a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to the conditions set forth in subsection § 10-3.1207(D)(4) of this section.
 - (3) The following uses are typical daytime uses: banks, business offices, retail stores, personal service shops, clothing or shoe repair or service shops, manufacturing or wholesale buildings and similar uses. The following uses are typical of nighttime and/or Sunday uses: auditoriums incidental to a public or parochial school, churches, dance halls, theaters, and bars.
 - (4) Conditions required for joint use:
 - (a) The building or use for which application is being made for authority to utilize the existing off-street parking facilities provided by another building or use shall be located within 150 feet of such parking facility;
 - (b) The applicant shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use of off-street parking facilities is proposed; and
 - (c) If the building, structure, or improvement requiring parking space is in one ownership, and the required parking space provided in another ownership, partially or wholly, there shall be a recording in the office of the County Recorder of a covenant by such owner for the benefit of the city in the form first approved by the city that such owner will continue to maintain such parking space so long as the building, structure, or improvement is maintained within the city. The covenant herein provided shall stipulate that the title to and right to use the lots upon which the parking space is to be provided will be subservient to the title to the premises upon which the building is to be erected and that it is warranted that such lots are not and will not be made subject to any other covenant or contract for use without the prior written consent of the city as authorized by the Council.

(E) *Common facilities.* Common parking facilities may be provided in lieu of the individual requirements contained herein, but such facilities shall be approved by the Building Department as to size, shape, and relationship to business sites to be served, provided the total of such off-street parking spaces, when used together, shall not be less than the sum of the various uses computed separately.

(F) *Plans.* Plans of the proposed parking area shall be submitted to the Building Department at the time of an application for a building permit for any building to which the parking area is accessory. The plans shall clearly indicate the proposed development, including the location, size, shape, design, curb cuts, lighting, landscaping, and other features and appurtenances of the proposed parking lot.

(G) *Accessibility.* Parking spaces shall be easily accessible by standard-size automobiles, shall be so designed as to be accessible from a public street or alley, and shall be located so that sufficient area is available for maneuvering purposes. All new Commercial and Office buildings or parking areas may be required to provide a cross access easements to adjacent properties and/or may be required to only access a street through a shared driveway/street access point and/or easements, in order to limit the number, frequency and optimize the placement of driveway approaches.

(H) *Stalls.* No parking space shall be so located as to require the moving of any vehicle on the premises in order to enter into or proceed out of any other stall; provided, however, this provision need not apply in the event the parking facility has an attendant at all times during the use of such facility. No

parking spaces used as part of a service being provided shall be counted as a parking space, i.e. service bays for automotive service business do not count as required parking.

(I) *Backing onto streets.* Except for residential properties not on collectors or arterial streets, new parking shall be so arranged as to avoid the backing of motor vehicles from a parking space, garage, or other structure onto a street.

(J) *Fractional spaces.* When units of measurements determining the number of required parking spaces result in a requirement of a fractional space, any fraction of $\frac{1}{2}$ or greater shall require one parking space.

(K) *Waiting areas.* Unless determined to be unavoidable by the City Engineer, the entrance to a parking area from an arterial or collector street shall have a minimum of 65 feet of drive aisle that is not interrupted by any cross traffic. Adequate ingress, egress, and waiting areas for automotive served uses such as drive-in movies, drive thru-banks, and restaurants shall be provided on the subject lot as required by the City Engineer.

(L) *Loading spaces.*

- (1) In any zone, in connection with every building, or part thereof, erected on, or after, August 4, 1978, having a floor area of 25,000 square feet or more, which building is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale storage, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same parcel with such building at least one off-street loading space, plus one additional loading space for each additional 20,000 square feet, or fraction thereof, of gross floor area.
- (2) Each loading space shall be not less than ten feet in width, 35 feet in length, and 14 feet in height.
- (3) No such space shall be located closer than 50 feet to any parcel in any R zone, unless wholly within a completely enclosed building, or unless screened by a solid wall not less than eight feet in height.

§ 10-3.1208 PARKING ON UNPAVED SURFACES.

(A) No person shall keep, store or park any trailer, boat, motorcycle or motor vehicle on any portion of a front yard, corner lot side yard, or vacant lot.

(B) All parking of vehicles in locations permitted per this section shall occur on an area that is paved with either asphalt, concrete, gravel or similar all-whether surface.

(C) A six (6') foot tall fence shall screen all vehicles parked in permitted locations.

(D) Parking upon the lawn area or area's originally intended for landscaping is expressly prohibited.

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

§ 10-3.1209 TRANSIT PARKING/LOADING MAJOR COMMERCIAL CENTERS.

Every retail building or complex hereafter constructed or reconstructed, that is over 75,000 square feet in area, may be required to provide a facility for transit parking and pickup of the public. The area shall be developed so as to be integrated into the development and provide an enhanced shelter and waiting area that is similar in design and quality to the surrounding development. The transit center may be require such features as shade structure benches, landscaping, cart storage area, security lighting, trash receptacles etc.

USE PERMITS

§ 10-3.1301 CONDITIONAL USE PERMIT PREREQUISITE TO BUILDING PERMIT.

No building permit shall be issued in any case where a conditional use permit is required by the terms of this chapter unless and until such permit has been granted by the Commission or Council and then only in accordance with the terms and conditions of the use permit granted. Conditional use permits may be issued for a term period, or may be issued for an indefinite period of time.

§ 10-3.1302 APPLICATION.

Applications for use permits shall be made in writing to the Commission on a form prescribed by the Commission. The applications shall be filed with the Planning Director. The Planning Department shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and become a part of the permanent official records of the City.

§ 10-3.1303 FILING FEE.

Each application for a use permit shall be accompanied by a fee as established by resolution of the City Council; provided, however, public agencies shall not be required to pay such fee.

§ 10-3.1304 INFORMATION REQUIRED WITH APPLICATION.

The application for a use permit shall set forth in detail such facts as may be required by the Planning Department.

§ 10-3.1305 INVESTIGATION OF APPLICATION.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon the application as will serve to provide all necessary information to assure that the action on each application is consistent with the intent and purposes of this chapter.

§ 10-3.1306 PUBLIC HEARINGS.

(A) Whenever required by the provisions of this subchapter, or whenever deemed advisable by the Planning Commission, a public hearing shall be held on an application for a conditional use permit. Not less than ten days before such public hearing, notice shall be given of such hearing in the following manner:

- (1) *By one publication in a newspaper of general circulation in the City.* Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental

- determination, and the time and place of the action or hearing.
- (2) Direct mailing to the owners of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.
 - (3) In addition, uses to be located in an existing structure, a notice shall also be conspicuously posted on the window or door of the establishment. The notice shall be a minimum of 11 X 17 inches, contain the information on the type of proposal being considered, and the date, time and place of the Planning Commission hearing on the proposal, and shall be brightly colored as a means of attracting attention to its content.
 - (4) Notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The City may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.
 - (5) The public review period for the environmental determination (negative declaration) shall not be less than 21 calendar days (30 days if State Clearinghouse review is required).
 - (6) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

(B) The hearing shall be held pursuant to the rules for conduct established by the Planning Commission.

§ 10-3.1307 ACTION BY COMMISSION.

(A) The action by the Commission upon the application for a use permit shall be by a majority of the members of the Commission present at the meeting where such application is considered.

(B) In order to grant any use permit, the findings of the Commission shall be that the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City. For the purposes of this section the establishment, maintenance or operation of the use or building shall be deemed to be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City if any of the following conditions can be found or can be reasonably expected to exist after establishment:

- (1) The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.
- (2) The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.
- (3) The sustaining by the subject premises of an administrative suspension or revocation or other such sanction as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation.
- (4) The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the City that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness,

drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.

(C) The Commission may designate such conditions in connection with the use permit as it deems necessary to secure the purpose of this chapter and may require such guarantees and evidence that such conditions are being or will be complied with.

§ 10-3.1308 EFFECTIVE DATE.

No use permit granted by the Commission shall become effective until all conditions required to be fulfilled before operation begin have been fulfilled.

§ 10-3.1309 APPEALS.

(A) Any applicant for a conditional use permit aggrieved by the action of the Commission upon such application may appeal the decision of the Commission to the Council. Such appeal shall be made within ten calendar days after receipt of notice of the action of the Commission and shall be submitted in writing to the City Clerk. Thereafter, the Council may affirm, modify, or reverse the decision of the Commission as it deems fit. Failure of the Council to take action upon such appeal within 30 days after consideration of any such appeal at a Council meeting shall constitute an affirmation of the action of the Commission unless specifically otherwise stated by minute order of the Council before the expiration of such 30-day period.

(B) The Council may, by resolution, establish a fee for the processing of an appeal. Said fee shall accompany the written appeal submittal made to the City Clerk.

§ 10-3.1310 OPEN

§ 10-3.1311 TERMINATION AND REVOCATION.

(A) Any use permit granted by the City as herein provided shall be conditioned upon the privileges granted therein being utilized within 12 months after the effective date thereof. Failure to utilize such permit within such 12-month period shall render the permit null and void unless a written request for extension is submitted prior to the expiration of the permit and is approved by the Planning Commission. The Planning Commission shall review the request at its next regular meeting and may grant or conditionally grant an extension as it deems appropriate. Use permits utilized but later abandoned for a period of 12 consecutive months shall automatically terminate unless a written request for extension is submitted and approved as described in this section.

(B) The owner of parcel upon which a use permit is entitled may voluntarily abandon the conditional use permit which shall be made null and void without any additional public notice or hearing; by submitting to the City a written request to permanently extinguish the conditional use permit.

(C) All conditional use permits may be subject to annual or periodic reviews for a determination of compliance with all of the terms and conditions of the issuance of the permit and to determine the existence of conditions or occurrences that are or may contribute to the detriment of the health, safety, peace, morals, comfort and general welfare of the persons residing or working in the neighborhood of the use or detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

(D) Any interested party may submit a written request to the Planning Commission to reconsider an existing use permit. The request shall include the basis of how the use is in violation of its existing conditions of approval and/or how it may be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City. Upon receiving a written request the Commission shall consider the merits of the requests and if it determines that there reasonable justification to review the use permit the Commission shall place the item on a subsequent meeting for consideration at a noticed public hearing.

(E) In the event the user of such permit, or his or its successor in interest to the real property in favor of which the permit was granted,

(1) breaches or fails to abide by any of the conditions designated in such permit, or

(2) conducts any use or activity on such property contrary to the provisions of this or other lawful codes, or

(3) if the maintenance or operation of the use, under the circumstances of the particular case, are determined to be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or detrimental or injurious to property and improvements in the area,

all use permits which have been granted as provided in this chapter may be revoked or the conditions of approval modified by the Planning Commission at a public hearing, which may be called for by the Planning Director, Planning Commission, or City Council.

(F) For the purposes of this section the establishment, maintenance or operation of the use or building shall be deemed to be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City if the owner or other person responsible for the operation of the premises fails to take reasonable steps to correct objectionable conditions after having been placed on notice by the City that such conditions exist. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.

(G) No use permit shall be revoked without the Commission's having first held a hearing thereon after having delivered written notice of such hearing at least five days prior thereto to the permittee at the address of the property which is the subject of such permit, or, if the property is unimproved, to the address of the owner thereof as shown on the last equalized assessment roll in the office of the Assessor of the county.

VARIANCES

§ 10-3.1401 NECESSITY.

(A) Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this chapter may result from the strict and literal application of any of the provisions of this chapter, a variance may be granted as provided in this subchapter. All acts of the Commission and Council under the provisions of this subchapter shall be construed as administrative acts performed for the purpose of assuring that the intent and purposes of this chapter shall apply in special cases, as provided in this subchapter, and shall not be construed as amendments to the provisions of this chapter or the zoning maps.

(B) No variance shall be granted to authorize the use of land which is not in conformity with the use regulations specified for the district in which the land is located.

§ 10-3.1402 NECESSARY CONDITIONS.

Variations shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning regulations deprives such property of privileges enjoyed by other property in the vicinity under identical zoning classifications. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

§ 10-3.1403 APPLICATIONS.

Applications for variances shall be made in writing to the Commission on forms prescribed by the Commission. The application shall be filed with the Planning Director. The Planning Department shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the City. Copies of all notices, reports, and actions pertaining to the application shall be attached.

§ 10-3.1404 FILING FEE.

Each application for a variance shall be accompanied by a fee in an amount as established by resolution of the City Council.

§ 10-3.1405 INFORMATION REQUIRED WITH APPLICATION.

The application for a variance shall set forth in detail such facts as may be required by the Commission and as may relate to the conditions specified in § 10-3.1402 of this subchapter and shall be accompanied by:

(A) A legal description of the property involved and the proposed use, with plot plans showing locations of all proposed buildings or facilities as well as existing buildings and a description of the proposed use;

(B) A reference to the specific provisions of this chapter from which such property is sought to be excepted; and

(C) Evidence of the ability and intention of the applicant to proceed with actual construction work in accordance with such plans within 90 days from the date of granting the application.

§ 10-3.1406 INVESTIGATION OF APPLICATIONS.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application as will serve to provide all necessary information to assure that the action on each such application is consistent with the intent and purposes of this chapter and with previous amendments, variances, or modifications.

§ 10-3.1407 NOTICE OF PUBLIC HEARING.

(A) Whenever required by the provisions of this subchapter, or whenever deemed advisable by the Planning Commission, a public hearing shall be held on an application for a variance. Not less than ten days before such public hearing, notice shall be given of such hearing in the following manner:

- (1) *By one publication in a newspaper of general circulation in the City.* Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.
- (2) Direct mailing to the owners of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.
- (3) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department.
- (4) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

(B) The hearing shall be held pursuant to the rules for conduct established by the Planning Commission.

§ 10-3.1408 PUBLIC HEARING.

Public hearings for variance applications shall be held before the Commission at the time and place for which public notice has been given. The Commission may establish its own rules for the conduct of such hearing. Any such hearings may be continued, provided, prior to the adjournment or recess thereof, the presiding officer at such hearing announces the time and place to which such hearing will be continued.

§ 10-3.1409 ACTION BY THE COMMISSION.

Within 30 days after the conclusion of the public hearing thereon, the Commission shall grant the variance with such conditions as it deems necessary or shall deny the variance. In the event of the granting of a variance, the Planning Director shall notify the applicant of such granting in writing, and such variance shall be effective upon execution by the applicant of an acceptance thereof and agreement to abide by all the conditions attached thereto.

§ 10-3.1410 APPEALS.

(A) Any applicant for a variance aggrieved by the action of the Commission upon such application may appeal the decision of the Commission to the Council. Such appeal shall be made within ten calendar days after receipt of notice of the action of the Commission and shall be submitted in writing to the City Clerk. Thereafter, the Council may affirm, modify, or reverse the decision of the Commission as it deems fit. Failure of the Council to take action upon such appeal within 30 days after consideration of any such appeal at a Council meeting shall constitute an affirmation of the action of the Commission unless specifically otherwise stated by minute order of the Council before the expiration of such 30-day period.

(B) The Council may, by resolution, establish a fee for the processing of an appeal. Said fee shall accompany the written appeal submittal made to the City Clerk.

§ 10-3.1411 TERMINATION.

If the use authorized by any variance is or has been unused, abandoned, or discontinued for a period of six months, or if the conditions of the variance have not been complied with, the variance shall become null and void and of no effect; excepting that where construction of buildings, structures, and/or facilities is necessary, work on such construction shall be actually commenced within the aforesaid six-month period and shall be diligently prosecuted to completion; otherwise the variance shall be automatically null and void and of no effect.

AMENDMENTS

§ 10-3.1501 NECESSITY.

Whenever the public necessity, convenience, general welfare, or good zoning practices require, this chapter may be amended by changing the zone boundaries or by changing any other provisions hereof.

§ 10-3.1502 INITIATION OF PROCEDURE.

An amendment may be initiated by:

(A) Resolution of intention of the Council;

(B) Resolution of intention of the Commission;

(C) Application from the Planning Director; or

(D) The verified application of one or more of the owners of the property within the area proposed to be changed.

§ 10-3.1503 APPLICATION FOR CHANGE.

Applications for any change of zone boundaries or reclassification of zones or change of any other provision of this chapter shall be filed with the Planning Director. Such applications shall be upon forms and accompanied by such data and information as may be prescribed for that purpose by the Planning Director so as to assure the fullest practicable presentation of facts for the permanent record.

§ 10-3.1504 FILING FEE.

Except applications initiated by the City Council, Planning Commission, or Planning Director, each application for any change of zone boundaries shall be accompanied by a fee as established by resolution of the City Council.

§ 10-3.1505 INVESTIGATION.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application as will serve to provide all necessary information to assure that the action on each such application is consistent with the intent and purposes of this chapter. Any failure to conduct an investigation will not invalidate any proceedings for amendment of this chapter.

§ 10-3.1506 NOTICES.

(A) Any amendment to this title, other than an amendment which changes any property from one zone to another, or which imposes any regulation relating to the use of buildings, structures, and land, or the location, height, sizes of buildings, or sizes of yards, courts, and open spaces, or which establishes building setback lines along any street, road, or alley, shall be considered by the Planning Commission at a public hearing for the purpose of providing a recommendation to the City Council. Not less than ten days before such public hearing, notice shall be given of such hearing in the following manner: by one publication in a newspaper of general circulation in the City. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(B) In the event a proposed amendment changes any property from one zone to another, the following additional notice shall be provided for a public hearing:

- (1) Direct mailing to the owners and of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.
- (2) In addition, notice shall also be given by first class mail to any person who has filed with the Planning Department a written request requesting notice of the specific proposed amendment.
- (3) The public review period for the environmental determination (negative declaration) shall not be less than 21 calendar days (30 days if State Clearinghouse review is required).
- (4) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

§ 10-3.1507 PUBLIC HEARING.

Public hearings, as required by the provisions of this subchapter, shall be held before the Commission which may establish its own rules for the conduct thereof. Any such hearing may be continued by oral pronouncement prior to its close and such pronouncement shall serve as sufficient notice of such continuance and without recourse to the form and manner of public notice as provided for in this subchapter.

§ 10-3.1508 FINDINGS OF THE COMMISSION.

After the conclusion of the public hearings, the Commission shall render a report and recommendation to the Council within 90 days after the notice of the first of such hearings provided that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the Commission so to report within 90 days without the aforesaid agreement shall not be deemed to constitute an approval of the proposed amendment by the Commission.

§ 10-3.1509 ACTION BY COUNCIL.

(A) Upon receipt of such report from the Commission or upon the expiration of 90 days, the Council shall set the matter for public hearing, notice of which shall be given by one publication not less than ten days before the date of the hearing in a newspaper of general circulation within the City.

(B) After the conclusion of such hearing, the Council may adopt the amendment, or any revised form of the amendment, as the Council may deem to be advisable.

§ 10-3.1510 USE PERMITS REQUIRED.

From and after the date of adoption of the Resolution of Intention by the Council or the Commission, or on the date of filing of the verified application with the Commission for a proposed change of zone or zone boundaries, all uses within the area proposed to be changed shall be permitted only upon first securing in each case a use permit from the Commission. All uses permitted pursuant to such use permits shall be limited to the uses allowable within the existing zone of such area. In the event the proposal to change the zone is for a more restricted zone, the Commission may restrict the uses within such area to the more restricted proposed zone.

§ 10-3.1511 SPECIAL ZONING EXCEPTIONS.

Notwithstanding any other provisions of this chapter, if an application for a change of zone boundaries or reclassification of zones is filed with the Commission, accompanied by a proposal for the use of such property as hereinafter set forth, the Commission may recommend that the Council, instead of granting or denying such application, authorize the issuance of a special zoning exception which will permit the development or use of such property in accordance with such proposed development. Before consideration by the Commission or Council of the granting of a special zoning exception, an applicant shall submit all of the following information:

- (A) Project and site information as required for a site plan review.
- (B) Facts which will enable the Commission to find all of the following:
 - (1) That if a special zoning exception is granted, there will be compliance with all the applicable provisions of this code; and
 - (2) That the public health, safety, and welfare will not be affected or that damage or prejudice to other property or improvements in the vicinity will not result if a special zoning exception is allowed.

§ 10-3.1512 EXCEPTIONS PROCEDURE.

If an application is submitted to the Planning Director in accordance with the provisions of § 10-3.1511 of this subchapter, all other provisions of this subchapter shall apply to the processing of the application for the proposed change in zone boundaries; provided, however, if a special zoning exception is authorized by the Council, after the conclusion of the public hearing upon the application for the change in zone boundaries, no action shall be taken by the Council to effectuate any such change until it has been determined that all of the conditions of the granting of the special exception have been met. Each special zoning exception shall specify a certain date on, or before, which work upon the proposed use of the land shall have been commenced to the satisfaction of the Planning Director. The failure of an applicant or his or her successor in interest to the property involved to commence such work within such time shall nullify the special zoning exception, and the application for the change of zone shall be deemed denied.

§ 10-3.1513 CONDITIONS.

Special zoning exceptions may be granted in accordance with this subchapter subject to any or all of the conditions hereinafter set forth by way of example only and not by way of limitation:

- (A) Construction of special yards, spaces, and buffers;
- (B) Construction of fences and walls;

(C) Surfacing of parking areas to City specifications;

(D) Dedication of property for public use and completion of improvements, including service roads or alleys;

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

(F) Regulation of signs;

(G) Completion of landscaping and provisions for the maintenance thereof;

(H) The establishment of restrictions to control noise, vibration, odors, and other similar characteristics;

(I) The posting of faithful performance and labor and materials' bonds in amounts recommended by the City Engineer to insure completion of any public improvements which are required to be made as a condition of the granting of the zoning exception. Such work shall be completed within the time specified by the Council; provided, however, if no time is specified by the Council, such work shall be completed in one year from the date the special zoning exception is approved; and

(J) Such other conditions as will make possible the development of the City in an orderly and efficient manner in conformity with the intent and purposes set forth in this chapter.

§ 10-3.1514 BUILDING PERMITS.

Before any building permit shall be issued for any building or structure proposed as part of the approved site plan referred to in § 10-3.1511 of this subchapter, the Building Inspector shall secure written approval from the Planning Director that the proposed building location is in conformity with the site plan and conditions approved by the Council. Before a building may be occupied, the Building Official shall certify to the Planning Director that the site has been developed in conformity with the site plan and conditions approved by the Council.

§ 10-3.1515 REZONING UPON COMPLETION OF WORK.

Upon the development and use of property in accordance with the provisions of § 10-3.1513 of this subchapter, the district, or part thereof, for which the special zoning exception was granted shall be thereupon rezoned, altered, amended, and established in accordance with the original application, or as set forth in the order of the Council made at the time such zoning exception was granted.

INTERPRETATION, ENFORCEMENT, VIOLATIONS, AND PENALTIES

§ 10-3.1601 INTERPRETATION.

(A) The Commission shall have the power to hear and decide appeals based on the enforcement or interpretation of the provisions of this chapter.

(B) In the event an applicant is not satisfied with the action of the Commission on any particular matter, he or she may, within 15 days from the date of such action, appeal in writing to the Council.

(C) The appeal to the Council shall set forth specifically wherein the Commission's findings were in

error and wherein the public necessity, convenience, and welfare or good zoning practices require such change.

(D) Notice shall be given to the Commission of such appeal, and a report shall be submitted by the Commission to the Council setting forth the reasons for action taken by the Commission, or the Commission shall be represented at the Council meeting.

(E) The Council shall render its decision within 30 days following the filing of such appeal.

§ 10-3.1602 ENFORCEMENT.

(A) *Issuance of permits and licenses.* All departments, officials, and public employees of the City vested with the duty or authority to issue permits and licenses shall conform to the provisions of this chapter. No permit or license for uses, buildings, or purposes in conflict with the provisions of this chapter shall be issued. Any permit or license issued in conflict with the provisions of this chapter shall be null and void. It shall be the duty of the Planning Director to enforce the provisions of this chapter pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building by structure.

(B) *Approval of Planning Director.* Before issuing a business license for any new business, or before issuing a business license for a new location of any existing business activity, the Finance Department shall obtain the approval of the Planning Director respecting compliance with the provisions of this chapter.

§ 10-3.1603 VIOLATIONS OF CHAPTER; DECLARATION OF NUISANCE.

(A) Any person, whether as principal, agent, employee, owner, occupant, tenant, lessee or otherwise, violating or causing the violation of any of the provisions of this chapter is specifically declared to be guilty of a misdemeanor. Any building or structure set up, erected, constructed, operated, or maintained contrary to the provisions of this chapter, and any use of any land, building or premises established, conducted, operated, or maintained contrary to the provisions of this chapter and any uses of real property as hereinafter set forth shall be and are declared unlawful and a public nuisance.

(B) In addition and supplemental to the terms and provisions of this chapter, the hereinafter activities of any person owning, leasing, occupying, or having charge or possession of real property in this City are declared a public nuisance and shall be abated as hereinafter set forth. The conduct consists of the following:

- (1) The maintenance or lack of maintenance of any building or property in such a manner as to constitute a fire hazard or danger to human life or the maintenance or failure to maintain the property so as to constitute a fire hazard or a likely habitat for vermin or to maintain property, the topography or configuration of which, whether a natural state or as a result of grading operations, addition or accumulation of items, causes or will cause erosion, subsidence, or surface water run-off problems which will or may be injurious to the public health, safety, and welfare to adjacent or nearby properties;
- (2) To maintain or fail to maintain property or any building or structure thereon, so that it is found, as provided in this chapter, to be defective, unsightly, defaced, or in such condition of deterioration or disrepair that it causes or will cause an ascertainable diminishment of the property values of the property in question, or the property values of surrounding properties, or is otherwise materially detrimental to adjacent and nearby properties and improvements of the neighborhood in general. This includes, but is not limited to, writings, inscriptions, figures, scratches, or other markings commonly referred to as graffiti.

- (3) To abandon or vacate any structure so that it becomes readily available to unauthorized persons, including, but not limited to, juveniles and vagrants. Such abandonment or vacation shall be presumed when a building or structure which is uninhabited or unused is unsecured and when the public can gain entry without consent of the owner or is a partially constructed, reconstructed, or demolished building or structure upon which work is abandoned, such abandonment being deemed to exist when there is no valid and current building or demolition permit or where there has not been any substantial work on the project for a period of six months or more.
- (4) The maintenance or the failure to maintain any real property, structures, or uses or activities thereon in violation of any of the provisions of titles 3, 4, 5, 7, 9 and 10 of the City Municipal Code, or as specified in Cal. Health & Safety Code § 17920.3 et seq., or of the State Housing Law or § 104 of the Uniform Code for Building Conservation or the storage, discharge, holding, handling, maintaining, using, or otherwise dealing with hazardous substances as defined by the State Health and Safety Codes or the Superfund Amendments and Reauthorization Act of 1986, Title 3 or other federal laws relating thereto in violation of such regulations.
- (5) The maintenance or allowing to be maintained on any real property, any labor supply camp, labor camp, or temporary labor camp as defined in the Health and Safety Code of the State unless specifically authorized in the zoning district in which the property is located;
- (6) The keeping or maintaining of any animal, reptile, fowl, insect, or other living thing in such a manner as to pose a threat, disturbance, danger, or menace to persons or property of another, including public property; or
- (7) The maintenance or operation of any machinery which by reason of dust, exhaust, or fumes creates a health or safety hazard;
- (8) The parking, storage, or maintenance of any of the following items in any areas except as otherwise allowed in this code:
 - (a) Any airplane or other aircraft or parts thereof in any front or side yard;
 - (b) Any construction or commercial equipment, machinery, vehicles, or material except such equipment or material temporarily located on the property as may be required for construction or installation of improvements or facilities on the property.
 - (c) Special mobile equipment as defined in Cal. Veh. Code § 575 or other sections for any period in excess of 72 consecutive hours in a front or side yard unless such items are either in an accessory building constructed in accordance with the provisions of the City Municipal Code or in any area which provides for a five foot set-back from any property lines. In no event shall any such equipment be parked, stored, or kept within five feet of any exit, including exit windows.
 - (d) Any cargo container or parts thereof in any public right of way, or front, side or rear yard, unless the use of such cargo container is used in conjunction with a permitted construction project.
- (9) The keeping, operating, or maintaining any motor vehicle which has been wrecked, dismantled, or disassembled or any part thereof on any property in a residential zone in excess of 72 consecutive hours unless the same is either in an accessory building constructed in accordance with the provisions of the City Municipal Code or completely concealed from public view behind a solid fence or wall constructed in accordance with the provisions of the Municipal Code;
- (10) The keeping, maintenance, or storage of any rubbish, junk, dead organic matter, charred matter, debris, garbage, refuse, rodent harborages, stagnant water, combustible material, refrigerator, washing machine, sink, stove, heater, boiler, tank, or any other household equipment, machinery, appliances or furniture other than furniture designed for use in outdoor activities for a period in excess of 72 consecutive hours, on any property, provided, however, this prohibition shall not preclude the maintenance of machinery installed in the

- rear setback area of property for household or recreational use, furniture designed and used for outdoor activities, and items stored or kept within an enclosed storage structure or unit;
- (11) The wrecking, dismantling, disassembling, manufacturing, fabricating, building, remodeling, assembling, repairing, painting, or servicing in any setback area or public right of way of any airplane, aircraft, motor vehicle, boat, trailer, machinery, equipment, appliance or appliances, furniture, or other personal property;
 - (12) The use of any trailer, camper, recreational vehicle, or motor vehicle for living or sleeping quarters in any place in the City outside of a lawfully operated mobile home park or travel trailer park. This shall not prevent bona fide guests of a City resident from occupying a trailer, camper, or recreation vehicle on residential premises with the consent of the resident or land-owner for a period not to exceed 72 hours. Any such trailer, camper, or recreational vehicle so used shall not discharge any waste or sewerage into the City sewer system except through the residential discharge connection of the residential premises on which such trailer, camper, or recreation vehicle may be parked. No such trailer, camper, or recreation vehicle shall be stored in such a way as to encroach upon, extend over, or remain in any public right-of-way or in any area so as to cause an impedance to passage or traffic hazard, or be allowed to remain in any place or in such a way that it will or may be injurious to the public health, safety, or welfare.

§ 10-3.1604 ABATEMENT.

Any public nuisance found, as provided in this chapter, to exist on or be associated with any real property, shall be abated by the procedures set forth in this chapter.

§ 10-3.1605 COMMENCEMENT OF PROCEEDINGS.

Whenever the Director or Chief, as appropriate, of a responsible department (hereinafter *DIRECTOR*) reasonably believes a nuisance exists, he or she shall commence abatement proceedings. The Director of Community Development shall have responsibility for abating nuisance pertaining to the building and zoning ordinances of the City, Titles 9 and 10, respectively, of the City Municipal Code; and the Director of Public Works, City Engineer, Fire Chief, or Police Chief shall have responsibility for abating all other nuisances under code sections for which they are directly responsible.

§ 10-3.1606 HEARING; NOTICE.

(A) Where the Director finds that the nuisance exists, he or she shall give not less than seven days written notice of a hearing to determine whether a nuisance exists to the owners of affected properties as shown on the latest equalized tax assessment roll by mailing the same to the owner's address as indicated thereon by certified letter, and further, by conspicuously posting on the affected premises a copy of the notice.

(B) The notice shall indicate the nature of the alleged nuisance, the description of the property involved, and the designation of the time and place of the hearing to determine whether the same constitutes a nuisance, and the manner of its proposed abatement if the same is found to be a nuisance.

(C) The failure of any person to receive the notice shall not affect the validity of any proceedings under this subchapter.

§ 10-3.1607 HEARING CONDUCT.

The hearing to determine whether a nuisance exists shall be conducted by the City Administrator or a

duly authorized representative, who shall act as the Hearing Officer. At the hearing, the Hearing Officer shall consider all relevant evidence, including but not limited to applicable staff reports. He or she shall give any interested person a reasonable opportunity to be heard in conjunction therewith. Based upon the evidence so presented, the Hearing Officer shall determine whether a nuisance within the meaning of this chapter exists.

§ 10-3.1608 ORDER OF ABATEMENT.

(A) The decision of the Hearing Officer shall be final and conclusive in the absence of an appeal as provided in the Municipal Code.

(B) The Hearing Officer shall, within five working days, give written notice of his or her decision to the owner and to any other person requesting the same. The notice shall contain an order of abatement, if a nuisance is determined to exist, directed to the owner of the affected property or the person in control and/or in charge of the property, and shall set forth the nature of the nuisance, its location and the time and manner for its abatement.

(C) Where an appeal is filed as provided in this code, the order of abatement shall be suspended pending the review of the determination in the manner set forth in this subchapter.

§ 10-3.1609 APPEAL.

(A) The owner of the property or any other person in possession or claiming any legal or equitable interest therein shall have the right of appeal to the City Council.

(B) The appeal shall be filed with the City Clerk within five working days following the decision of the Hearing Officer. The appeal shall be in writing and shall state the grounds for the appeal.

(C) The City Clerk shall set the matter for a public hearing before the Council at a date and time not less than ten nor more than 35 days following the filing of the appeal. The City Clerk shall then notify the appellant, by mail, of the date and time of the hearing. The City Council may continue the hearing date where necessary.

(D) The Council may, by resolution, establish a fee for the processing of an appeal.

§ 10-3.1610 COUNCIL ACTION.

(A) At the time and place set for such hearing, the City Council shall review the decision of the Hearing Officer and shall afford the appellant a reasonable opportunity to be heard in connection therewith.

(B) If the City Council finds from the relevant evidence presented at the hearing that the action taken was in conformity with the provisions of the code, it shall require compliance with the order of abatement within 30 days after the mailing of a copy of its order to the affected property owner unless a period of time in excess of 30 days is specifically authorized within which to abate the nuisance.

(C) If the nuisance is not abated within the 30-day period or within such longer period as the Council may provide, the Director of the responsible Department is expressly authorized and directed to enter upon the premises for the purpose of abating the nuisance after obtaining the permission of the owner of the equitable interest therein, or after obtaining a warrant or court order specifically authorizing entrance upon the premises for the express purpose of abating the nuisance.

§ 10-3.1611 NOTICE OF COUNCIL DECISION.

A copy of the Council's order shall be mailed to the owner, and to any other person requesting the same, by the City Clerk within five working days after the adoption thereof. The Council's decision shall be final and conclusive. Pursuant to Code of Cal. Civ. Proc. § 1094.6, any action to review the decision of the Council shall be commenced not later than 19 days after the date the Council's order is adopted.

§ 10-3.1612 COST OF ABATEMENT.

Where the Director is required to cause the abatement of a public nuisance pursuant to the provisions of this chapter, he or she shall keep an accounting of the cost thereof, including incidental expenses for the abatement. The term *INCIDENTAL EXPENSES* includes but is not limited to the actual expenses and costs of the City in the preparation of notices, specifications, and contracts, inspection of the work, and the costs of printing and mailings required under this chapter. Upon conclusion of the abatement, he or she shall submit an itemized statement of costs to the City and set the same for a hearing before the Hearing Officer. The Director shall cause notice of the time and place of the hearing to be given to the owners of the property to which the same relate, and to any other interested person requesting the same, by US mail, postage prepaid, addressed to the person at his or her last known address at least five days in advance of the hearing.

§ 10-3.1613 REPORT; HEARING AND PROCEEDINGS.

At the time and place fixed for receiving and considering the report, the Hearing Officer shall hear and pass upon the report of the Director together with any objections or protests raised by any of the persons liable to be assessed for the cost of abating the nuisance. Thereupon, the City Manager shall make such revision, correction, and modification to the report, as he or she may deem just, after which the report is submitted, or as revised, corrected, or modified, shall be confirmed. The hearing may be continued from time to time. The decision of the Hearing Officer shall be subject to an appeal to the City Council in the time and manner set forth in § 10-3.1609 and §10-3.1610.

§ 10-3.1614 ASSESSMENT OF COSTS AGAINST PROPERTY.

The confirmed cost of abatement of a nuisance upon any lot or parcel of land shall constitute a special assessment against the respective lot or parcel of land to which it relates; and, after due notice and recordation, as thus made and confirmed, the same shall constitute a lien on the property in the amount of the assessment. After the confirmation of the report, a copy thereof shall be transmitted to the Tax Collector for the county, whereupon it shall be the duty of the Tax Collector to add the amounts of the assessment, or assessments, to the next regular bills of taxes levied against the respective lots and parcels of land for municipal purposes; and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

§ 10-3.1615 ALTERNATIVES.

Notice in this subchapter shall be deemed to prevent the City Council from ordering the City Attorney to commence a civil action to abate a nuisance in addition to, alternatively to, or in conjunction with the proceedings set forth in this chapter; nor shall anything in this chapter be deemed to prevent the City from commencing a criminal action with respect to the nuisance in addition to, alternatively to, or in conjunction with the proceedings set forth in this subchapter.

§ 10-3.1616 EMERGENCY ABATEMENT.

Notwithstanding any other provision of this subchapter with reference to the abatement of public nuisance, whenever the Director of a responsible department determines that property, a building, or structure is structurally unsafe, or constitutes a fire hazard, or is otherwise dangerous to human life, and such condition constitutes an immediate hazard or danger, he or she shall, without observing the provisions of this chapter with reference to abatement procedures, immediately and forthwith abate the existing public nuisance.

§ 10-3.1617 VIOLATION; PENALTY.

(A) The owner or other person having charge or control of any such buildings or premises who maintains any public nuisance defined in this subchapter, or who violates an order of abatement made pursuant to § 10-3.1606 is guilty of a misdemeanor.

(B) Any occupant or lessee in possession of any building or structure in violation of an order given as provided in this chapter is guilty of a misdemeanor.

(C) No person shall obstruct, impede, or interfere with any representative of the City Council or with any representative of a City department or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated, or demolished and removed, or with any person to whom any such building has been lawfully sold pursuant to the provisions of this code whenever any such representative of the City Council, representative of the City, purchaser, or person having any interest or estate in the building is engaged in vacating, repairing, rehabilitating, or demolishing and removing any such building pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this subchapter.

DEVELOPMENT AGREEMENTS

§ 10-3.1701 AUTHORITY FOR ADOPTION.

These regulations are adopted under the authority of Cal. Gov't Code §§ 65864 through 65869.5. All development agreements entered into pursuant to this subchapter shall be approved by ordinance of the City Council.

§ 10-3.1702 FORMS AND INFORMATION.

The Community Development Director shall prescribe the form for each application, notice and documents provided for or required under these regulations for the preparation and implementation of development agreements. The Community Development Director may require an applicant to submit such information and supporting data as the Community Development Director considers necessary to process the application. An applicant requesting consideration and adoption of a development agreement shall at a minimum include the following information:

(A) The nature of the applicant's legal or equitable interest in the subject real property and a legal description of the property sufficient for recordation;

(B) A description of the development project sufficient to enable the Community Development Department and other departments and agencies to review the application for legality, compliance with

standards, consistency with applicable plans, and environmental assessment requirements. The Planning Division may require the description to include site and building plans, architectural elevations, a description of the project's relationship to adjacent properties and land uses;

(C) A listing of each discretionary or ministerial action, permit and/or entitlement necessary for, or previously obtained with respect to, the project, including actions, permits, and/or entitlements issued by, or to be obtained from agencies other than the city. The listing will describe and distinguish between those elements of the development project which are proposed to be fixed by the development agreement and those which may be subject to further review;

(D) The proposed duration of the development agreement;

(E) The density and or intensity of the uses to be permitted;

(F) The maximum height and size of the proposed buildings;

(G) Provisions for reservation or dedication of land for public purposes, as applicable;

(H) Any proposed conditions, terms, restrictions or requirements to be applicable to subsequent discretionary actions, provided that the proposed conditions, terms, restrictions or requirements shall not be construed to prevent development of the land for the uses and to the density or intensity of development set forth in the development agreement, unless specifically and expressly provided in the development agreement;

(I) A date by which construction shall have been commenced;

(J) Proposed phasing of the development project and of the construction of public facilities, including estimated and mandatory completion dates, interim progress milestones, and performance standards for periodic review of the development agreement;

(K) The manner in which the applicant proposes to finance and provide security for the construction of public facilities, and provisions for reimbursement, if any;

(L) A provision including as terms of the development agreement all mitigation measures previously adopted pursuant to the California Environmental Quality Act with respect to discretionary actions, permits and/or entitlements for the project granted by the city or other agencies, and a provision committing the applicant to incorporate as terms of the development agreement, to the extent required by the California Environmental Quality Act, all future mitigation measures necessary to avoid or substantially lessen significant environmental effects which can be feasibly mitigated, provided that nothing in this subchapter shall preclude the preparation of statements of overriding considerations when deemed appropriate and lawful by the city or other agencies;

(M) A clause requiring the applicant to indemnify the city against claims arising out of the development process and to provide insurance in an amount and form acceptable to the city attorney to assure the applicant's ability to satisfy its indemnification duty.

§ 10-3.1703 QUALIFICATION AS AN APPLICANT.

Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. Applicant includes an authorized agent. The Community Development Director

may require an applicant to submit proof (including but not limited to a title report) of his/her interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the Community Development Director shall obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

§ 10-3.1704 PROPOSED FORM OF AGREEMENT.

Each application shall be accompanied by the form of development agreement proposed by the applicant. This requirement may be met by utilizing the city's standard form of development agreement adopted by the Community Development Director, and including specific proposals for changes in, or additions to the language of the standard form.

§ 10-3.1705 FEES.

Fees to be imposed for the filing and processing of each application, required consideration, and adoption of a development agreement shall be as prescribed by resolution adopted by the City Council. No such application shall be deemed complete unless it is accompanied by the current filing and processing fee. The filing and processing fee shall be in addition to any other required fees for permits or capital improvements relating to the development project, and shall be for the purpose of defraying the costs incurred by the city during review and action upon the development agreement application and during periodic review thereof.

§ 10-3.1706 REVIEW OF APPLICATION.

(A) The Community Development Director shall endorse the application on the date it is received. He or she shall review the application and may reject it if it is incomplete or inaccurate for processing. If he or she finds that the application is complete, he or she shall accept it for filing. The Director shall review the application and determine the additional requirements necessary to complete the agreement.

(B) Upon acceptance of a complete application, the development agreement and supporting information shall be circulated to each city department or local agency having an interest in the project. Each such department or agency shall review, comment upon, and recommend such changes to the proposed development agreement as may be necessary or desirable.

(C) After receiving responses from other departments or agencies, the Director shall prepare a staff report and recommendation and shall state whether or not the agreement proposed, or in an amended form, would be consistent with the General Plan and any applicable specific plan.

§ 10-3.1707 COORDINATION OF APPLICATIONS.

To the extent practicable, applications requesting consideration and adoption of development agreements will be made and considered concurrently with the review of other discretionary permit applications within the city's control. It is the city's intent to avoid duplicative hearings and the repetition of information and effort. The development agreement shall not constitute a substitute for, or an alternative to, any other required permit or approval, and the applicant must comply with all other procedures required for development approval.

§ 10-3.1708 HEARING NOTICE.

(A) The Community Development Director shall give notice of the city's intention to consider adoption of the development agreement and of any other public hearing required by law or the municipal code.

(B) The form of the notice of intention to consider adoption of development agreement shall contain:

- (1) The time and place of the hearing;
- (2) The identity of the hearing body;
- (3) A general explanation of the matter to be considered including a general description and location of the area affected; and
- (4) Other information required by specific provision of these regulations or which the Community Development Director considers necessary or desirable.

(C) The time and manner of giving notice is by both of the following:

- (1) Publication at least once in a newspaper of general circulation, published and circulated in the city, not less than ten days prior to the date of the hearing.
- (2) Mailing of the notice to all persons shown on the last equalized assessment roll as owning real property within 300 feet of the property which is the subject of the proposed development agreement, not less than ten days prior to the date of the hearing.

(D) The Planning Commission or City Council, as the case may be, may direct that notice of the public hearing to be held before it, shall be given in a manner that exceeds the notice requirements prescribed by state law or this article.

(E) The failure of any person, entitled to notice as required by law or this chapter, to receive such notice does not affect the authority of the city to enter into a development agreement or the validity thereof.

§ 10-3.1709 RULES GOVERNING CONDUCT OF HEARING.

The public hearing shall be conducted as nearly as may be in accordance with the procedural standards adopted for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.

§ 10-3.1710 IRREGULARITY IN PROCEEDINGS.

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to a petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatsoever unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury was done if error is shown.

§ 10-3.1711 DETERMINATION BY PLANNING COMMISSION.

(A) The Planning Commission shall conduct a public hearing on the proposed development agreement, which may be continued from time to time. The Commission shall consider the staff report, as well as comments from the applicant and members of the public. Upon conclusion of the hearing, the

Commission shall report its recommendation to the City Council in the form of a resolution. The Commission may recommend that the development agreement be adopted as proposed, or with such amendments as the Commission deems to be necessary or desirable to further the purposes of the municipal code, or otherwise in the public interest; or the Commission may recommend that the development agreement be rejected. The recommendation shall include the Planning Commission's determination whether or not the development agreement proposed:

- (1) Is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan;
- (2) Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;
- (3) Is in conformity with public convenience, general welfare and good land use practice;
- (4) Will not be detrimental to the health, safety and general welfare; and
- (5) Will not adversely affect the orderly development of property or the preservation of property values.

The recommendation shall also include the reasons for the recommendation.

(B) Upon action by the Planning Commission, the proposed development agreement, shall be forwarded to the City Clerk for scheduling as the introduction of an ordinance at the next available meeting of the City Council.

§ 10-3.1712 DECISION BY CITY COUNCIL.

(A) Upon receipt of the Planning Commission's recommendation, the City Clerk shall schedule the proposed development agreement on the next available meeting of the City Council as the introduction and first reading of an ordinance.

(B) Not less than five days after the successful introduction of the ordinance, a public hearing and second reading of the proposed development agreement shall be held. Notice of the public hearing shall be provided in accordance with § 10-3.1708.

(C) After the City Council completes the public hearing, which may be continued from time to time, it may accept, modify or disapprove the recommendation of the Planning Commission. It may, but need not, refer matters not previously considered by the Planning Commission during its hearing, back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.

(D) The City Council shall not approve the development agreement unless it finds that the provisions of the agreement are consistent with the General Plan and any applicable specific plan.

(E) The City Council has sole discretion to either approve or not approve a development agreement, and there is no right to have such an agreement approved even if the City Council determines that it is in the best interests of the city.

(F) Approval of a development agreement by the City Council shall be by the adoption of an ordinance which shall be effective 31 days after adoption.

§ 10-3.1713 RECORDATION OF DEVELOPMENT AGREEMENT.

(A) Within ten days after the city enters into a development agreement, the City Clerk shall have the agreement recorded with the County Recorder. Upon the effective date of the ordinance adopting the

development agreement, the agreement shall be effective and binding upon, and the benefits of the agreement shall inure to, the parties and all successors in interest to the parties to the agreement.

(B) If the parties to the development agreement or their successors in interest amend or cancel the development agreement as provided above, or if the city terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall cause notice of such action to be recorded with the County Recorder.

§ 10-3.1714 AMENDMENT AND CANCELLATION OF AGREEMENT.

(A) Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into.

(B) The procedure for proposing and adoption of an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into a development agreement. However, where the city initiates the proposed amendment to or cancellation in whole or in part of the development agreement based on its annual review thereof, it shall first give notice to the property owner at least 30 days prior to the hearing by the City Council to consider such amendment or cancellation.

§ 10-3.1715 PERIODIC REVIEW.

(A) The city shall review each development agreement every 12 months from the date the agreement is entered into. The time for review may be modified to be more frequent either by agreement between the parties or by initiation in one or more of the following ways:

- (1) Affirmative vote of at least four members of the Planning Commission; or,
- (2) Affirmative vote of at least three members of the City Council.

(B) The Community Development Director shall begin the review proceeding by giving notice that the city intends to undertake a periodic review of the development agreement to the property owner. Notice shall be provided at least ten days in advance of the time at which the matter will be considered by the Planning Commission.

(C) Annual review of development agreements shall be conducted by the Planning Commission at a public hearing at which the property owner shall demonstrate good faith compliance with the terms of development agreement. The burden of proof on this issue is upon the property owner.

(D) The Planning Commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the development agreement.

(E) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the Commission shall by resolution adopt a statement of compliance certifying such compliance in a form suitable for recording in the County Recorder's Office. Upon recording of a statement of compliance, the review for that period is concluded. A resolution adopting a statement of compliance shall be final ten days after the Planning Commission decision, unless a notice of appeal has been filed pursuant to the provisions of the municipal code.

(F) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the

period under review, the Planning Commission may recommend to the City Council that the development agreement be modified or terminated.

(G) The procedure for modifying or terminating a development agreement shall be the same as the procedure for entering into a development agreement, except that the owner shall be given at least 30

§ 10-3.1716 STATEMENT OF COMPLIANCE APPEALS.

(A) The applicant, City Council, or any affected person may appeal the Planning Commission's resolution adopting a statement of compliance in accordance with the provisions of the municipal code. The appellant shall bear the burden of demonstrating, on the basis of substantial evidence, that the applicant or successor in interest has not complied with the terms and conditions of the adopted development agreement.

(B) The City Council may uphold the statement of compliance, amend and approve the Planning Commission recommendation or statement of compliance, or reject it. The City Council may unilaterally terminate or modify the development agreement upon a determination based upon substantial evidence that the applicant or successor in interest has not complied with the terms and conditions of the agreement. Such determination shall be final and conclusive.

§ 10-3.1717 PROCEDURES FOR MODIFICATION OR TERMINATION.

(A) If, upon a finding under § 10-3.1715, the city determines to proceed with modification or termination of the development agreement, the city shall give notice to the property owner of its intention so to do. The notice shall contain:

- (1) The time and place of the hearing;
- (2) A statement as to whether or not the city proposes to terminate or to modify the development agreement; and
- (3) Other information which the city considers necessary to inform the property owner of the nature of the proceeding.

(B) At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The City Council may impose those conditions to the action it takes as it considers necessary to protect the interests of the city. The decision of the City Council is final.

§ 10-3.1718 CERTAINTY OF DEVELOPMENT AGREEMENTS.

(A) An adopted development agreement and any terms, conditions, maps, notes, references, or regulations which are a part of the agreement shall be considered enforceable elements of the city's municipal code. In the event of an explicit conflict with any other provisions of the municipal code, the development agreement shall take precedence. Unless otherwise provided by the development agreement, the city's ordinances, resolutions, rules and regulations, and official policies governing permitted land uses, density, design, improvement and construction standards shall be those city's ordinances, resolutions, rules and regulations, and official policies in force at the time of final approval of the development agreement.

(B) All development agreements shall be subject to the laws, statutes, regulations or court decisions of the state and federal government. In the event any such laws, statutes, regulations or court decisions made or enacted after a development agreement has been entered into prevents or precludes compliance

with one or more provisions of the development agreement, such provisions of the development agreement shall be modified or suspended as may be necessary to assure compliance by the city, applicant or successor in interest with such laws, statutes, regulations or court decisions. Nothing in this section shall be deemed to affect the validity of fees, conditions, or other exactions imposed and confirmed by the terms of the agreement.]

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

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SPR 2018-20 – Mosquito Abatement Appeal

Staff recommends this item be continued to the December 11, 2018 Planning Commission meeting.