

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

**COUNCIL CHAMBERS - CITY HALL  
TUESDAY  
September 10, 2019  
6:00 pm**

**CALL TO ORDER**

**ROLL CALL**

Commissioner Robert Gran, Jr. (Chairperson)  
Commissioner Israel Cortes (Vice Chairperson)  
Commissioner Richard Broadhead  
Commissioner Ryan Cerioni  
Commissioner Ramon Lopez-Maciel  
Commissioner Pamela Tyler  
Commissioner Alex Salazar

**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:** None

**CONSENT ITEMS:** None

**PUBLIC HEARING ITEMS:**

- 1. REZ 2019-02, GPA 2019-01 & PPL 2019-03 – River Sand Park Multifamily Complex**  
A continued noticed public hearing to consider a General Plan amendment, rezone and precise plan on approximately seven acres of land located at the southwest corner of the intersection of Weatherly Boulevard and Fairfield Way to allow for the construction of a 93-unit multifamily residential apartment complex. The General Plan amendment requests a change from the LD (Low Density) to the MD (Medium Density) General Plan land use designation. The rezone requests a change from the R1 (Low Density) to the PD-3000 (Planned Development) Zone District. The precise plan would memorialize the development standards applicable to the multifamily residential project (APN: 006-380-026). A Negative Declaration will be considered by the Planning Commission.

**2. CUP 2019-09, 10 & SPR 2019-17 - Valero**

A continued noticed public hearing to consider conditional use permits to allow for the sale of beer and wine for off-site consumption and the sale of tobacco and tobacco related products in conjunction with a site plan review allowing for the development of a Valero gas station and convenience store located on the northeast corner of the intersection of South Gateway Drive and East Almond Avenue in the CH (Highway Commercial) Zone District with a C (Commercial) General plan land use designation (APN: 012-390-023). A Mitigated Negative Declaration will be considered by the Planning Commission.

**3. GPA 2019-02 & REZ 2019-03 – Madera County District Attorney Offices**

A noticed public hearing to consider a General Plan Amendment and Rezone for six parcels encompassing approximately 1.5 acres located on the southwest corner of the intersection of West 7th Street and South G Street to provide for the development of new offices for the Madera County District Attorney and Adult Probation Department. The General Plan Amendment requests a change from the HD (High Density) to the P&SP (Public and Semi-Public) General Plan land use designation. The Rezone requests a change from the R3 (High Density) to the PF (Public Facilities) Zone District. (APNs: 010-162-001, 002, and 009-012). A Negative Declaration will be considered by the Planning Commission.

**4. CUP 2019-12 & SPR 2019-19 – Caliber Collision**

A noticed public hearing to consider a conditional use permit and site plan review to allow for the development of an approximately 9,825 square foot pre-manufactured building as an expansion to the existing Caliber Collision business on property located on the southeast corner of the intersection of West 8th Street and South G Street in the C1 (Light Commercial) Zone District and the C (Commercial) General Plan land use designation (APN: 010-193-010). The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15332 (In-Fill Development Projects).

**5. CUP 2019-08 & SPR 2019-16 – Starbucks at the Crossroads**

A noticed public hearing to consider a conditional use permit and site plan review to allow for the development of a Starbucks coffee house with a drive-thru window and outdoor seating area in the Crossroads Shopping Center located at the southwest corner of the intersection of Tozer Street and East Yosemite Avenue in the C1 (Light Commercial) Zone District and the C (Commercial) General Plan land use designation (APN: 008-142-072). The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15301 (Existing Facilities).

**6. CUP 2019-13 – Wellness Massage**

A noticed public hearing to consider a conditional use permit to allow for the establishment of a massage business in the Northpointe shopping center located approximately 400 feet south of the intersection of Schnoor Avenue and West Cleveland Avenue (1653 N. Schnoor Ave) in the C1 (Light Commercial) Zone District and the C (Commercial) General Plan land use designation (APN: 006-390-027). The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15301 (Existing Facilities).

**7. CUP 2019-14 & SPR 2019-20 – Walmart Storage Trailers**

A noticed public hearing to consider a conditional use permit and site plan review to allow for the temporary placement of outdoor storage containers for the 2019 holiday

season at the Walmart located approximately 1,000 feet east of the intersection of Schnoor Avenue and West Cleveland Avenue (1977 W. Cleveland Ave) in the C1 (Light Commercial) Zone District and the C (Commercial) General Plan land use designation (APN: 013-160-014). The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15304(e) (Minor Alterations to Land).

**8. Joyee's Recycling Revocation**

A noticed public hearing to consider revocation of Conditional Use Permit 2013-11, allowing for the operation of a recycling center located on the east side of North D Street, approximately 200 feet north of its intersection with Riverside Drive (709 North D Street) in the C1 (Light Commercial) Zone District and the C (Commercial) General Plan land use designation (APN: 004-011-008). The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15321 (Enforcement Action by Regulatory Agencies).

**NON-PUBLIC HEARING ITEMS:** None

**WORKSHOPS:**

**1. 2009 General Plan – Part 3**

**ADMINISTRATIVE REPORTS:** None

**COMMISSIONER REPORTS:** None

**ADJOURNMENT:**

The next regular meeting will be held on October 8, 2019.

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.

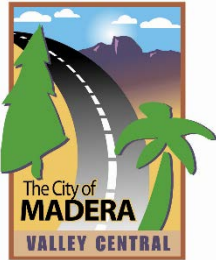
**REZ 2019-02, GPA 2019-01 & PPL 2019-03  
RIVER SAND PARK MULTIFAMILY COMPLEX**

**THE APPLICANT HAS WITHDRAWN THEIR APPLICATION FOR CONSIDERATION BY  
THE PLANNING COMMISSION**

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**CUP 2019-09, 10 & SPR 2019-17  
VALERO**

**THE APPLICANT HAS REQUESTED A CONTINUANCE OF THE PROJECT TO THE  
NOVEMBER 12, 2019 PLANNING COMMISSION HEARING**



<p><b>CITY OF MADERA</b> <b>PLANNING COMMISSION</b></p>	<p>205 W. Fourth Street Madera CA 93637 (559) 661-5430</p>
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**Staff Report: Madera County District Attorney Offices  
GPA 2019-02 & REZ 2019-03 and Negative Declaration  
Item #3 – September 10, 2019**

**PROPOSAL:** An application for General Plan Amendment and Rezone to provide for the development of new offices for the Madera County District Attorney and Adult Probation Department. The General Plan Amendment requests a change from the HD (High Density) to the P&SP (Public and Semi-Public) General Plan land use designation. The Rezone requests a change from the R3 (High Density) to the PF (Public Facilities) Zone District.

<b>APPLICANT:</b>	County of Madera	<b>OWNER:</b>	County of Madera
<b>ADDRESS:</b>	Multiple	<b>APN:</b>	010-162-001, 002, and 009-012
<b>APPLICATION:</b>	GPA 2019-02 & REZ 2019-03	<b>CEQA:</b>	Negative Declaration

**LOCATION:** The project site is located on the southwest corner of the intersection of West 7<sup>th</sup> Street and South G Street.

**STREET ACCESS:** The project site abuts to the South H Street, South G Street and West 7<sup>th</sup> Street frontages.

**PARCEL SIZE:** Approximately 1.5 acres.

**GENERAL PLAN DESIGNATION:** HD (High Density)

**ZONING DISTRICT:** R3 (High Density)

**SITE CHARACTERISTICS:** The project site is currently undeveloped. The Madera County Courthouse is immediately north of the project site. The State Route 99 corridor is to the south and west. Residential development of varying densities is located to the south and east.

**ENVIRONMENTAL REVIEW:** An initial study and negative declaration have been prepared for consideration by the Planning Commission (Commission), consistent with California Environmental Quality Act (CEQA) guidelines.

**SUMMARY:** The proposed General Plan Amendment and rezoning provide consistency between the Zoning Ordinance and the Madera General Plan, allowing for the eventual development of new offices for the Madera County District Attorney and Adult Probation Department. The Commission will not be taking action on any development of the project site.

## **APPLICABLE CODES AND PROCEDURES**

GC § 65358, General Plan Amendments  
MMC § 10-3.1501-06 Amendments  
MMC § 10-3.303 Annexation Policy

**PRIOR ACTION:** None

## **ANALYSIS**

### Background

The County of Madera proposes to develop new offices for the Madera County District Attorney and Adult Probation Department. To that end, the county has purchased several parcels immediately south of the new courthouse complex and substantially cleared those properties in preparation for development. Only one structure remains on the project site. The properties in question were residential properties and have General Plan and zoning designations consistent with residential properties. In order to move forward with development of offices on the properties in question, a General Plan amendment and rezone must be approved. Although no proposal to construct the office complex is included as a component of the General Plan amendment and rezone requested herein, future development of the proposed office complex will be developed consistent with the development standards of the PF (Public Facilities) Zone District and the goals and policies of the General Plan. The rezoning provides consistency between the General Plan and zoning.

### General Plan Amendment

The General Plan currently designates the project site as HD (High Density Density). The HD designation provides for high density residential development, with densities of up to fifty dwelling units an acre. The applicant has requested a change in General Plan land use designation to the P&SP (Public and Semi-Public) land use designation. The P&SP land use designation would provide consistency between the proposed PF Zone District and the expected development of governmental offices.

### Rezone

The project site is proposed to be rezoned into the PF Zone District. The PF Zone District is designed to provide land for the development of offices and/or facilities owned and operated by city, county, state, or federal governmental agencies, and public-school districts. Examples of development found in the PF Zone District include civic centers, fire and police stations, libraries and post offices, and schools. The PF Zone District is the correct zone for the development of the proposed governmental offices.

### Public Infrastructure

Public infrastructure and utilities required by the Madera Municipal Code and the Madera General Plan are available to serve the proposed governmental offices. Existing infrastructure includes sewer, water, storm drainage and street infrastructure consistent with the City's master plans. Improvements to existing infrastructure may be required as a component of development of the governmental offices.



## CEQA

Although the anticipated development of the governmental offices is not under consideration by the Commission, the General Plan amendment and rezoning currently under review act as first steps in the eventual development of the site and are subject to compliance with the California Environmental Quality Act (CEQA). The environmental document under review is specific to the General Plan amendment and rezoning request and does not include any assessment of the anticipated development of governmental offices on the property. Additional CEQA analysis may be required as a component of that eventual development activity.

## **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

The project supports one of the four core vision statements in the Vision Plan, “A Well-Planned City,” which envisions “sound planning [that] helps Madera celebrate its past, balance its present with available resources and infrastructure, and anticipate its future with coordinated planning and interagency cooperation guided by a shared vision.” The General Plan amendment and rezone in advance of the construction of governmental offices directly supports this core vision statement.

## **RECOMMENDATION**

The proposed project provides consistency between the General Plan, zoning and existing land uses. It is recommended that the Commission consider this information, together with testimony provided at the public hearing, and adopt a resolution recommending approval of the requested General Plan amendment and introduction of an ordinance rezoning the subject property.

## **PLANNING COMMISSION ACTION**

The Commission will be acting on General Plan Amendment 2019-02 and Rezone 2019-03.

Motion 1: Move to adopt a resolution recommending to the City Council approval of the requested General Plan amendment and introduction of an ordinance rezoning the subject property, with the findings as stated below:

### Findings

- The proposed General Plan Amendment will provide consistency between the General Plan and Zoning Ordinance.
- The proposed rezoning will zone affected properties in a manner consistent with the proposed land use.

**(OR)**

Motion 2: Move to continue the public hearing on General Plan Amendment 2019-02 and Rezone 2019-03 to the October 8, 2019 Commission meeting.

**(OR)**

Motion 3: Move to deny the application for General Plan Amendment 2019-02 and Rezone 2019-03, based on the following findings: (specify)

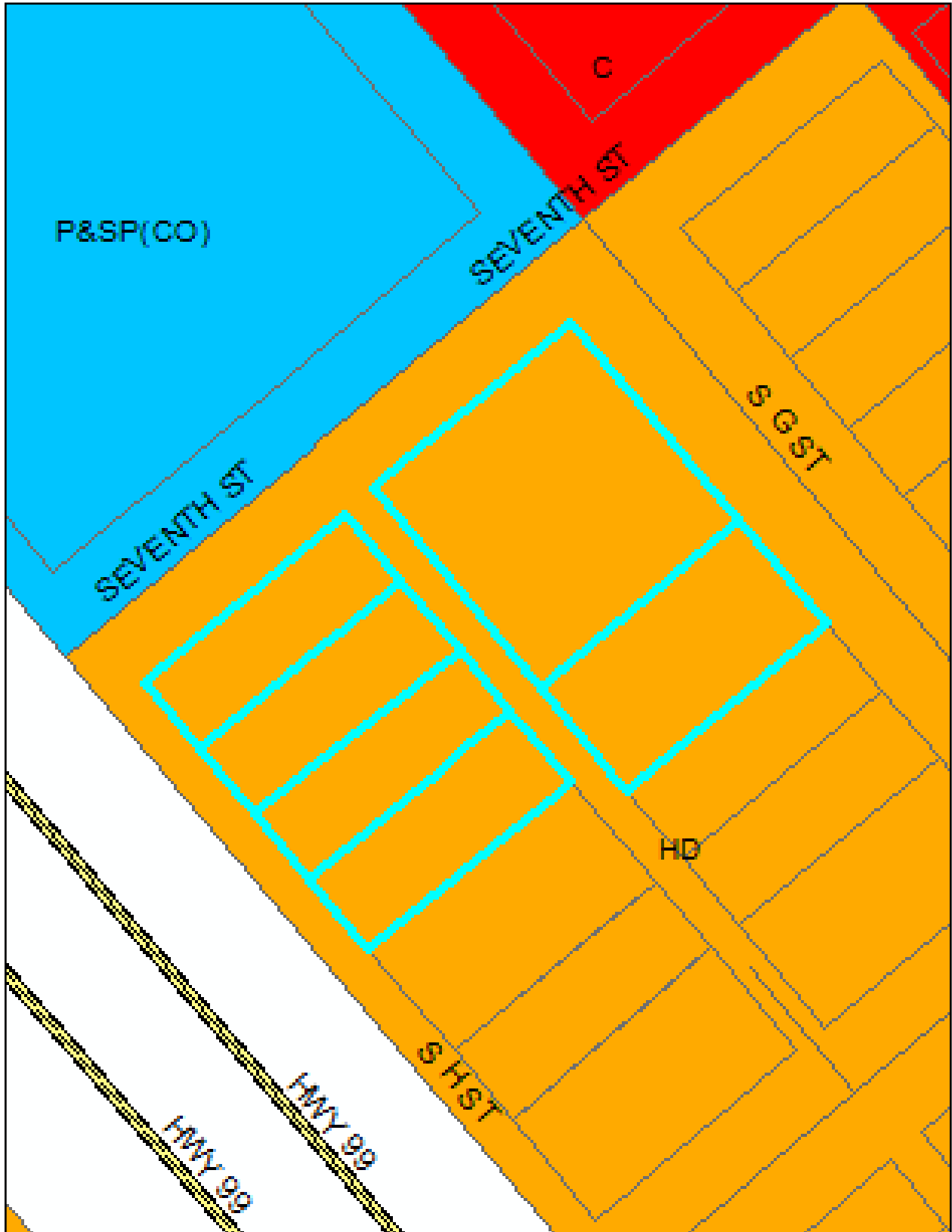
**ATTACHMENTS**

1. Aerial Image
2. General Plan Map
3. Zoning Map
4. Resolution of Recommendation to the City Council
5. Draft Ordinance
6. Negative Declaration

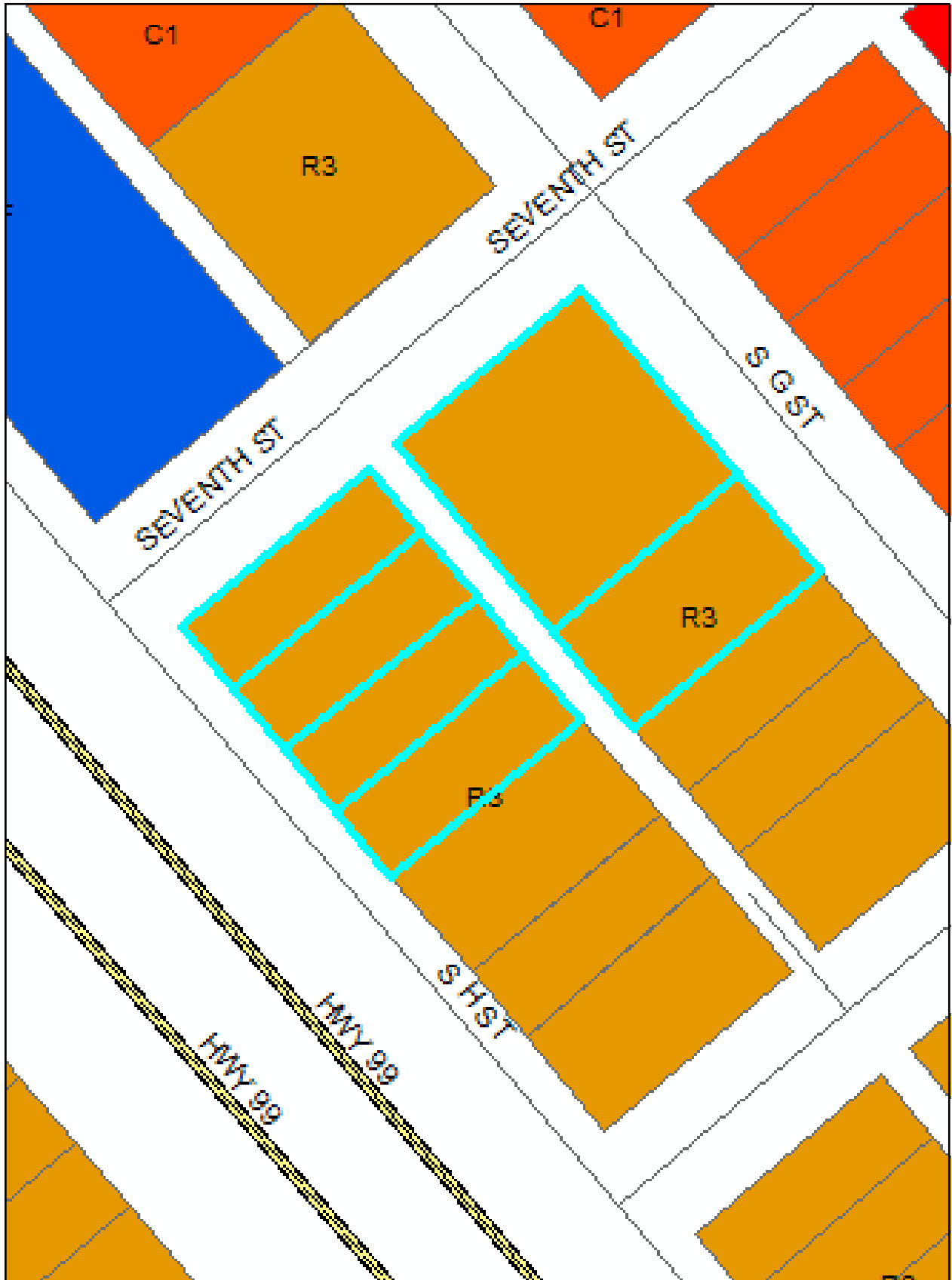
Attachment 1: Aerial Photo



Attachment 2: General Plan Map



Attachment 3: Zoning Map



**RESOLUTION NO. 1845**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
MADERA RECOMMENDING TO THE CITY COUNCIL OF THE CITY  
OF MADERA APPROVAL OF AN AMENDMENT OF THE GENERAL  
PLAN CHANGING THE LAND USE DESIGNATION OF  
APPROXIMATELY 1.5 ACRES FROM THE HD (HIGH DENSITY) TO  
P&SP (PUBLIC AND SEMI-PUBLIC) GENERAL PLAN LAND USE  
DESIGNATION AND THE REZONING OF THE PROPERTY FROM  
THE R3 (HIGH DENSITY) TO THE PF (PUBLIC FACILITY) 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, the City has initiated an amendment to the Madera General Plan amending the land use designation for approximately 1.5 acres of property located on the southwest corner of the intersection of West 7<sup>th</sup> Street and South G Street from the HD (High Density) land use designation to the P&SP (Public and Semi-Public) land use designation, as shown in the attached Exhibit A; and

WHEREAS, the City has initiated a Rezone of the property from the R3 (High Density) Zone District to the PF (Public Facilities) Zone District, as shown in the attached Exhibit B; and

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

WHEREAS, the proposed General Plan amendment and Rezone are compatible with the neighborhood and are 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, General Plan amendment 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 was 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 recommends that the Madera General Plan land use map be amended as specified in attached Exhibit "A".
3. The proposed amendment to the Land Use Map is hereby found consistent with all elements of the Madera General Plan.
4. The proposed rezoning is hereby found to be consistent with all elements of the General Plan, including the land use map as amended by this application.
5. The Planning Commission hereby recommends the City Council adopt an ordinance rezoning property as specified within the attached Exhibit "B".
6. This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 10<sup>th</sup> day of September 2019, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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Robert Gran Jr.  
Planning Commission Chairperson

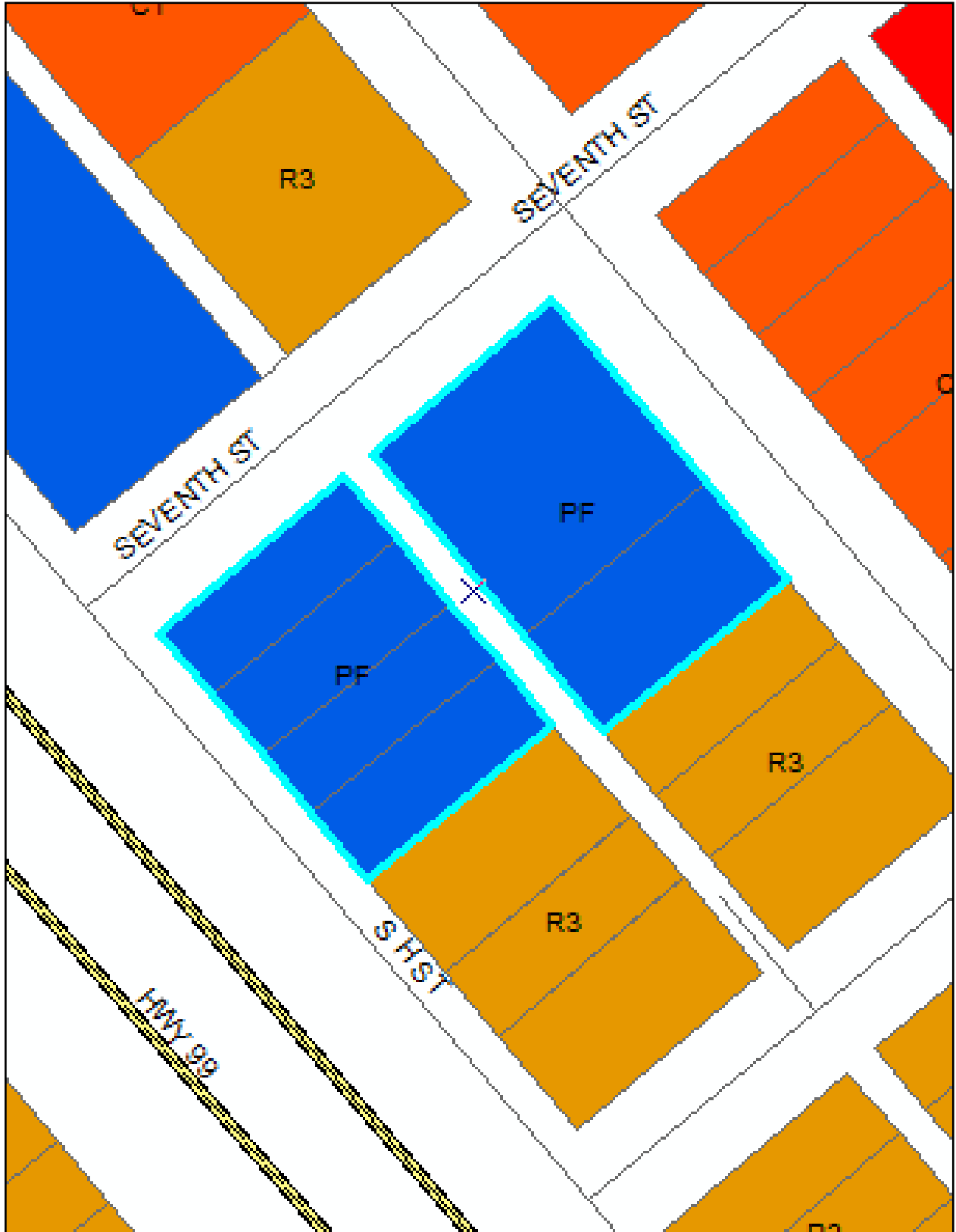
Attest:

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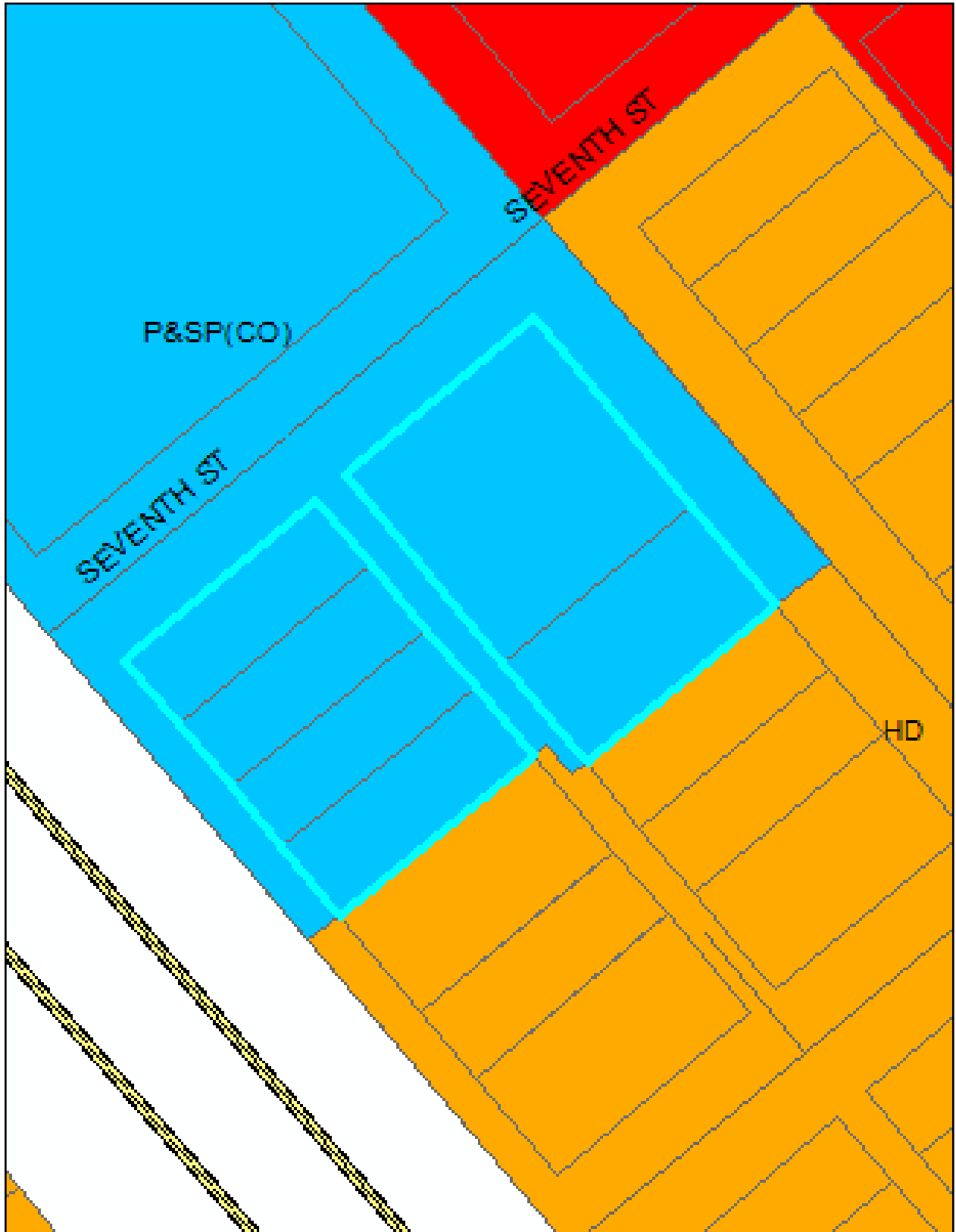
Christopher F. Boyle  
Acting Planning Manager



PLANNING COMMISSION RESOLUTION NO. 1845  
EXHIBIT 'A'



PLANNING COMMISSION RESOLUTION NO. 1845  
EXHIBIT 'B'



**DRAFT ORDINANCE**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA  
AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP  
REZONING APPROXIMATELY 1.5 ACRES LOCATED ON THE  
SOUTHWEST CORNER OF THE INTERSECTION OF WEST 7<sup>TH</sup> STREET  
AND SOUTH G STREET TO THE PF (PUBLIC FACILITY) ZONE DISTRICT  
AS IDENTIFIED WITHIN EXHIBIT "A"**

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 Manager 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 Manager 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:

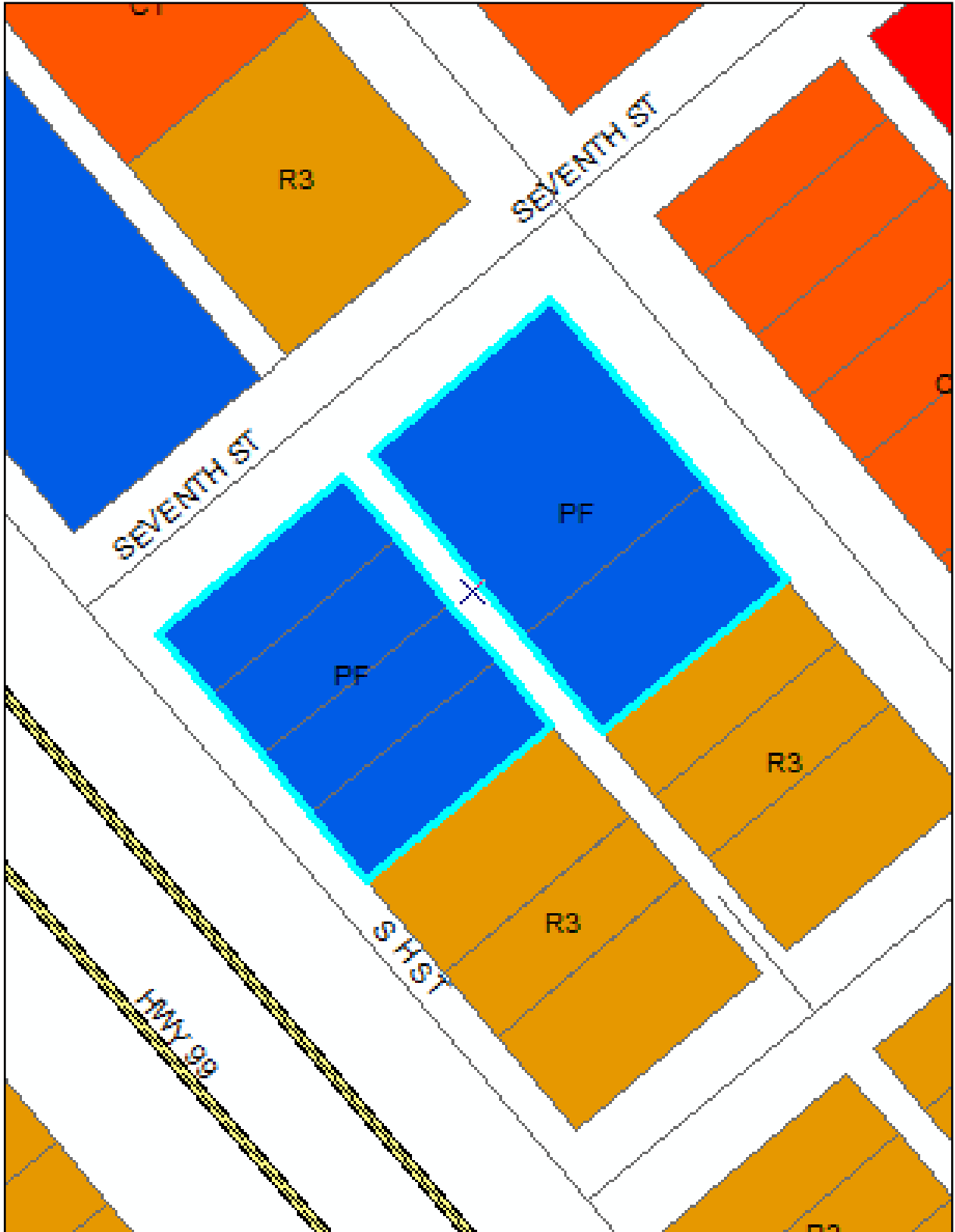
FINDINGS:

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.

\* \* \* \* \*

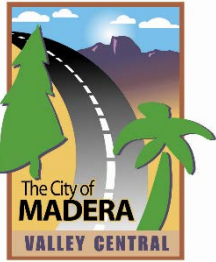
DRAFT ORDINANCE - EXHIBIT A



[Return to Agenda](#)

**CUP 2019-02 & SPR 2019-19  
CALIBER COLLISION**

**THE STAFF REPORT WILL BE DISTRIBUTED TO THE PLANNING COMMISSION ON  
OR BEFORE SEPTEMBER 5, 2019 AS A LATE DISTRIBUTION.**



# CITY OF MADERA PLANNING COMMISSION

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

## Staff Report: Crossroads Starbucks CUP 2019-08 and Categorical Exemption Item # 5 – September 10, 2019

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**PROPOSAL:** Consideration of a request for a conditional use permit (CUP) to allow for the reestablishment of a drive-thru use and outdoor seating in conjunction with the development of a Starbucks coffee house business.

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<b>APPLICANT:</b>	Devin Dierenfield	<b>OWNER:</b>	Crossroads Madera CA LB1
<b>ADDRESS:</b>	1432 East Yosemite Avenue	<b>APN:</b>	008-142-072
<b>APPLICATION:</b>	CUP 2019-08	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The project site is located approximately 400 feet southwest of the intersection of Tozer Street and East Yosemite Avenue within the Crossroads shopping center.

**STREET ACCESS:** The project site has access to Tozer Street and East Yosemite Avenue.

**PARCEL SIZE:** One parcel encompassing approximately .75-acre.

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C1 (Light Commercial)

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**SITE CHARACTERISTICS:** The project site is located within an existing tenant suite in the Crossroads shopping center, currently occupied by an H&R Block tax service business. A mixture of uses are in proximity to the shopping center, including an elementary school, miscellaneous commercial businesses, the Fresno River channel and single family and multifamily residential development.

**ENVIRONMENTAL REVIEW:** The proposed Starbucks coffee house business is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

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**SUMMARY:** The applicant is proposing to establish a Starbucks coffee house business with a drive-thru window and outdoor seating. The business will utilize an existing drive-thru lane, expanding the queueing capacity so as to provide better functionality to the site. Outdoor seating is proposed as a component of the coffee house.

## **APPLICABLE CODES AND PROCEDURES**

MMC §10-3.802(C)(4) C1 (Light Commercial) Zones, Uses Permitted

MMC §10-3.1202 Parking Regulations

MMC §10-3.1301 Use Permits

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

If the Commission cannot make the appropriate findings, the use permit 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 Crossroads shopping center was first envisioned within the Sugar Pine Village Master Plan (including General Plan Amendment, Rezoning and Mitigated Negative Declaration), approved on August 18, 2004 by City Council. The existing pad building and associated drive-thru window were originally entitled as part of Site Plan Review (SPR) 2006-07, approved by the Commission on June 14, 2006. Tentative Parcel Map (TPM) 2006-06 was approved by the City Development Review Committee on September 27, 2006, subdividing the shopping center into 12 parcels. The drive-thru window and outdoor seating components of the project were initially entitled as part of CUP 2007-01, approved by the Commission on March 13, 2007. CUP 2007-01 was never utilized and subsequently expired.

## **ANALYSIS**

The project site is located near the southerly corner of East Yosemite Avenue and Tozer Street within the Crossroads shopping center. The shopping center, when fully built-out, will consist of 136,425 square feet of retail and restaurant space. The major tenant space, the Rancho San Miguel Market, consists of 55,800 square feet of gross floor area. The remaining shopping center includes ten retail/restaurant spaces, ranging in size from 4,620 square feet to 16,800 square feet. The tenant space for the Starbucks coffee house project is located within a retail pad building constructed along the center's frontage to East Yosemite Avenue. If approved, Starbucks would share the pad building with three other tenants; a Little Caesars Pizza take-out restaurant, an Ace Cash Express loan store and a Fred Loya insurance office. The elevations for the project were reviewed and approved during the approval process for SPR 2006-07.

### General Plan Consistency

The City's General Plan indicates that land within the C (Commercial) land use designation is the appropriate area for development of major shopping centers. The City's zoning ordinance also allows for the retail and restaurant uses proposed for the center as permitted uses, with the exception of the proposed drive-thru window and outdoor seating, which are both allowed with the approval of a conditional use permit in the C1 (Light Commercial) Zone District. The Crossroads shopping center project has previously gone through an extensive site plan review process to ensure compatibility with the surrounding community. The drive-thru and outdoor seating components are consistent with the previously approved SPR. The commercial center has been developed consistent with the General Plan's goals and policies for commercial development which mandate "well-designed" and "aesthetically pleasing" development. Consistent with those goals, the Crossroads is developed with a distinctive Spanish "Mission" architectural style, including a mixture of complementary colors, adobe tile and stucco, with pedestrian friendly covered walkways. With the exception of expansion of the drive-thru window queueing capacity, no additional construction is proposed as a component of this project.

### Drive-Thru Expansion

Coincidentally, Starbucks was the intended benefactor of CUP 2007-01, the use permit that originally guided the development of the drive-thru and outdoor seating on the site. The original design only provided a total queueing for approximately four cars. This design was insufficient for a Starbucks coffee house drive-thru. Per the City's Design and Development Guidelines, food service drive-thrus should strive to provide queueing for no less than ten vehicles. The applicant has made every effort to provide additional queueing for the drive-thru component of the business model, and ultimately has provided queueing for no less than eight vehicles. Overflow capacity has also been positioned where any temporary vehicular queueing outside of the defined drive-thru lane should not significantly impact site circulation. Although the site ultimately does not provide the desired ten stall queueing capacity, it is a major improvement over the original design. In that the shopping center is already constructed, with pre-existing constraints toward expanding the drive-thru, the proposed expansion is supported by staff. It will be important to provide concise directional signage for drive-thru patrons in order to correctly direct traffic toward the drive-thru entrance. As a component of the expansion, a double-bin trash enclosure will need to be relocated per the proposed site plan.

### Digital Order Screen

The applicant is proposing to incorporate a digital order screen as part of the Starbucks drive-thru preview and menu boards system. The digital ordering screen would allow for interaction between the customer and Starbucks employees, similar to a "FaceTime" interface where there is "real time" video communication. The City's Sign Ordinance does not make specific provisions for a digital order screen within the Special Use Signs (MMC § 10-6.13) section of the ordinance. The Planning Commission may grant an allowance for the requested signage as a component of the conditional use permit which allows for the drive-thru use in association with the operation of the Starbucks coffee house. It should be noted that the exact same ordering screen was approved for other Starbucks locations in the city through the conditional use permit process. Staff is in support of an approval for the requested digital menu board in conjunction with the request for the drive-thru window. Placement location and size of the digital menu board will be required to adhere to the City's sign ordinance.



The applicant has requested an allowance to operate the drive-thru window from between 6:00 a.m. and 9:30 p.m. daily. The drive-thru does not abut any residential development, thus allowing staff to conclude that operation of a drive-thru on a 24-hour schedule will not adversely affect any of the surrounding uses. No restrictions on the hours of operation are recommended.

#### Outdoor Seating

Starbucks has requested an allowance to include outdoor seating as a component of the business model. Based on site design the outdoor seating for up to twenty patrons is acceptable. The outdoor seating should be placed in such a manner as not to block or impede required paths of travel. The seating shall be located entirely in proximity to the coffee house site within raised concrete pedestrian areas and shall at no time be placed in parking areas.

#### Parking

There is sufficient parking to serve the proposed Starbucks. Shopping center design originally anticipated the use of the pad building for restaurant purposes and the parking demands of that use have been incorporated into the approved SPR.

#### 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:**

Though drive-thru windows and outdoor seating are not specifically addressed in the vision or action plans, the overall project does relate to **Action 115.2** – *As a component of the General Plan Update, increase retail outlets and promote Shop Madera ...*; the requested action is not in conflict with any of the actions or goals contained in the Plan.

#### **RECOMMENDATION**

The information presented in this report provides support for the conditional approval of the CUP request. It is recommended that the Commission consider the information in this report, as well as testimony in the public hearing, and make a determination on the CUP request.

#### **PLANNING COMMISSION ACTION**

The Commission will be acting on CUP 2019-08.

Motion 1: Move to approve CUP 2019-08, subject to the findings and conditions of approval as listed:

#### Findings

- This project is categorically exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) since there will be negligible expansion of

the existing use of the structure.

- The use is consistent with the purposes of the C (Commercial) General Plan land use designation and the C1 (Light Commercial) Zone District, which provides for drive-thru windows and outdoor seating, subject to the issuance of a conditional use permit.
- There is adequate parking and site features to accommodate the participants of the existing and proposed uses.
- 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 30 days of the date of approval for this use permit.
2. The applicant's failure to utilize CUP 2019-08 within one year following the date of this approval shall render the conditional use permit null and void unless a written request for an extension has been submitted to and approved by the Planning Commission (Commission).
3. CUP 2019-08 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.
4. CUP 2019-08 shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Commission within 45 days of the violation to consider revocation of the permit.
5. 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 establishment of the use.

## **Building Department**

6. A building permit is required for all improvements. The tenant space must meet the requirements of the California Building Code, California Fire Code, and Americans with Disabilities Act prior to occupancy.
7. 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.

## **Fire Department**

8. Portable fire extinguishers shall be required. A minimum of one 2A10BC-rated fire extinguisher for each 3,000 square feet, or fraction thereof, within a maximum travel distance of 75 feet.
9. A new key is required for the existing key box if the locks are re-keyed.

## **Planning Department**

### General

10. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
11. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
12. The property owner, manager and the applicant shall keep the property clear of all trash, rubbish and debris at all times; dumping of refuse shall be restricted to the dumpster/refuse containers belonging to the subject property.
13. 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.
14. CUP 2019-08 allows for the establishment of a drive-thru window and an outdoor seating area as components of a Starbucks coffee house.
15. The applicant shall obtain a current City of Madera Business License prior to conducting sales.

### Drive-Thru Window

16. The drive-thru window shall be reconfigured as depicted in the Drive-Thru Lane Modification site plan (see Attachment 3). The measurement for a single stacking space in the drive-through lane shall be ten feet in width by twenty feet in length. The drive-thru stacking lane shall be designed to queue no less than 8 stacking spaces. Any alterations and/or expansion of the drive-thru design shall require amendment of CUP 2019-08.

17. Directional signage shall be positioned so as to logically direct motorists to the drive-thru entrance. Final directional signage placement shall be approved by the Planning Department as part of the required sign review application.
18. A no less than 30-inches tall vegetative hedge or decorative screening wall shall be developed/constructed as an element of the drive-thru window design. The hedge/wall shall screen all vehicular lighting from the surrounding area, especially the public right-of-way.
19. The drive-thru shall be allowed one preview board, one menu board and one digital ordering screen. No additional freestanding signage shall be allowed as a component of the Starbucks coffee house.
20. The drive-thru window shall be permitted for 24-hour operation, seven days a week.

#### Outdoor Dining

21. The outdoor seating area shall be identified on the site plan submitted for approval. There shall be an allowance for outdoor seating for up to twenty patrons consistent with the requirements herein. At least one table shall be handicap accessible.
22. All outdoor seating shall be placed in such a manner as to not block or impede required paths of travel. The seating shall be located entirely within the parcel boundaries of the coffee house site and shall at no time be placed in parking areas, in landscaped areas, or in front of neighboring tenant suites.
23. No smoking, except as permitted by local and state laws, shall be permitted in the outdoor seating areas.
24. The consumption of alcohol shall be prohibited in the outdoor seating area consistent with applicable codes.
25. No loud amplified or live performance music shall be allowed in the outdoor seating area.
26. No exterior lighting shall be visible from or illuminate adjacent land or public right-of-way.
27. The applicant shall keep access between the subject site and adjacent businesses free and clear of obstructions.
28. The applicant shall utilize the outdoor seating area only from between the hours of 7:00 am to 11:00 pm daily. The outdoor seating area shall not be utilized at any other times.

#### Landscaping

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

Signage

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

**(OR)**

Motion 2: Move to continue the public hearing on CUP 2019-08 to the October 8, 2019 Commission hearing, for the following reasons: (specify)

**(OR)**

Motion 3: Move to deny the application for CUP 2019-08, based on the following findings: (specify)

**ATTACHMENTS**

Attachment 1: Aerial Map

Attachment 2: Operational Statement

Attachment 2: Site Plan

Attachment 1: Aerial Map



Attachment 2: Operational Statement



PLANNING DEPARTMENT  
OPERATIONAL STATEMENT CHECKLIST

It is important that the operational statement provides for a complete understanding of your proposal. The statements that you submit **must address all** of the following that apply to your proposal.

Your operational statement **must be typed or written in a legible manner** in the spaces provided. Answer all statements that apply to your business. **Those that do not apply, enter "N/A"**. Use additional sheets if necessary.

Business Name: see Attached ownership chart Business Address: \_\_\_\_\_

APN: see Attached \*(For your APN, Please call the Madera County Assessor's Office at (559) 675-7710.)

1. Nature of the operation – What do you propose to do? **PLEASE DESCRIBE IN DETAIL**

Starbucks coffee

2. What products will be produced by the operation? coffee + tea, eating

3. What is the existing use of your property? H+R Block

4. What are the surrounding land uses on the North, South, East and West? Hwy 145, parking  
East - parking - West - parking

5. List the hours of operation: 6-9:30 pm Number of Days per Week: 7

If Seasonal, list the months of operation: N/A

6. Number of Customers or Visitors per day: 250 Maximum per Day: 400

During what hours will customers visit your property? 6 AM - 9:30 pm

7. Number of current employees (including self): 7 Future employees (not counting current): 7

Will any live on site (including self)? YES [ ] NO [ ]

8. Are any goods to be sold on site? YES [  ] NO [  ]

If yes, are these goods grown or produced on site or at some other location? ON SITE AND TRUCKED IN

Describe products being offered for sale: Coffee, tea, crumpets  
scones, ice teas,

9. Number and type of service or delivery vehicles: NONE

10. What equipment is used? If appropriate, provide pictures or a brochure. see  
Starbucks.com

11. Will the operation or equipment used generate noise above existing levels in the area? YES [  ]  NO [  ]

If yes, explain \_\_\_\_\_

12. Describe the supplies or materials used and how they will be stored: \_\_\_\_\_

Internet back office, out of sight

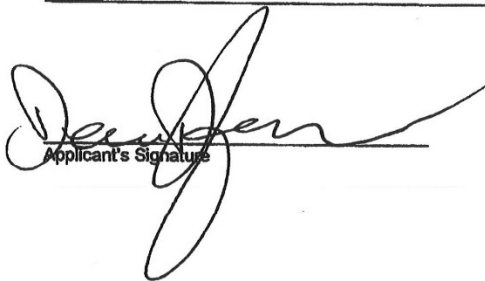
13. Will hazardous materials or waste be produced as part of this business? YES [  ]  NO [  ]

If yes, explain \_\_\_\_\_

14. Will the existing buildings be used or will a new building be constructed? EXISTING

15. Explain which building(s) or what portion of the building(s) will be used in your operation: End cap  
Building (6) and drive-through. Pick up window

16. Please include any other information that will provide a clear understanding of your business or operation:

  
Applicant's Signature

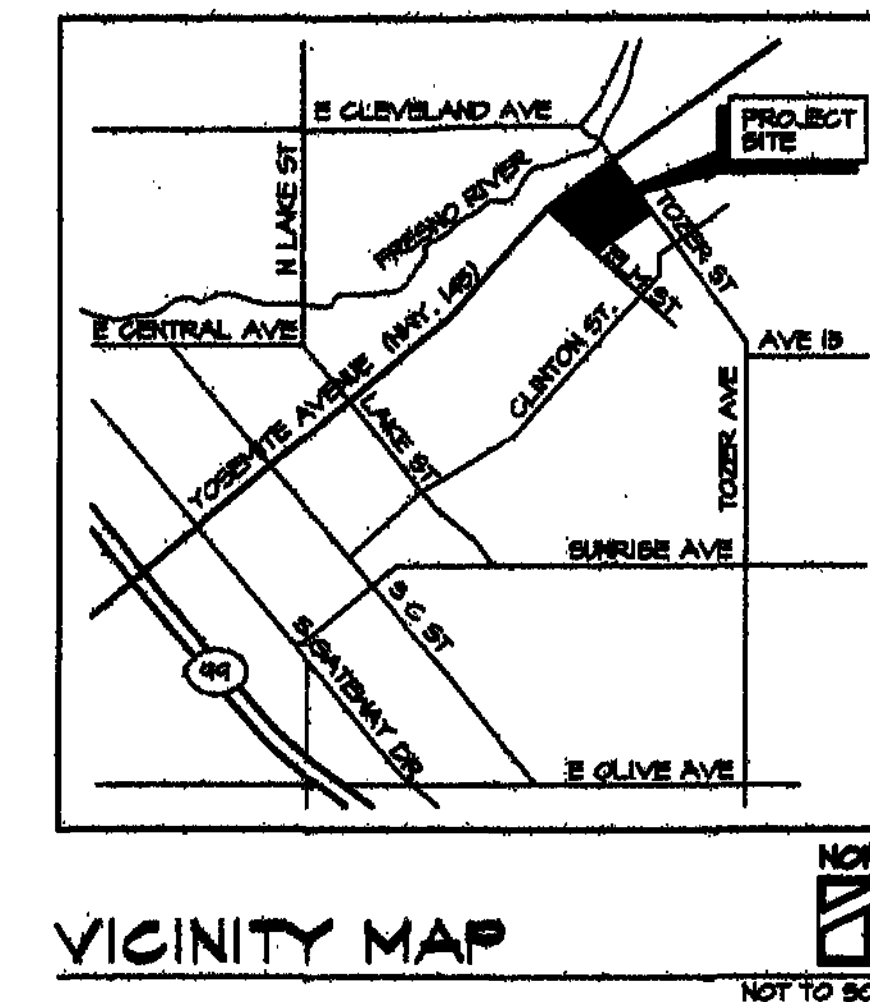
Date 6/14/19



## Attachment 3: Site Plan

# DRIVE-THRU LANE MODIFICATION

CROSSROADS SHOPPING CENTER  
1432 E. YOSEMITE AVENUE, MADERA, CA 93638



**M**  
Milestone Associates  
Imagineering  
a California Corporation

1000 LINCOLN ROAD, SUITE H202  
YUBA CITY, CALIFORNIA 95991

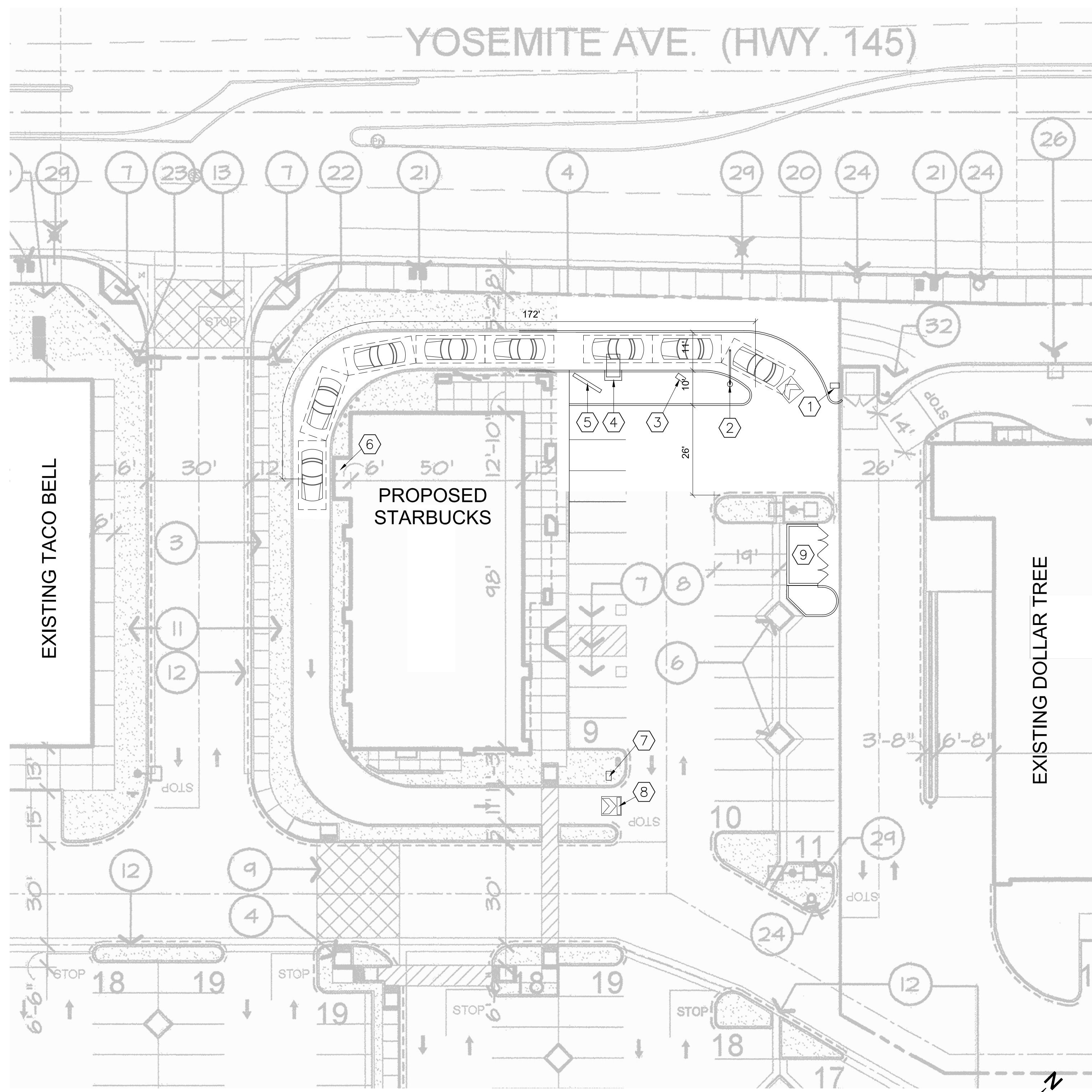
TEL: 530-755-4700  
FAX: 530-755-4567

JULIO J. TINAJERO  
LEAD DESIGNER

STAMP:

**SUBMITTAL DATE**

PLANNING DEPT: .  
BUILDING DEPT: .  
PUBLIC WORKS: .  
SURVEY: .



- CONSTRUCTION NOTES**
- ① DRIVE-THRU DIRECTIONAL SIGN
  - ② CLEARANCE BAR
  - ③ PRE-MENU BOARD
  - ④ DIGITAL ORDER SCREEN
  - ⑤ 5-PANEL MENU BOARD
  - ⑥ DRIVE-THRU PICK-UP WINDOW
  - ⑦ THANK YOU / EXIT ONLY SIGN
  - ⑧ DIRECTIONAL ARROW W/ STOP BAR
  - ⑨ TRASH ENCLOSURE W/ ROOF (9'D X 27'W X 7'H)

**LOT DATA:**

ASSESSOR'S PARCEL NUMBER: 008-142-072

ZONED: C1 - LIGHT COMMERCIAL

EXISTING USE: RETAIL

PROPOSED USE: RETAIL

**PARKING DATA:**

REQUIRED:

RETAIL BUILDING (4,400 SF) = 19 SPACES  
(4.4 SPACE PER 1000 SF)

REQUIRED: 19 SPACES

PROVIDED:

STANDARD SPACE (9'x19') 26 SPACES  
ACCESSIBLE SPACE (9'x19') 2 SPACES

PROVIDED: 28 SPACES

**PROPERTY OWNER/ APPLICANT**

CROSSROADS MADERA CA LB1, LLC  
CONTACT: DAVE LUCAS  
180 MONTGOMERY STREET, SUITE 1250  
SAN FRANCISCO, CA 94104  
PHONE: (415) 274-7390

**DESIGN FIRM**

MILESTONE ASSOCIATES  
CONTACT: JULIO TINAJERO  
1000 LINCOLN ROAD, STE. H202  
YUBA CITY, CA 95991  
PHONE: (530) 755-4700

REVISIONS		
No.	Description	Date

**SITE PLAN**

DRIVE THRU MODIFICATION PLAN  
CROSSROADS SHOPPING CENTER  
1432 E. YOSEMITE AVENUE  
MADERA, CA 93638  
A.P.N. 008-142-072

DATE: 8-14-19

SCALE: 1" = 20'

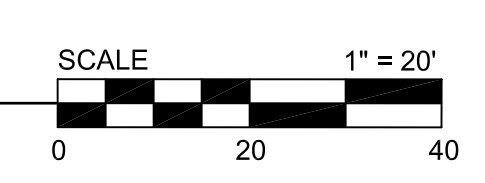
DRAFTER: STAFF

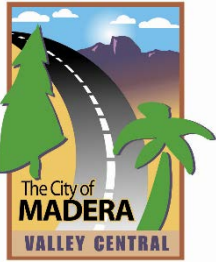
JOB NUMBER: 19-033

SHEET:

DD1

SITE PLAN





# CITY OF MADERA PLANNING COMMISSION

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

## Staff Report: Wellness Massage CUP 2019-13 & Categorical Exemption Item #6 – September 10, 2019

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**PROPOSAL:** Consideration of a request for a conditional use permit (CUP) to allow for the establishment of a massage therapy business as a component of an existing personal trainer business.

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<b>APPLICANT:</b>	Debra Garcia	<b>OWNER:</b>	Northpointe Retail LLC
<b>ADDRESS:</b>	1653 North Schnoor Avenue, #115	<b>APN:</b>	006-390-027
<b>APPLICATION:</b>	CUP 2019-13	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The project is located approximately 500 feet south of the southeast corner of North Schnoor Avenue and West Cleveland Avenue within the Northpointe retail commercial center.

**STREET ACCESS:** The project site has access to North Schnoor Avenue.

**PARCEL SIZE:** One parcel encompassing approximately 3.15 acres.

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C1 (Light Commercial)

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**SITE CHARACTERISTICS:** The project site is located within an existing tenant suite in the Northpointe retail commercial center. Commercial uses essentially surround the project site. Single family residential development is located across North Schnoor Avenue, southwest of the project site.

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

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**SUMMARY:** The applicant is proposing to establish a massage therapy business in a vacant room within the tenant suite of an existing personal trainer business. The massage therapy business will operate as a freestanding business unaffiliated with the personal training business, although each business may potentially benefit from the clientele of the other.

## APPLICABLE CODES AND PROCEDURES

MMC§ 10-3.802(A)(43), C1 (Light Commercial) Zones, Uses Permitted

MMC §10-3.802(C)(20) C1 (Light Commercial) Zones, Uses Permitted

MMC §10-3.1202 Parking Regulations

MMC §10-3.1301 Use Permits

Under consideration is a request to allow for a “Therapeutic Massage” or “Massage Parlor” use in the C1 (Light Commercial) Zone District. In the past, when reviewing the Zoning Ordinance for direction in permitting a massage therapy use, a determination of use was required. The ordinance states that whenever the use schedule of the Zoning Ordinance does not provide either an exact identification within the schedule for a proposed use as permitted or a similar identification sufficient to allow for a proposed use based on close similarities and/or compatibility with uses that are specifically identified within the schedule, a determination may be made by the Planning Commission (Commission) as to the suitability of the use in a proposed location. Two ready examples where the Commission made a determination of use for a massage therapy business were in the Madera Marketplace (2009) and 47<sup>th</sup> Place West shopping centers (2010).

It was at that time that staff began to favor the use permit process over the determination of use, identifying the findings for the determination of use to be essentially identical to those required when granting a conditional use permit. The determination of use findings are as follows:

- 1.) that the use is “similar in character” to the surrounding commercial services, and
- 2.) that the use is “not more detrimental to the welfare of the neighborhood” in which it is located.

As a comparison, the City’s Zoning Ordinance allows for the granting of a use permit by the 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.”

In the C1 (Light Commercial) Zone District, the Zoning Ordinance allows the Commission to permit “other uses which, in the opinion of the Commission, are of a similar nature,” subject to the approval of a conditional use permit. Today, staff utilizes the CUP process when considering a massage therapy use in the C1 Zone District. Examples of that process were Harmony Massage and Koinonia Spa, both approved by the Commission in 2016. The determination of use process has been discontinued as a pathway of approval for the massage therapy use.

If the Commission cannot make the appropriate findings, the use permit 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 existing personal trainer business is allowed by right in the C1 (Light Commercial) Zone District. No past action is applicable to a massage therapy request in the proposed location within the Northpointe retail commercial center.

## **ANALYSIS**

### Massage Uses

Whether deserving or not, a stigma has been attached to the massage therapy business use for some time. Because of past occurrence associated with the use, current massage professionals are typically required to secure discretionary permits from local government and professional licensure from the state. As an aide, staff completed a survey of five other valley communities to see how other municipalities addressed a “Therapeutic Massage” or “Massage Parlor” with their zoning matrices. The results are as follows:

Hanford requires a CUP within the Downtown Commercial Zone when proposed as a stand-alone use. Massage is allowed by right as a component of a permitted use. Only 25% of the floor area of a permitted use may be dedicated to massage. Currently, there are no approved stand-alone massage parlors. There are several businesses where massage is allowed as a component of the business, usually as part of a beauty parlor business.

Clovis’ Zoning Ordinance defines massage within the health studio call out. A health studio is defined as “a retail business offering some or all of the following services: skin and body therapy (body massage, body care treatments), skin care (clinical and spa facials), or body health regimens (exercise activities and/or exercise equipment)”. Health studios are allowed by right in the C-2 (Community Commercial) and C-3 (Central Trading District) Zone District.

Chowchilla’s Zoning Ordinance makes no call out for massage parlors or similar businesses, but instead allows for “any other retail business or service establishment determined by the commission after a public hearing to be consistent with the purpose of this section and which will not impair the present or potential use of adjacent properties”.

Merced’s Zoning Ordinance identifies “Beauty salons, barber shops, licensed massage establishments, tanning salons, and nail salons” within the zoning matrix. The use is permitted by right in the C-O (Commercial Office), C-C (Central Business District) and the C-N (Neighborhood Commercial) Zone Districts. The use requires a CUP in the C-T (Commercial Thoroughfare) and C-G (Heavy Commercial) Zone Districts.

Modesto’s Zoning Ordinance includes massage parlors as part of the “massage and bath service, massage school, hot tub rental” call out. Such businesses are allowed in the C-2 (General Commercial) and C-3 (Highway Commercial) Zone Districts with a CUP and are permitted by right in the C-M (Commercial Industrial) Zone District. Thus, cities throughout the central valley have utilized various approaches when placing a therapeutic massage business into the zoning matrix use schedule.

## Operations

The applicant is proposing to locate Wellness Massage within one room of the Body Mechanics personal training business in the Northpointe retail commercial center. Northpointe includes a broad mix of businesses engaged in a wide array of commerce, including restaurants, insurance companies, hair salons and an ice cream parlor. The applicant will offer full and partial body massages to client by appointment. Although clients of the personal trainer may potentially seek the services of Wellness Massage, the business will not rely upon Body Mechanics clients, but will focus on building its own clientele. The applicant envisions between eight and ten clients per day. There appears to be no compelling reason to disallow the use in the proposed location. It would appear to be a very compatible use in conjunction with a personal training business and no ready conflict between the businesses can be identified. The other massage therapy businesses approved by the Commission in the past have by and large operated in harmony with surrounding businesses within the general commercial areas of the communities.

## Parking

The Northpointe shopping center was developed with 165 parking stalls serving 31,104 square feet of floor area. Uses typical in retail commercial developments require one parking stall per each 300 square feet of floor area. Based on the calculations, the 31,104 square foot area requires that the shopping center provide 104 parking stalls. The shopping center has approximately a sixty-one (61) surplus of parking stalls to serve the tenants within the shopping center. Currently, all parking allotted on the shopping center has not yet been exhausted. The site's parking requirements have been calculated and appropriated as followed:

<b><u>Business Name</u></b>	<b><u>Business Use</u></b>	<b><u>Parking Ratio Requirement</u></b>	<b><u>Total # of Units</u></b>	<b><u># of Parking Stalls Required</u></b>
Pad A (retail only)	Retail Only	1 space per 300 sf	8,068 sf	27 stalls
Gabriela's (Pad A)	Restaurant	1 space per 3 seats	66 seats	22 stalls
Pad B (including Wellness Massage)	Retail Only	1 space per 300 sf	11,220 sf	37 stalls
Cold Stone (Pad B)	Restaurant	1 space per 3 seats	45 seats	15 stalls
Pad C (retail only)	Retail Only	1 space per 300 sf	5,616 sf	19 stalls
Cazadores (Pad C)	Restaurant	1 space per 3 seats	78 seats	26 stalls
Total Number of Required Parking Stalls per MMC § 10-3.1201(c):				146 stalls
Total Number of on-site Parking Stalls				165 stalls
Total Number of Required ADA Parking Stalls:				6 stalls
Total Number of Provided ADA Parking Stalls:				8 stalls

There is sufficient parking to accommodate all the uses within the shopping center, including the parking demands of Wellness Massage.

### General Plan Consistency

The Northpointe retail commercial center has been developed consistent with the General Plan's goals and policies for commercial development which mandate "well-designed" and "aesthetically pleasing" development. Consistent with those goals, Northpointe is developed with a distinctive architectural style, including a mixture of complementary colors, varying building materials, and pedestrian friendly covered walkways. No additional construction is proposed as a component of this project.

### Other Department and Agency Comments

The proposed CUP 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**

Though approval of a massage therapy business is not specifically addressed in the vision or action plans, the overall project does directly support the Vision Statement, "Good Jobs and Economic Opportunities" and the creation of "a strong and diverse economy, supporting the local tax base and essential community services that provides living wage opportunities for all its community members."

### **RECOMMENDATION**

The information presented in this report provides support for the conditional approval of the CUP request. It is recommended that the Commission consider the information in this report, as well as testimony in the public hearing, and make a decision on the CUP request.

### **PLANNING COMMISSION ACTION**

The Commission will be acting on CUP 2019-13.

Motion 1: Move to approve CUP 2019-13, subject to the findings and conditions of approval as listed:

### Findings

- This project is categorically exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) since there will be negligible expansion of the existing use of the structure.
- A massage therapy business is consistent with the purposes of the C (Commercial) General Plan land use designation and the C1 Zone District which provide for the use subject to the approval of a conditional use permit.
- 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 days of the date of approval for this use permit.
2. The applicant's failure to utilize CUP 2019-13 within one year following the date of this approval shall render the conditional use permit null and void unless a written request for an extension has been submitted to and approved by the Planning Commission (Commission).
3. CUP 2019-13 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.
4. CUP 2019-13 shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Commission within 45 days of the violation to consider revocation of the permit.
5. 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 establishment of the use.

### **Building Department**

6. A building permit is required for all improvements. The tenant space must meet the requirements of the California Building Code, California Fire Code, and Americans with Disabilities Act prior to occupancy.
7. 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.



## **Fire Department**

8. Portable fire extinguishers shall be required. A minimum of one 2A10BC-rated fire extinguisher for each 3,000 square feet, or fraction thereof, within a maximum travel distance of 75 feet.
9. A new key is required for the existing key box if the locks are re-keyed.

## **Planning Department**

### General

10. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
11. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
12. The property owner, manager and the applicant shall keep the property clear of all trash, rubbish and debris at all times; dumping of refuse shall be restricted to the dumpster/refuse containers belonging to the subject property.
13. 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.

### Massage Business

14. CUP 2019-13 allows for the establishment of a massage therapy business within the existing Body Mechanics tenant suite.
15. The massage business shall operate consistent with the approved operational statement. Any significant alterations and/or expansions of the use to may require amendment of CUP 2019-13.
16. The hours of operation shall occur as early as 8:00 a.m. until as late as 10:00 p.m., seven (7) days a week.

### Landscaping

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

### Signage

18. All signage shall be in compliance with the Sign Regulations of the City of Madera.  
**(OR)**

Motion 2: Move to continue the public hearing on CUP 2019-13 to the October 8, 2019 Commission hearing, for the following reasons: (specify)

**(OR)**

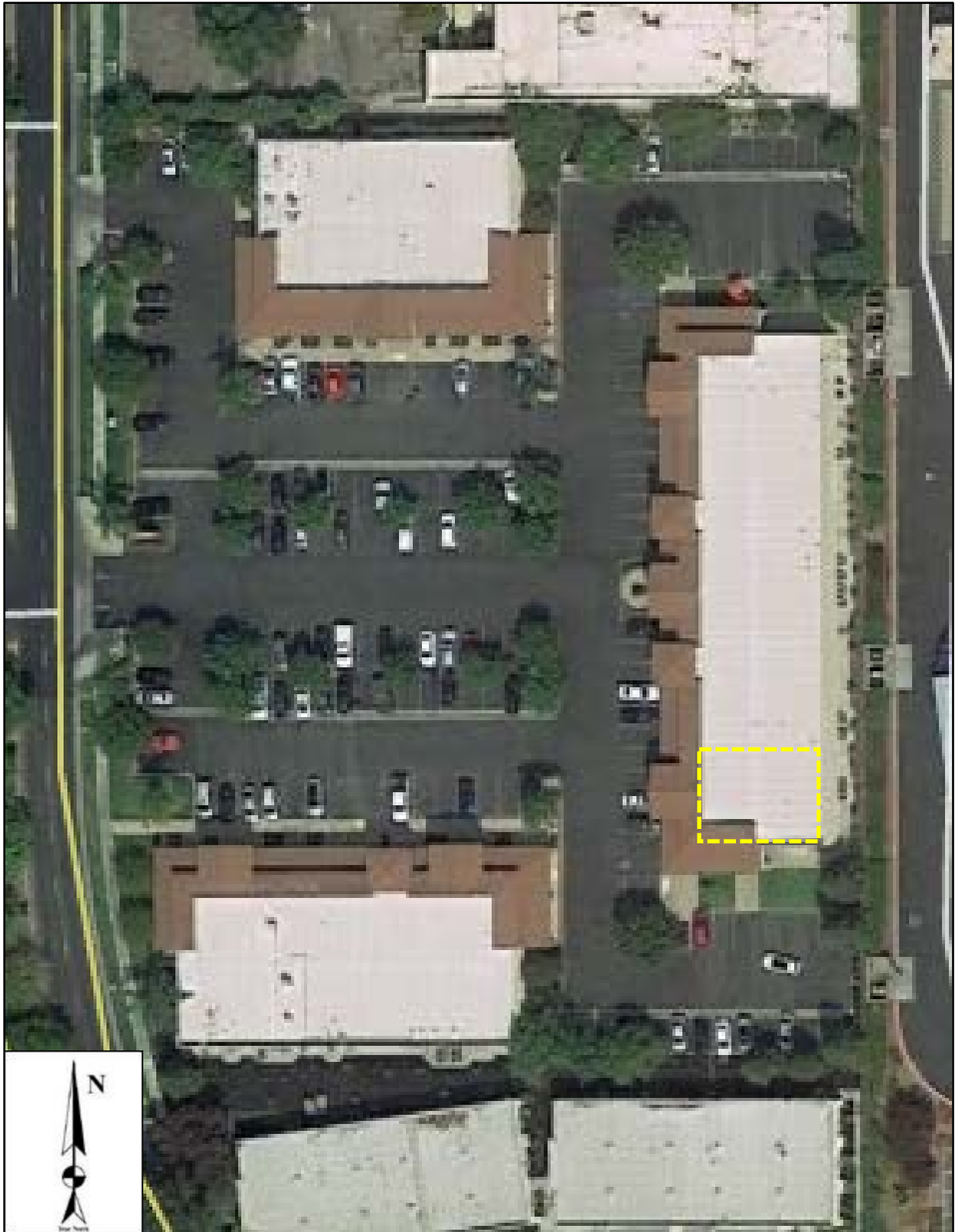
Motion 3: Move to deny the application for CUP 2019-13, based on the following findings:  
(specify)

**ATTACHMENTS**

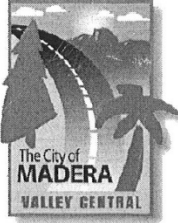
Attachment 1: Aerial Map

Attachment 2: Operational Statement

Attachment 1: Aerial Map



**Attachment 2: Operational Statement**



**PLANNING DEPARTMENT  
OPERATIONAL STATEMENT CHECKLIST**

It is important that the operational statement provides for a complete understanding of your proposal. The statements that you submit **must address all** of the following **that apply** to your proposal.

Your operational statement **must be** typed or written in a **legible** manner in the spaces provided. Answer all statements that apply to your business. **Those that do not apply, enter "N/A"**. Use additional sheets if necessary.

Wellness Massage by Debra  
Business Name

11653 N Schnoor Ave Suite 115  
Business Address

APN: 006390027

\*\*(For your APN, Please call the Madera County Assessor's Office at (559) 675-7710.)

1. Nature of the operation – What do you propose to do? **PLEASE DESCRIBE IN DETAIL**

Massage Therapy  
Offer full or Partial body massages.

2. What products will be produced by the operation? N/A

3. What is the existing use of your property? Personal Training

4. What are the surrounding land uses on the North, South, East and West? Commercial  
property including restaurants, insurance companies,  
accounting firm, hair Salon, nail Salon.

5. List the hours of operation: \_\_\_\_\_ Number of Days per Week: 7

If Seasonal, list the months of operation: NOT SEASONAL

6. Number of Customers or Visitors per day: 8 Maximum per Day: 10

During what hours will customers visit your property? \_\_\_\_\_

7. Number of current employees (including self): 1 Future employees (not counting current): \_\_\_\_\_

Will any live on site (including self)? YES [ ] NO []

8. Are any goods to be sold on site? YES [ ] NO [✓]

If yes, are these goods grown or produced on site or at some other location? \_\_\_\_\_

Describe products being offered for sale: None

9. Number and type of service or delivery vehicles: None

10. What equipment is used? If appropriate, provide pictures or a brochure. Massage table  
or massage chair

11. Will the operation or equipment used generate noise above existing levels in the area? YES [ ] NO [✓]

If yes, explain \_\_\_\_\_

12. Describe the supplies or materials used and how they will be stored: Cabinet will store

Sheets, towels, pillow, massage Oils,

13. Will hazardous materials or waste be produced as part of this business? YES [ ] NO [✓]

If yes, explain \_\_\_\_\_


14. Will the existing buildings be used or will a new building be constructed? existing building

15. Explain which building(s) or what portion of the building(s) will be used in your operation: \_\_\_\_\_

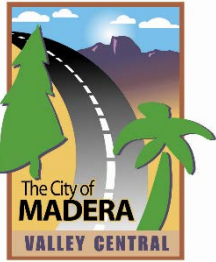
unoccupied room in the existing  
Personal Training

16. Please include any other information that will provide a clear understanding of your business or operation:

Other info: re-statement Business is offering full  
and partial massages. I Rent an unoccupied room  
in an existing, Personal Training business

  
Applicant's Signature

6/10/2019  
Date



# CITY OF MADERA PLANNING COMMISSION

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

## Staff Report: Walmart Storage Trailers CUP 2019-14, SPR 2019-20 & Categorical Exemption Item #7 – September 10, 2019

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**PROPOSAL:** Consideration of a request for a conditional use permit and site plan review to allow for the temporary placement of up to fourteen storage containers during the 2019 holiday sales season.

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<b>APPLICANT:</b>	Walmart / Osbaldo Menchaca	<b>OWNER:</b>	Walmart #1583
<b>ADDRESS:</b>	1977 W. Cleveland Avenue	<b>APN:</b>	013-160-014
<b>APPLICATION:</b>	CUP 2019-14 & SPR 2019-20	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The project site is located adjacent to the Madera Marketplace shopping center, situated on the northeast corner of the intersection of North Schnoor Avenue and West Cleveland Avenue.

**STREET ACCESS:** Access to the project site is provided via North Schnoor Avenue and West Cleveland Avenue.

**PARCEL SIZE:** The project parcel is approximately 12.45 acres.

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C1 (Light Commercial)

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**SITE CHARACTERISTICS:** The project site is adjacent to the Madera Marketplace shopping center, substantially surrounded by commercial/retail properties, including the Commons at Madera Fairgrounds shopping center to the south and the John Deere equipment dealer to the east.

**ENVIRONMENTAL REVIEW:** The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15304(e) (Minor Alterations to Land).

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**SUMMARY:** Walmart is proposing the temporary placement of fourteen storage containers for use during the 2019 holiday sales season. The storage containers will be located at the rear of the building temporarily extinguishing approximately 32 parking stalls. Although parking stalls will be non-accessible during the holiday sales season, there is still a sufficient number of parking stalls to serve the site. The storage containers will not inhibit paths of travel required for vehicles, pedestrians or fire access.

## **APPLICABLE CODES AND PROCEDURES**

MMC §10-3.802 Light Commercial – Uses Permitted

MMC §10-3.4.0101 Site Plan Review

MMC §10-3.1202 Parking Regulations

MMC §10-3.1301 Use Permits

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

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered, and site improvements required 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**

Development of the Walmart store occurred in the early 1990s after approval by the Commission. Since its original development, Walmart has expanded the building's garden center and received approval of various use permits and zoning administrator permits that primarily allowed for outdoor display and sales. Walmart has previously submitted use permit applications specifically for the temporary placement of storage containers annually since 2012.

## **ANALYSIS**

### Storage Containers

Walmart is requesting an allowance for the placement of fourteen storage containers for the primary purpose of storing miscellaneous layaway merchandise during the holiday season sales period. Other seasonal merchandise could also be stored within up to six of the storage containers, as needed. Walmart would like to temporarily place the storage containers along the eastern fringe of the store's property over approximately 32 existing parking stalls. The storage containers would be placed no earlier than September 11, 2019 until no later than January 31, 2020.

The proposal of fourteen storage containers differs from previous requests, which originally allowed for ten storage containers. The addition of four storage containers is due to the reduced size in depth than the previously approved storage containers which change from 40' in depth to 20' in depth. These smaller containers will be spread across approximately 32 parking stalls similar to previous years. However, the smaller storage containers will encompass less gross floor area on the site. The applicant was advised by the storage container distributor that additional

time may be required to remove the storage containers off the site. The requested removal date of January 31, 2020 is based on this anticipation.

### Analysis

Primary concerns considered in relation to outdoor activities in any commercial zone district include traffic congestion, pedestrian safety, loitering, noise, trash, litter, vector control, visual blight and site maintenance. While conditions of approval are imposed to address these concerns, implementation and monitoring of compliance with those conditions would be a necessity by the applicant, property manager and City staff. Recommended conditions of approval address public safety, visual blight and land use compatibility as primary concerns of the use.

The location of the fourteen 8' x 20' storage containers, as proposed, will not be a visual distraction to traffic along West Cleveland Avenue nor will it cause blight on the site. Based on the length of the Wal-Mart building in relation to the length of the fourteen storage containers, the storage containers will be able to adequately screened from the public- right of way. An increase in traffic to the site is anticipated as a result of the seasonal sales. The increase in traffic is indicative of a potential for an increase in traffic accidents. It is recommended that traffic signage be installed, and pedestrian controls implemented so as to adequately provide for public safety of motorists, pedestrians and employees in the vicinity of the temporary storage containers. It is also recommended that the area in and around the storage containers be kept free of trash, debris, fixtures and other associated materials that could cause distraction for motorists maneuvering through the areas in proximity to the storage containers.

### Parking

The placement of up to fourteen storage containers would temporarily eliminate access to approximately 32 parking stalls used primarily by employees. Such parking stalls are generally under-utilized. The loss of these stalls should not present a significant problem because Walmart was developed with excess parking to allow for future expansion of the store.

### 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**

Though approval of temporary placement of storage containers is not specifically addressed in the vision or action plans, the overall project does indirectly support Action 115.2, which states, "As a component of the General Plan Update, increase retail outlets and promote Shop Madera..."



## **RECOMMENDATION**

It is recommended that the Commission consider the information in this report, as well as testimony in the public hearing and make a determination on Conditional Use Permit (CUP) 2019-14 and Site Plan Review (SPR) 2019-20, subject to the findings and conditions of approval.

## **PLANNING COMMISSION ACTION**

The Commission will be acting on CUP 2019-14 and SPR 2019-20.

Motion 1: Move to approve CUP 2019-14 and SPR 2019-20, subject to the findings and conditions of approval as listed:

### Findings

- This project is categorically exempt under Section 15304(e) (Minor Alterations to Land) of the CEQA guidelines.
- The temporary placement of storage containers for seasonal storage is consistent with the purposes of the C (Commercial) General Plan land use designation and the C1 (Light Commercial) Zone District which provides for the use, subject to the issuance of a conditional use permit.
- There is adequate parking and site features to allow for the temporary placement of storage containers.
- As conditioned, the temporary placement of storage containers will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance and/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 or 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 30 days of the date of approval.

2. The applicant's failure to utilize CUP 2019-14 within the specifically allowed timeframe shall render the conditions use permit null and void unless a written request for an extension has been submitted to and approved by the Commission.
3. CUP 2019-14 may be made null and void without any additional public notice or hearing at any time upon both the benefactors of CUP 2019-14 and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
4. CUP 2019-14 and SPR 2019-20 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 an item before the Commission so that it may determine whether to consider setting a hearing regarding revocation of the permit.
5. The project shall be developed and operate in accordance with the conditions of approval, as reviewed and approved with CUP 2019-14 and SPR 2019-20.
6. It shall be the responsibility and the property owner and manager to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained prior to the placement of the storage containers.
7. Site improvements required as part of this use permit shall be completed in advance of any request for a building permit final inspection and/or placement of storage containers.

#### **Fire Department**

8. The placement of the temporary storage containers shall not obstruct the fire lanes or access to fire hydrants.

#### **Planning Department**

##### General

9. Vandalism and graffiti shall be corrected per the Madera Municipal Code (MMC).
10. The property owner operator and/or manager shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
11. The property owner, operator and/or manager shall keep the property clear of all trash, rubbish and debris at all times; and the dumping of refuse shall be restricted to the dumpster and refuse containers owned by the property owner.
12. The applicant shall comply with all federal, state and local laws. Material violations of applicable laws concerning the use will be cause for revocation of CUP 2019-14.

### Temporary Storage of Trailers

13. CUP 2019-14 allows for on-site placement of up to fourteen (14) containers, each container encompassing 8' wide by 8'-6" height by 20' depth, to be used as follows:
  - Eight storage containers for layaway merchandise.
  - Six storage containers for miscellaneous high-volume merchandise.
14. The placement of the outdoor storage containers shall be consistent with the approved site plan filed with the use permit application and as reviewed by the Planning Department and attached hereto as an exhibit (Attachment 1).
15. The outdoor storage containers shall be placed on-site no earlier than September 11, 2019 and shall be entirely removed from the site by January 31, 2020.
16. The area in and around the storage containers shall be kept free of trash, debris, fixtures, and other associated materials that could cause a distraction for motorists maneuvering through the areas in proximity to the temporary storage containers.
17. The use of the storage containers shall be specifically limited to only those approved for storage in the containers. No electronics, chemicals, flammables, foods or fixtures shall be stored in the storage containers.
18. All storage containers shall be a minimum of ten feet from all fire hydrants and twenty feet from the building. A ten-foot clearance shall be maintained from any combustible storage (trash containers or trash compactor).
19. The property owner, operator and/or manager shall be responsible for ensuring that security is provided for the business at all times, and that customers and persons other than the employees do not loiter on or near the storage containers, on the property or near the business on public or private property at any time.
20. Vehicle driveways and pedestrian access shall remain open at all times. Ingress and egress to the parking lot or store entrances shall not be blocked at any time.
21. Any damages caused to the site's landscape areas, parking field, community parking light poles, signage and/or structures as a result of the storage containers shall be restored or rehabilitated no later than February 15, 2020.

### Signage

22. Traffic signage shall be installed, and pedestrian controls implemented per the direction of the City Engineer so as to adequately provide for public safety of motorists, pedestrians and employees in the vicinity of temporary storage containers at all times.
23. Loitering shall be prohibited in proximity to the storage containers and in adjacent, and nearby areas for both public and private. A prominent, permanent sign or signs stating "No Loitering" shall be posted in a place that is clearly visible to customers.

24. No advertising signage shall be posted on or about the temporary storage containers.
25. All signage shall have an approved sign permit issued by the Planning Department per MMC § 10-6.

**(OR)**

Motion 2: Move to continue the public hearing on CUP 2019-14 and SPR 2019-20 to the October 8, 2019 Commission hearing, for the following reasons: (specify)

**(OR)**

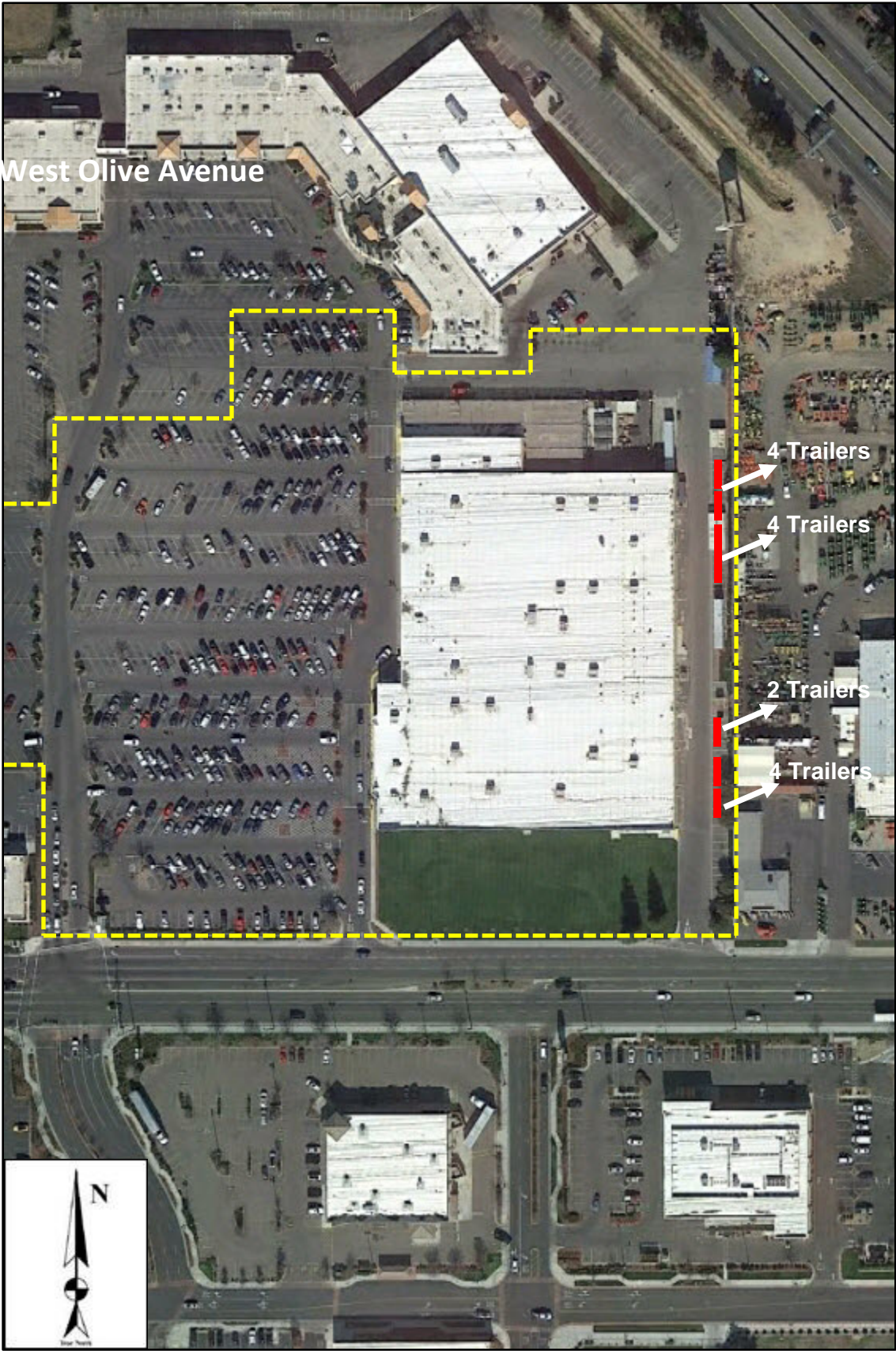
Motion 3: Move to deny the application for CUP 2019-14 and SPR 2019-20, based on the following findings: (specify)

### **ATTACHMENTS**

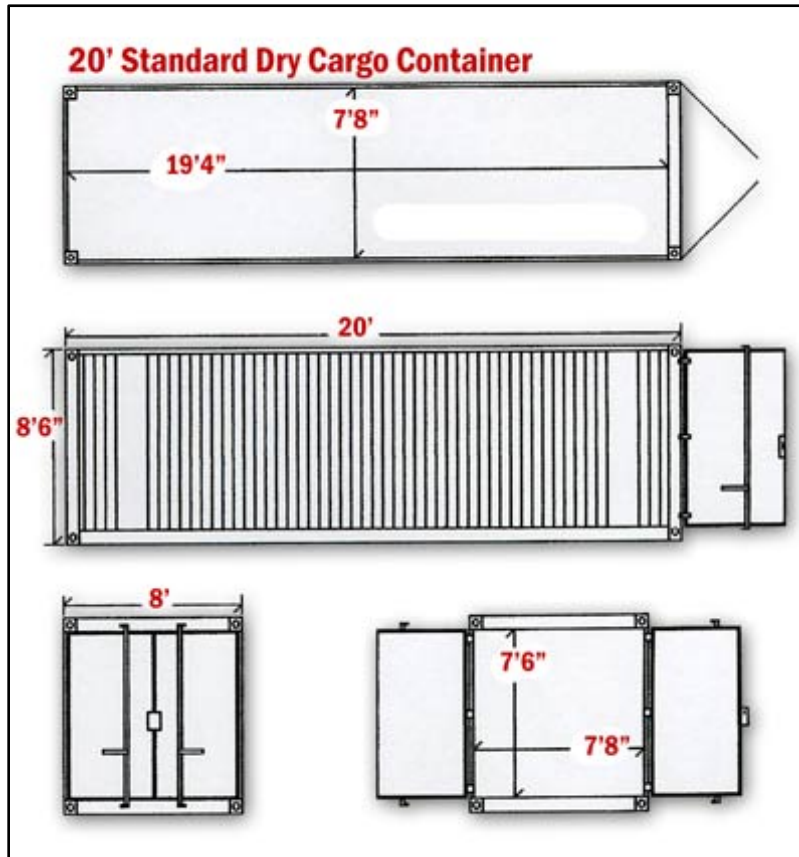
Attachment 1: Aerial Map

Attachment 2: Storage Containers

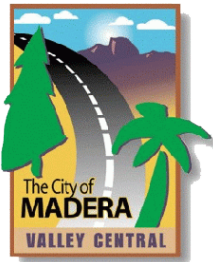
Attachment 1: Aerial Map



## Attachment 2: Storage Containers







**CITY OF MADERA  
PLANNING COMMISSION**

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

**Staff Report: Joyee's Recycling Center - Performance Review  
CUP 2013-11 MOD  
Item #8– September 10, 2019**

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**PROPOSAL:** A noticed public hearing to consider revocation of Conditional Use Permit 2013-11 MOD, which provides for the operation of a recycling center at 709 North D Street.

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<b>APPLICANT:</b>	Alicia & Sergio Mondragon	<b>OWNER:</b>	Dorothy Nishimoto, Trustee
<b>ADDRESS:</b>	709 North D Street	<b>APN:</b>	004-011-008
<b>APPLICATIONS:</b>	CUP 2013-11 MOD	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** This project site is located approximately one-hundred (100') feet north of the intersection of North D Street and Riverside Drive.

**STREET ACCESS:** The site has access from North D Street.

**PARCEL SIZE:** One parcel encompassing approximately 0.28 acres.

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C1 (Light Commercial)

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**SITE CHARACTERISTICS:** The project site is a fully developed light commercial property. The property includes a caretaker's quarters, restroom structure and a designated area for recycling materials. To the south is a pharmacy and the Fresno River. To the north is a retail strip mall and the former Bridge Store. To the east and west are churches and residential neighborhoods.

**ENVIRONMENTAL REVIEW:** The project is categorically exempt under 15321 (Enforcement Actions by Regulatory Agencies) of CEQA Guidelines.

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**SUMMARY:** Joyee's Recycling Center was originally approved by the Planning Commission (Commission) in 2013. In response to complaints, the use permit was amended in January 2018 in an effort to resolve noncompliance with then existing conditions of approval. Significant noncompliance with conditions of approval was not resolved during months of efforts to facilitate compliance. The applicant was not able to perform and has now closed their business.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.405 Uses

MMC § 10-3.1301 Use Permits

MMC § 10-3.1311 Termination and Revocation

## **PRIOR ACTION**

In 2006, the Commission approved Conditional Use Permit (CUP) 2006-26, which provided for the establishment of a recycling center. CUP 2006-26 was later abandoned and expired. Joyee's Recycling Center was first approved by the Commission on September 13, 2011. This use permit was never utilized and subsequently expired. The allowance for Joyee's Recycling Center was reestablished with CUP 2013-11, which was approved by the Commission on June 11, 2013. The Commission approved an amendment to CUP 2013-11 on January 9, 2018 to allow for the redesign of the recycling center in response to pending revocation proceeding. The Commission reviewed CUP 2013-11 MOD at its last meeting on August 13, 2019.

## **ANALYSIS**

### Background

Joyee's implemented their business model successfully in the first few years of opening. As time passed, the clientele for the recycling center grew exponentially. This growth resulted in major circulation issues on the property. Vehicles parked wherever possible to the extent of blocking other vehicles from exiting the site. The owners exacerbated the circulation issue by striping diagonal parking stalls, without the City's approval, that resulted in vehicles having to back into the public right-of-way. The aesthetic condition of the property also degraded the surrounding streetscape such that the site was no longer an asset to the neighborhood.

In response to complaints about the recycling center, an amendment to the use permit was required to resolve the issues on the site. The redesign included two drive-thru lanes that would lead customers to a loading/unloading zone and egress onto the alleyway, a permanent shade structure was to be constructed to provide shade for the employees, and a parking field was redesigned for employees and the caretaker's unit. CUP 2013-11 MOD included a condition of approval that required all site improvements be completed by July 1, 2018, or the recycling center would be required to close until the site improvements were completed.

Staff was aware that the business continued to operate in various forms after the July 1<sup>st</sup> date, but was hopeful that the business would complete the required improvements. The owners of the recycling center did submit grading plans to the Engineering Department and received approval for those plans, but the approval was ultimately rescinded due to inherent flaws in the plans. Although the business has operated from time to time, no effort to move forward with completion of improvements has occurred for many months. Recently, the business owner gave notice to the property owner and the business has now closed permanently.

### Findings of Review

Attached please find a matrix of the conditions of approval for CUP 2013-11 MOD. These conditions were evaluated by staff for compliance. Shaded conditions of approval are currently



not in compliance. Of the 57 total conditions of approval, 33 need attention in order to be in compliance with the conditions of approval. Compliance with 24 of the 57 conditions of approval equates to a 42 percent compliance rate. In that the use is not in compliance with the conditions of approval and the use has now been abandoned, staff knows that conditions of approval will not be satisfied on the site. The property owner has advised staff that the site will be rehabilitated and returned to its prior use as a parking field and single family residence.

## **RECOMMENDATION**

It is recommended that the Commission consider this information, together with testimony provided during the public hearing, and make the appropriate findings and decision regarding the revocation of CUP 2013-11 MOD.

## **COMMISSION ACTION**

The Commission will be taking action regarding CUP 2013-11 MOD, determining to either:

- revoke the use permit, or
- find that revocation of the use permit is not warranted at this time.

Any action by the Commission is subject to appeal to the City Council within 15 calendar days of the Commission's action.

Motion 1: Move to revoke CUP 2013-11 MOD effective immediately, based on and subject to the following findings.

### Findings

- Conditions of approval for CUP 2013-11 MOD, Nos. 2, 6-11, 13, 15-23, 25, 27, 30, 31, 38, 42, 43, 47-54, and 56, adopted by the Planning Commission, are not in compliance.
- Based on observations of staff and the evidence from the whole of the record, the use has not operated in compliance with conditions of approval; and
- The operation of the use in violation of the conditions of approval was detrimental and injurious to property and improvements in the neighborhood and general welfare of the City; and
- The above findings are supported by evidence presented at the public hearing, by field observations by multiple City departments, and in staff reports during the processing and review of this entitlement; which is made a part of this record by this reference.

## **(OR)**

Motion 2: Move to find that the revocation of CUP 2013-11 MOD is not warranted at this time for the following reasons (Specify):

## **ATTACHMENTS**

Aerial Photo

Conditions of Approval Compliance Matrix

Aerial Photo



### Conditions of Approval Compliance Matrix

Con. No.	Condition Statement	Condition Status	Action Needed
1.	All conditions of approval applicable to the approval of Conditional Use Permit 2013-11 shall be superseded by Conditional Use Permit 2013-11 MOD, as listed herein.	Procedural	None required.
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.	Not in compliance	The applicant has not signed the Acknowledgement and Acceptance of Conditions.
3.	The applicant's failure to utilize Conditional Use Permit 2013-11 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 Commission.	Procedural	None required.
4.	Conditional Use Permit 2013-11 MOD may be made null and void without any additional public notice or hearing at any time both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish Conditional Use Permit 2013-11 MOD.	Procedural	None required.
5.	Site Plan Review 2017-24 will expire one year from date of issuance unless positive action is taken to extend the approval before expiration date. (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval)	Procedural	None required.
6.	Conditional Use Permit 2013-11 MOD and Site Plan Review 2017-24 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 an item before the Commission so that it may determine whether to consider setting a hearing regarding revocation of the permit.	Not in compliance	Upon inspection of the site, the project is not in compliance with the conditions of approval.
7.	The site and/or building plans submitted for any/all building permit applications shall reflect changes required by the herein listed conditions of approval. Any deviation from the approved plan or any condition contained herein shall require, at a minimum, prior	Not in compliance	No building plans have been submitted to the Building Department.

	written request by the applicant and approval by the Planning Manager.		
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 establishment of the use.	Not in compliance	Building plans and encroachment permits have not been submitted by the business owner.
9.	The project shall be developed in accordance with the site plan, as reviewed and approved with the Site Plan Review. Minor modifications to the Site Plan necessary to meet regulatory or engineering constraints may be made with approval from the Planning Manager.	Not in compliance	The project has not been developed in accordance with the approved site plan.
10.	All on-site and off-site requirements listed herein shall be completed on or before July 1, 2018. Failure to complete all requirements by the stated time will result in closure of the recycling center until all conditions of approval are satisfied.	Not in compliance	The on-site and off-site requirements have not been completed as of July 1, 2018.
11.	The applicant shall submit detailed plans that include interior setbacks for ADA compliance to be approved by the Building Department.	Not in compliance	Building plans have not been submitted.
12.	Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.	Procedural	None required.
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, easement acceptance and improvement inspection fees.	Not in compliance	Encroachment permit(s) and the easement acceptance have not been paid.
14.	Improvement plans signed and sealed by an engineer shall be submitted to the Engineering Division in accordance with the submittal process.	In compliance	Improvement plans were approved by the Engineering Division.

15.	Improvements within the City's right-of-way require an encroachment permit from the Engineering Division.	Not in compliance	Encroachment permit(s) have not been submitted.
16.	The existing sewer service connection shall be upgraded to include a cleanout per City standards.	Not in compliance	Encroachment permit(s) have not been submitted to perform this work.
17.	The proposed driveway approach on North D Street shall be constructed to a street-type entrance with a minimum face curb radius of fifteen (15') feet and be constructed to current City and ADA standards. The beginning of curb radius shall be one (1') foot or greater from the southern property line.	Not in compliance	Encroachment permit(s) have not been submitted to perform this work.
18.	The existing driveway approach on North D Street shall be removed and replaced with concrete sidewalk, curb and gutter per current City standards. The location shall be consistent with the approved site plan.	Not in compliance	Encroachment permit(s) have not been submitted to perform this work.
19.	The damaged curb along North D Street shall be reconstructed per current City standards, approximately four (4') feet immediately north of the existing driveway.	Not in compliance	Encroachment permit(s) have not been submitted to perform this work.
20.	The alley shall be paved from the northern end of the project parcel to Riverside Drive per City standards. Grading of the alley shall be constructed in such a way that future drainage patterns are not negatively constrained. The structural section shall be per City standard or greater to sufficiently accommodate the increase in traffic volumes.	Not in compliance	Encroachment permit(s) have not been submitted to perform this work.
21.	An Irrevocable Offer of Dedication shall be made to dedicate ten (10') feet of right-of-way along the entire project parcel frontage on North D Street to provide a half-street width of fifty (50') feet, east of the center line. A \$452.00 easement acceptance fee or the fee in effect at that time shall be paid to the Engineering Department.	Not in compliance	The easement acceptance fee has not been paid by the owner.

22.	A minimum of two (2) 2A10BC-rated fire extinguishers shall be required. The fire extinguishers shall be mounted between three (3') and five (5') feet above the finished floor and shall be within seventy-five (75') feet of travel distance to all portions of the building. If the fire extinguisher locations are not plainly visible, then they shall be identified by signage.	Not in compliance	Shade structure requires fire extinguisher, building plans not submitted for shade structure.
23.	The type of storage and the method of arrangement shall be approved by the City Fire Marshal prior to issuance of building permits. Certain types of storage and storage heights may require that special fire protection measures be taken. The storage of combustible materials is not permitted above twelve (12') feet in any case.	Not in compliance	Building plans not submitted for shade structure, unable to determine storage arrangement.
24.	Prior to delivery of recycling containers, all flammable vegetation shall be removed from the building site at a minimum distance of thirty (30') feet and maintained year-round.	In compliance	None required.
25.	The proposed shade structure shall have sufficient clearance to adjacent structures and property lines or the building shall be equipped with fire-rated exterior walls.	Not in compliance	Building plans have not been submitted for the shade structure.
26.	Vandalism and graffiti shall be corrected per the Madera Municipal Code.	In compliance	Staff's most recent inspection did not observe vandalism or graffiti on the site.
27.	The applicant shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.	Not in compliance	The current operations generate noise and blight that adversely affect adjacent properties.
28.	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.	In compliance	The property is clear of all trash, debris and rubbish.

29.	The applicant shall comply with all federal, state and local laws. Material violation of any of those laws concerning the use will be cause for revocation of Conditional Use Permit 2013-11 MOD.	In compliance	The owner is complying with all federal, state and local laws.
30.	Conditional Use Permit 2013-11 MOD allows for the redesign of an existing recycling center, consistent with the herein listed conditions of approval.	Not in compliance	The use is not consistent with the conditions of approval.
31.	The drive-thru ingress/egress lane shall be consistent with the approved site plan. The lane shall be a minimum width of twenty (20') feet.	Not in compliance	Business plans have not been submitted to construct the drive-thru lane.
32.	The storage and/or placement of material shall not, in any way, impede and/or restrict egress from the caretaker's unit.	In compliance	The storage of material does not restrict egress from the caretaker's unit.
33.	The hours of operation for the recycling center shall be as follows: <ul style="list-style-type: none"> <li>Monday-Saturday: 8:00 am – 6:00 pm</li> <li>Sunday: 12:00 pm – 5:00 pm</li> </ul>	In compliance	The business is operating consistent with the approved hours of operation.
34.	There shall be an allowance for no more than two (2) commercial recycle storage vehicles/trailers on the site during hours of operation. No overnight storage of vehicles shall occur.	In compliance	Staff has observed no more than two (2) commercial recycle storage vehicles on site.
35.	The recycling center shall accept California Redemption Value (CRV) aluminum, plastic glass bottles, and cans only.	In compliance	None required.
36.	An adult operator/employee who must be eighteen (18) years of age or older shall be on-site during all hours of operation and shall be responsible for adherence to these conditions of approval.	In compliance	None required.



37.	All recyclable materials shall be maintained in proper containers at all times. No loose material storage (in piles or otherwise) shall be allowed.	In compliance	None required.
38.	All recyclables shall be stored underneath the shade structure and removed to an off-site facility daily. No overnight storage of materials shall be allowed.	Not in compliance	The permanent shade structure has not been constructed.
39.	It shall be the responsibility of the operator to gather and return any shopping carts discarded by patrons of the recycling center to the point of origin of the shopping carts. Carts discarded on or adjacent to the recycling center shall be assumed to be discarded by patrons of the recycling center and cart return shall be the responsibility of the operator.	In compliance	No shopping carts were observed on or near the site.
40.	All substances, including but not limited to, milk, soft drinks, soap, solvent and other substances and materials from any containers shall be removed at once from pavement and sidewalk areas. No such substances may remain on-site or be flushed into gutters or the storm drain system.	In compliance	None required.
41.	Changes or expansions in the use shall require an amendment to Conditional Use Permit 2013-11 MOD.	Procedural	None required.
42.	All handling of recyclables shall only occur within the loading/unloading zone and underneath the shade structure.	Not in compliance	Shade structure is not constructed and loading/unloading zone is not striped per approved site plan.
43.	All transfer of recyclables from weighing containers to bulk storage containers shall only occur in close proximity to the loading/unloading zone and the shade structure.	Not in compliance	Shade structure is not constructed and loading/unloading zone is not striped per approved site plan.
44.	Materials shall be transferred from the seller's containers into plastic containers or fabric bags. No metal containers for receiving of materials shall be utilized.	In compliance	None required.

45.	After weighing, recycling material shall be transferred to commercial grade plastic or burlap material bags.	In compliance	None required.
46.	Material bags shall be located out of public view and shall be removed from the site daily.	In compliance	None required.
47.	The type of storage and method arrangement shall be approved by the City Fire Marshal prior to a final building permit.	Not in compliance	Fire Marshal unable to approve storage method without construction of shade structure.
48.	The shade structure shall be constructed with roofing to match the existing restroom. Structural poles shall be painted to match the existing restroom. There shall be no allowance for any temporary shade structures on the site. The existing restroom shall be repainted as a component of this amendment.	Not in compliance	Shade structure has not been constructed.
49.	A six (6') foot solid masonry block wall shall be located along the entire southern property line and around the recyclables loading/unloading zone, shade structure and commercial truck storage area.	Not in compliance	Masonry block wall has not been constructed.
50.	All other fencing on the site shall be of wood quality material or better. The site shall be screened with a wood fence at the western property line. No fencing shall impede required paths of travel.	Not in compliance	Fencing for areas indicated in approved site plan have not been constructed.
51.	A detailed landscape and irrigation plan shall be submitted to the Planning Department for review and approval as part of the submittals for building permit plan check.	Not in compliance	A detailed landscape and irrigation plan has not been submitted.
52.	The property owner shall maintain all landscaping in a healthy and well-manicured appearance. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation with drought-tolerant plantings.	Not in compliance	The landscaping is unhealthy/dead and needs maintenance.

53.	All parking and loading areas shall be marked and striped to City standards: Perpendicular (90 degree) parking spaces shall measure a minimum of nine (9') feet wide by nineteen (19') feet deep, or seventeen (17') feet deep when abutting a landscape planter with minimum of two (2') foot overhang. No compact stalls shall be incorporated into the parking field. No wheel stops shall be incorporated into the parking field/parking layout except where required for compliance with ADA requirements. Minimum drive aisle width shall be twenty-six (26') feet for primary drive aisles.	Not in compliance	The parking field was striped without City approval that currently backs vehicles into the public right-of-way. The parking field is not consistent with the approved site plan.
54.	On-site parking shall be provided at all times in conformance with the Madera Municipal Code. Further expansion of the use or additional or accessory uses may require the provision of additional parking spaces in compliance with City standards prior to establishment of the use. All required parking shall be permanently maintained with all parking spaces to be shown on plans submitted for building permits.	Not in compliance	Building plans not submitted indicating the approved parking layout.
55.	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.	In compliance	None required.
56.	Signage shall be installed to direct customers to pull forward and advise customers that all handling of recyclables shall occur in the loading/unloading zone.	Not in compliance	Signage has not been installed because the drive-thru lane has not been constructed.
57.	Loitering shall be prohibited in or upon the premises, and in adjacent and nearby areas both public and private. A prominent, permanent sign stating "No loitering is allowed on or in front of this premises" shall be posted in a location to be approved by the Planning Manager.	In compliance	A sign stating "No Loitering" is posted on the fence.