



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

**CITY HALL – COUNCIL CHAMBERS  
TUESDAY  
SEPTEMBER 08, 2020  
6:00 pm**

This meeting will be conducted pursuant to the provisions of the Governor’s Executive Order which suspends certain requirements of the Ralph M. Brown Act. Members of the public may participate in the meeting remotely through an electronic meeting in the following ways; via phone by dialing (669) 900-6833 enter ID: [96067140965#](tel:96067140965) followed by \*9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/96067140965>. Public comment will also be accepted via email at [planningcommissionpubliccomment@madera.gov](mailto:planningcommissionpubliccomment@madera.gov).

**CALL TO ORDER**

**ROLL CALL**

Commissioner Israel Cortes (Chairperson)  
Commissioner Robert Gran Jr. (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, but are not required, to identify themselves and state the subject of their comments. If the subject is an item on the Agenda, the Chairperson has the option of asking the speaker to hold the comment until the hearing is opened. 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:** July 14, 2020

**CONSENT ITEMS:** None

**PUBLIC HEARING ITEMS:**

**1. SPR 2020-08 – Sealed Air Solar Farm**

A noticed public hearing to consider a site plan review to allow for a ground-mounted solar photovoltaic (PV) single-axis tracker system and battery energy storage system on approximately 12.5 acres of an open field (APN's 009-330-001 and a portion of 009-330-033) owned and maintained by Sealed Air Corporation, with power conduit tying to Sealed Air's existing manufacturing facility to the west of the development. The project site is located on the north side of West Almond Avenue, between South Schnoor Avenue and South Pine Street, bordered by the rail spur on the east and north and is in the (I) Industrial Zone District with an (I) Industrial General Plan land use designation. A Negative Declaration will also be considered by the Planning Commission.

**2. CUP 2020-11 – Walmart Temporary Storage Containers**

A noticed public hearing to consider a conditional use permit to allow for the temporary placement of outdoor storage containers for the 2020 holiday season at the Walmart located approximately 1,000 feet east of the intersection of North Schnoor Avenue and West Cleveland Avenue (1977 West Cleveland Avenue) in the C1 (Light Commercial) Zone District with a 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€ Minor Alterations to Land.

**3. CUP 2020-05 & SPR 2020-03 – Starbucks (Country Club Drive)**

A noticed public hearing to consider a conditional use permit and site plan review to allow for a Starbucks drive thru only coffee shop on a parcel formerly occupied by Long John Silvers located at the southwest corner of Country Club Drive and Sharon Boulevard (1110 Country Club Drive) in the C2 Zone District with a C General Plan land use designation (APN: 003-194-012). The project is considered to be categorically exempt per Section 15302 of the California Environmental Quality Act (CEQA) guidelines.

**STAFF IS REQUESTING THIS ITEM BE CONTINUED TO THE OCTOBER 13<sup>TH</sup>, 2020 PLANNING COMMISSION MEETING.**

**NON-PUBLIC HEARING ITEMS:** None

**WORKSHOPS:** None

**ADMINISTRATIVE REPORTS:**

- 1. Do's and Don'ts during Political Campaign**

**COMMISSIONER REPORTS:**

**ADJOURNMENT:**

The next regular meeting will be held on October 13, 2020.

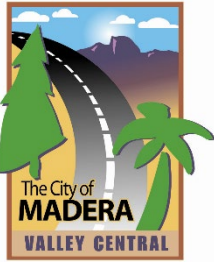
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation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

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

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

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

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



# CITY OF MADERA PLANNING COMMISSION

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

## Staff Report: Sealed Air Solar Farm SPR 2020-08 and Negative Declaration Item # 1 – September 8, 2020

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**PROPOSAL:** An application for site plan review (SPR 2020-08) to allow for the construction of a solar farm and related improvements on 15.66 acres of the Sealed Air Corporation (Sealed Air) property.

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<b>APPLICANT:</b>	SunPower Corporation Systems 1414 Harbour Way South, Ste 1901 Richmond, CA 94804	<b>OWNER:</b>	Sealed Air Corporation 2415 Cascade Pointe Boulevard Charlotte, NC 28208
<b>SITE ADDRESS:</b>	1835 West Almond Ave	<b>APN:</b>	009-330-033 & 009-330-001 (portion)
<b>APPLICATION:</b>	SPR 2020-08	<b>CEQA:</b>	Initial Study/Negative Declaration

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**LOCATION:** The project site is the vacant portion of the Sealed Air property located directly east of the existing Sealed Air facility on West Almond Avenue, on the southwest side of the City of Madera, with minor improvements proposed on the developed portion of the Sealed Air facility site.

**STREET ACCESS:** The project site will have limited access from West Almond Avenue.

**PARCEL SIZE:** Approximately 15.66 acres

**GENERAL PLAN DESIGNATION:** I (Industrial)

**ZONING DISTRICT:** I (Industrial)

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**SITE CHARACTERISTICS:** The 15.66-acre site consists of vacant land and approximately 19,500 square feet (less than 0.5 acres) of asphalt concrete paved parking lot. A pile of broken concrete is located within the northern portion of the site. The concrete pile covers an area approximately 10 feet by 6 feet and is approximately 3 feet high. The majority of the project site is positioned within Madera County Assessor's Parcel Number (APN) 009-330-033, though some work will also be completed on the eastern portion of APN 009-330-001. The site is bordered to the north and east by a private railroad spur line serving Sealed Air. To the south, the site is bordered by West Almond Avenue and to the west by Sealed Air's existing manufacturing facility. The site is surrounded by vacant land and stockpiles of soil and concrete to the north, and vacant and developed industrial sites to the east, south, and west. The project site and surrounding area is designated and zoned for industrial uses.

**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).

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**SUMMARY:** The applicant, SunPower Corporation Systems, proposes to install a solar farm (solar array field) and battery energy storage system in an open field owned and maintained by Sealed Air adjacent to Sealed Air's existing manufacturing facility. The purpose of the project is to provide Sealed Air with a renewable alternative electrical energy source for its existing manufacturing facility.

The project will include the following components within the proposed 15.66-acre solar array field:

- 3-megawatt alternating current (MWac) output capacity / 3,539.25 kilowatts peak (kWp) ground-mounted solar photovoltaic (PV) single-axis tracker system with a central inverter.
- 739-kilowatt (kW) battery inverter / 2,958-kilowatt hour (kWh) battery mounted on a pad in the array field with the solar inverter.

The proposed site plan is consistent with the current I (Industrial) zone district and the existing Sealed Air facility. After review of the proposed project and consideration of public input, the solar project is anticipated to provide compatibility with existing industrial uses. The site plan review will guide the development of a 15.66-acre solar panel field consistent with the I zone district standards.

#### **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.4.0102 Site Plan Review Applicability

MMC § 10-3.1001 - MMC § 10-3.1004 I Zones

California Public Resources Code § 21000, California Environmental Quality Act

A site plan review is required for all uses of property which involve construction of new structures or new uses which necessitate on-site improvements. If the Commission cannot make the appropriate findings, the development should be denied. Conditions may be attached to the approval of the site plan to ensure compatibility. Project design may be altered and on- or off-site improvements required in order to make the project compatible with nearby uses.

#### **ANALYSIS**

##### Site Plan Review

The project proponent is proposing to install a ground-mounted solar photovoltaic (PV) single-axis tracker system (solar array) and battery energy storage system on the vacant land adjacent to the existing Sealed Air facility (15.66 acres), with power conduit tying to the facility to the west of the development. The project will be enclosed within a 7-foot-high chain link fence with a single vehicular gated entrance located on West Almond Avenue. No parking will be constructed as part of this project, as after construction of the solar facility the solar array will not require daily maintenance nor will it generate parking demand. Additionally, a gravel fire access road will be installed around the perimeter of the solar array and provide access to the solar inverter and battery disconnect.

The surrounding areas to the north and south are vacant, while the area to the east is occupied by other industrial uses. The Sealed Air facility is located to the west of the project site. A 30-foot wide easement

transecting the project site in north-south direction previously intended to be used for a variety of municipal uses, including street access, sewer, water, and public utilities has been vacated by the City.

#### Public Infrastructure

Public infrastructure and utilities necessary to operate the project are primarily limited to a small amount of water for cleaning the panels, as well as access to the site via West Almond Avenue. Access will be limited to maintenance and fire vehicles only, and access restrictions will be posted with signs accordingly. Street improvements will be made along West Almond Avenue consistent with City standards. The site has sufficient utility service and will not put additional stress on the City of Madera's public infrastructure and utilities systems.

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The site plan under review acts as the first step in the eventual development of the site and is subject to compliance with CEQA. An Initial Study and Negative Declaration (IS/ND) titled "Sealed Air Solar Farm Project Site Plan Review (SPR) 2020-08" was prepared for the subject Site Plan Review. The IS/ND was completed in full compliance with CEQA to reflect the City's independent judgement and analysis of the project.

The IS/ND assessed the potential environmental impacts of the proposed project and determined that the impacts will be less than significant. Because the project site is in a primarily industrial area and project development would be consistent with the uses surrounding the project site, and because the project is not anticipated to exacerbate current environmental conditions beyond a "Less Than Significant Impact", a negative declaration has been deemed the appropriate environmental assessment. The City circulated the IS/ND for public review for a 21-day review period, from August 15, 2020 to September 4, 2020.

Two comment letters were received for the proposed project. Letters were received from the Madera County Community and Economic Development Planning Division and from the San Joaquin Valley Air Pollution Control District (District). The District confirmed that the proposed project would not be expected to exceed any of the District's significant thresholds for annual criteria pollutant emissions from either construction or from operations. However, the District indicated the proposed project will require District permits. Prior to construction, the project Applicant will need to submit to the District an application for an Authority to Construct (ATC). The proposed project is also subject to District Rule 9510 (Indirect Source Review) requiring the project Applicant to the District an Air Impact Assessment (AIA) application. District Regulation VIII (Fugitive PM<sub>10</sub> Prohibitions) will require the Applicant to submit and receive approval of a Dust Control Plan. Approval of both the ATC and AIA applications and the Dust Control Plan by the District are required prior to issuance of project grading or building permit.

The Madera County Planning Division noted the proposed structures are located in Compatibility Zone D of the Madera Airport Area of Influence and within the airspace/airflight overlay for the airport. The Planning Division determined that a full Airport Land Use Commission hearing is not warranted. However, the Planning Division recommended specific conditions to added to the project.

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

The City of Madera General Plan contains four core vision statements. The fourth of these statements is "A Safe, Healthy Environment." A key supporting idea for this vision statement is the maintenance of a

quality environment. As part of the vision statement, “Madera encourages and enforces high environmental standards including air and water quality. The community is a recognized leader in waste reduction, reuse and recycling, and the conservation of natural resources.” The proposed project is installing a solar array to offset Sealed Air’s electrical grid demand and establishing a renewable energy source for on-site consumption. Installation and operation of a renewable energy source to offset the demand on the electrical grid would reduce impacts on air quality. The proposed project is also consistent with the planned land use designation of Industrial for the project site as envisioned in the General Plan.

## **RECOMMENDATION**

The information presented in this report provides support for the adoption of a resolution recommending adoption of a Negative Declaration for the project by the Planning Commission and conditional approval of Site Plan Review 2020-08. It is recommended that the Commission consider the information in this report, as well as testimony received at the public hearing, and make a determination on the Negative Declaration and SPR 2020-08, subject to the findings and conditions of approval.

## **PLANNING COMMISSION ACTION**

The Commission will be acting on the Negative Declaration and Site Plan Review 2020-08 and determining to either:

- Adopt a Resolution adopting a Negative Declaration for the project and approving Site Plan Review 2020-08 as conditioned (Motion 1a and 1b); or
- Continue the hearing to a future date (Motion 2); or
- Deny the application (Motion 3).

Any action by the Commission approving or denying the applications is subject to appeal to the City Council within 10 calendar days of the Commission’s action.

**Motion 1a:** Move to adopt a resolution adopting a Negative Declaration for the project, based on and subject to the findings as follows:

### Findings to Adopt a Negative Declaration

An initial study and negative declaration have been prepared pursuant to the California Environmental Quality Act (CEQA) that determines there is no substantial evidence the project will have a significant effect on the environment, and that the document reflects the independent judgement of the Planning Commission of the City of Madera after consideration of all the information in the entire record before it, and is hereby recommended for adoption in accordance with CEQA.

**Motion 1b:** Move to approve SPR 2020-08, based on and subject to the findings and conditions of approval as follows:

The approval of SPR 2020-08 shall become final and effective immediately only after adoption of the Negative Declaration for the project and after the 10-day appeal period has expired, should no timely appeal be filed.

## Findings to Approve a Site Plan Review

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

The property is zoned I (Industrial), which is consistent with the existing General Plan land use designation of I (Industrial). The I zone district permits the development of electrical equipment and instruments, as well as accessory uses incidental to the industrial uses already developed to the west of the project site. Site Plan Review 2020-08 is consistent with the purpose and intent of the I (Industrial) zone district and does not conflict with City standards or other provisions of the Code.

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

The project site is not subject to any applicable specific plans.

*Finding c: The proposed project includes facilities and improvements; vehicular and pedestrian ingress, egress, and internal circulation; and location of structures, services, walls, landscaping, and drainage that are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, there will be no adverse effects on surrounding property, light is deflected away from adjoining properties and public streets, and environmental impacts are reduced to acceptable levels.*

Site Plan Review 2020-08 has been reviewed and, subject to the conditions of approval, has been determined to be designed in such a way that the project is consistent with surrounding development and will not have a negative effect on the surrounding area. The project is located adjacent to the existing Sealed Air facility and will not generate significant amounts of noise, light, or traffic.

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

Site Plan Review 2020-08, as conditioned, will make all necessary street improvements, including improvements along West Almond Avenue consistent with City standards. The project will not have a significant impact on traffic or the environment, as identified in the Negative Declaration.

**(OR)**

**Motion 2:** Move to continue the public hearing on SPR 2020-08 to the October 13, 2020 Planning Commission hearing. The Commission shall note the reasons for such action during the course of their deliberations and subsequent motion to continue SPR 2020-08.

**(OR)**

**Motion 3:** Move to deny the application for SPR 2020-08. The Commission shall note the reasons for such action during the course of their deliberations and subsequent motion to deny SPR 2020-08.



## **ATTACHMENTS**

Attachment 1: Aerial Photo

Attachment 2: Site Plan

Attachment 3: Planning Commission Resolution

Attachment 4: Initial Study/Negative Declaration

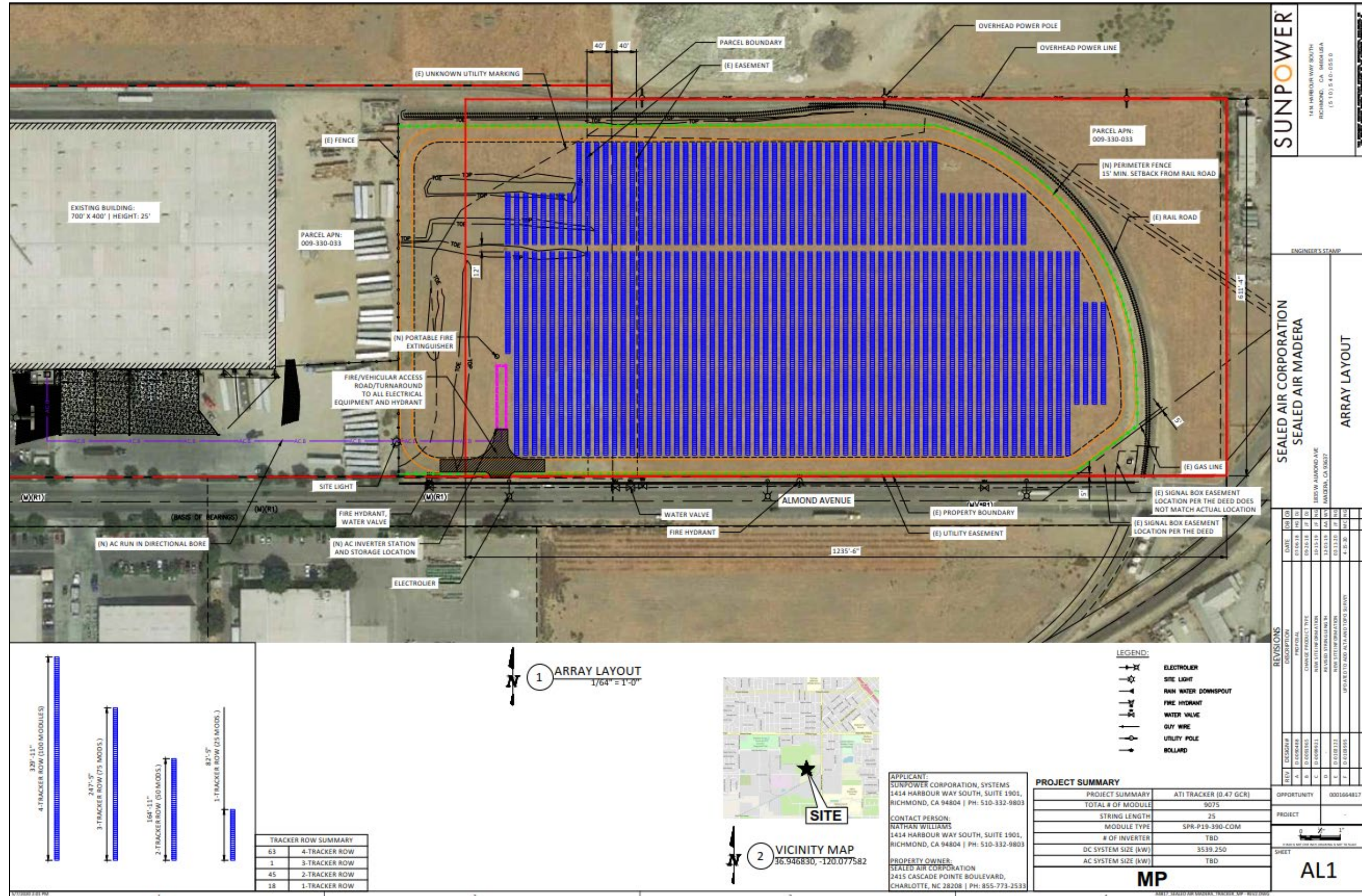
Attachment 5: Madera County Community and Economic Development Planning Division Comment Letter

Attachment 6: San Joaquin Valley Air Pollution Control District Comment Letter

Attachment 1: Aerial Photo



### Attachment 2: Site Plan



**SUNPOWER**  
 1414 HARBOUR WAY SOUTH  
 RICHMOND, CA 94804  
 (510) 540-0550

ENGINEER'S STAMP

**SEALED AIR CORPORATION**  
 SEALED AIR MADERA  
 1825 W ALMOND AVE  
 MADERA, CA 95377

REVISIONS

REV	DESCRIPTION	DATE
A	PROVIDED	07/20/18
B	CHANGE PRODUCT TYPE	07/20/18
C	REVISION ORIENTATION	07/20/18
D	REVISION ORIENTATION	07/20/18
E	REVISION ORIENTATION	07/20/18
F	REVISION ORIENTATION	07/20/18

PROJECT SUMMARY

PROJECT SUMMARY	ATI TRACKER (0.47 GCR)
TOTAL # OF MODULE	9075
STRING LENGTH	25
MODULE TYPE	SPR-P19-390-COM
# OF INVERTER	TBD
DC SYSTEM SIZE (KW)	3539.250
AC SYSTEM SIZE (KW)	TBD

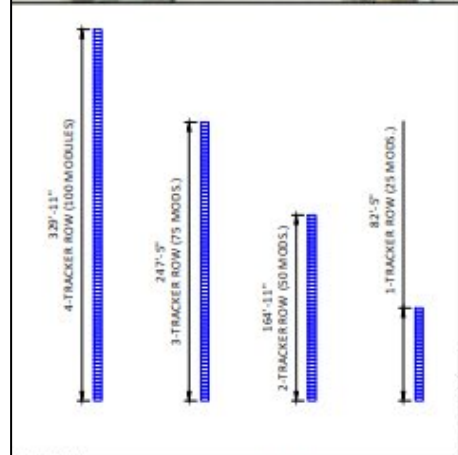
TRACKER ROW SUMMARY

63	4-TRACKER ROW
1	3-TRACKER ROW
45	2-TRACKER ROW
18	1-TRACKER ROW

OPPORTUNITY: 0001664817

PROJECT: -

SHEET: **AL1**



TRACKER ROW SUMMARY

63	4-TRACKER ROW
1	3-TRACKER ROW
45	2-TRACKER ROW
18	1-TRACKER ROW

**1** ARRAY LAYOUT  
 1/64" = 1'-0"



**2** VICINITY MAP  
 36.946830, -120.077582

APPLICANT:  
 SUNPOWER CORPORATION, SYSTEMS  
 1414 HARBOUR WAY SOUTH, SUITE 1901,  
 RICHMOND, CA 94804 | PH: 510-332-9803

CONTACT PERSON:  
 NATHAN WILLIAMS  
 1414 HARBOUR WAY SOUTH, SUITE 1901,  
 RICHMOND, CA 94804 | PH: 510-332-9803

PROPERTY OWNER:  
 SEALED AIR CORPORATION  
 2415 CASCADE POINTE BOULEVARD,  
 CHARLOTTE, NC 28208 | PH: 855-773-2533

- LEGEND:
- ELECTROLIER
  - SITE LIGHT
  - RAIN WATER DOWNSPOUT
  - FIRE HYDRANT
  - WATER VALVE
  - GUY WIRE
  - UTILITY POLE
  - BOLLARD

**MP**

**Attachment 3: Planning Commission Resolution**

**RESOLUTION NO. 1858**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA  
ADOPTING A NEGATIVE DECLARATION PURSUANT TO CEQA GUIDELINES  
SECTION 15074 (CONSIDERATION AND ADOPTION OF A NEGATIVE  
DECLARATION OR A MITIGATED NEGATIVE DECLARATION) AND APPROVING  
SITE PLAN REVIEW 2020-08 (SEALED AIR CORPORATION FACILITY, 1835 WEST  
ALMOND AVENUE)**

**WHEREAS**, Sealed Air Corporation (“Owner”) currently operates at 1835 West Almond Avenue in Madera, California (“site”); and

**WHEREAS**, SunPower Corporation Systems (“Applicant”) is acting on behalf of the Owner (“site”); and

**WHEREAS**, the site contains vacant land that is planned for and surrounded by industrial uses; and

**WHEREAS**, Applicant is seeking a site plan review (SPR) to allow for the construction of a solar farm and related improvements for the supply of electrical power to the existing Sealed Air facility on APN 009-330-033 and the eastern portion of APN 009-330-001, as proposed by SPR 2020-08; and

**WHEREAS**, the City performed an Initial Study and determined that a Negative Declaration was appropriate;

**WHEREAS**, a Negative Declaration has been prepared in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et. seq.; and

**WHEREAS**, a Notice of Intent to adopt the Negative Declaration was filed on August 14, 2020 and published in the Madera Tribune on August 15, 2020; and

**WHEREAS**, the public review period during which the City would receive comments on the Negative Declaration was open from August 15, 2020 until September 4, 2020; and

**WHEREAS**, the Initial Study/Negative Declaration for the project are on file in the office of City Planning Department, located at 205 West Fourth Street, Madera, California, 93637, are available for inspection by any interested person at that location and are by this reference, incorporated into this Resolution as if fully set forth herein; and

**WHEREAS**, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code; and

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

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

**WHEREAS**, the Planning Commission received and reviewed SPR 2020-08 at a duly noticed meeting on September 8, 2020; and

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

**WHEREAS**, the Planning Commission now desires to adopt a Negative Declaration for the project and approve SPR 2020-08, with conditions.

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

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA: An Initial Study was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning Commission finds and determines that the project fulfills the criteria for a Negative Declaration set forth in CEQA Guidelines Section 15070 (Decision to Prepare a Negative or Mitigated Negative Declaration) as there is no substantial evidence that the project could have a significant effect on the environment. As such, the Planning Commission adopts a finding of a Negative Declaration under CEQA Guidelines section 15074 (Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration) for this project.
3. Findings for SPR 2020-08: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2020-08, as conditioned. With conditions, the project is consistent with the requirements of the Municipal Code, including Section 10-3.4.0106. The Planning Commission further approves, accepts as its own, incorporates as if set forth in full herein, and makes each and every one of the findings, based on the evidence in the record, as follows:
  - a. The proposal is consistent with the General Plan and Municipal Code.

Basis for Finding: The property is zoned I (Industrial), which is consistent with the existing General Plan land use designation of I (Industrial). The I district permits the development of electrical equipment and instruments, as well as accessory uses incidental to the industrial uses already developed to the west of the project site. Site Plan Review 2020-08 is consistent with the purpose and intent of the I (Industrial) zone district and does not conflict with City standards or other provisions of the Code.
  - b. The proposal is consistent with any applicable specific plans.

Basis for Finding: The project site is not subject to any applicable specific plans.
  - c. The proposed project includes facilities and improvements; vehicular and pedestrian ingress, egress, and internal circulation; and location of structures, services, walls, landscaping, and drainage that are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, there will be no adverse effects on surrounding property, light is deflected away from adjoining properties and public streets, and environmental impacts are reduced to acceptable levels.

Basis for Finding: Site Plan Review 2020-08 has been reviewed and, subject to the conditions of approval, has been determined to be designed in such a way that the project is consistent with surrounding development and will not have a negative effect on the surrounding area. The project is located adjacent to the existing Sealed Air facility and will not generate significant amounts of noise, light, or traffic.

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

Basis for Finding: Site Plan Review 2020-08, as conditioned, will make all necessary street improvements, including improvements along West Almond Avenue consistent with City standards. The project will not have a significant impact on traffic or the environment, as identified in the Negative Declaration.

With the conditions imposed, the project will not be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

4. Approval of SPR 2020-08: Given that all findings can be made, the Planning Commission hereby approves SPR 2020-08 as conditioned as set forth in the Conditions of Approval attached as Exhibit "A."

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

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 8<sup>th</sup> day of September 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

\_\_\_\_\_  
Israel Cortes  
Planning Commission Chairperson

Attest:

\_\_\_\_\_  
Gary Conte  
Planning Manager

Exhibit "A" – Conditions of Approval for SPR 2020-08

**EXHIBIT "A"**  
**SPR 2020-08 CONDITIONS OF APPROVAL**  
**August 31, 2020**

**Notice to Applicant**

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedications, reservations, or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within ninety (90) calendar days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

This project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies; those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community; and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

**Appeals**

All discretionary conditions of approval will ultimately be deemed mandatory unless appealed by the applicant to the City Council within ten (10) days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld.

**General Conditions**

1. Approval of this site plan review shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.
2. Approval of this site plan review may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this site plan review, the zoning ordinance, and all City standards and specifications. This site plan review is granted, and the conditions imposed, based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this site plan review. Unless the conditions of approval specifically require operation inconsistent with the application, a new or revised site plan review is required if the operation is found to be out of conformance with the application. Failure to operate in accordance with the conditions



and requirements imposed may result in revocation of the permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the site plan review process or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this site plan review or subsequent amendments or revisions. These conditions are conditions imposed solely upon the site plan and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

3. These conditions are applicable to any person or entity making use of this site plan, and references to “developer” or “applicant” herein also include any applicant, property owner, owner, lessee, operator, or any other person or entity making use of this site plan. Furthermore, “project frontage” refers to that frontage along West Almond Avenue located within the limits of the full width of APN 009-330-033 and the limits of the eastern portion of APN 009-330-001 that is currently vacant. The following conditions apply only to these portions of the subject site, unless specifically noted otherwise.
4. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specifically noted in the conditions or mandated by statutes.
5. The applicant shall submit to the City of Madera Planning Department a check in the amount necessary to file a Notice of Determination at the Madera County Clerk. This amount shall equal the Madera County filing fee and the Department of Fish and Game de minimis filing fee in effect at the time of filing. Such check shall be made payable to the Madera County Clerk and submitted no later than three (3) days following action on SPR 2020-08.
6. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by the applicant’s signature on the Acknowledgement and Acceptance of Conditions of Approval. Please note this site plan review approval (SPR 2020-08) will expire one (1) year from the effective date, unless a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan or the required action is taken to extend the approval before expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).
7. It shall be the responsibility of the property owner, operator, and/or management to ensure that any required permits, inspections, and approvals from any regulatory agency be obtained from the applicable agency prior to issuance of a building permit and/or the issuance of a certificate of completion, as determined appropriate by the City of Madera Planning Department.
8. The project site shall be developed in conformance with the site plan as reviewed and approved under SPR 2020-08. Minor modifications to the site plan, which are necessary to meet regulatory, engineering, or similar constraints or requirements may be made at the discretion of the Planning Manager without an amendment to SPR 2020-08. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to SPR 2020-08 be filed for review and approval through the applicable City process.
9. The project site shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by staff to be in violation of the conditions, the property owner, operator, and/or manager may be subject to corrective action.

10. All on-site improvements shall be completed prior to final building inspection and shall be completed in conformance with SPR 2020-08 to the satisfaction of the City of Madera prior to issuance of a certificate of completion.
11. The Planning Department shall be notified immediately if any prehistoric, archaeological, or fossil artifact or resource is uncovered during construction. All construction within 50 feet of the discovery must stop and an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology shall be retained, at the applicant's or developer's expense, to evaluate the finds and recommend appropriate action according to CEQA Guidelines Section 15064.5. If avoidance is infeasible, other appropriate measures would be instituted. Work may proceed on other parts of the project site while assessment of historic resources or unique archaeological resources is being carried out.
12. All construction must stop if any human remains are uncovered, and the County Coroner must be notified according to Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the procedures outlined in CEQA Section 15064.5 (d) and (e) shall be followed.
13. Vandalism and graffiti shall be corrected in accordance with the provisions of the Madera Municipal Code.
14. The property owner, operator, and/or manager shall operate the site in a manner that does not generate noise, odor, blight, or vibration that adversely affects adjacent properties.
15. The property owner, operator, and/or manager shall keep the property clear of all trash, rubbish, and debris at all times.
16. Approval of this project is for the benefit of the applicant. The submittal of applications by the applicant for this project was a voluntary act on the part of the applicant not required by the City. Therefore, as a condition of approval of this project, the applicant agrees to defend, indemnify, and hold harmless the City of Madera and its agents, officers, consultants, independent contractors, and employees ("City") from any and all claims, actions, or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the project, including any challenges to associated environmental review, and for any and all costs, attorneys fees, and damages arising therefrom (collectively "claim").

The City shall promptly notify the applicant of any claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any claim, and if the City does decide to independently defend a claim, the applicant shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any claim, the applicant shall not be required to pay or perform any settlement arising from any such claim unless the applicant approves the settlement.

## Landscaping

17. Landscape and irrigation plan shall be prepared by a licensed Landscape Architect and submitted as part of the submittals for a building permit. Landscape and irrigation plans shall be approved by the Planning Department prior to issuance of building permits. The plans shall:
  - a) Demonstrate compliance with the State of California's Model Water Efficient Landscape Ordinance (MWELO);
  - b) Permanent automatic irrigation systems for all landscaped areas;
  - c) Provide vegetative matter coverage of a minimum of 75 percent of all landscaped areas;
  - d) Locate landscape material in such a way that it does not interfere with utilities above or below ground; and
  - e) Provide detailed planting lists for all landscaping, with the number, size, spacing (where applicable) and species of all plant life and groundcover, as well as soil preparation techniques for all landscaped areas.
18. The property owner, operator, and/or manager shall develop and submit to the Planning Department for review and approval, prior to issuance of a building permit, a landscape maintenance and irrigation program for the first three years to ensure that streetscapes and landscaped areas are installed and maintained as approved under SPR 2020-08.
19. Street trees shall be installed within the park strip along the West Almond Avenue property frontage. The trees shall be of a type and spacing consistent with those trees that exist along West Almond Avenue directly to the west of the project site (along the Sealed Air Facility parcel frontage) and shall not infringe upon, or interfere with, vehicle, truck or rail traffic. Trees shall be planted in accordance with City standards prior to issuance of a certificate of completion. Trees shall be selected from the adopted City of Madera Master Street Tree List.
20. 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.
21. A maintenance agreement is required for all landscaping located within the public right-of-way. Such agreement shall be entered into prior to issuance of a certificate of completion.

## Fencing

22. A maximum six (6) foot high chain link fence and gate shall be constructed around the entire perimeter of the solar array field. Fence shall not infringe upon, or interfere with, rail traffic. Fence and gate shall include privacy slats to screen the solar arrays and equipment from public view. Use of barbed wire is prohibited. Fence and gate shall be constructed in accordance with City standards.
23. Fencing shall be setback a minimum of two (2) feet from back edge of sidewalk. No less than 30-inch tall vegetative hedge or climbing vegetation to adhere to fence shall be planted between the back of sidewalk and fence along West Almond Avenue property frontage for purpose of screening fence from public view. Hedge or climbing vegetation shall not at maturity infringe upon, or interfere with, pedestrian or rail traffic.

### Signage

24. All signage, with the exception of “No Parking” signs along the West Almond Avenue property frontage, shall be in compliance with the Sign Ordinance of the Madera Municipal Code Section 10-6. All permanent signage, with the exception of No Parking signs, is required to have an approved Sign Permit issued by the Planning Department per Madera Municipal Code Section § 10-6.
25. No Parking signs shall be installed along the West Almond Avenue property frontage per City standards.

### Access

26. A drive access type, to be reviewed and approved by the Engineering Department as part of the improvement plans, shall be provided at the location indicated for fire and maintenance vehicle access along West Almond Avenue.
27. A gate shall be provided at the drive access location. The gate shall not encroach or swing into the public right-of-way or block on-site traffic patterns.
28. Signs shall be posted at the gate along West Almond Avenue that shall state that access is for fire and maintenance vehicles only and that the drive shall not be blocked. Sign design, content, and location is to be reviewed and approved by the Engineering and Planning Departments prior to installation.

## **Engineering Department**

### General

29. Nuisance lighting from on-site sources shall be redirected as requested by the City Engineer within 48 hours of notification.
30. The developer shall pay all required fees for completion of the project. Fees due may include, but shall not be limited to, encroachment permit processing and improvement inspection fees.
31. Improvement plans shall be signed and sealed by a licensed engineer and submitted to the Engineering Division prior to issuance of a building permit, in accordance with the submittal process.
32. Improvement plans shall include the most recent version of the City’s General Notes. A copy of the most recent General Notes may be obtained from the City Engineering Division.
33. Improvements within the City’s right-of-way require an encroachment permit from the Engineering Department.
34. All off-site improvements shall be completed and accepted prior to issuance of a certificate of completion.

### Water

35. Existing or new water service connection(s) shall be upgraded or constructed by the applicant or developer to current City standards, including an Automatic Meter Reading (AMR) water meter installed within the City’s right-of-way and a backflow prevention device installed within private property.

36. A separate water meter and backflow prevention device shall be constructed by the applicant or developer for the landscape area.
37. Existing wells, if any, shall be abandoned and inspected by City of Madera for compliance with all applicable standards.
38. Fire hydrants shall be installed along the property frontage in accordance with City standards as determined by the City of Madera Fire Marshal.

#### Sewer

39. Existing septic tanks, if found, shall be removed and inspected by City of Madera Building Department for compliance with all applicable standards.

#### Streets

40. The developer shall install improvements along the West Almond Avenue project frontage in accordance with current City Standard Drawing ST-4 and ADA standards, including installation of a separated 5-foot-wide sidewalk. An acceptable alternative may be installed, as approved by the City Engineer and Planning Manager during review of the required improvement plans.
41. The developer shall repair or replace all broken or damaged concrete improvements including curb, gutter, and sidewalk, as necessary, to current City and ADA standards.
42. The developer shall dedicate a 10-foot Public Utility Easement (PUE) along the parcel frontage on West Almond Avenue. A \$466 fee or the fee in effect at that time for grant easement or deed acceptance shall be paid with the Engineering Department.
43. All existing and proposed public utilities (electric, telephone, cable, etc.) shall be undergrounded, except transformers, which may be mounted on pads.
44. Driveway access from West Almond Avenue shall be provided in accordance with City standards.

#### **Fire Department**

45. A Knox Box or Knox Padlock must be provided to access the array field.
46. Fire extinguishers shall be provided by the property owner, applicant, or manager in accordance with the CFC. A minimum of one 2A10BC rated fire extinguisher is required within a travel distance of 75 feet from any disconnecting means or inverter.
47. Fire access is required around or within the array. Fire access drives shall be constructed in accordance with City standards.
48. The property owner, operator, or manager shall provide year-round vegetation management for the site. No vegetation is permitted within 10 feet of the array, inverters, or disconnecting means.

#### **Building Department**

49. A building permit is required for all construction on the site.
50. All plans submitted for on-site construction or building permits shall incorporate and reflect all requirements outlined herein.

51. Current State of California and Federal handicap requirements shall apply to the entire site and all structure(s) and parking thereon. Compliance shall be checked when the building permit is reviewed and confirmed at final inspection.

**Madera County Community and Economic Development Planning Division**

52. Comply with Federal Aviation Administration (FAA) guidelines regarding solar arrays in proximity to airports and airport property.
53. No component of operations of the facility shall create, or cause to be created, electrical interference with aircraft communications or navigation.
54. No component of operations of the facility shall create, or cause to be created, any form of visual or other sensory distractions to those aircraft landing or taking off from the Madera Municipal Airport.

**San Joaquin Valley Air Pollution Control District**

55. Applicant shall comply with all applicable rules, regulations and fees of the San Joaquin Valley Air Pollution Control District (SJVAPCD).
56. Applicant shall submit to, and have approved by, the SJVAPCD an Authority to Construct (ATC) application prior to issuance of a grading or building permit.
57. Applicant shall submit to, and have approved by, the SJVAPCD an Air Impact Assessment (AIA) application prior to issuance of a grading or building permit.
58. Applicant shall submit to, and have approved by, the SJVAPCD a "Dust Control Plan" prior to issuance of a grading or building permit.

#### **Attachment 4: Initial Study/Negative Declaration**

Initial Study/Negative Declaration distributed as separately bound document and also posted on the City's website on the Planning Department page under Current Projects and Environmental Review.

Please refer to the separately bound document titled "Sealed Air Solar Farm Project, Site Plan Review (SPR) 2008-08, Initial Study / Negative Declaration, August 2020."

**Attachment 5: Madera County Community and Economic  
Development Planning Division Comment Letter**



May 7, 2020

Gary Conte, AICP  
Planning Manager  
City of Madera Planning Department  
205 West 4<sup>th</sup> Street  
Madera, CA 93637  
Via email

RE: ALUC Review of Solar Project at 1835  
W. Almond

Dear Mr. Conte:

We are in receipt of information regarding construction of a solar system at 1835 W. Almond in Madera.

On review of the information provided, we note that the structure is located in Compatibility Zone D of the Madera Airport Area of Influence. It is also within the airspace/airflight overlay for the airport. It has been determined that a full ALUC Commission Hearing is not needed. Staff is recommending the following conditions be added to the Building Permit:

- Comply with Federal Aviation Administration (FAA) guidelines regarding solar arrays in proximity to airports and airport property; and
- No component of operations of the facility shall create, or cause to be created, electrical interference with aircraft communications or navigation; and
- No component of operations of the facility shall create, or cause to be created, any form of visual or other sensory distractions to those aircraft landing or taking off from the airport.

COMMUNITY AND ECONOMIC DEVELOPMENT PLANNING DIVISION  
200 West Fourth Street • Madera, CA 93637 • 559.675.7821 • MadCoServices.com • maderacounty.com







If you have any questions, please feel free to contact me at (559) 675-7821.

Sincerely,

Robert Mansfield, AICP  
Senior Planner/ALUC Staff

COMMUNITY AND ECONOMIC DEVELOPMENT PLANNING DIVISION  
200 West Fourth Street • Madera, CA 93637 • 559.675.7821 • MadCoServices.com • maderacounty.com



**Attachment 6: San Joaquin Valley Air Pollution  
Control District Comment Letter**



August 24, 2020

Gary Conte, Planning Manager  
City of Madera  
Planning Department  
205 W. 4<sup>th</sup> Street  
Madera, CA 93637

**Project: Sealed Air Solar Farm Site Plan Review (SPR) 2020-08**

**District CEQA Reference No: 20200709**

Dear Mr. Conte,

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above from the City of Madera (City). The project consists of installation of a 15.66-acre solar array field. (Project). The Project is located at 1835 West Almond Avenue, in Madera, CA (APN 009-330-033).

**Project Description**

The Project consists of a 3-megawatt alternating current output capacity and a 3,539.25 kilowatts peak ground mounted solar photovoltaic single-axis tracker system with a central inverter. Also included with the project is a 739-kilowatt battery inverter and 2,958-kilowatt hour battery mounted on a pad in the array field with the solar inverter.

Based on information provided to the District, Project specific annual emissions from construction and operation emissions of criteria pollutants are not expected to exceed any of the following District significance thresholds: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SOx), 15 tons per year of particulate matter of 10 microns or less in size (PM10), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM2.5).

Other potential significant air quality impacts related to Toxic Air Contaminants (see information below under Health Risk Assessment), Ambient Air Quality Standards, Hazards and Odors, may require assessments and mitigation. More information can be found in the District's Guidance for Assessing and Mitigating Air Quality Impacts at: [https://www.valleyair.org/transportation/GAMAQI\\_12-26-19.pdf](https://www.valleyair.org/transportation/GAMAQI_12-26-19.pdf)

The District offers the following comments:

**Samir Sheikh**  
Executive Director/Air Pollution Control Officer

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

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

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

[www.valleyair.org](http://www.valleyair.org)    [www.healthyairliving.com](http://www.healthyairliving.com)

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## **1) Project Related Criteria Pollutant Emissions**

### **1a) Construction Emissions:**

Although the construction-related emissions are expected to have a less than significant impact, the District suggests that the County advise project proponents with construction-related exhaust emissions and activities resulting in less than significant impact on air quality to utilize the cleanest reasonably available off-road construction fleets and practices (i.e. eliminating unnecessary idling).

### **1b) Project Related Operational Emissions– Reduce Idling of Heavy Duty Trucks**

The goal of this strategy is to limit the potential for localized PM<sub>2.5</sub> and toxic air quality impacts associated with failure to comply with the state's Heavy Duty anti-idling regulation (e.g limiting vehicle idling to specific time limits). The diesel exhaust from excessive idling has the potential to impose significant adverse health and environmental impacts. Therefore, efforts to ensure compliance of the anti-idling regulation, especially near sensitive receptors, is important to limit the amount of idling within the community, which will result in community air quality benefits.

## **2) District Rules and Regulation**

The District issues permits for many types of air pollution sources and regulates some activities not requiring permits. A project subject to District rules and regulation would reduce its impacts on air quality through compliance with regulatory requirements. In general, a regulation is a collection of rules, each of which deals with a specific topic. Here are a couple of example, Regulation II (Permits) deals with permitting emission sources and includes rules such as District permit requirements (Rule 2010), and New and Modified Stationary Source Review (Rule 2201).

### **2a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources**

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District

permits. Prior to construction, the Project proponent should submit to the District an application for an Authority to Construct (ATC). For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

**2b) District Rule 9510 (Indirect Source Review)**

The proposed Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 9,000 square feet of space. . When subject to the rule, an Air Impact Assessment (AIA) application is required no later than applying for project-level approval from a public agency. In this case, if not already done, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

An AIA application is required and the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.

The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NOx and PM10 emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.

Information about how to comply with District Rule 9510 can be found online at:  
<http://www.valleyair.org/ISR/ISRHome.htm>.

The AIA application form can be found online at:  
<http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>

**2c) District Regulation VIII (Fugitive PM10 Prohibitions)**

The Project will be subject to Regulation VIII. The project proponent is required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to construction. Information on how to comply with Regulation VIII can be found online at:  
[http://www.valleyair.org/busind/comply/PM10/compliance\\_PM10.htm](http://www.valleyair.org/busind/comply/PM10/compliance_PM10.htm).

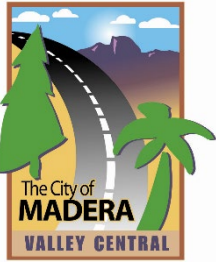
If you have any questions or require further information, please contact Will Worthley by e-mail at [will.worthley@valleyair.org](mailto:will.worthley@valleyair.org) or by phone at (559) 230-5925.

Sincerely,



For Arnaud Marjollet  
Director of Permit Services

AM: ww



# CITY OF MADERA PLANNING COMMISSION

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

## Staff Report: Walmart Storage Containers CUP 2020-11 & Categorical Exemption Item # 2 – September 8, 2020

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**PROPOSAL:** Consideration of a request for a conditional use permit to allow for the temporary placement of up to 18 storage containers during the 2020 holiday sales season.

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<b>APPLICANT:</b>	Walmart #1583 1977 West Cleveland Avenue Madera, 93637	<b>OWNER:</b>	Walmart Realty
<b>SITE ADDRESS:</b>	1977 West Cleveland Avenue	<b>APN:</b>	013-160-014
<b>APPLICATION:</b>	CUP 2020-11	<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 15301 (Existing Facilities).

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**SUMMARY:** Walmart is proposing the temporary placement of 18 storage containers for use during the 2020 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 18 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 24, 2020 until no later than January 31, 2021.

The proposal of 18 storage containers differs from previous requests, which originally allowed for 10 storage containers. The addition of eight storage containers is due to the reduced size in depth than the previously approved storage containers which change from 40 feet in depth to 20 feet 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 storage container distributor will remove the storage containers off the site by no later than January 31, 2021.

### 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 eighteen 8-foot x 20-foot storage containers, as proposed, will not be a visual distraction to traffic along West Cleveland Avenue nor will it cause blight on the site. Each storage container will be 8.5 feet tall. Based on the length of the Wal-Mart building in relation to the length of the 18 storage containers, the storage containers will be able to be 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 18 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 2020-11, subject to the findings and conditions of approval.

### **PLANNING COMMISSION ACTION**

The Commission will be acting on Conditional Use Permit 2020-11. Approval of the attached resolution will approve Conditional Use Permit 2020-11. Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission's action.

**Motion 1:** Move to approve a resolution of the Planning Commission approving Conditional Use Permit 2020-11, and adopt a finding of a Categorical Exemption pursuant to CEQA Guidelines Section 15304(e) (Minor Alteration to Land) (Walmart, 1977 West Cleveland Avenue).

**(OR)**



**Motion 2:** Move to continue the public hearing for CUP 2020-11 to the October 13, 2020 Planning Commission meeting with direction to staff to return with an updated resolution with appropriate findings. The Commission shall note the reasons for such action during the course of their deliberations and subsequent motion to continue CUP 2020-11.

**(OR)**

**Motion 3:** Move to continue the application for Conditional Use Permit 2020-11 to the October 13, 2020, Planning Commission meeting with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify - The Planning Commission should articulate reasons for the denial of CUP 2020-11)

#### **ATTACHMENTS**

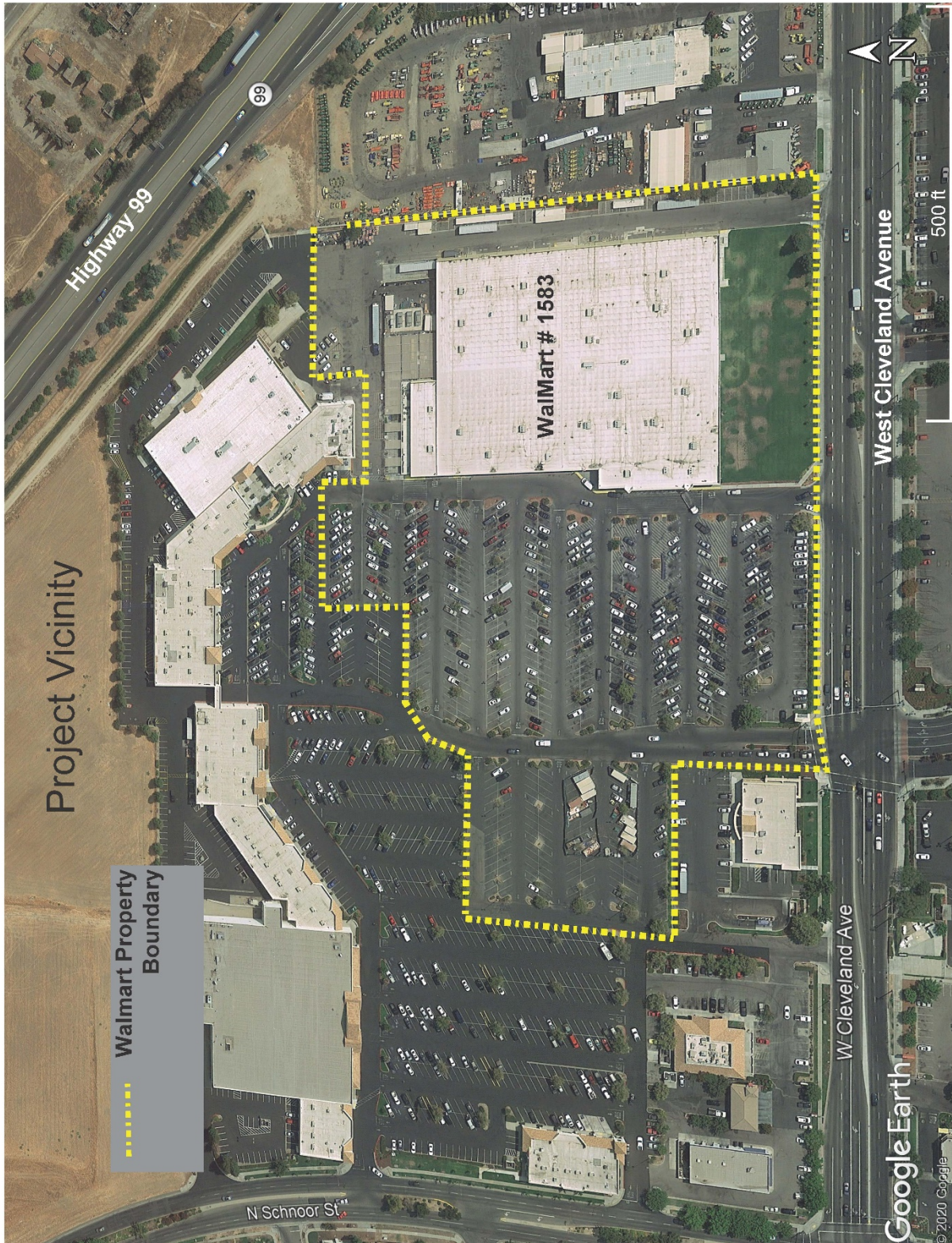
Attachment 1: Aerial Vicinity Map

Attachment 2: Site Plan

Attachment 2: Storage Containers

Attachment 3: Planning Commission Resolution

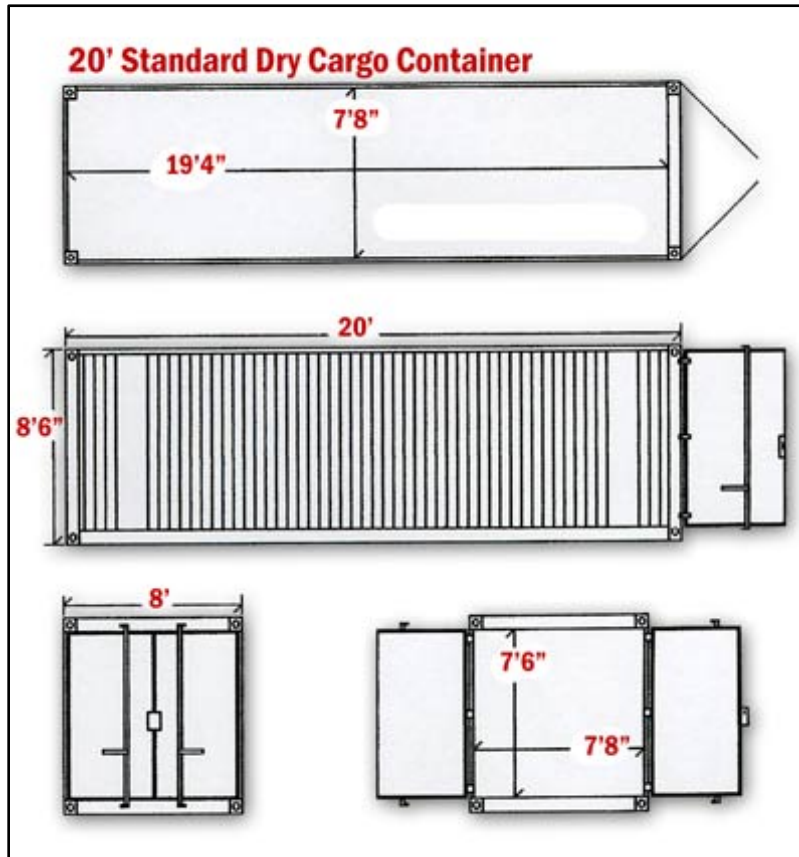
Attachment 1: Aerial Vicinity Map



Attachment 2: Site Plan



Attachment 2: Storage Containers



**RESOLUTION NO. 1859**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA APPROVING CONDITIONAL USE PERMIT 2020-11 (TEMPORARY STORAGE CONTAINERS) AND ADOPTING A FINDING OF A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES SECTION 15304(e) (MINOR ALTERATIONS TO LAND) (WALMART – 1977 WEST CLEVELAND AVENUE)**

**WHEREAS**, Walmart (“Applicant”) currently operate a business known as Walmart #1583, located at 1977 West Cleveland Avenue; and

**WHEREAS**, the project parcel, owned by Walmart Realty, is approximately 12.45 acres; and

**WHEREAS**, Applicant is seeking a conditional use permit (CUP) to allow for the use of eighteen (18) 8-foot wide x 20-foot long x 8.5-foot high temporary storage containers for seasonal storage; and

**WHEREAS**, the temporary storage containers will be located at the rear of the building temporarily extinguishing approximately 32 parking stalls; and

**WHEREAS**, 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; and

**WHEREAS**, Walmart has previously submitted use permit applications specifically for the temporary placement of storage containers annually since 2012; and

**WHEREAS**, the storage containers would be placed no earlier than September 24, 2020 until no later than January 31, 2021; and

**WHEREAS**, the location of the storage containers, as proposed, will not be a visual distraction to traffic along West Cleveland Avenue nor will it cause blight on the site; and

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

**WHEREAS**, the Planning Commission received and reviewed CUP 2020-11 at a duly noticed meeting on September 8, 2020; and

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

**WHEREAS**, the Planning Commission now desires to approve CUP 2020-11, with conditions, and adopt a finding of a categorical exemption for the project.

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

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA: A preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning

Commission finds and determines that the project falls within the Class 1 Categorical Exemption set forth in CEQA Guidelines Section 15301 as the project involves placement of temporary storage containers on an existing site for an existing operation at an existing facility such that there is negligible expansion of existing use. The site has previously been used for similar temporary storage for the holidays for many years. Furthermore, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines section 15300.2 apply to this project. As such, the Planning Commission adopts a finding of a Categorical Exemption under CEQA Guidelines section 15301 (Existing Facilities) for this project.

3. Findings for CUP 2020-11 (Temporary Storage Containers): The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the adoption of CUP 2020-11, as conditioned, is it is consistent with the requirements of the Municipal Code including Section 10-3.1307. The Planning Commission further approves, accepts as its own, incorporates as if set forth in full herein, and makes each and every one of the findings, based on the evidence in the record, as follows:

- a. The proposal is consistent with the General Plan and zoning ordinance.

Basis for Finding: 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.

- b. There is adequate parking and site features to allow for the temporary placement of storage containers.

Basis for Finding: The placement of up to 18 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. There is adequate parking on the site given the proposed use and its temporary nature.

- c. As conditioned, the temporary placement of storage containers will be compatible with surrounding properties.

Basis for Finding: Conditional Use Permit 2020-11 has been reviewed and, subject to the conditions of approval, has been determined that the temporary location and use of the 18 storage containers will be positioned such that they will be consistent with surrounding development and will not have a negative effect on the surrounding area. The temporary use of the storage containers will not generate significant amounts of noise, light or traffic.

- d. 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.

Basis for Finding: As discussed above, the development is compatible with surrounding properties and will not have a significant, adverse environmental impact.

With the conditions imposed, the project will not be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City, etc.

4. Approval of CUP 2020-11: Given that all findings can be made, the Planning Commission hereby approves CUP 2020-11 as conditioned as set forth in the Conditions of Approval attached as Exhibit "A." The approval of CUP 2020-11 is temporary in nature, all prior various use permits and zoning administrator permits remain in full force and effect consistent with their conditions of approval.

5. Effective Date: This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 8<sup>th</sup> day of September 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

\_\_\_\_\_  
Israel Cortes  
Planning Commission Chairperson

Attest:

\_\_\_\_\_  
Gary Conte  
Planning Manager

Exhibit "A" – Conditions of Approval for CUP 2020-11 (Walmart Temporary Storage Containers)

## **EXHIBIT "A"**

### **Conditions of Approval For CUP 2020-11 (Walmart Temporary Storage Containers)**

#### **NOTICE TO PROJECT APPLICANT**

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within ninety (90) calendar days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

#### **IMPORTANT: PLEASE READ CAREFULLY**

Please note that this project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through conditional use permit review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval will ultimately be deemed mandatory unless appealed by the applicant to the City Council within 15 days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld.

Approval of this conditional use permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this use permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit, the zoning ordinance, and all City standards and specifications. This use permit is granted, and the conditions imposed, based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this use permit. Unless the conditions of approval specifically require operation inconsistent with the application, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use



permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use permit and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

These conditions are applicable to any person or entity making use of this use permit, and references to “developer” or “applicant” herein also include any applicant, property owner, owner, leasee, operator, or any other person or entity making use of this use permit.

## **CONDITIONS OF APPROVAL**

### **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 2020-11 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 2020-11 may be made null and void without any additional public notice or hearing at any time upon both the benefactors of CUP 2020-11 and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
4. CUP 2020-11 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 2020-11.
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.
8. The applicant shall submit to the City of Madera Planning Department a check in the amount necessary to file a Notice of Determination at the Madera County Clerk. This amount shall equal the Madera County filing fee and the Department of Fish and Wildlife de minimis filling fee in

effect at the time of filing. Such check shall be made payable to the Madera County Clerk and submitted no later than three (3) days following action on CUP 2020-11.

9. Approval of this project is for the benefit of the applicant. The submittal of applications by the applicant for this project was a voluntary act on the part of the applicant not required by the City. Therefore, as a condition of approval of this project, the applicant agrees to defend, indemnify, and hold harmless the City of Madera and its agents, officers, consultants, independent contractors, and employees ("City") from any and all claims, actions, or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the project, including any challenges to associated environmental review, and for any and all costs, attorneys fees, and damages arising therefrom (collectively "claim").

The City shall promptly notify the applicant of any claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any claim, and if the City does decide to independently defend a claim, the applicant shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any claim, the applicant shall not be required to pay or perform any settlement arising from any such claim unless the applicant approves the settlement.

#### **Fire Department**

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

#### **Planning Department**

##### General

11. Vandalism and graffiti shall be corrected per the Madera Municipal Code (MMC).
12. The property owner operator and/or manager shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
13. 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.
14. 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 2020-11.

### Temporary Storage of Trailers

15. CUP 2020-11 allows for on-site placement of up to eighteen (18) containers, each container encompassing 8-foot by 20-foot deep by 8.5-foot high to be used as follows:
  - layaway merchandise.
  - miscellaneous high-volume merchandise.
16. 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).
17. The outdoor storage containers shall be placed on-site no earlier than September 24, 2020 and shall be entirely removed from the site by January 31, 2021.
18. 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.
19. 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.
20. All storage containers shall be a minimum of ten (10) feet from all fire hydrants and twenty (20) feet from the building. A ten-foot clearance shall be maintained from any combustible storage (trash containers or trash compactor).
21. 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.
22. 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.
23. 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, 2021.

### Signage

24. 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.
25. 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.
26. No advertising signage shall be posted on or about the temporary storage containers.

27. All signage shall have an approved sign permit issued by the Planning Department per MMC § 10-6.

-END OF CONDITIONS-

APPLICANT'S ACKNOWLEDGMENT

I have read, understand, and accept the conditions of approval set forth herein above in this resolution of approval for Conditional Use Permit 2020-11.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Osbaldo Menchaca, Applicant  
Store Manager, Walmart #1583

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Attachment 1  
Approved Site Plan



**Item #3  
CUP 2020-05 & SPR 2020-03  
Starbucks (Country Club Dr.)**

**STAFF IS REQUESTING THIS ITEM BE CONTINUED TO THE OCTOBER 13, 2020  
PLANNING COMMISSION MEETING.**