

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

**CITY HALL – COUNCIL CHAMBERS
THURSDAY
August 26, 2021
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: [#89140153047](https://www.zoom.us/j/89140153047) followed by *9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/89140153047>. Public comment will also be accepted via email at planningcommissionpubliccomment@madera.gov.

CALL TO ORDER

ROLL CALL

Commissioner Robert Gran Jr. (Chairperson)
Commissioner Alex Salazar (Vice Chairperson)
Commissioner Ryan Cerioni
Commissioner Ramon Lopez-Maciel
Commissioner Rohi Zacharia
Commissioner Khubaib Sheikh
Commissioner Balwinder Singh

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: None

PUBLIC HEARING ITEMS:

1. CUP 2021-04 & SPR 2021-12 – Smoke Yard

A noticed public hearing to consider adopting a Resolution to adopt findings of categorical exemption pursuant to CEQA Guidelines, Section 15301 (Existing Facilities) approving SPR 2021-12 & CUP 2021-04 for the establishment of a smoke shop (Smoke Yard). The shop will sell tobacco and tobacco products, clothing and snacks. The shop proposes to occupy a vacant building (300 Madera Ave.) located just south of the intersection of Madera Ave. and Olive Ave. in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation. This project is considered to be categorically exempt per California Environmental Quality Act (CEQA) Guidelines, Section 15301 (Existing Facilities).

NON-PUBLIC HEARING ITEMS: None

ADMINISTRATIVE REPORTS:

COMMISSIONER REPORTS:

ADJOURNMENT:

The next regular meeting will be held on September 14, 2021.

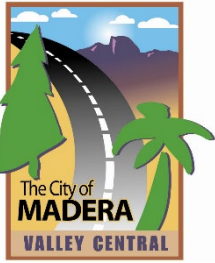
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation 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 West Fourth Street
Madera CA 93637
(559) 661-5430

Staff Report: Smoke Yard CUP 2021-04 & SPR 2021-12 Item #1 – August 26, 2021

PROPOSAL: An application for a conditional use permit (CUP 2021-04) and site plan review (SPR 2021-12) to establish a tobacco store (Smoke Yard) in an existing commercial building located at 300 South Madera Avenue (APN 012-053-024). The store will sell cigarettes and tobacco accessories, as well as clothing (hats and shirts) and snack food and drink (e.g., packaged processed convenience foods, soda, water). The commercial building is approximately 2,600 square feet in size. No construction is proposed, except for minor interior change to improve the tenant space.

APPLICANT:	Mustafa Muthanna 2220 Wise Oak Lane Ceres, CA 95307	OWNER:	Khalid Chaudhry 450 South Madera Ave Suite E Madera, CA 93637
SITE ADDRESS:	300 South Madera Ave/SR 145	APN:	012-053-024
APPLICATIONS:	SPR 2021-12 CUP 2021-04	CEQA:	Exempt 15301 (Existing Facilities)

LOCATION: The project site is 0.28 acre parcel with a vacant commercial building with on-site parking (300 South Madera Ave/State Route 145 (SR 145)) located at the northwest corner of South Madera Ave/SR 145 and West Lewis Street just south of the SR 99 Southbound off-ramp.

STREET ACCESS: The project site has street access from South Madera Ave/SR 145 and West Lewis Street

PROJECT SIZE: The tenant space is approximately 2,600 square feet

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C2 (Heavy Commercial)

SITE CHARACTERISTICS: The project site is composed of a vacant \pm 2,600 square foot (sf) commercial building and off-street parking at the northwest corner of South Madera Ave/SR 145 and West Lewis Street just south of the SR 99 Southbound off-ramp. North of the property is the start of the West Olive commercial corridor and project site street frontage is the start of the South Madera Ave/SR 145 commercial corridor south of SR 99. Directly west of the site is residential uses and the area directly south is dedicated to public facilities including the former Madera County Agricultural Commission Center and the Norman Gould Educational Center. Additionally, some light commercial uses are located across South Madera Ave/SR 145 and further to the south along South Madera Ave/SR 145. (Refer to Attachments 1, 2 and 3)

The project site and surrounding area to the north are designated and zoned for commercial uses. Parcels property immediately to the south, across West Lewis Street are designated P&SP (Other Public and Semi-Public Uses) and zoned for single-family residential uses (R-1 One unit per 6,000 square feet). Parcels to the west MD - Medium Density Residential and are zoned R-1.

ENVIRONMENTAL REVIEW: An exemption has been prepared consistent with Section 15301 (Existing Facilities) of California Environmental Quality Act (CEQA) Guidelines. A copy of the Notice of Exemption is included as Attachment 4 of this staff report.

SUMMARY: The applicant, Mustafa Muthanna, proposes to establish and operate a tobacco shop (Smoke Yard) in an existing vacant commercial building. The applicant has indicated the project proposes minimal interior changes to the space. A conceptual floor plan of the proposed improvements was not provided by the applicant.

The proposed use is consistent with the current C2 (Heavy Commercial) zone district. After review of the proposed project, conditions of approval have been recommended to enable the proposed project to compatible with existing commercial and residential uses in the surrounding area. Additional conditions, as appropriate, have been recommended for CUP 2021-04 and SPR 2021-12 to ensure consistency with the City's Zoning Ordinance, General Plan and Development Standards, as well as with the City's Design and Development Guidelines for Commercial Development.

APPLICABLE CITY CODES AND PROCEDURES

MMC § 10-3.4.0102 Site Plan Review Applicability

MMC § 10-3.901 thru § 10-3.905 Heavy Commercial Zones

MMC § 10-3.1202 Parking Spaces Required

MMC § 10-3.1301 – MMC § 10.3.1311 Use Permits

MMC § 5-8.03 Self Service Displays Prohibited

Site Plan Review

A site plan review is required for all projects subject to a use permit, including a change of use where no on-site construction is proposed. If the Commission cannot make the appropriate findings, the development should be denied. Conditions may be attached to the approval of the site plan to ensure compatibility. Project design may be altered and on- or off-site improvements required in order to make the project compatible with nearby uses.

Conditional Use Permit

Subject to the Planning Commission's approval of Determination of Use (DOU 2015-01), the sale of tobacco requires a conditional use permit. The City's Zoning Ordinance allows for the granting of a use permit by the Planning Commission subject to the Planning Commission being able to make findings that the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. If the Commission cannot make the appropriate findings even after imposing appropriate conditions, the use permit should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. In addition, the application may be subject to further review, modification, or revocation by the Commission as necessary.

Development and Operational Standards

The project site is subject to the development standards of the C2 zone district and to the City's Design and Development Guidelines for Commercial Development. The proposed use will be occupying a commercial building. No exterior improvements have been proposed by the applicant. Title 5, Chapter 8 (Ban on Self Service Tobacco Displays) will apply to the conditional use permit required for the sale of tobacco products.

PRIOR ACTION

In search of Planning Department records indicates that no entitlements existed prior to August 2008. However, it is known that the site was originally developed as a drive-in restaurant and then later redeveloped as a 7-11 convenience store. The 7-11 convenience store closed in 2006.

In June of 2008, the City of Madera acquired 14 feet of right-of-way width from the project along project site's South Madera Avenue / SR 145 frontage for freeway interchange improvements at South Madera Avenue / SR 145 and Highway 99.

A Super 7 convenience store received approval of a use permit (CUP 2008-07) in August 2008 from the Planning Commission and subsequently opened in 2009. CUP 2008-07 is the first entitlement on record for the project site. Conditions of approval for CUP 2008-07 required improvements to the site, including the need to reconfigure the project site's landscaping, parking and circulation layout as a result of the South Madera Avenue / SR 145 widening improvements. To facilitate egress, the applicant was required to memorialize a cross access easement with the adjacent property (Kings Equipment Company) to the north. be made that the applicant. However, property owner did not comply with conditions of approval, resulting in the revocation of the use permit in October 2018. By the time revocation of the use permit occurred, the Super 7 convenience store had already gone out of business.

In March 2019, the Planning Commission approved a use permit and site plan review (CUP 2019-05 and SPR 2019-09) to allow the sale of beer and wine for on-site consumption (Type 41 ABC license) in conjunction with the establishment of a new restaurant (Cachanilla Grill). Akin to the conditions of approval required of the Super 7 convenience store, the restaurant project was also required to reconfigure the project site's landscaping, parking, and circulation layout. The restaurant never opened, and the property has now remained vacant for roughly three years.

No entitlement currently exists on the property.

ANALYSIS

Potential issues associated with this request revolve around compatibility with existing surrounding residential, commercial and public uses, with specific attention to aesthetics and landscape, on-site parking and circulation, and operations. The topics of compatibility with existing surrounding uses and operations are addressed below under conditional use permit and the topics of aesthetics and landscaping, and on-site parking and circulation are addressed under site plan review.

Site Plan Review

The General Plan designates the project site as C (Community Commercial) property. The project site is located in the C-2 (Heavy Commercial) Zoning District which allows for the development of small retail centers. The sale of tobacco and tobacco products are allowed only with the approval of a conditional use permit.

The applicant is proposing to sell tobacco and tobacco accessories, as well as clothing (hats and shirts) and snack food and drink (e.g., packaged processed convenience foods, soda, water) within an existing vacant 2,600 sf commercial building on a 0.28 acre developed site. The applicant proposes to make minor interior changes to the commercial building to accommodate the proposed project.

The 0.28 acre project site includes the existing vacant commercial structure orientated towards South Madera Ave / SR 145, on-site parking with landscape islands and lighting and a trash enclosure abutting the building's northern wall (refer to Attachments 2 and 3). The project site is accessible by a driveway approach on West Lewis St and by a two-way, 20 ft wide public alley paralleling the entire rear (westside) of the property which connects to an east-west trending alley serving commercial development facing West Olive Ave and the residences facing West Lewis St. The alley paralleling the rear of the project site is also accessible by a driveway approach on West Lewis St.

The building was developed for commercial use and has accommodated a variety of commercial uses during its existence. The site has sufficient utility service and will not put additional stress on the City of Madera's public infrastructure and utilities systems. The necessary water, electricity, and waste services associated with the commercial use are available on-site as it is located within an existing commercial strip development.

Aesthetics and landscaping

The existing structure has been vacant for an extended period of time and the aesthetic conditions of the site are indicative of this extended vacancy. Neither the building nor the property have seen improvements or maintenance for some time. Given the effects of the prolonged vacancy, aesthetic issues such as landscaping, building elevations, signage, color and materials are addressed within conditions of approval to ensure compatibility with the surrounding land uses and will translate into an overall improvement to the vitality of the area. Conditions of approval include the removal of existing on-building signs and exterior cabinet fixtures adjacent to the building entry, painting of the building's exterior walls and overhang fascia covering the upper third of the building's front facade and the parking area light fixtures, rehabilitation of the trash to comply with City standards, re-landscaping of the parking area islands, and the removal of the abandoned freestanding sign structure at the north end of the property.

On-Site Parking and Circulation

The Madera Municipal Code (MMC) requires one (1) parking space be provided for every 300 square feet (sf) of gross floor area for general retail. At 2,600 sf, the proposed tobacco store requires nine (9) parking spaces including one (1) accessible space as required by the Americans with Disabilities Act (ADA). The project site provides 11 parking spaces, one of which is an ADA accessible space. While the site currently has the required number of spaces, the current arrangement of those spaces is not conducive to safe access or safe flow of traffic as required by the MMC and Off-Street Parking Requirements Drawing E-4 of the City's Standard Drawings and Specifications. A copy of Drawing E04 is provided in Attachment 5 of this staff report.

For perpendicular (90 degree) parking, a minimum width of twenty-six feet (26 ft) is required for the safe flow of traffic behind parking spaces as well as for safe reversals from the parking spaces. The current on-site parking arrangement only provides a clearance of approximately fifteen (15) ft behind the parking spaces facing the building along South Madera Ave/SR 145. To exit a parking space, a vehicle risks the backing up and over a six (6) inch raised curb and onto the sidewalk paralleling South Madera Ave / SR 145. The raised six (6) inch curb at the back of the sidewalk was constructed during the South Madera Ave / SR 145 widen project to minimizing the risk of vehicles backing onto the sidewalk and into South Madera Ave / SR 145 given the property's present parking conditions.

Staff recommends the on-site parking configuration and circulation pattern be improved to conform to City standards. The conditions of approval include re-striping the parking configuration from a perpendicular (90 degree) alignment to a 45-degree alignment per Drawing E-04 of the City's Standard Drawings and Specifications. Realignment of the parking spaces will require implementing a one-way looped circulation pattern that directs vehicles to enter the project site from the West Lewis St driveway approach nearest to South Madera / SR 145 and exit the site onto West Lewis St using the alley behind the building which parallels the project site's westerly boundary. Prior to restriping the parking area, the asphalt section of the property shall be repaired, and slurry sealed. The on-site Parking and Accessibility Plan is provided in Attachment 6 of this staff report.

Conditional Use Permit

In September 2015, the Planning Commission concluded through the determination of use process that the sale of tobacco and tobacco related products and sundries would require the approval of a use permit. With this action (DOU 2015-01), the Commission noted its concerns that tobacco sales be located sensibly within the commercial areas of the City, mindful of surrounding land uses.

The project site is a commercial building orientated to an arterial (South Madera Ave / SR 145) with commercial development immediately to the north (Pexair Welding Gas) and east, across South Madera Ave / SR 145 (Carl's Jr.). Residential properties and the Norman Gould Educational Center immediately to the west and across West Lewis St, respectively. The Norman Gould Educational Center provides a range of special educational services for gifted students with disabilities and their families. The former Madera County Agricultural Commissioner Center is located immediately to the south and across West Lewis St. Medical and commercial uses (Pacific Pulmonary Services, Madera Medical Pharmacy, Madera Ave Market) development is present further south.

Tobacco and tobacco products are presently available for purchase from other nearby commercial businesses within 1,200 feet (ft) to the northwest of the project site along West Olive Ave as well as from a commercial business within 650 ft to the south of the project site along South Madera Ave / SR 145 (Madera Avenue Market). The proposed project is compatible with the surrounding commercial and residential development.

However, the proposed project may not be a compatible use with the Norman Gould Educational Center. The Planning Department has received a letter from the Madera County Superintendent of Schools objecting the sale of tobacco and tobacco accessories at the proposed project on the grounds the establishment would pose an unsafe situation for students and staff at the Norman Gould Educational Center. A copy of the letter is provided as Attachment 7 to this staff report.

To improve the project's compatibility with the Norm Gould Educational Center, staff recommends the proposed project be limited to only the sale of tobacco and tobacco products - no clothing apparel or similar merchandise, and no snack food or drink or other any other type of food or drink product be permitted to be sold on the premise. Moreover, staff recommends no signage advertising or suggesting the sale of tobacco or tobacco products visible to the public be permitted and that minors are to be prohibited from entering the building or loitering on the premise.

If the findings required by the Municipal Code Section 10-3.1307 for CUP 2021-04 can be made, staff recommends the Planning Commission approve CUP 2021-04 subject to the conditions of approval. If the Planning Commission determines the findings cannot be made, staff recommends the Planning Commission deny CUP 2021-04.

Title V, Chapter 8 of the MMC prohibits the self-service sale of tobacco products. The proposed Smoke Yard will need to be equipped with counters to ensure that all buyers are served by sellers, rather than having self-service tobacco products available. This is to prevent the increased incidence of shoplifting and underage smoking.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Staff has performed a preliminary environmental assessment and have determined that the project is exempt under Section 15301 of the State CEQA Guidelines because the project will occupy an existing building on an existing lot with existing services and utilities, and any modifications to the structure will only be minor interior changes involving negligible or no expansion of existing or former commercial use and minor parking area improvements and restriping to ensure ADA compliance and to improve on-site circulation. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of a cigarette shop is not specifically addressed in the vision or action plans, the overall project does indirectly support one of the four visions for the City: Good Jobs and Economic Opportunities. This principle recognizes the need to provide commercial opportunities within the City.

RECOMMENDATION

The information presented in this report provides support for the adoption of a resolution conditionally approving CUP 2021-04 and SPR 2021-12. 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 CUP 2021-04 and SPR 2021-12, subject to the findings and conditions of approval.

PLANNING COMMISSION ACTION

The Commission will be acting on the Categorical Exemption, CUP 2021-04, and SPR 2021-12, and determining to either:

- Adopt a Finding of a Categorical Exemption pursuant to CEQA Guidelines Section 15301 for the project, and approve CUP 2021-04 as conditioned and SPR 2021-12 as conditioned (Motion 1); or
- Continue the hearing to October 12, 2021, with direction to staff to return with an updated resolution with appropriate findings modifying the conditions of approval for the following reasons: (Specify – Planning Commission should articulate reasons for modifications to findings and conditions of approval) (Motion 2); or
- Move to continue the application for Site Plan Review 2021-12 and Conditional Use Permit 2021-04 to the October 12, 2021 Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial.)(Motion 3).

Motion 1: Move to adopt a resolution of the Planning Commission of the City of Madera adopting a Finding of a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities), approving Site Plan Review 2021-12 and Conditional Use Permit 2021-04, based on and subject to the findings and conditions of approval as follows:

Findings to Approve a Site Plan Review

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

The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). The project is sited within an existing commercial building. While minor changes will be required to improve the tenant space prior to occupancy, only minor on-site improvements are required. Site Plan Review 2021-12 is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and, as conditioned, 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 2021-12 has been reviewed and, as conditioned, is consistent with surrounding uses. The project includes the use of an existing building with adequate utility

improvements and adequate on-site parking, as conditioned. The project will not generate significant amounts of noise, light, or traffic.

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

Site Plan Review 2021-12 requires no street improvements as it is located within an existing commercial building with adequate street improvements. Conditions of approval will ensure that safe and adequate on-site circulation and parking will be provided. The project will not have a significant impact on traffic or the environment.

Findings to Approve a Conditional Use Permit

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

The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). The proposed use (tobacco shop) is conditionally permitted, based on the Planning Commission's approval of DOU 2015-01. Conditional Use Permit 2021-04, subject to the conditions of approval, is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and does not conflict with City standards or other provisions of the Code.

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

The project site is suited for commercial sales. The project site is located within an existing commercial building and is nearby to other commercial uses to the east and south, with residential and public uses directly to the south and west. As conditioned, the sale of certain tobacco products for off-site consumption will be compatible with surrounding properties and is consistent with applicable requirements regulating such use.

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

As discussed above, the proposed use, as conditioned, is compatible with surrounding properties and will not have a significant, adverse environmental impact. The Madera Police Department has reviewed the project and did not oppose the proposed use, and there is no evidence in the administrative record of the following:

- The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.
- The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.
- The sustaining by the subject premises of an administrative suspension or revocation or other such sanction as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation.
- The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on

notice by the official of the City that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.

(OR)

Motion 2: Move to continue the public hearing on CUP 2021-04 and SPR 2021-12 to the October 12, 2021, with direction to staff to return with an updated resolution with appropriate findings modifying the conditions of approval for the following reasons: (Specify – Planning Commission should articulate reasons for modifications to findings and conditions of approval)

(OR)

Motion 3: Move to continue the application for CUP 2021-04 and Site Plan Review 2021-12 to the October 12, 2021 Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial.)

ATTACHMENTS

- Attachment 1: Vicinity Map
- Attachment 2: Aerial Photo
- Attachment 3: Site Plan
- Attachment 4: Notice of Exemption
- Attachment 5: Off-Street Parking Requirements Drawing E-4
- Attachment 6: Parking and Accessibility Plan
- Attachment 7: Madera County Superintendent of Schools Letter

ATTACHMENT 1: VICINITY MAP

Vicinity Map

CUP 2021-04 & SPR 2021-12
Smoke Yard

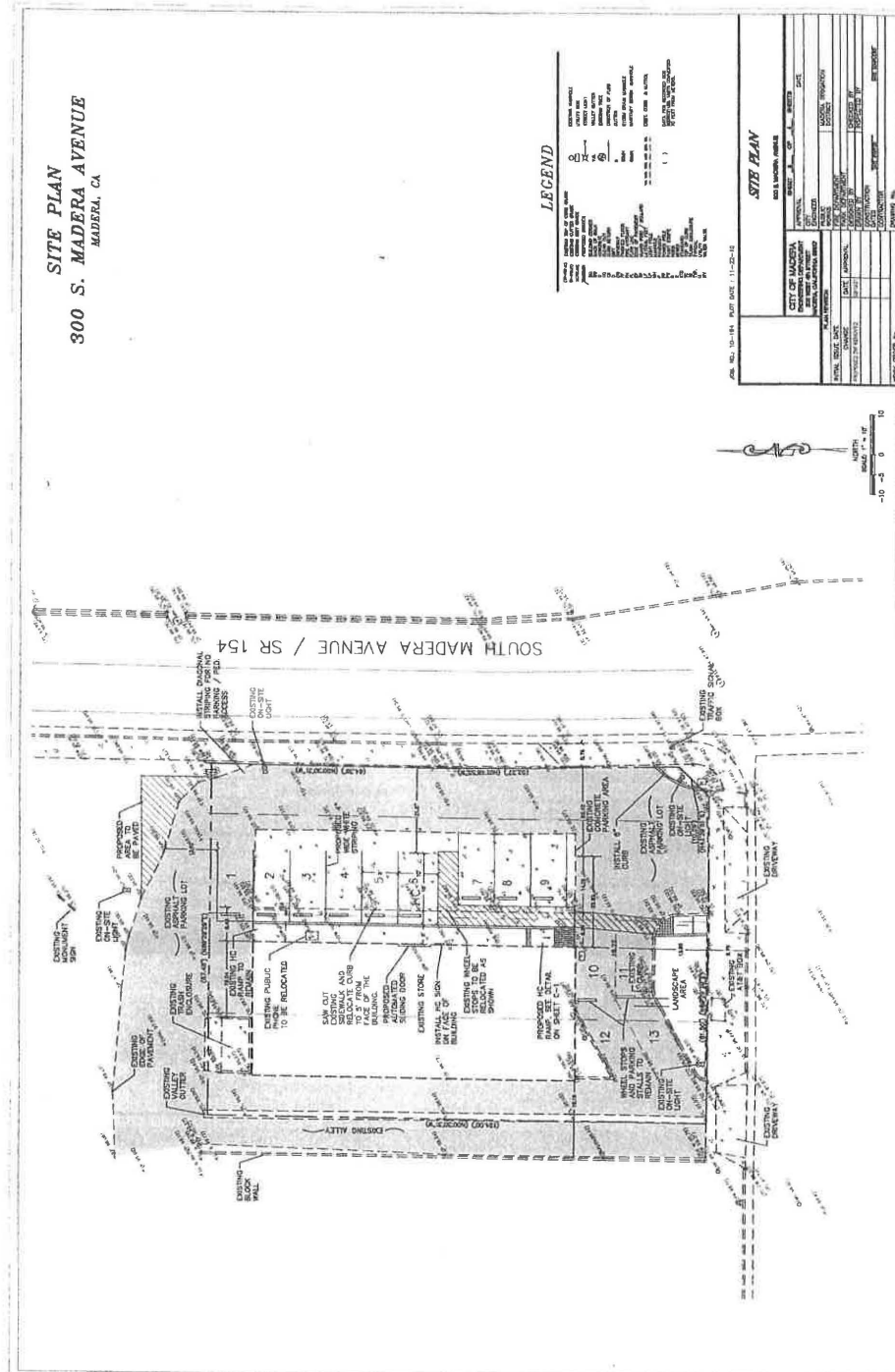
Legend



ATTACHMENT 2: AERIAL PHOTO



ATTACHMENT 3: SITE PLAN



ATTACHMENT 4: NOTICE OF EXEMPTION

Print Form

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: Madera
200 West 4th Street
Madera, CA 93637

From: (Public Agency): City of Madera
205 West 4th Street
Madera, CA 93637
(Address)

Project Title: Conditional Use Permit CUP 2021-04 Smoke Yard

Project Applicant: Mustafa Muthanna; 2220 Wise Oak Ln., Ceres CA 95307; 209-204-7832

Project Location - Specific:

300 S. Madera Ave, Madera CA 93637; NW Corner of S. Madera Ave and W. Lewis St

Project Location City: Madera Project Location County: Madera

Description of Nature, Purpose and Beneficiaries of Project:
Change of use and use permit issuance for the establishment of a tobacco store in a ±2600sf existing commercial building. Minor adjustments to parking, including repaving, as well as minor interior improvements required for code-compliant occupancy. No new construction is proposed or permitted.

Name of Public Agency Approving Project: City of Madera

Name of Person or Agency Carrying Out Project: Planning Department

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declaratory Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Section 15301 (Existing Facilities)
- ☐ Statutory Exemptions. State code number:

Reasons why project is exempt:

Project will occupy an existing building and previously improved site with minor cosmetic improvements. Furthermore none of the exceptions listed in section 15300.2 apply.

Lead Agency: Adam Klier
Contact Person: Ansa Code/Telephone/Extension: 559.681.5425

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: Adam Klier Date: 8/26/2021 Title: Assistant Planner

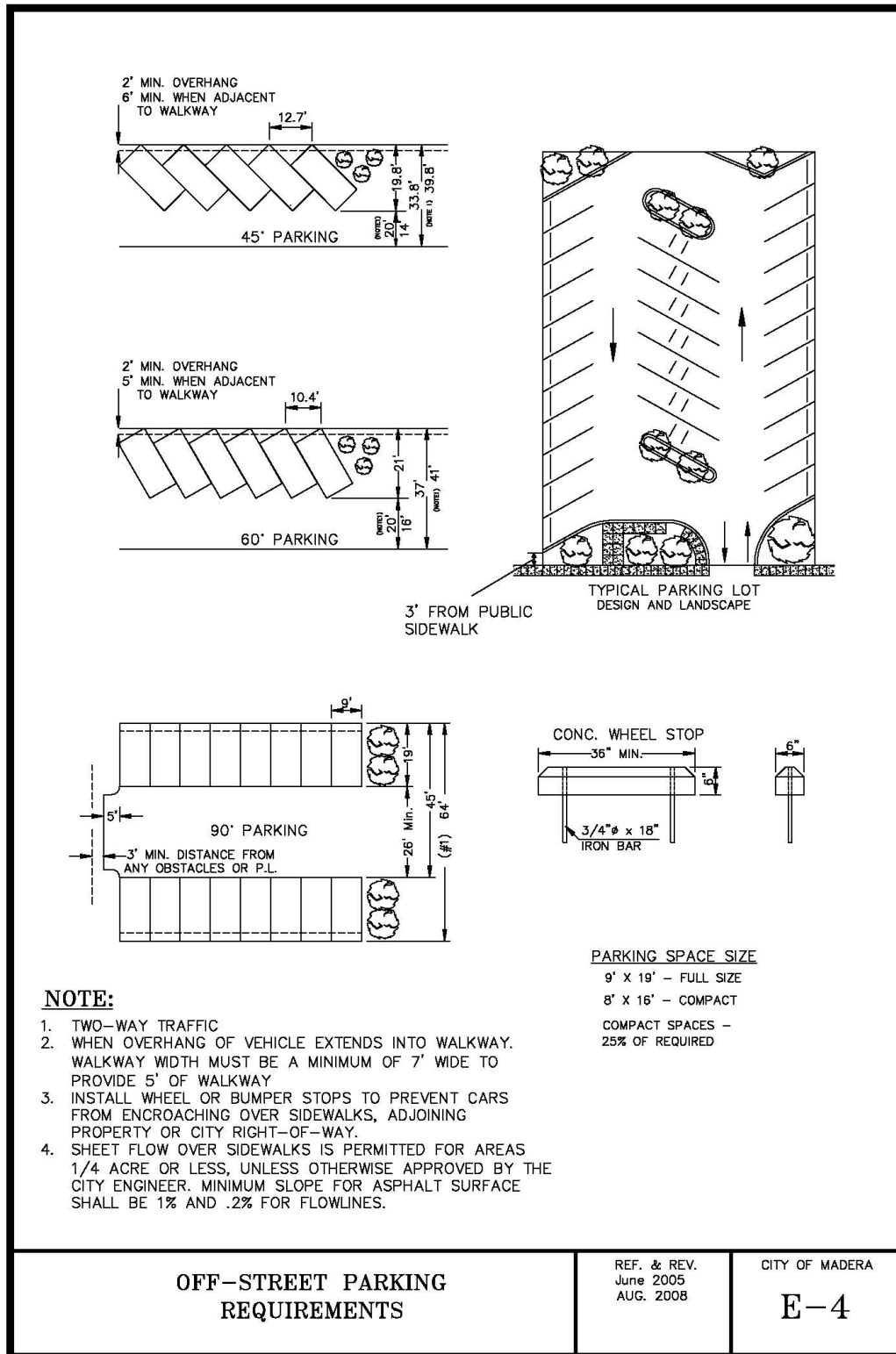
☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21085 and 21110, Public Resources Code.
Valerence: Sections 21108, 21152, and 21152.1, Public Resources Code.

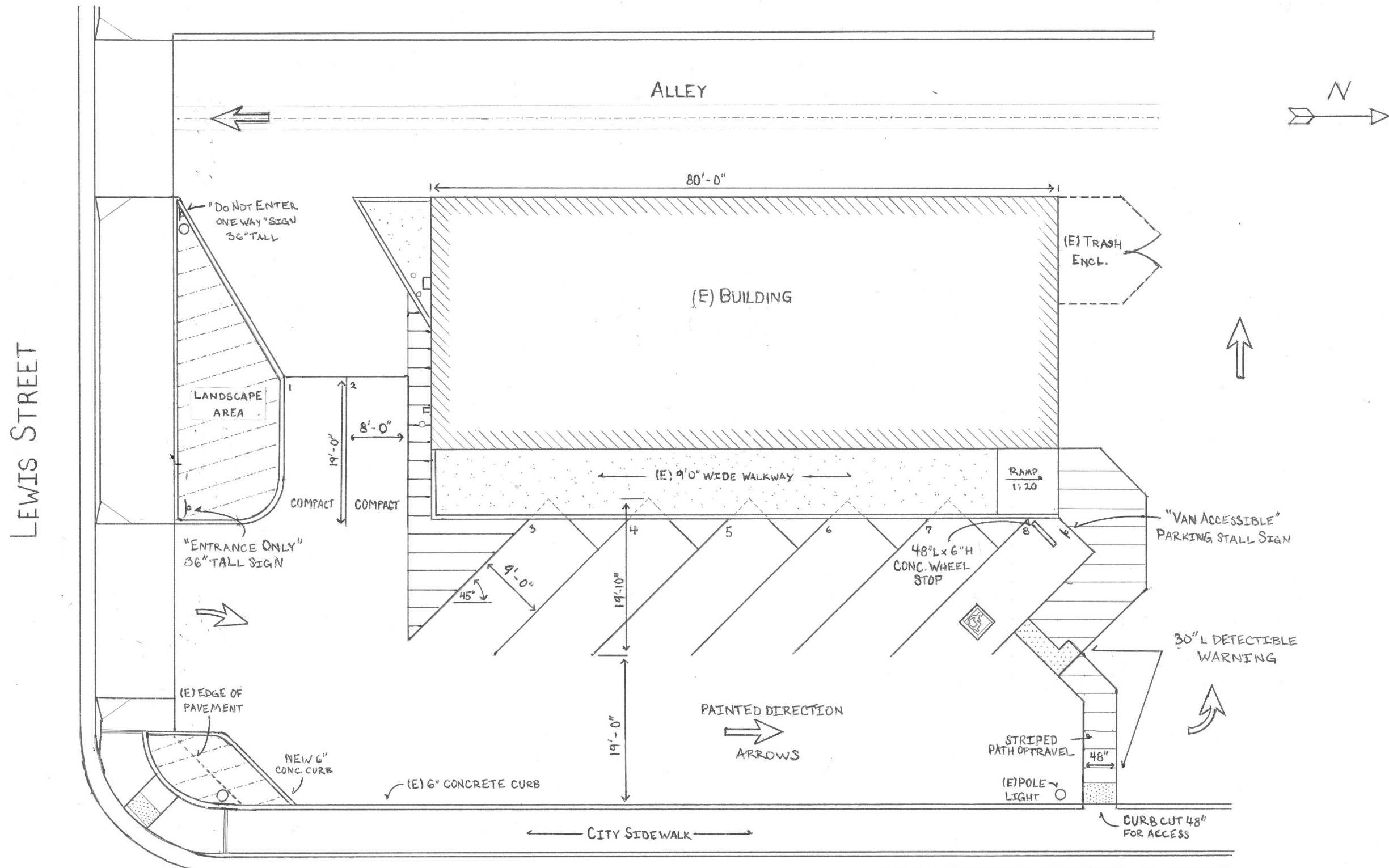
Date Received for filing at OPP: _____

Revised 2011

ATTACHMENT 5: OFF-STREET PARKING REQUIREMENTS DRAWING E-4



ATTACHMENT 6: PARKING AND ACCESSIBILITY PLAN



PARKING AND ACCESSIBILITY PLAN
300 S. MADERA AVE CUP 2020-04

SCALE 1:144

CITY OF MADERA PLANNING DEPT.

PC 8/26/2021 (CUP 2021-04/SPR 2021-12 Smoke Yard)

08/26/2021

ATTACHMENT 7: MADERA COUNTY SUPERINTENDENT OF SCHOOLS LETTER



Cecilia A. Massetti, Ed.D.
Superintendent of Schools

July 20, 2021

Adam Klier
City of Madera
205 West 4th Street
Madera, CA 93637

Regarding: CUP 2021-04/SPR 2021-12 – Smoke Yard Tobacco Shop

Dear Mr. Klier:

The Madera County Superintendent of Schools objects to the sale of tobacco and tobacco accessories at the proposed location of 300 South Madera Ave. As you are aware, tobacco accessories can mean a number of different items, including those used for illegal drugs. As you may be aware, MCSOS operates Gould Educational Center, located at 117 West Dunham, which is literally around the corner, and we feel that an establishment of this type will pose an unsafe situation for the students and staff currently located at the educational facility.

Sincerely,

A handwritten signature in blue ink, appearing to read "Opie Riar".

Opie Riar
Manager, Facilities, Maintenance and Operations
Madera County Superintendent of Schools

1105 South Madera Avenue • Madera, CA 93637 • (559) 673-6051 • FAX (559) 673-5569
www.mcsos.org

RESOLUTION NO. 1891

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
ADOPTING A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES
SECTION 15301 (EXISTING FACILITIES) AND APPROVING CONDITIONAL USE
PERMIT 2021-04 (TOBACCO PRODUCTS) AND SITE PLAN REVIEW 2021-12 AND
CONDITIONAL USE PERMIT 2021-04 (SMOKE YARD, 300 SOUTH MADERA
AVENUE)**

WHEREAS, Khalid Chaudhry (“Owner”) owns an existing commercial building and property at 300 South Madera Avenue in Madera, California (“site”); and

WHEREAS, Mustafa Muthanna (“Applicant”) is acting on behalf of the Owner; and

WHEREAS, the site contains an existing commercial building that is planned for commercial uses; and

WHEREAS, the Applicant is seeking a site plan review (SPR) to allow for a new use to be located within the existing commercial building on APN 012-053-024, as proposed by Site Plan Review (SPR) 2021-12; and

WHEREAS, the Applicant is seeking a conditional use permit (CUP) to allow the sale of certain tobacco products on the site contemplated by CUP 2014-04 and SPR 2012-12; and

WHEREAS, the City performed a preliminary environmental assessment of this project and, based on this preliminary environmental assessment, determined that this project falls within the Categorical Exemption set forth in Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) as the project involves negligible or no expansion of existing facilities; and

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

WHEREAS, under the City’s Municipal Code, the Planning Commission is authorized to review and approve site plan reviews, conditional use permits 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 2021-12 and CUP 2021-04 at a duly noticed meeting on August 26, 2021; 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 Categorical Exemption for the project, and approve SPR 2021-12 and CUP 2021-04, with conditions.

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

1. Recitals: The above recitals are true and correct and are incorporated herein.

2. CEQA: The Planning Commission finds and determines that the project is exempt under Section 15301 of the State CEQA Guidelines because the project will occupy an existing building on an existing lot with existing services and utilities, and any modifications to the structure and property will only be minor interior and exterior changes involving negligible or no expansion of existing or former commercial use. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project.

3. Findings for SPR 2021-12: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2021-12, 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 C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). The project is sited within an existing commercial building. While minor changes will be required to improve the building and property prior to occupancy, only minor on-site improvements are required. Site Plan Review 2021-12 is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and, as conditioned, 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 2021-12 has been reviewed and, as conditioned, is consistent with surrounding uses. The project includes the use of an existing building with adequate utility improvements and adequate parking, as conditioned. The project 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 2021-12 requires no street improvements as it is located within an existing commercial building with adequate improvements. Conditions of approval

will ensure that safe and adequate on-site parking and circulation will be provided. The project will not have a significant impact on traffic or the environment.

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

4. Findings for CUP 2021-04: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2021-04, as conditioned. With conditions, the project 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 property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). The proposed use (tobacco shop) is conditionally permitted, based on the Planning Commission's approval of DOU 2015-01. Conditional Use Permit 2021-04, subject to the conditions of approval, is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and does not conflict with City standards or other provisions of the Code.

- b. The proposed use will be compatible with the surrounding properties.

Basis for Finding: The project site is suited for commercial sales. The project site is located within an existing commercial building and is nearby to other commercial uses to the east and south, with residential and public uses directly to the south and west. As conditioned, the sale of certain tobacco products for off-site consumption will be compatible with surrounding properties and is consistent with applicable requirements regulating such use.

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

Basis for Finding: As discussed above, the proposed use is compatible with surrounding properties and will not have a significant, adverse environmental impact. The Madera Police Department has reviewed the project and did not oppose the proposed use, and there is no evidence in the administrative record of the following:

- The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.
- The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.

- The sustaining by the subject premises of an administrative suspension or revocation or other such sanction as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation.
- The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the City that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.

5. Approval of SPR 2021-12 and CUP 2021-04: Given that all findings can be made, the Planning Commission hereby approves SPR 2021-12 and CUP 2021-04 as conditioned as set forth in the Conditions of Approval attached as Exhibit "A."

6. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 26th day of August 2021, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran
Planning Commission Chairperson

Attest:

Gary Conte
Planning Manager

Exhibit "A" – Conditions of Approval for CUP 2021-04 and SPR 2021-12 CUP 2021-04

EXHIBIT "A"
CUP 2021-04 AND SPR 2021-12
(SMOKE YARD)
CONDITIONS OF APPROVAL
August 26, 2021

Notice to Applicant

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

IMPORTANT: PLEASE READ CAREFULLY

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

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

All discretionary conditions of approval for SPR 2021-12 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. All discretionary conditions of approval for CUP 2021-04 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within fifteen (15) days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval for either entitlement, 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 site plan review and 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 conditional use permit and/or 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 use permit or site plan review, the zoning ordinance, and all City standards and specifications. This use permit and 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 use permit and site plan review. 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, site plan review, 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, 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 site plan review or use permit as delineated herein and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

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

Conditions of Approval

- Conditional Use Permit 2021-04 (Sale of Tobacco Products) is subject to Conditions of Approval 1 through 8 and 34 through 44.
- Site Plan Review 2021-12 is subject to Conditions of Approval 1 through 33 and 45 through 52.

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 of this conditional use permit, and references to “developer” or “applicant” herein also include any applicant, property owner, owner, lessee, operator, or any other person or entity making use of this site plan and conditional use permit. Furthermore, “project site” refers to the portion of APN 010-202-016 that is being rented, improved, and used by the applicant. 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 Exemption at the Madera County Clerk. This amount shall equal the Madera County filing fee in effect at the time of filing. Such check shall be made payable to the Madera County Clerk and submitted no later than three (3) days following action on SPR 2021-12 and CUP 2021-04.
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 2021-12) 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). Please also note that conditional use permit approval (CUP 2020-05) is conditioned upon the privileges granted being utilized within 12 months after the effective date thereof. Failure to utilize such permit within such 12-month period shall render the permit null and void unless a timely written request for extension is submitted to the Planning Commission prior to the expiration of this permit.
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. Approval of this project is for the benefit of the applicant. The submittal of applications by the applicant for this project was a voluntary act on the part of the applicant not required by the City. Therefore, as a condition of approval of this project, the applicant agrees to defend, indemnify, and hold harmless the City of Madera and its agents, officers, consultants, independent contractors, and employees (“City”) from any and all claims, actions, or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the project, including any challenges to associated environmental review, and for any and all costs, attorneys fees, and damages arising therefrom (collectively “claim”).

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

Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from

independently defending any claim, and if the City does decide to independently defend a claim, the applicant shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any claim, the applicant shall not be required to pay or perform any settlement arising from any such claim unless the applicant approves the settlement.

Planning Department

9. Any proposed future modifications to the site, including, but not limited to, the building structural exteriors, parking/circulation, shall require an amendment to SPR 2021-12 and/or CUP 2021-04.
10. 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.
11. Vandalism and graffiti shall be corrected in accordance with the provisions of the Madera Municipal Code.
12. 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.
13. The property owner, operator, and/or manager shall keep the property clear of all trash, rubbish, and debris at all times.
14. Outdoor sale or display of merchandise shall not be permitted.

Building Colors, Materials and Lighting

15. Applicant shall paint the exterior of the building, including the overhang fascia covering the upper third of the building front façade and the parking area light fixtures. Prior to painting, the applicant shall submit for approval by the Planning Department a colors and material board and representative color section rendering of the proposed building colors, materials and exterior lighting improvements. The exterior painting scheme shall include a minimum of a three (3) exterior painting scheme.
16. If new exterior lighting fixtures are to be installed on site, the applicant shall submit to the Planning Department for approval prior to building permit submittal.

Trash Enclosure

17. Existing trash enclosure shall be rehabilitated to City drawings and specifications to support two (2) containers. Enclosure shall reflect colors and materials complementary of the principal building.

On-Site Parking & Circulation

18. On-site parking and circulation shall be improved in accordance with the Parking and Accessibility Plan (Attachment A) herein attached. The parking shall be completed prior to final building permit or occupancy of building.
19. The asphalt section of the property shall be repaired where damaged and the entire asphalt section of the property shall be slurry sealed.

20. The circulation of the parking area shall be directed in a loop, starting at the easternmost driveway approach on West Lewis Street and existing through the alleyway.
21. On-site parking shall always be provided in conformance with the Madera Municipal Code. Any expansion of the use or any other additional or accessory uses that would require additional parking spaces are not allowed unless additional parking spaces can be demonstrated and acquired. All required parking shall be permanently maintained with all parking spaces shown on plans submitted for building permits. Any modifications in the approved parking layout shall require an amendment to SPR 2021-12.

Signage

22. The applicant shall remove all existing on-building signs and sign boards.
23. The abandoned freestanding sign at the northeastern end of the property shall be removed prior to final building permit.
24. All signage shall comply with the Sign Ordinance of Chapter 6 of Title 10 of the Madera Municipal Code, and have an approved sign permit issued by the Planning Department.
25. No window signs shall be permitted.
26. No promotional signage and/or displays promoting tobacco or tobacco products shall be utilized in any way on the exterior of the building or be visible from the exterior of the building.
27. Property owner/applicant and/or benefactors of CUP 2021-04 shall post "No Smoking" signage to the extent required by law.

Landscaping

28. Applicant shall submit landscape and irrigation plan prepared by a licensed Landscape Architect prior to submittal of 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) Provide vegetative coverage of a minimum of seventy-five percent (75%) of all landscaped areas;
 - c) Locate landscape material in a way that it does not interfere with utilities above or below ground; and
 - d) One (1) approved street tree within the landscape island between the property's driveway approach and the alley on West Lewis Street and one (1) approved street tree within the landscape area at the northeast corner of the property.
29. Approved landscape and irrigation plans shall be fully installed and operational prior to granting occupancy.
30. The applicant and property owner shall maintain all landscaping in a healthy and well-manicured appearance. This includes, but shall not be limited to, the following: ensuring irrigation equipment is properly operating, the trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation.

Fire Department

31. Portable fire extinguishers are required. One 2A10BC rated fire extinguisher per every 3,000 square feet or fraction thereof.
32. A Knox key box is required for access by emergency responders if not already existing.
33. Submitted plans shall show properly calculated occupant load. Egress paths shall meet California Building Code and California Fire Code.

Conditional Use Permit 2021-04

34. Conditional Use Permit 2021-04 allows for the sale of cigarettes in either single packs or cartons of ten or fewer. Other tobacco-related products allowed for sale at the store shall be as follows:
 - a. Smokeless tobacco
 - b. Roll-your-own pouched/canned tobacco
 - c. Cigars and cigarillos (except for any flavored products such as, but not limited to, grape, watermelon, bubblegum and fruit punch flavored products)
 - d. Rolling papers
35. Conditional Use Permit 2021-04 prohibits the sale of the following tobacco and tobacco related products:
 - a. Vape products, including juices
 - b. Hookah products, including hookah tobacco/charcoal
 - c. E-cigarettes
 - d. Pipes and pipe tobacco
36. Conditional Use Permit 2021-04 prohibits the sale of drug related paraphernalia such as bongs, pipes and other product meant for use with non-tobacco substances as determined by the Planning Manager.
37. Conditional Use Permit 2021-04 prohibits the display and sale of clothing apparel or similar or related merchandise.
38. Conditional Use Permit 2014-04 prohibits the display or sale of snack foods or drinks or other type of foods, drink or grocery or sundries.
39. There shall be no coin-operated video or arcade games. No adult magazines or videos shall be allowed to be viewed or sold.
40. Digital security cameras shall be installed to monitor the interior and exterior of the premises. The footage shall be maintained in a digital format for no less than thirty (30) days. Footage to be shared with law enforcement upon request.
41. Minors are prohibited from entering building or loitering on the premise.
42. All tobacco and tobacco-related products shall be secured behind a counter or other fixture, unavailable to the public except with the assistance of a store employee. To ensure compliance with this condition an interior layout and floor plan shall be provided for this and any future building permit applications. Said plan shall be subject to the approval of the Planning Department.

43. The property owner, operator, and/or manager, and/or benefactor of CUP 2021-04 shall comply with all federal, state and local laws. Material violations of any of those laws concerning the use(s) may be cause for revocation of said permit. Such conditions that constitute such violation include, but are not limited to:
- a. The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.
 - b. The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.
 - c. The sustaining by the subject premises of an administrative suspension or revocation or other such sanction as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation.
 - d. The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the City that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.
44. CUP 2021-04 shall be subject to periodic reviews and inspections 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 Planning Commission so that it may be determine whether to consider setting a hearing regarding revocation of the permit.

Engineering Department

GENERAL

45. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
46. 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, easement acceptance, encroachment permit processing and improvement inspection fees.
47. Improvement plans shall be submitted to the Engineering Division in accordance with the submittal process.
48. Prior to the construction of improvements within the City right-of-way, an Encroachment Permit will be required from the Engineering Division.
49. Prior to the construction of improvements within the State right-of-way, an Encroachment Permit will be required from Caltrans.

WATER

50. New or existing water service connection(s), including landscape areas, shall be upgraded or constructed to current City standards including Automatic Meter Reading (AMR) water meter installed within City right-of-way and backflow prevention device installed within private property.

SEWER

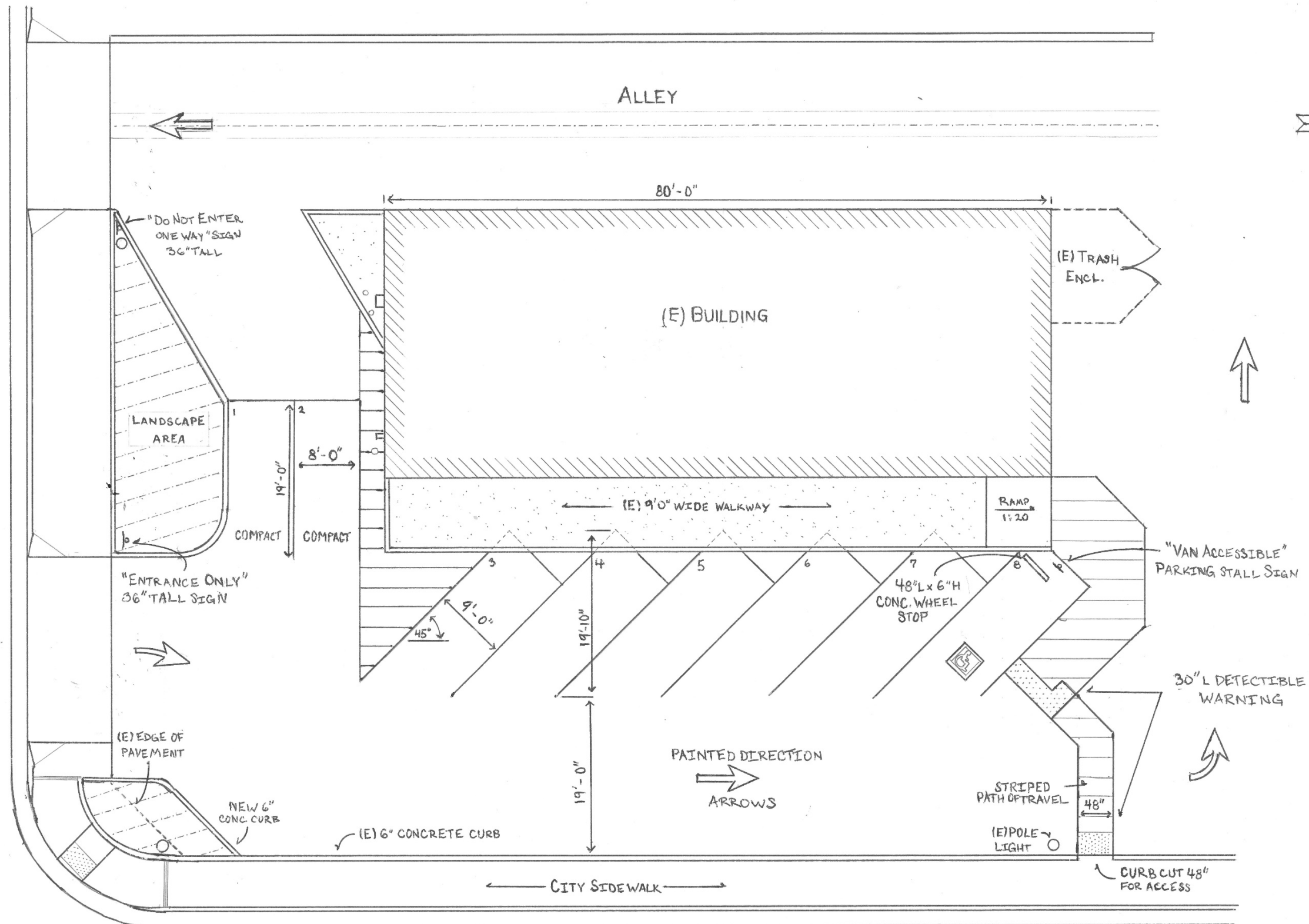
51. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards, if not currently in place.

STREETS

52. 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. Limit of repairs shall be established by the City Engineering Inspector.

-END OF CONDITIONS-

LEWIS STREET



PARKING AND ACCESSIBILITY PLAN 300 S. MADERA AVE CUP 2020-04

