

**CITY OF MADERA PLANNING COMMISSION
REGULAR MEETING
May 11, 2021**

CALL TO ORDER: The meeting was called to order by Vice Chairperson Gran at 6:00 p.m.

ROLL CALL

PRESENT: Commissioner Robert Gran Jr. (Vice Chairperson)
Commissioner Alex Salazar
Commissioner Ramon Lopez
Commissioner Rohi Zacharia
Commissioner Bobby Sheikh

ABSENT: Commissioner Ryan Cerioni
Commissioner Richard Broadhead

STAFF: Gary Conte, Planning Manager
Keith Helmuth, City Engineer
Tiffany Ljuba, Assistant City Engineer
Randy Bell, Deputy City Engineer
Brandi Garcia, Recording Secretary
John Thomason, Senior Planner
Derek Sylvester, Associate Planner
Adam Klier, Assistant Planner
Olga Garcia, Community Services Coordinator/Planning Assistant

PLEDGE: None

PUBLIC COMMENT: None

MINUTES: January 12, 2021
Commissioner Sheikh moved to approve the minutes. Seconded by Commissioner Lopez, the motion carried unanimously.

CONSENT ITEMS: None

PUBLIC HEARING ITEMS:

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

A noticed public hearing for a request for modification of conditions previously approved by the Planning Commission on September 8, 2020, for the Sealed Air Solar Farm project. The site is a vacant portion of the Sealed Air property located directly east of the existing Sealed Air facility at 1835 W. Almond Ave, on the southwest side of the City of Madera in the I (Industrial) Zone District with an I (Industrial) General Plan land use designation. (APN: 009-330-033 and a portion of 009-330-001)

An Initial Study and Negative Declaration were approved by the Planning Commission on September 8, 2020. No further environmental review is required for the proposed clarification of conditions.

This item was presented by John Thomason, Senior Planner.

Commissioner Gran asked John to explain the difference between the PUE and the ROW.

Mr. Thomason said the PUE is a public utility easement which is 10 feet inside of the existing right of way along West Almond Avenue on their property and they would be giving us easement. The existing City Right of Way is already 10 feet along the road.

Commissioner Gran confirmed that if it was a subdivision, it would be basically the sidewalk landscape area.

Mr. Thomason said, yes.

Commissioner Gran confirmed that all of this was previously approved, and they realized after the fact that it would not work.

Mr. Thomason said yes, from our understanding it's primarily due to cost.

Commissioner Sheikh said that in the recommendation there was neither support nor opposing evidence. Is there any negative affect of this change?

Mr. Thomason said they should consider whether or not granting this change could set precedence. It needs to be weighed but they wanted it to be left up to the Commission. He thinks there are arguments either way.

Commissioner Gran said the fence is movable and when they deal with PUE's you can have asphalt or anything that 's easily replaced. The undergrounding is pretty standard starting about 10 years back. We don't want to set precedence or open themselves up for lawsuits.

Commissioner Cerioni asked what the difference in cost would be for undergrounding vs not.

Mr. Thomason said it's a pretty significant cost.

The public hearing was opened, and the applicant was invited to speak.

Nathan Williams spoke. He works for Sunpower Corporation and is the project manager. The undergrounding area is way off to the side of the project. Their hope is that it will be treated differently than a brand-new building or facility. If you look into the cost guide for PG&E it's about \$500 per lineal foot. It seems like it would be the entire run on the North and South run on the East side of the Parcel. That could quickly add up to be hundreds of thousands of dollars. They would like to narrow that to the frontage.

Their understanding on the PUE was that they would need to move the fence out of it. They would like to narrow the language, not necessary change it but align with their original interpretation on what they thought they had coordinated.

Commissioner Gran said either it wasn't read correctly or explained correctly but this stuff is pretty much boiler plate. He thinks they are saying that the fence can stay where they want it, but the dedication would still exist and only be used if it was needed in the future. He understands and respects their opinion. As far as the undergrounding he asked if they were talking the front, back or side?

Mr. Williams said on the east side, the 10-foot strip. It would be on a side street on the east side. Not on West Almond frontage.

Commissioner Gran asked if that was before it gets to Pine St. and if Mr. Thomason could put his map back up.

Commissioner Gran confirmed it wasn't a street or anything, just property.

Mr. Helmuth, City Engineer pulled up photo and indicated the area but then lost his Zoom. He asked Tiffany to pull it up on her screen while he tried to get his Zoom back.

Tiffany Ljuba, Assistant Engineer shared her screen while Mr. Helmuth indicated the area in question.

Commissioner Gran asked if there were any other questions or comments for Mr. Williams.

Seeing none, the next person, Charles Lee was invited to speak.

Charles Lee is the Associate Engineer for the Sealed Air Corporation. He would request, as Nate has done, that they grant these exceptions. If the fence is moved closer to the solar farm there are safety issues. Shading, increased difficulty of maintenance, etc. There are also some electrical safety issues that don't exist with the distance they currently have.

The undergrounding would basically serve the railroad arms, nothing else. To be faced with the additional hundreds of thousands of dollars doesn't accomplish much.

Commissioner Gran asked Mr. Lee if he was a part of this originally.

Mr. Lee said he was, and he read through the documents. He will admit that when he read through the rules and all information provided to him, in the section regarding streets and the undergrounding of the utilities it was his interpretation that it would need to be done for any utilities running on West Almond Ave. he doesn't consider where they are located to be a street and didn't think it would be required.

Commissioner Gran asked about the PUE.

Mr. Lee said their understanding from the beginning was that the 10-foot easement started at the curb and was part of the road easement. They are being asked to put in additional green space, sidewalk, etc. that needs to meet ADA requirements.

Commissioner Gran said the was just trying to get some understanding why we're back to this.

Seeing no other attendees wishing to speak on the item, the public hearing was closed, and the item was returned to the Commission for further processing.

Commissioner Gran asked Commissioner Lopez if this was his area of expertise since he works with Cal Trans.

Commissioner Lopez said he's still not quite sure if he understands the issue. Are we actually conditioning it to put a sidewalk on Almond or on Pine?

Mr. Conte said he would help clarify. The West Almond side includes the sidewalk, curb and gutter. The original intent was to provide that as part of the right of way with an additional 10-foot PUE in adjacent to the right of way for utilities; electrical, etc. It is to accommodate an existing situation or for future lines if the need be required to service another property in the future.

Commissioner Lopez said, if we give them this modification then need it in the future, where would it go, in the street?

Mr. Conte said that is correct. It would be in the street and need to align into the street and back out onto the common PUE on Almond. It would require potential road excavation for utility improvements. There's an inconvenience to aligning and installing public utility equipment if this request is granted. An alternative is to allow the fence being proposed to be constructed in the PUE. In the even repairs are needed, the fence could be removed and replaced with minimal disruption and cost.

Commissioner Gran asked where the PUE is to the west and the east. Where the solar farm is, do we already have a PUE?

Mr. Conte said he is not aware of a PUE that is established.

Commissioner Gran confirmed if we were to start it at the beginning and at the end, it's a straight shot.

Mr. Conte said if a transformer or something is needed it would need to come out of the street. He also noted about the sidewalk, it's the practice to construct sidewalks in Industrial areas as new development takes place. This is to accommodate multiple modes of transportation.

Mr. Helmuth noted it's also Federal Law: equal accessibility.

Commissioner Gran asked Keith about the undergrounding of the PG&E and if the undergrounding that's required only serves the railroad crossing.

Mr. Helmuth said its quite possible, they don't try to figure out users when they make the condition. It's if there are poles on the property, they are conditioned.

Commissioner Gran said it's quite expensive.

Mr. Helmuth said it can get quite expensive. Much of that pole has nothing on it but when you get to the south side there's more transformers, etc. that could kick the average price up.

Commissioner Lopez said even though staff is asking them to use their judgement, if this is granted, the City may later on have difficulties with sidewalks and utilities.

Commissioner Gran said the undergrounding of utilities is pretty standard for projects however, this is not really a frontage part of the parcel. He doesn't know if he could see spending that kind of money for one railroad crossing.

Commissioner Zacharia asked how much is actually required to be undergrounded.

Mr. Conte said the undergrounding of the poles is required on the eastern side of the parcel. The PUE would be for any electrical that may be needed in the future along Almond Ave. The current undergrounding would only pertain to the eastern side of the property.

Commissioner Lopez said he's not too concerned about the poles but about the PUE along Almond.

Mr. Conte said the Commission can choose to approve one and not the other.

Commissioner Gran re opened the public hearing so Mr. Lee could speak again.

Mr. Lee said the calculations of undergrounding would be 640 feet. It would be about \$500 per lineal foot. Regarding the easement along Almond Ave., there is no current easement along the existing property that this one could tie into. They are asking for consideration that this easement fall in the area between the fence they plan to build and the existing pavement.

With no further questions for Mr. Lee, the public hearing was closed again, and the item returned to the Commission for further processing.

Commissioner Gran asked Commissioner Lopez how he feels. He said the undergrounding to him is mostly for aesthetics, but his concern is the PUE. He's kind of leaning toward giving them a portion of what they want but not all of it.

Commissioner Salazar said he feels for the owner and the additional cost. He doesn't think if we grant the applicants request, there would be too many more projects like this.

Commissioner Gran said his concern is the PUE. We apparently missed it in front of the current Sealed Air property.

Commissioner Singh said Mr. Conte had suggested something about common ground or middle ground. He asked for clarification on that.

Commissioner Gran said he believes with that we would allow them to put the fence in the PUE. If they put a chain link fence instead of a massive footing, it's relatively easy to take down and reconstruct. He believes that was the tradeoff.

Mr. Conte said that is correct. We could permit the construction of the chain link fence in the PUE. Also, part of the requirement would be to have slats in the chain link as well as vine like plants to grow along the fence to reduce the ability to see what's behind it and for graffiti to be put on the fence.

Commissioner Salazar said he's not sure how he feels about the PUE.

Commissioner Sheikh likes Mr. Conte's suggestion.

Commissioner Gran asked how the other Commissioner's felt about the undergrounding of the electrical.

Commissioner Zacharia asked if there was an option that they would not need to do the undergrounding right now and could still get the project going but everyone can still have the access they need. He likes the fence idea. He doesn't see the importance of undergrounding the electrical in order for them before the project can get going.

Commissioner Gran said these are two separate things. The PUE is along the frontage and the electrical is north south over toward Pine. He thinks what he's hearing is that everyone likes the PUE, and we would like to keep it and let them put the fence on top of it, but we are willing to maybe work with the electrical undergrounding due to the huge expense involved. The PUE is more of a land situation and there's really not an expense. He thinks the main thing is the undergrounding. 350 to half a million dollars could kill a solar farm.

Commissioner Zacharia said especially it's not something they have a benefit from, it doesn't seem fair to put the cost on them.

Commissioner Gran said they do get an indirect benefit from the railroad since it services them but everyone else is too and they are paying for it. He said he believes they can keep the PUE and grant them the relief on the undergrounding.

Mr. Conte said if they choose to move forward with the PUE, they can deny that request and still accept the request to not have them underground the utilities. Accept one request and not the other then direct staff to move forward with the findings and come back next month. Or, they can deny all of it.

Commissioner Lopez said it looks like at least three of them would like to grant one and not the other.

Mr. Conte said they can make a motion to deny the modification to #44 and accept the modification to #45.

Commissioner Lopez made a motion to deny the modification to #44 and accept the modification to #45. The motion was seconded by Commissioner Singh.

Mrs. Garcia polled the Commissioners:

Commissioner Ramon Lopez - yes
Commissioner Rohi Zacharia - yes
Commissioner Bobby Sheikh - yes
Vice Chairperson Alex Salazar - yes
Chairperson Robert Gran Jr. - yes

The motion carried unanimously.

2. SPR 2013-40 MOD & CUP 2020-16 – Cheles Tacos On-Site Sale & Consumption of Beer & Wine

A noticed public hearing to consider an application for a site plan review modification and a conditional use permit to allow for the sale of beer at an existing counter-serve restaurant (Cheles Tacos) at 521 S. A St. (APN: 011-061-006). The restaurant is located in an existing 783 sq. ft. accessory building on the property with the primary use being a neighborhood market (Mercado Las Palmas). The restaurant serves food over-counter for an outdoor dining area as well as for take away. The proprietor proposes the sale of beer for on-site consumption. No construction is proposed, except for required minor interior changes to bring the space into compliance for the proposed use.

A Categorical Exemption has been prepared consistent with Section 15301 (Existing Facilities) of California Environmental Quality Act (CEQA) guidelines.

The item was presented by Assistant Planner, Adam Klier.

With no questions of staff, the public hearing was opened, and the applicant was invited to speak.

The applicant, Rudy Hernandez spoke. He confirmed he is in agreement with all conditions as stated.

With no questions for the applicant, the item was returned to the Commission for further processing.

Commissioner Sheikh moved to approve motion 1. Seconded by Commissioner Lopez, the motion carried unanimously.

Commissioner Ramon Lopez - yes
Commissioner Rohi Zacharia - yes
Commissioner Bobby Sheikh - yes
Vice Chairperson Alex Salazar - yes
Chairperson Robert Gran Jr. - yes

NON-PUBLIC HEARING ITEMS:

Presentation by Associate Planner, Derek Sylvester, regarding Park requirements and fees.

The Quimby Act passed in 1975 authorized Cities to require parkland dedication to serve subdivisions or the fee in lieu of.

The City adopted Ordinance 951 Section 10-2.1300 on March 21, 2018 known as the City's Parkland Ordinance.

With the parkland dedication of land there are a few variables that come into the calculations:

- Park acreage standard which the City has set at 3 acres per 1,000 residents.
- Population per dwelling unit per the table based on the US Census bureau 2015 American Communities Survey and 5-year estimate for the City.
- Buildable Acre Fair Market Value which was established at \$50,000 at the March 2018 meeting with Resolution 18-40.
- Number of dwelling units within a subdivision.

The dedication of land is not an option for developments with less than 50 units. Their only option would be payment of the in-lieu of fee.

The formula is the average number of persons per unit divided by the City's acreage standard multiplied by the number of units in the subdivision gives you the acres to be dedicated.

Mr. Sylvester gave examples of each: parkland dedication and in lieu of fee.

Commissioner Sheikh asked how it's handled if everyone chooses to pay the fees instead of dedicating land.

Commissioner Gran said they would have to be below 50 units. The larger developments don't have that option. They are required park space. The smaller ones, they have the option. He asked Mr. Conte for confirmation.

Mr. Conte said not necessarily, if you are less than 50 acres you don't have the option. You pay the in-lieu of fees. In essence the land mass is small for the development and the park. Projects greater than 50 can pay the fee or the project can be conditioned to provide a park.

Commissioner Lopez asked about a gated community neighborhood. Would they provide a park for the community alone?

Mr. Conte said yes, they could provide a park for them or pay the fees to contribute to another.

If a community is governed by an HOA the park would also be considered private or they would still be subject to the fee structure.

ADMINISTRATIVE REPORTS:

Mr. Conte introduced Senior Planner John Thomason and shared that we would also be using three consultants to help us with projects.

He also mentioned there would be a special meeting on Monday, May 24th to consider an amendment to the Zoning Code.

COMMISSIONER REPORTS:

Commissioner Lopez thanked staff for providing the information regarding the parkland dedication and fees.

Commissioner Gran mentioned the Casino coming in and that we will continue to be busy.

ADJOURNMENT: 6:27pm



Planning Commission Chairperson



Brandi Garcia, Recording Secretary