

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

**CITY HALL – COUNCIL CHAMBERS  
TUESDAY  
October 12, 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: [#84350192182](https://www.zoom.us/j/84350192182) followed by \*9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/84350192182>. Public comment will also be accepted via email at [planningcommissionpubliccomment@madera.gov](mailto:planningcommissionpubliccomment@madera.gov).

Effective Wednesday October 6, 2021, the Council Chambers are again open to the public. This Planning Commission meeting will be held in the Council Chambers located at City Hall, 205 W. 4<sup>th</sup> St., as well as being available via zoom with the information provided above.

**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

**CONSENT ITEMS:** None

**PUBLIC HEARING ITEMS:**

**1. CUP 2021-04 & SPR 2021-12 – Smoke Yard (Derek Sylvester)**

A noticed public hearing to adopt a resolution denying Site Plan Review 2021-12 and Conditional Use Permit 2021-04. An originally noticed public hearing to consider a resolution to adopt findings of categorical exemption pursuant to CEQA Guidelines, Section 15301 (Existing Facilities) and to approve SPR 2021-12 and CUP 2021-04 approving the establishment of a smoke shop (Smoke Yard) for the purpose of selling cigarettes and tobacco accessories, as well as clothing (hats and shirts) and snack food and drink (packaged processed convenience foods, soda, water). This is a continuance from the August 26, 2021, Special Planning Commission meeting with direction to staff to prepare a resolution affirming the Planning Commission's August 26, 2021, tentative decision to deny Site Plan Review 2021-12 and Conditional Use Permit 2021-04.

**2. PPL 2020-03 MOD, LLA 2020-04, ABN 2020-01, ABN 2020-02 & ABN 2021-01 – Grove Garden (Derek Sylvester)**

A noticed public hearing for an application for a Precise Plan Modification (PPL 2020-03 MOD), Lot Line Adjustment (LLA 2020-04), and Abandonments (ABN 2020-01, ABN 2020-02, ABN 2021-01) to accommodate the previously approved Garden Grove multifamily housing project. The properties being adjusted are on the southeast corner of Noble and Maple Street. The affected parcels are APNs 012-026-001 (304 Grove Street) and 012-402-006 (421 Noble Street). The alley being abandoned runs along Noble Street and the western property line of 304 Grove Street. ABN 2020-01 and ABN 2020-02, respectively, call for the alley and southern terminus of Grove Street to be abandoned. ABN 2021-01 proposes an abandonment of Noble Street right-of-way on the southeast corner of its intersection with Maple Street. The abandonment of the alley and Grove and Noble Street portions will add approximately 16,927 square feet to accommodate the housing development. The lot line adjustment (LLA 2020-04) will perfect the changes to the property boundaries after all abandonments. PPL 2020-03 MOD addresses changes to previously approved PPL 2020-03, such as building layout, setbacks, overall site design, and modifications to the conditions of approval. The project site is zoned PD-2000 (Planned Development) with an HD (High Density Residential) General Plan (APN's: 012-026-001 & 012-402-006).

A Negative Declaration was previously adopted by the Planning Commission for the development on May 12, 2020. The proposed modification to the precise plan is in general conformance with the originally evaluated project; however, the addition of the lot line adjustment and abandonments of right-of-way have been incorporated and analyzed in the amended Initial Study/Negative Declaration (IS/ND). The amended Initial Study/Negative Declaration (IS/ND) is attached. The revisions to the IS/ND reflected in this attached document do not affect the adequacy or findings of the previous environmental analysis contained in the IS/ND.

**3. CUP 2021-24 & SPR 2021-26 – Alpha Motors (Derek Sylvester)**

An application for a site plan review and conditional use permit to allow the operation of an online only used car sales and parts business, Alpha Motors. The address is currently being used for an existing business, Boost Mobile, where the business operations of Alpha Motors will be conducted out of a spare office within the same building suite. The site is located on the east corner of North A Street and East Yosemite Avenue in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. APN: 007-171-012

The project has been determined to be categorically exempt under the 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 November 9, 2021.

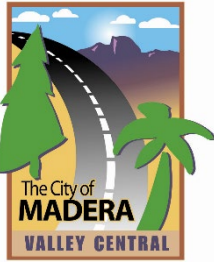
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation 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 – October 12, 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) was heard at the August 26 Planning Commission meeting. The Planning Commission made a tentative determination that the proposed use, which would sell cigarettes and tobacco accessories in an existing commercial building, did not meet public health and safety requirements and directed City staff to return with an updated resolution with appropriate findings for denial. This item is to present the findings for denial to Planning Commission for.

---

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

---

This staff report supplements the staff report presented to the Planning Commission meeting of August 26, 2021. At that meeting, staff made its presentation, and a public hearing was held. The complete staff report and packet is attached for your reference, as well as written comments received.

During the public hearing there were comments received in opposition to the approval of Conditional Use Permit 2021-004 (CUP 2021-04) and Site Plan Review 2021-12 (SPR 2021-12), including from the Madera County Department of Public Health. After the public hearing closed, the Planning Commission discussed the matter and then made the following motion: Continue the application for CUP 2021-04 and SPR 2021-12 to the October 12, 2021 Planning Commission meeting with direction to staff to return with an updated resolution with appropriate findings of denial. The Planning Commission also identified grounds for denial to be included in the resolution including: location of the proposed smoke shop in proximity to schools and stores already permitted to sell tobacco products as well as the negative impact on public health, specifically on youth, resulting from increased access to smoke shops relative to route schools. The motion passed 4 to 0, and this matter was continued to the meeting of October 12, 2021.

City staff have returned to the Planning Commission with a resolution as directed. Although the initial direction was to deny the CUP as all appropriate findings can be made to approve the Site Plan, in the present matter, a Site Plan Review as proposed cannot be approved without a valid Conditional Use Permit. As such, denial of CUP 2021-04 would also require denial of SPR 2021-12.

### **RECOMMENDATION**

If the Planning Commission wishes to affirm its tentative decision to deny CUP 2021-04, the Commission must adopt a resolution to deny. Given the public hearing has been closed, the Commission is not required to re-open the public hearing for this meeting but has the option to do so if it so chooses.

### **PLANNING COMMISSION ACTION**

As directed by the Planning Commission, staff has prepared and returned with a resolution. If the Planning Commission wishes to affirm its tentative decision to deny CUP 2021-04 and SPR 2021-12, the Commission may adopt the resolution, which will deny CUP 2021-04 and SPR 2021-12 as follows:

**Motion 1:** Move to adopt a resolution of the Planning Commission of the City of Madera denying Conditional Use Permit 2021-04 and Site Plan Review 2021-12.

or

As a decision has not been finally rendered by the Planning Commission, in the alternative, the Planning Commission may choose to take the following action if desired:

**Motion 2:** Move to adopt a resolution of the Planning Commission of the City of Madera adopting a Finding of Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities), approving CUP 2021-04 and SPR 2021-12, based on and subject to the findings and conditions of approval as set forth in staff report of August 26, 2021, and the attached Resolution.

or

**Motion 3:** Move to continue the public hearing on CUP 2021-4 and SPR 2021-12 to November 9, 2021, with direction to staff to return with an updated resolution as follows: (Specify – Planning Commission should specify the nature of the updated resolution.)

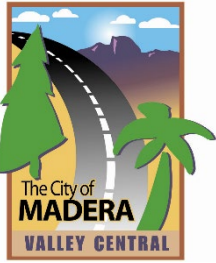
### **ATTACHMENTS**

Attachment 1: Planning Commission Staff Report from August 26, 2021

Attachment 2: Madera County Department of Health Comments

Attachment 3: Planning Commission Resolution for Denial

**Attachment 1: Planning Commission Staff Report from August 26, 2021**



# 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.

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

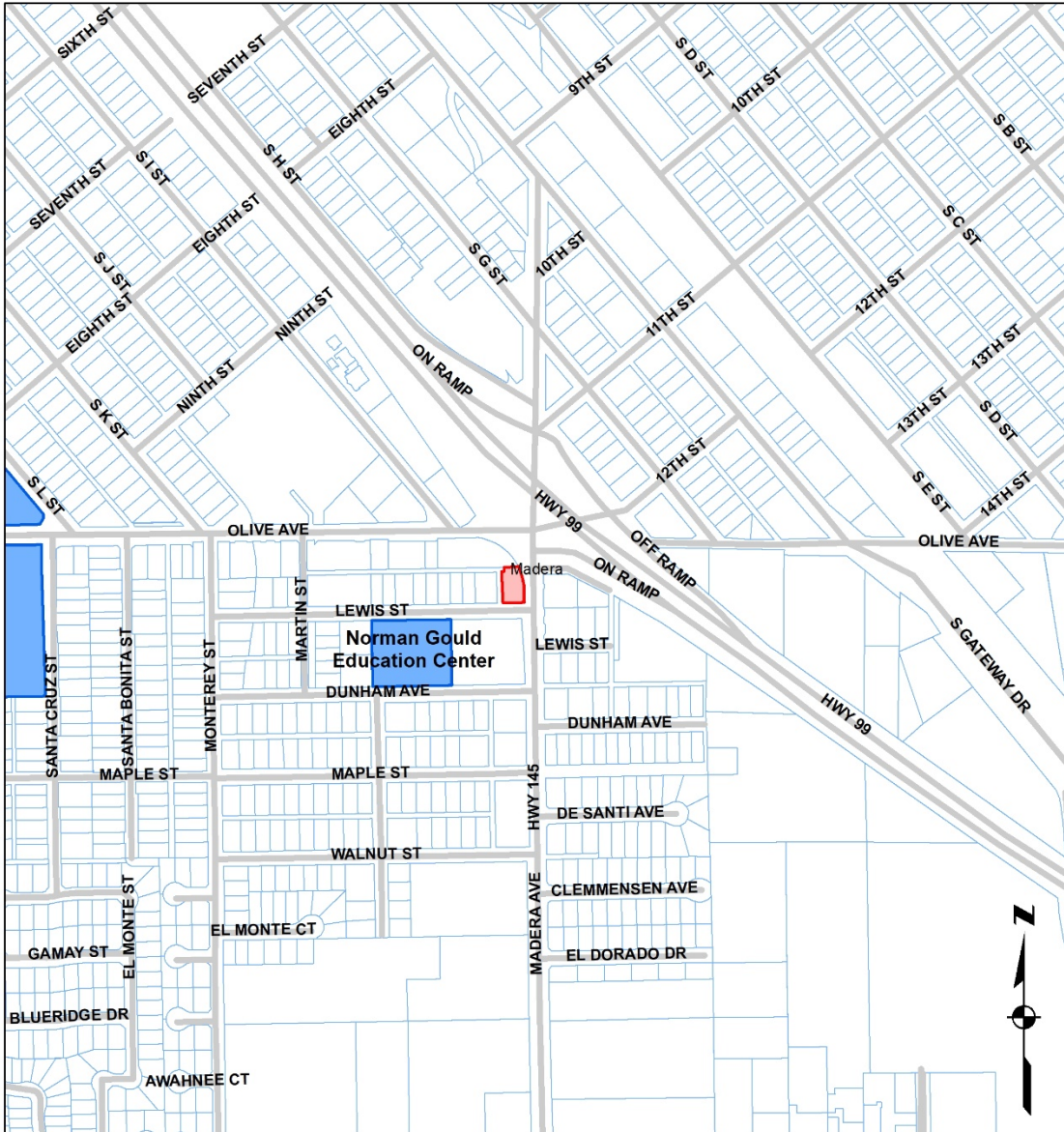
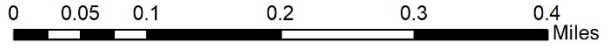
# Vicinity Map

CUP 2021-04 & SPR 2021-12  
Smoke Yard

## Legend

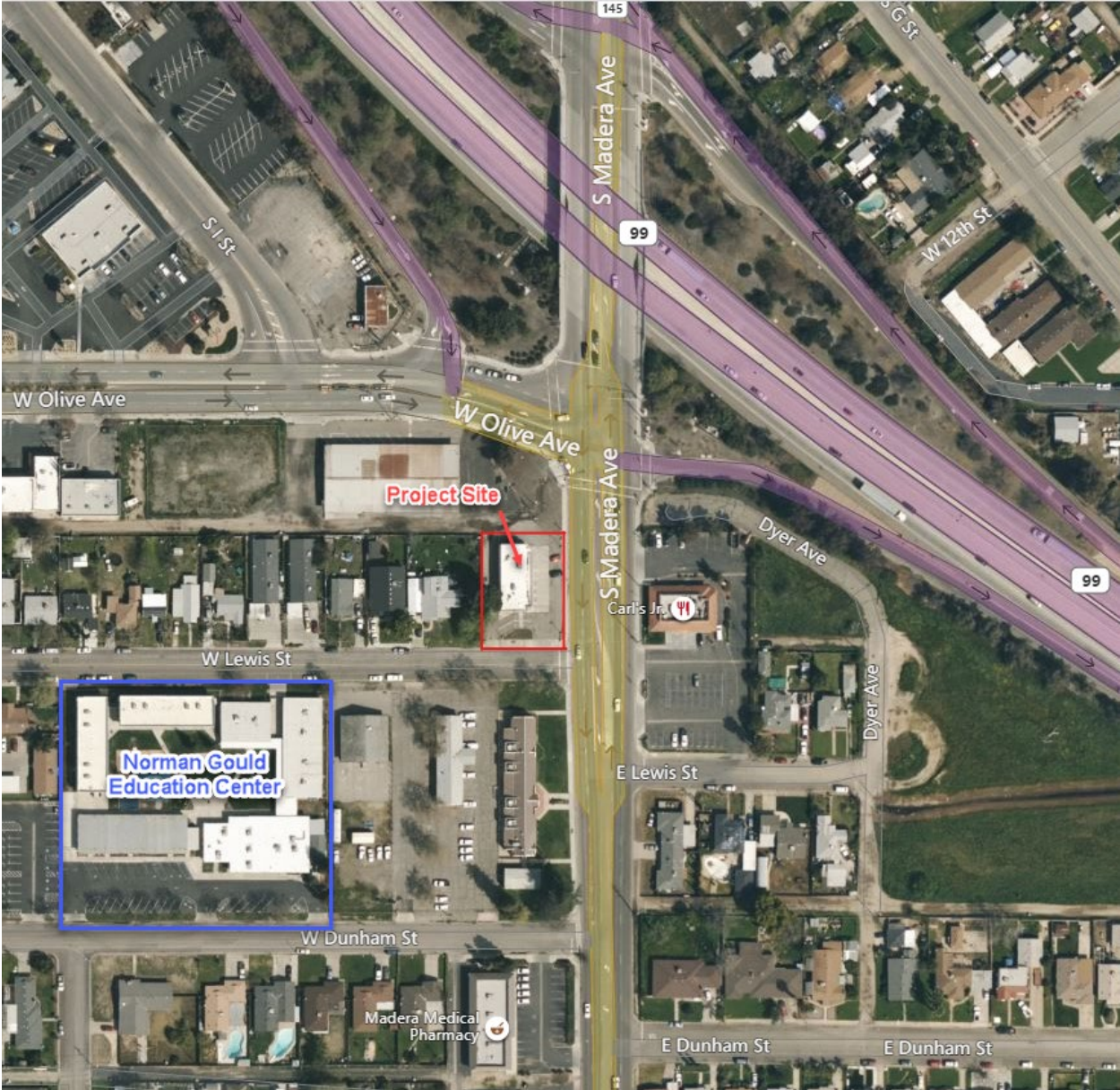
-  Project Location
-  School
-  City Roads
-  Parcel Boundaries

1:6,973





Attachment 2: Aerial Photo





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);
Declared Emergency (Sec. 21080(b)(3); 15269(a));
Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
[X] 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 Contact Person: Adam Klier Area Code/Telephone/Extension: 559.681.5425

If filed by applicant:

- 1. Attach certified document of exemption filing.
2. Has a Notice of Exemption been filed by the public agency approving the project? [ ] Yes [ ] No

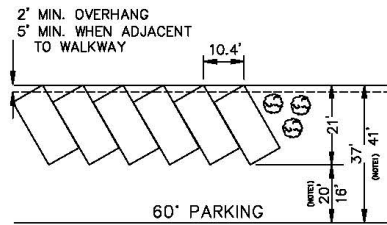
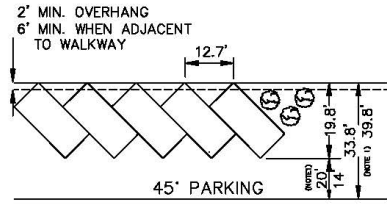
Signature: [Signature] Date: 8/26/2021 Title: Assistant Planner

[X] Signed by Lead Agency [ ] Signed by Applicant

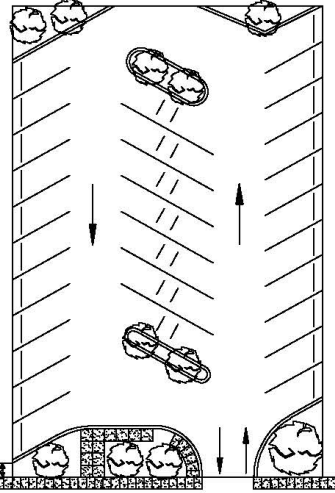
Authority cited: Sections 21085 and 21110, Public Resources Code. Date Received for filing at OPR:
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Revised 2011

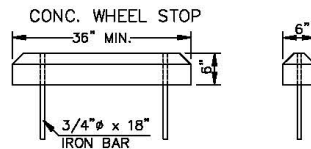
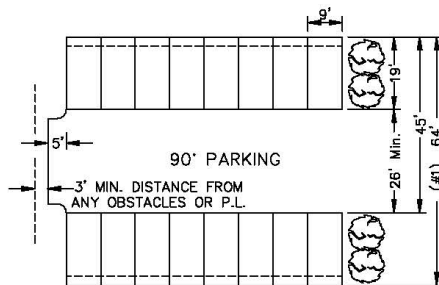
# Attachment 5: Off Street Parking Requirements



3' FROM PUBLIC SIDEWALK



TYPICAL PARKING LOT DESIGN AND LANDSCAPE



**PARKING SPACE SIZE**

- 9' X 19' - FULL SIZE
- 8' X 16' - COMPACT
- COMPACT SPACES - 25% OF REQUIRED

**NOTE:**

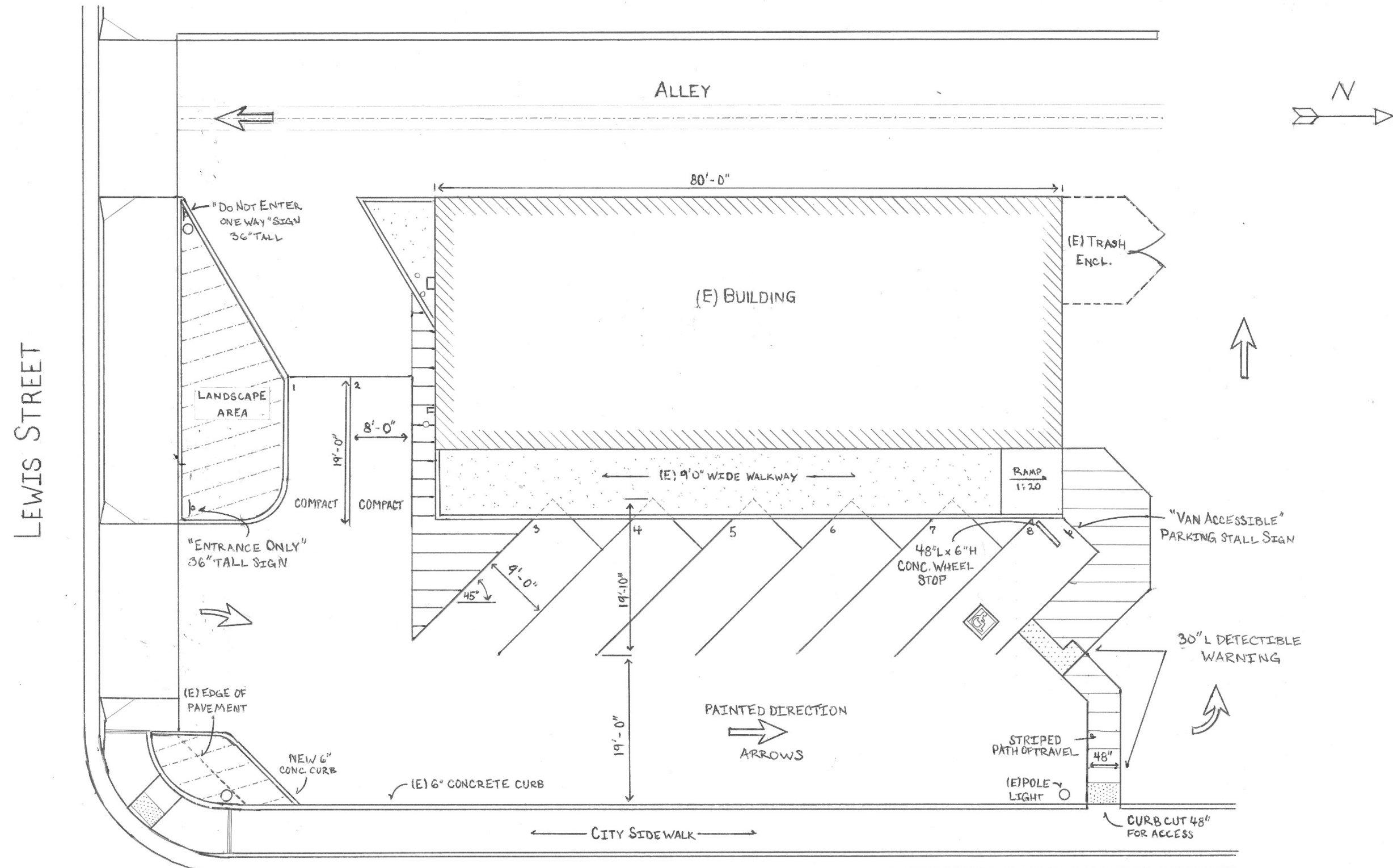
1. TWO-WAY TRAFFIC
2. WHEN OVERHANG OF VEHICLE EXTENDS INTO WALKWAY, WALKWAY WIDTH MUST BE A MINIMUM OF 7' WIDE TO PROVIDE 5' OF WALKWAY
3. INSTALL WHEEL OR BUMPER STOPS TO PREVENT CARS FROM ENCROACHING OVER SIDEWALKS, ADJOINING PROPERTY OR CITY RIGHT-OF-WAY.
4. SHEET FLOW OVER SIDEWALKS IS PERMITTED FOR AREAS 1/4 ACRE OR LESS, UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER. MINIMUM SLOPE FOR ASPHALT SURFACE SHALL BE 1% AND .2% FOR FLOWLINES.

**OFF-STREET PARKING REQUIREMENTS**

REF. & REV.  
June 2005  
AUG. 2008

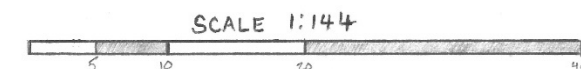
CITY OF MADRA

**E-4**



# PARKING AND ACCESSIBILITY PLAN

## 300 S. MADERA AVE CUP 2020-04





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

July 20, 2021

Adam Klier  
City of Madera  
205 West 4<sup>th</sup> 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

**Attachment 2: Madera County Department of Health Comments**

August 23, 2021

City of Madera Planning Commission  
205 W 4<sup>th</sup> Street,  
Madera, CA 93637

**Re: CUP 2021-04 & SPR 2021-12-Smoke Yard**

Dear Commissioners,

The Madera County Department of Public Health's Tobacco Control Program would like to share some concerns about the proposed tobacco retail establishment at 300 Madera Avenue, located south of the intersection of Madera Ave and Olive Ave.

Our environment plays an important role in shaping our overall health. When tobacco retailers are positioned in close proximities to homes and schools the health of the people is negatively impacted. Youth and young adults are more likely to smoke when they live or go to school in neighborhoods with a high concentration of tobacco retailers. Factors such as location, density, and the availability of tobacco products can lead to an increase rate of tobacco use which contributes to the health inequities of our residents.

Tobacco use is the leading cause of preventable death and disability in the United States. Throughout the years we have seen an increase of tobacco use among youth primarily due to e-cigarettes making it a huge public health concern. More than 8 out of 10 current youth e-cigarette users use flavored tobacco products. Flavored tobacco products help to mask the harsh taste of tobacco making it easier to initiate and sustain tobacco use. In 2020, more than 3.5 million youth use e-cigarettes and almost 40% of e-cigarette users were vaping 20 or more days out of the month and over 22% of user vape on a daily basis.

Tobacco use rates are directly impacted by where tobacco retailers are located, the concentration, and or density, increased availability of tobacco products has demonstrated a correlation with higher rates of tobacco use among youth and adults. Tobacco retailers expose youth to tobacco advertising and marketing. This exposure increases the risk of youth experimenting with smoking/vaping, especially when routinely exposed to tobacco retailers and their advertisement.

The Madera Vision 2025 focuses on a safe and healthy environment

“We see ourselves living in a safe and healthy environment in which we protect our resources and provide healthy educational and recreational opportunities.”



Preventing tobacco use among youth is critical in ending the tobacco use epidemic. According to the CDC, if tobacco use rates continue at the current rate more than 5.6 million youth will die of a premature death due to tobacco related illnesses. That represents 1 out of 13 youth under the age of 17 alive today. Studies have demonstrated that tobacco use starts at a young age, primarily in adolescent. Tobacco products contain nicotine, which is a highly addictive substance that can affect an adolescent brain development causing harm to parts of the brain that control attention, learning, mood, and impulse control.

In 2019 the Healthy Stores for Healthy Community assessment was conducted in Madera County and found that 75% of storefront advertising near schools had unhealthy storefront ads with 42.2% of tobacco marketing in kid-friendly locations and 90% of stores near schools sold flavored tobacco products.

The City of Madera has made tremendous progress in addressing tobacco control issues. In 2019, the Madera City Council adopted changes to the smoking regulation ordinance to include smoke- and vape-free parks and updated “smoking” definitions to regulate electronic smoking devices wherever smoking is regulated. While some progress has been made their is still much more to be done to support the health of the residents of the City of Madera.

Here are our concerns.

1. The current proposed location for this new tobacco retailer has a population with a higher percentage of poverty. An estimated 74% of this area’s population is at or below the Federal Poverty level. Research has indicated that individuals living in poverty are at higher risk for becoming addicted to tobacco products. Tobacco companies are systematically targeting low-income communities because they know people with low socioeconomic status are at high risk of smoking. A 2016 report on the economics of tobacco from the U.S. National Cancer Institute and World Health Organization stated that, “tobacco use accounts for a significant share of the health disparities between the rich and poor.”
2. When you take a closer look at the neighborhood, you will notice there are already three tobacco retailers on W Olive Ave and three on S Madera Ave. If approved this new shop would be the seventh establishment in close proximities to each other.
3. This proposed location is a huge concern because it would increase the expose to tobacco marketing for youth daily that walk to and from Madera High School, Madison Elementary School and it would be located around the corner to Gould Educational Center.
4. According to the California Tobacco Health Assessment Tool, an estimated 16 retailers are located within 1,000 feet of schools in the City of Madera. Currently, there are four tobacco retailers within 1,000 feet of Madera High School. Density/zoning of tobacco retailers near youth sensitive areas is a huge public health concern because research has shown that children and youth exposed to tobacco marketing increase their risk by up to 3x to initiate tobacco use. Currently, more than 15% of youth in Madera County used some form of tobacco in the last 60 days. In the state of California, from 2017 to 2018,

tobacco use among youth increased by 78% accounting for more than 3.8 million youth, mostly due to the use of e-cigarettes.

As the Planning Commission, you have the power to create a healthy, thriving community by design. We urge you to take into consideration the issues addressed in this letter and continue to support the healthy future of the residents of the City of Madera.

Thank you

**Attachment 3: Planning Commission Resolution for Denial**

**RESOLUTION NO. 1894**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA DENYING A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES SECTION 15301 (EXISTING FACILITIES) AND DENYING CONDITIONAL USE PERMIT 2021-04 (TOBACCO PRODUCTS) AND SITE PLAN REVIEW 2021-12 (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 conditional use permit (CUP) to allow the sale of certain tobacco products within an existing commercial building on APN 012-53-024 (300 South Madera Avenue), as contemplated by CUP 2021-04; and

**WHEREAS**, consistent with the use proposed by the CUP, the Applicant is also seeking a site plan review (SPR) to allow for a new use to be located within an existing commercial building on APN 012-53-024 (300 South Madera Avenue), as proposed by SPR 2021-12; 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 public hearing was closed prior to a tentative decision by the Planning Commission; and

**WHEREAS**, after the public hearing was closed, the Planning Commission discussed the matter and then approved a motion to continue the application for CUP 2021-04 and SPR 2021-12 to the October 12, 2021, Planning Commission meeting with direction to staff to return with an updated resolution with appropriate findings for denial for consideration by the Planning Commission; and

**WHEREAS**, the Planning Commission also identified the following grounds for denial to be included in the draft resolution including the location of the proposed tobacco shop (Smoke Yard) in proximity to schools and stores already permitted to sell tobacco products as well as the negative impact on public health, specifically on youth, resulting from increased access to tobacco shops relative to areas of high youth activity; and

**WHEREAS**, City staff has return to the Planning Commission as directed; and

**WHEREAS**, after having considered all evidence, testimony, and information before it, the Planning Commission now desires to take final action to deny CUP 2021-04 and SPR 2021-12.

**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 CEQA is not required as no portion of the project is being approved, and CEQA is not required for a project which a public agency rejects or disapproves pursuant to Public Resources Code Section 21080(b)(5).
3. Findings for CUP 2021-04: The Planning Commission finds and determines that there is substantial evidence in the administrative record to deny the approval of CUP 2021-04 and make each and every one of the findings, based on the evidence in the record, as follows: The proposal is inconsistent with Zoning Ordinance and will not be compatible with the surrounding properties. The establishment, maintenance, or operation of the use will, under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city, and approval is not warranted per Madera Municipal Code section 10-3.1307. The basis for these findings includes the following:
  - a. Given the specific conditions of the area location, including an excess of tobacco sales in conjunction with the location of nearby sensitive uses including nearby schools and routes to school taken by youth, and recognizing there is an inter-relationship between the sale and consumption of tobacco and undue concentration of licenses with crimes and nuisances, public health, etc., and a link between smoking and a higher percentage of poverty, the Planning Commission finds the proposed use will be detrimental to the public welfare or injurious to property.
  - b. Increased availability of tobacco products has been linked to an increase of tobacco use among adults and youth. Research has shown that when there is a high density of tobacco retailers near homes and schools, the community's health suffers. For example, youth are at greater risk of experimenting with smoking/vaping when routinely exposed to tobacco retailers and their advertising and children are more likely to smoke when they live or go to school in neighborhoods with a high density of tobacco retailers. Having more tobacco retailers in the City of Madera also increases the use of tobacco

products among those that are already smokers/vapers, resulting in an increase in the harm to their health and making it harder for them to quit. Increased use of tobacco results in a higher mortality rate and other significant and adverse impacts to physical health.

- c. The current proposed location for this new tobacco retailer has a population with a higher percentage of poverty. An estimated 74 percent of this area population is at or below the Federal Poverty level. Individuals living in poverty are at higher risk for becoming addicted to tobacco products. Tobacco companies are systematically targeting low-income communities because they know people with low socioeconomic status are at high risk of smoking. A 2016 report on the economics of tobacco from the U.S. National Cancer Institute and World Health Organization stated that, "tobacco use accounts for a significant share of the health disparities between the rich and poor."
  - d. The project is located in an area with an undue concentration of tobacco CUPs or sales. There already two existing tobacco retailers on South Madera Avenue in the same general vicinity of proposed Project location and granting an additional CUP for tobacco use would result in more than half of the tobacco retailers located at this shopping center and a total of five retailers within easy walking distance of Madera High School. If approved this new shop would be the third establishment within walking distance from each other. The public convenience or necessity would not be served by an additional use for the sale of tobacco products as proposed by the Project.
  - e. The approval of the CUP would result in an increase exposure to tobacco marketing and products for youth that walk to and from Madera High School on a regular basis. In order to travel to school, children pass within feet of the shopping center location as well as through the area having a higher percentage of poverty and an undue concentration of stores selling tobacco products. According to the California Tobacco Health Assessment Tool, an estimated 16 retailers are located within 1,000 feet of schools in the City of Madera. Currently, there are four tobacco retailers within 1,000 feet of Madera High School. Density/zoning of tobacco retailers near youth sensitive areas is a huge public health concern because research has shown that children and youth exposed to tobacco marketing increase their risk by up to time the average to initiate tobacco use. Currently, more than 15 percent of youth in Madera County used some form of tobacco in the last 60 days. In the state of California, from 2017 to 2018, tobacco use among youth increased by 78 percent accounting for more than 3.8 million youth, mostly due to the use of e-cigarettes. If the high rates of tobacco use continue at the current rate more than 5.8 million youth under-age of 18 will die of premature death due to smoking related illness. Proposed CUP 2021-04 will result in adverse nuisances and other secondary effects of tobacco sales near a sensitive use.
4. Findings for SPR 2021-12: The Planning Commission finds and determines that there is substantial evidence in the administrative record to deny the approval of SPR 2021-12 and makes each and every one of the findings, based on the evidence in the record, as follows:

- a. SPR 2021-12 is inconsistent with the 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 tenant space being

occupied is located within an existing commercial building. On-site improvements and tenant space will be required prior to occupancy. However, the intent and use of the subject site is on the premise of the sale of tobacco and tobacco products for which is subject to a conditional use permit. Absent approval of CUP 2021-04, the proposed site plan would be inconsistent with Determination of Use 2015-01 and Sections 10-3.1301 through 10.3.1311 of the City's Municipal Code. Therefore, Site Plan Review 2021-12 would be inconsistent with the purpose and intent of the C2 (Heavy Commercial) zone district and cannot be granted.

5. Denial of CUP 2021-04 and SPR 2021-12: Based on each of the forgoing findings, the Planning Commission hereby denies CUP 2021-04 and SPR 2021-12.

6. Effective Date: This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 12<sup>th</sup> day of October 2021, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

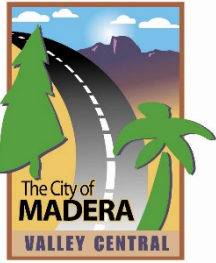
---

Robert Gran  
Planning Commission Chairperson

Attest:

---

Gary Conte, AICP  
Planning Manager



# CITY OF MADERA PLANNING COMMISSION

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

## Staff Report: Grove Garden Precise Plan Modification, Lot Line Adjustment, Alley and Street Abandonments PPL 2020-03 MOD, LLA 2020-04, ABN 2020-01, ABN 2020-02, ABN 2021-01 Item # 2 – October 12, 2021

**PROPOSAL:** Applications for a Precise Plan Modification (PPL 2020-03 MOD), Lot Line Adjustment (LLA 2020-04), and Abandonments (ABN 2020-01, ABN 2020-02, ABN 2021-01) to accommodate the previously approved Garden Grove multifamily housing project. The properties being adjusted are on the southeast corner of Noble and Maple Street. The affected parcels are APNs 012-026-001 (304 Grove Street) and 012-402-006 (421 Noble Street). The alley being abandoned abuts and is parallel to Noble Street and runs the entire length of the western property line of 304 Grove Street. ABN 2020-01 and ABN 2020-02, respectively, call for the alley and southern terminus of Grove Street to be abandoned. ABN 2021-01 proposes an abandonment of Noble Street right-of-way on the southeast corner of its intersection with Maple Street. The abandonment of the alley and Grove and Noble Street portions will add approximately 16,927 square feet to accommodate the housing development. The lot line adjustment (LLA 2020-04) will memorialize the changes to the property boundaries after all abandonments. PPL 2020-03 MOD addresses changes to previously approved PPL 2020-03, such as building layout, setbacks, overall site design, and modifications to the conditions of approval. Approval of PPL 2020-03 MOD extends the validity of the precise plan to October 12, 2022.

<b>APPLICANT:</b>	Berry Development Rudy Zuniga 413 W. Yosemite Ave #106 Madera, CA 93637	<b>OWNER:</b>	Berry & Berry, Inc. 413 W. Yosemite Ave #106 Madera, CA 93637
<b>SITE ADDRESS:</b>	304 Grove Street & 421 Noble Street	<b>APNs:</b>	012-026-001 and 012-402-006
<b>APPLICATIONS:</b>	PPL 2020-03 MOD, LLA 2020-04, ABN 2020-01, ABN 2020-02, ABN 2021-01	<b>CEQA:</b>	Negative Declaration (as amended)

**LOCATION:** The proposed development is located on the southeast corner of Noble Street and Maple Street (refer to Attachment 1).

**STREET ACCESS:** The project will have access along Noble and Grove Streets.



**PROJECT SIZE:** The total abandonment area is approximately an additional 16,927 square feet (sq. ft.) added to the project site. The project area as proposed for adjustment in LLA 2020-04 and shown in PPL 2020-03 MOD is an approximate total of 1.80 acres (78,408 sq. ft.).

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

**ZONING DISTRICT:** PD (Planned Development) 2000

---

**SITE CHARACTERISTICS:** The alley portion to be abandoned along Noble Street is a 10-foot-wide and 275-foot-long (approximately 2,750 sq. ft.) unimproved area. The portion of Grove Street to be abandoned is an 80-foot-wide and 175-foot-long (approximately 14,000 sq. ft.) unpaved portion of its southernmost terminus. The area of Noble Street to be abandoned is an approximate 184 sq. ft. triangular portion of the street at the southeast corner of its intersection with Maple Street. The existing project site has recently been cleared of all structures in preparations for the housing development. A temporary chain-link fence has been installed along the perimeter and the site is being maintained of weeds and litter.

**ENVIRONMENTAL REVIEW:** A Negative Declaration was previously adopted by the Planning Commission for the development on May 12, 2020. The proposed modification to the precise plan is in general conformance with the originally evaluated project; however, the addition of the lot line adjustment and some of the abandonments of right-of-way now being contemplated were not analyzed in the previously adopted Initial Study/Negative Declaration. The proposed modifications to the previously approved project and the proposed right-of-way abandonments now being contemplated as well as the proposed lot line adjustment have been analyzed in the amendment to previously adopted Initial Study/Negative Declaration (IS/ND) for the Grove Gardens project. The Amendment to Initial Study/Negative Declaration for Grove Gardens Project (Amended IS/ND) is attached. The Amended IS/ND reflected in this attached document do not affect the adequacy or findings of the previous environmental analysis contained in the IS/ND.

---

**SUMMARY:** The original precise plan (PPL 2020-03) for the project was conditionally approved by the Planning Commission in May of 2020 to guide the site design and development. The uncovering of unknown conditions affecting the project and development of the approved project in accordance with PPL 2020-03 have driven the need for additional review and subsequent applications. The multiple applications for abandonment (ABN 2020-01, ABN 2020-02, ABN 2021-01), lot line adjustment (LLA 2020-04), and precise plan modification (PPL 2020-03 MOD) are in preparations to provide sufficient development standards and developable area to accommodate the 35-unit (34 leasable units plus one manager's residence) multi-family apartment complex. The application for abandonment of the portion of Grove Street (ABN 2020-02) was originally conditioned as a requirement to proceed with the multi-family project. The addition of square footage and revision to property lines provided by these applications will allow the development to work well internally in addition to being harmonious with the surrounding area. A modification to the precise plan (PPL 2020-03 MOD) will memorialize the necessary changes to the conditions of approval and site design to allow the apartment complex to comply with applicable City standards.

## **APPLICABLE CODES AND PROCEDURES**

### Abandonment

#### *Government Code § 65402(a)*

If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period as may be designated by the legislative body.

#### *Streets and Highways Code § 8330 et. Seq.*

The legislative body of a local agency may summarily vacate a street or highway that has been superseded by relocation. A street or highway cannot be vacated, however, if it would cut off all access to a person's property or terminate a public service easement.

### Precise Plans

#### *Madera Municipal Code (MMC) §10-3-4.101*

Precise plans are a tool for coordinating public and private improvements on specific properties where special conditions of size, shape or an existing or desired development require particular attention. Precise plans are utilized within the P-D (Planned Development) Zone District to establish the proposed project's specific development and improvement standards. Sections 10-3-4.101 through 10-3-4.107 of the MMC establishes standards specific to the development within the P-D (Planned Development) zone district. Additional development standards identified in the MMC, such as parking requirements also apply. Precise plans address, as applicable, the project's relationship to neighboring properties, project building and landscape design and aesthetics, fencing, walls, public infrastructure and services, circulation, parking, and open space. No construction, grading or new development activity may commence in any P-D Zone prior to the approval of a precise plan.

Precise plans are to be processed according to MMC §10-3.13, which addresses the application, public hearing process, appeal, termination, and revocation procedures. Pursuant to MMC §10-3-4.103, precise plans are subject to the approval of the Planning Commission. A precise plan must be utilized (implemented) within 12 months of the effective date of its approval. Failure to utilize the approved precise plan within the 12-month period renders the precise plan null and void unless a written request for an extension is submitted to the Planning Commission prior to the expiration of the precise plan. At such time of the request, the Planning Commission may grant or conditionally grant an extension as it deems appropriate.

The City's Planning and Zoning Ordinance allows for the granting of an amendment to a precise plan by the Planning Commission subject to findings that the establishment, maintenance, or operation of the development will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the development, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. Conditions may be attached to the approval of the precise plan to ensure compatibility. Project design may be altered and on or off-site improvements required 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.

#### Lot Line Adjustment

*MMC §10-2.305*

*Government Code §66412(d)*

A lot line adjustment is subject to compliance with criteria relative to general plan consistency, parcel design, minimum lot area, environmental quality, and public health and safety criteria specified in the City Planning and Zoning Municipal Code and other applicable county and state code provisions relating to real property divisions. These criteria will be considered satisfied if the resulting parcel maintains a position with respect to the criteria which is equal to, or better than, such position prior to approval or conditional approval of the lot line adjustment.

Government Code §66412(d), part of the State Subdivision Map Act, requires that a lot line adjustment be consistent with a city's general plan and zoning and building ordinance.

#### **PRIOR ACTION**

The Planning Commission at a regularly scheduled meeting on May 12, 2020, considered and conditionally approved PPL 2020-03, Variance (VAR) 2020-02, and a Negative Declaration for the Grove Garden multi-family housing project. VAR 2020-02 was approved to allow for a reduction in open space requirements of the Planned Development (PD) zone district. In conjunction with these approvals, General Plan Amendment (GPA) 2020-02 and Rezone (REZ) 2020-01 were found to be consistent with the City of Madera General Plan and Zoning Ordinance and recommended to be heard before the City Council for consideration.

The City Council on June 3, 2020, considered and adopted a resolution amending the General Plan (GPA 2020-02) land use designation for the project site from Industrial (I) to High Density Residential (HD). At the same meeting, the City Council also waived the full reading and introduced an ordinance rezoning the subject properties from Industrial (I) to the PD-2000 (Planned Development, one unit per 2,000 sq. ft.) zone district.

On June 24, 2020, the second reading of the rezone application was heard by City Council. The full reading of the ordinance was waived, and a resolution was adopted amending the official zoning map and approving REZ 2020-02.

#### **ANALYSIS**

PPL 2020-03 was conditionally approved by the Planning Commission on May 12, 2020, to guide the development standards associated with building architecture, setbacks, required parking, open space features, and other amenities. The current proposal, PPL 2020-03 MOD, remains in general conformance with the previously considered and conditionally approved PPL 2020-03. The proposal is a 35-unit (34 leasable, one manager's residence), multi-family residential development on approximately 1.8 acres. A reduction in open space requirements was allowed with VAR 2020-02 and conditioned in PPL 2020-03 to provide no less than 18,200 sq. ft. of open space throughout the development inclusive of a community garden area, tot-lot, and barbeque area. The changes introduced with PPL 2020-03 MOD are repositioning of buildings, new floorplans, changing of parking layout, and addition of open space areas

to serve the future residents. The application and approval of PPL 2020-03 MOD will effectively extend the approval term of the precise plan for another year, until October 12, 2022.

The changes proposed in PPL 2020-03 MOD are contingent upon the approvals of multiple applications which alter the property lines and lot area. The abandonments (ABN 2020-01, ABN 2020-02, ABN 2021-01) are necessary to allow existing rights-of-way to be combined with the adjacent properties to provide sufficient lot area for the development. Once the abandonments have been accomplished, the proposed lot line adjustment (LLA 2020-04) will officially realign the existing property lines in conformance with the proposed property lines resulting from the proposed abandonments as depicted in PPL 2020-03 MOD.

### **Precise Plan Modification**

Precise plans are utilized within the PD zone district to establish specific development and improvement standards for proposed projects. Precise plans address site features, such as infrastructure and services, circulation and access, architectural quality, landscape, parking, and open space requirements.

The original precise plan approved to guide development of this project, PPL 2020-03, allowed for 34 multi-family dwelling units and a manager's residence and leasing office encompassed within four three-story buildings. Thirty-four were rentable units proposed with 2-bedrooms, 1-bath, and a balcony. An additional two units will be occupied by the leasing office and the manager's residence. The landscaping originally proposed included open lawn area, a community garden, and various shade trees to sum up approximately 18,200 sq. ft. of open space area.

While progressing through preparations for development of the site in accordance with PPL 2020-03, complications arose regarding building locations and certain requirements surrounding setbacks, site area, and open space. The precise plan as presented in PPL 2020-03 MOD corrects these shortcomings to an extent that said changes need to be considered by the Commission for approval (refer to Attachments 2, 3, and 4). In addition, the conditions of approval require some changes to be relevant to the new proposal. Modifications to the interior of the units is also proposed with PPL 2020-03 MOD, changing floor plans from two-bedroom one-bathroom to three-bedroom two-bathroom layouts (refer to Attachment 5). Staff considers the modifications presented in PPL 2020-03 MOD to be in general conformance with the original precise plan and will not present any foreseeable negative impacts to the project itself or the surrounding area.

### **Site Design**

The site layout depicted in PPL 2020-03 MOD proposes a similar design to the original precise plan. Building A to the northeast of the property remains the same except for the community garden along the eastern elevation being repositioned and expanded to maximize utility. Directly south of Building A, the parking area has been rearranged for increased efficiency in utilization of space and a barbeque area and tot-lot have been proposed.

Building B to the interior of the site remains in the same location. The open space area along the northern elevation of the building has increased in size due to corrections made in depiction of the property line neighboring with the adjoining property. Building B is the location of the manager's residence and leasing office.

Building C is located along Noble Street and is repositioned more so than the others as proposed in PPL 2020-03 MOD. The building is proposed to be located at a slight angle to provide appropriate spacing between Building B as well as adequate front, side, and rear yards. The shortest distance between Building C and Building B, as well as the property line shared with the neighboring residence, is approximately 17 feet. While the neighboring property is a residence, the property is zoned Industrial and thus the residence is legal non-conforming use. Taking this into consideration, the residential buildings have been situated anticipating future possible conversion of the non-conforming property to an industrial use. Being that Building C faces an industrial zoned property, it was found the best placement would be for the front yard to be as far from the industrial zoned property as possible and construction of a block wall is conditioned. This caused the rear yard to be reduced from 12 feet to 5 feet.

While generally the provisions of the residential district are applied to PD zones for setback standards, specific characteristics of this project make a reduction in rear yard requirements entertainable. The required front and rear yard for this project according to MMC §10-3.508, is 25 feet. However, through the precise plan process, special consideration of development standards may be taken into consideration. To the west of the project are industrial uses which make recreation activities in the rear yard of Building C limited due to potential noise, odor, and sight issues. The landscaping and street trees planted to the rear of Building C, in addition to Noble Street, will aid in buffering and separating the residential development from western industrial uses. In addition, a block wall will assist in inhibiting view of the neighboring residence's backyard to the east. The previously provided yard space can be accounted for in the tot-lot and barbeque area in the southeast of the site, which provides for a more conducive recreation area.

The site layout proposed in PPL 2020-03 MOD orients the buildings towards open space and common areas, as requested in the City of Madera General Plan Policy CD-29. Due to the surrounding uses in the area being industrial and public facilities (Memorial Stadium), the project was previously conditioned to provide a seven-foot concrete masonry unit (CMU) wall along the southern and eastern property lines. Staff recommends this be reduced to the standard six-foot CMU wall, as the addition of a foot does not, and will not, provide any benefit in reduction of unwanted noise or pollution sources.

### Parking

The 34 leasable units and one manager's residence bring a total for the complex to 35 units needing to comply with the parking requirements of the MMC. The proposed development is required to provide a total of 79 spaces: one covered space for each unit (35 total), one uncovered for each unit (35 total), and one additional visitor parking space for each four units (9 total). The original site plan, as approved in PPL 2020-03, identified 80 parking stalls, which met the parking requirements of the MMC.

PPL 2020-03 MOD proposes 38 covered spaces and 39 uncovered spaces, totaling 77 parking spaces. The addition of the tot-lot in PPL 2020-03 MOD located to the southeast of the site resulted in a reduction and reconfiguration of parking (refer to Attachment 2). Being within proximity (approximately one-quarter mile) to local shopping located along Howard Road and Pine Street as well as a bus transit stop along Cypress Street approximately 1,000 feet northwest of the project site, the deviation from parking standards with PPL 2020-03 MOD can be supported. The loss of three parking spaces results in a 2.5 percent deviation from the parking requirements of the MMC. On the other hand, the project, as proposed, provides more than the required covered parking spaces, which is an additional amenity to visitors and residents.

## Architecture

The architecture and exterior of Buildings A – D remain the same as previously approved in PPL 2020-03. The buildings are characterized as an American Traditional style with the primary façade including a balcony and breezeway supported by columns wrapped with a stone finish. A similar stone veneer adorns the lower portion of the side elevations to break up massing of large surfaces. Window trims, window flower balconies, and lighting sconces further break up the massing and add relief to the horizontal siding (refer to Attachments 3 and 4).

Cumulatively, the architectural design of the buildings provides compliance with City of Madera General Plan policies CD-33 and CD-34, which call for exteriors of buildings to be attractive at a pedestrian level and break up massing by including articulation in elevations. Although a carport design has yet to be provided, the design will need to be inclusive of main building features, colors, and appear compatible.

Proposed in PPL 2020-03 MOD is a change from two-bedroom, one-bathroom floor plans to a three-bedroom, two-bathroom layout. The change is driven by market need of residential units that are accommodating of larger families. Staff supports this change, as it provides greater options for families in the community. In review of this proposed change, there are no new or additional development standards required of the project to be implemented because of this change. The only standard in the MMC driven by bedrooms is parking requirements. Parking standards remain the same at a ratio of two spaces per unit, one of which must be covered.

## **Abandonments and Lot Line Adjustment**

Conditions of approval for PPL 2020-03 required certain land alterations to be performed to accommodate the development. PPL 2020-03 Condition of Approval #55 requires a parcel map application to be submitted to correct property lines. However, the necessary changes in property lines can only be achieved with a combination of abandonments and a lot line adjustment (LLA 2020-04). Further, PPL 2020-03 Condition of Approval #34 requires the abandonment of a portion of Grove Street right-of-way to accommodate the project. This abandonment is proposed for consideration as project Application ABN 2020-02 (refer to Attachment 6).

As the project progressed towards submittal of these applications, it was uncovered that additional acquisition of land area was necessary to develop the project according to PPL 2020-03 and now as proposed in PPL 2020-03 MOD. A 10-foot-wide alley along the western property line and adjacent to Noble Street was uncovered during subsequent review in preparation of the lot line adjustments and of project improvement plans. The 10-foot wide alley only existed in recorded documentation – no evidence of the alley is physically present on the project site. As such, the applicant submitted another application to abandon the alley (ABN 2020-01) (refer to Attachment 7). Generally, alleyways historically have public utilities in them to serve abutting properties. The project has been conditioned for a public utility easement to be established for any utilities to remain in the abandoned alley paralleling Noble Street.

The applicant is also proposing a third abandonment (ABN 2021-01) for the purpose of implementing the approved Grove Garden Apartment project. ABN 2021-01 calls for a small, triangular shaped portion of the northeast corner of Noble Street to be abandoned where it intersects with Maple Street (refer to Attachment 8). This approximate 184 sq. ft. portion is needed to enable Building C to maintain a rear-yard setback of at least five-feet. While the original plan called for a 12-foot rear yard setback for

Building C, the reduction to five-feet is supportive on the basis that the rear yard is along Noble Street, which separates the complex from industrial uses to the west. Furthermore, units on the third floor of Building C will not peer into neighboring residences, as there are none to the rear of the building.

After the abandonment of the alley and portion of Grove Street, LLA 2020-04 is proposed to reposition the parcel boundaries resulting from the abandonments as shown in PPL 2020-03 MOD (refer to Attachment 9).

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

A previous IS/ND (*Initial Study/Negative Declaration for the Grove Gardens*) was prepared for the project and approved by the Planning Commission on May 12, 2020. The project modifications as proposed by PPL 2020-03 MOD, inclusive of adjustments to real property lines, is in general conformance with the previously analyzed development. The addition in scope of proposed project related entitlements including lot line adjustments and abandonments as well as the proposed on-site building, open space and parking modifications have been analyzed in the attached *Amendment to Initial Study/Negative Declaration for the Grove Gardens* (refer to Attachment 10).

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

One of the four core visions for the City of Madera discussed in the General Plan is “A well-planned City.” This project, considering its installation of infrastructure and development of housing, is implementing this key vision. Further, the development will help provide consistency with Strategy 131, which states, “Create well-planned neighborhoods throughout Madera that promote connectivity and inclusiveness with a mix of densities.” Therefore, the development of this multi-family project can be determined as consistent with the adopted City of Madera General Plan.

### **RECOMMENDATION**

It is suggested that the Commission consider the information in this report, as well as testimony received at the public hearing, and adopt the Amendment to IS/ND for Grove Gardens, and act on PPL 2020-03 MOD, ABN 2020-01, ABN 2020-02, ABN 2021-01, and LLA 2020-04 subject to the details below.

### **PLANNING COMMISSION ACTION**

The Commission will be acting on the Amendment to IS/ND for Grove Gardens, abandonments, lot line adjustment, and precise plan modification and determining to either:

- Adopt a resolution containing the following:
  - Adopting the Amendment to Initial Study/Negative Declaration for the Gove Gardens inclusive of all real property boundary adjustments for the project,
  - Finding the abandonments conforming to the General Plan and recommending them to be considered by the City Council,
  - Approving the lot line adjustment and precise plan modification (Motion 1); or

- Continue the hearing to the November 9, 2021, Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings: (Specify – Planning Commission should articulate reasons for modifications to findings) (Motion 2); or
- Continue the hearing to the November 9, 2021, Planning Commission hearing with direction to staff to return with an updated resolution with appropriate findings for denial: (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 the Amendment to Initial Study/Negative Declaration for Grove Gardens, adopting a report to the City Council determining General Plan conformity for ABN 2020-01, ABN 2020-02, and ABN 2021-01, approving LLA 2020-04, and finally approving PPL 2020-03 MOD based on and subject to the findings as follows:

Abandonment Findings

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

The abandonment of a portion of Noble Street, Grove Street, and the alley segment adjacent to and paralleling Noble Street does not conflict with the City of Madera’s adopted General Plan and any policies within, therefore it is determined to be consistent. These abandonments for the purpose of developing unutilized land into a multi-family residential complex also supports the General Plan’s vision of a well-planned City and good jobs and economic opportunities.

*Finding b: The proposal is compliant with the provisions of the California Environmental Quality Act (CEQA).*

The project has been analyzed pursuant to the provisions of CEQA in an amendment to the IS/ND previously adopted for the project. The amendment to the IS/ND does not affect the adequacy or findings of the environmental analysis prepared for the project site.

Lot Line Adjustment Findings

*Finding a: Proposal is consistent with the City General Plan, and Zoning and Subdivision Ordinances.*

The property is zoned Planned Development (PD) - 2000, one unit for each 2,000 sq. ft. of site area, which is consistent with the General Plan land use designation of High Density Residential (HD). The project proposes a deviation in setback requirements, as allowed under the provisions of precise plans. PPL 2020-03 MOD is consistent with the purpose and intent of the PD-2000 zone district and does not conflict with City standards or other provisions of the Code.

*Finding b: Proposal is consistent with any specific plan.*

The project is not subject to any specific plan.



*Finding c: Proposal will not, under the circumstances of the particular case, be detrimental to the health and safety of persons residing or working in the neighborhood or be detrimental or injurious to property and improvements to the neighborhood or general welfare of the City.*

The proposed project will not have a significant adverse effect on the environment. Conditions of approval will ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. The resulting parcel sizes are compliant with the requirements of property zoned PD-2000.

#### Precise Plan Findings

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

The property is zoned PD-2000, one unit for each 2,000 sq. ft. of site area, which is consistent with the General Plan land use designation of High Density Residential (HD). The project proposes a deviation is setback requirements, as allowed under the provisions of a PPL. PPL 2020-03 MOD is consistent with the purpose and intent of the PD-2000 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 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.*

PPL 2020-03 MOD has been reviewed and is consistent with surrounding uses and with all applicable requirements for development in the PD-2000 zone district, including provisions for access to and from the site, parking facilities, drainage, and lighting. The project would not have an adverse effect on surrounding properties.

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

PPL 2020-03 MOD requires the implementation of street improvements in accordance with City standards. Related infrastructure improvements will also be required for storm drainage in conformance with City standards. The project site has access to Noble Street and Grove Street, which can accommodate traffic generated from the proposed project. Based on the previous environmental analysis prepared and the IS/ND as amended with adjustments to real property boundaries, the project will not have a significant impact on traffic or the environment.

**(OR)**

**Motion 2:** Move to continue the public hearing to the November 9, 2021, Planning Commission meeting with direction to staff to return with an updated resolution with appropriate findings 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 public hearing to the November 9, 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: PPL 2020-03 MOD Site Plan

Attachment 3: PPL 2020-03 MOD Elevations – Building A and C

Attachment 4: PPL 2020-03 MOD Elevations – Building B and D

Attachment 5: PPL 2020-03 MOD Floor Plans

Attachment 6: ABN 2020-02 Map

Attachment 7: ABN 2020-01 Map

Attachment 8: ABN 2021-01 Map

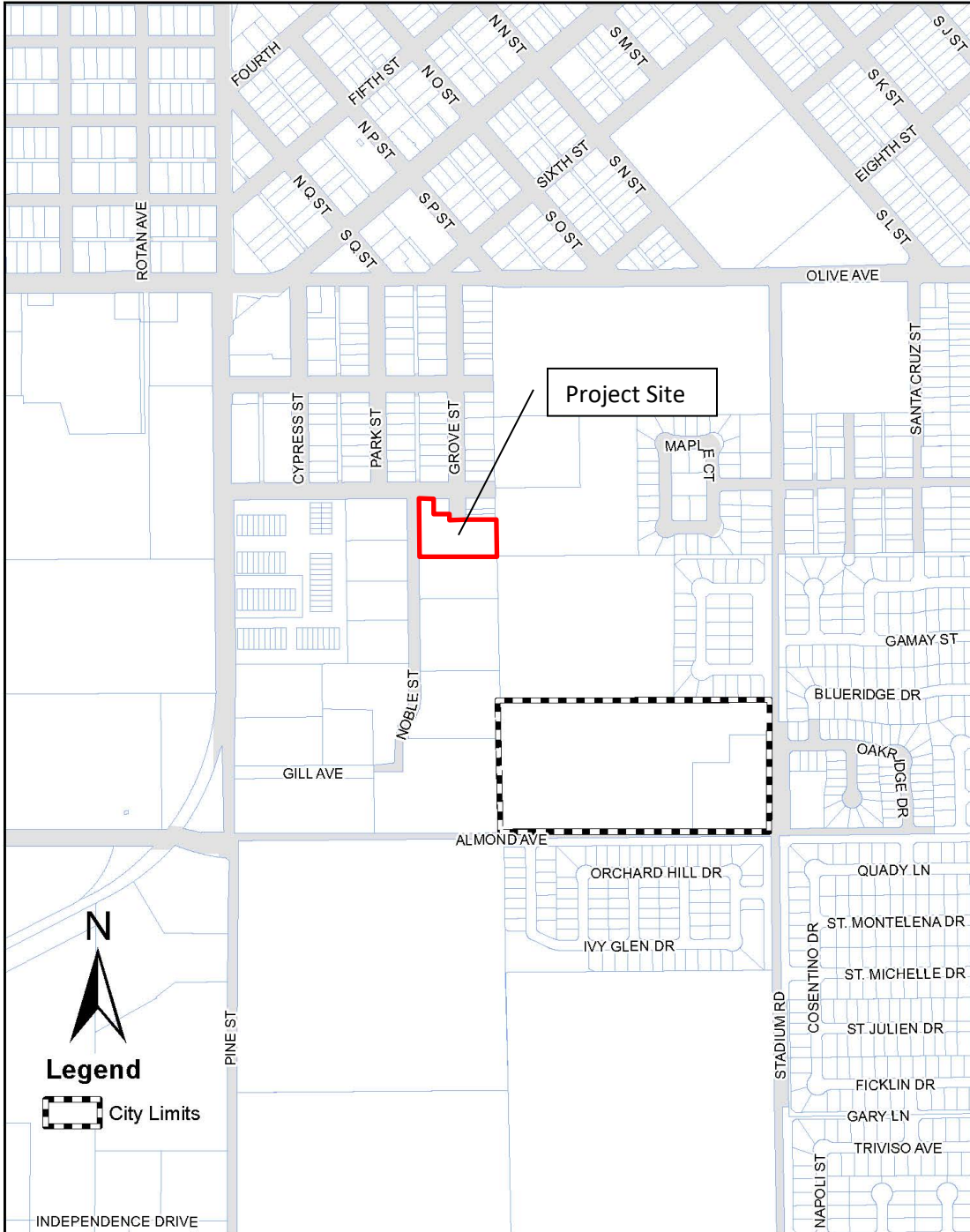
Attachment 9: LLA 2020-04 Map

Attachment 10: Amendment to Initial Study/Negative Declaration for Grove Gardens

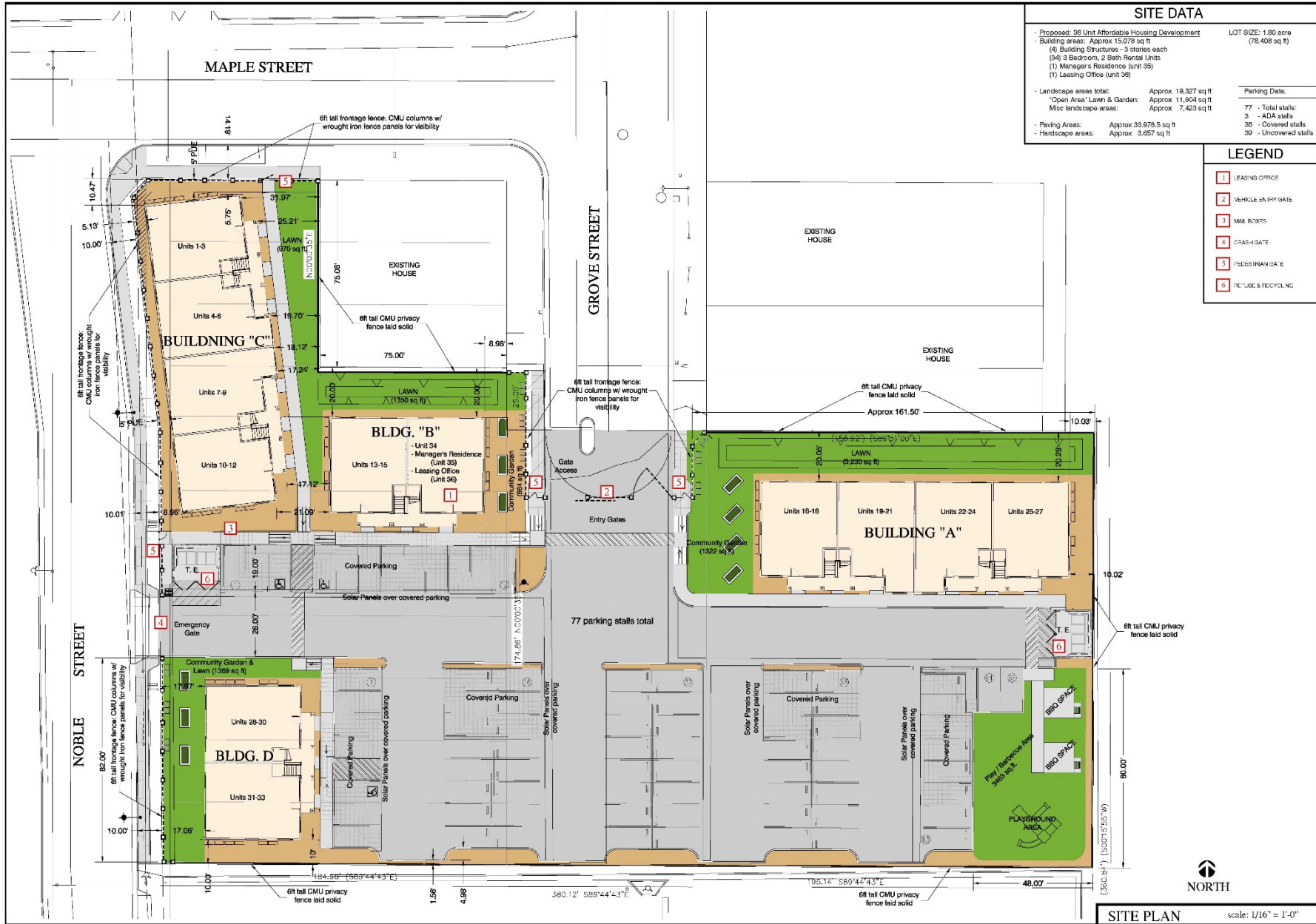
Attachment 11: Resolution and Conditions of Approval

Attachment 1: Vicinity Map

Grove Garden - Vicinity Map



# Attachment 2: PPL 2020-03 MOD Site Plan



SITE DATA	
- Proposed: 36 Unit Affordable Housing Development	LOT SIZE: 1.80 acre (78,408 sq ft)
- Building areas: Approx 15,078 sq ft	(4) Building Structures - 3 stories each (34) 3 Bedroom, 2 Bath Rental Units (1) Managers Residence (Unit 35) (1) Leasing Office (Unit 36)
- Landscape areas total: Approx 18,327 sq ft	Parking Data:
- "Open Area" Lawn & Garden: Approx 11,604 sq ft	77 - Total stalls:
- Misc landscape areas: Approx 7,423 sq ft	3 - ADA stalls:
- Paving Areas: Approx 33,978.5 sq ft	36 - Covered stalls:
- Hardscape areas: Approx 9,657 sq ft	39 - Uncovered stalls:

LEGEND	
1	LEASING OFFICE
2	VEHICLE ENTRY GATE
3	MAIL BOXES
4	CRASH GATE
5	PEDESTRIAN GATE
6	RECYCLE & RECYCLING

OWNER:	DAVID BERRY 433 W. YOSEMITE MADERA, CA 93637 558-874-6461
DESIGNER:	ST1 SITE PLAN
DATE:	9-27-21
REVISION:	XX-XXX

**33 UNIT PLANNED COMMUNITY**  
**GARDEN GROVE DEVELOPMENT**  
MADERA, CA 93637



SITE PLAN scale: 1/16" = 1'-0"

Attachment 3: PPL 2020-03 MOD Elevations – Building A and C



FRONT ELEVATION



SIDE ELEVATION



SIDE ELEVATION



BACK ELEVATION

**BUILDINGS "A" & "C"**

ELEVATION PLANS

scale: 3/16" = 1'-0"

REV. NO.	BY	DATE

**BERRY**  
 413 W. YOSEMITE AVE. MADERA, CA 93637  
 PH: 558-674-2981 | FAX: 558-674-1104

OWNER:  
 DAVID BERRY  
 413 W. YOSEMITE  
 MADERA, CA  
 93637-4281

33 UNIT PLANNED COMMUNITY  
**GROVE GARDEN DEVELOPMENT**  
 MADERA, CA 93637

DESIGNED BY:  
 R. Z. NIJGA  
 ARCHITECTURE  
 1725 HILL STREET  
 SUITE 202  
 MADERA, CA 93637  
 PH: 558-674-2981

**A3**  
 ELEVATION PLAN

Attachment 4: PPL 2020-03 MOD Elevations – Building B and D



FRONT ELEVATION



SIDE ELEVATION



BACK ELEVATION



SIDE ELEVATION

**BUILDINGS "B" & "D"**

ELEVATION PLANS scale: 1/4" = 1'-0"

REVISION	BY	DATE

**BERRY**  
 413 W. VOSEBATE AVE. - MADRERA, CA 93637  
 PH: 559-674-2491 FAX: 559-674-1154

OWNER:  
 DAVID BERRY  
 65007  
 MADRERA, CA  
 559-674-2491

33 UNIT PLANNED COMMUNITY  
**GROVE GARDEN DEVELOPMENT**  
 MADRERA, CA 93637

DESIGNER:  
 R. FUNIGA  
 CONSULTANT:  
 T. P. ILLIUS  
 DATE:  
 1-24-20  
 SCALE:  
 NONE  
 DRAWN:  
 XXXXXX  
 CHECKED:  
 RFB

**A2**  
 ELEVATION PLAN











Attachment 6: ABN 2020-02 Map

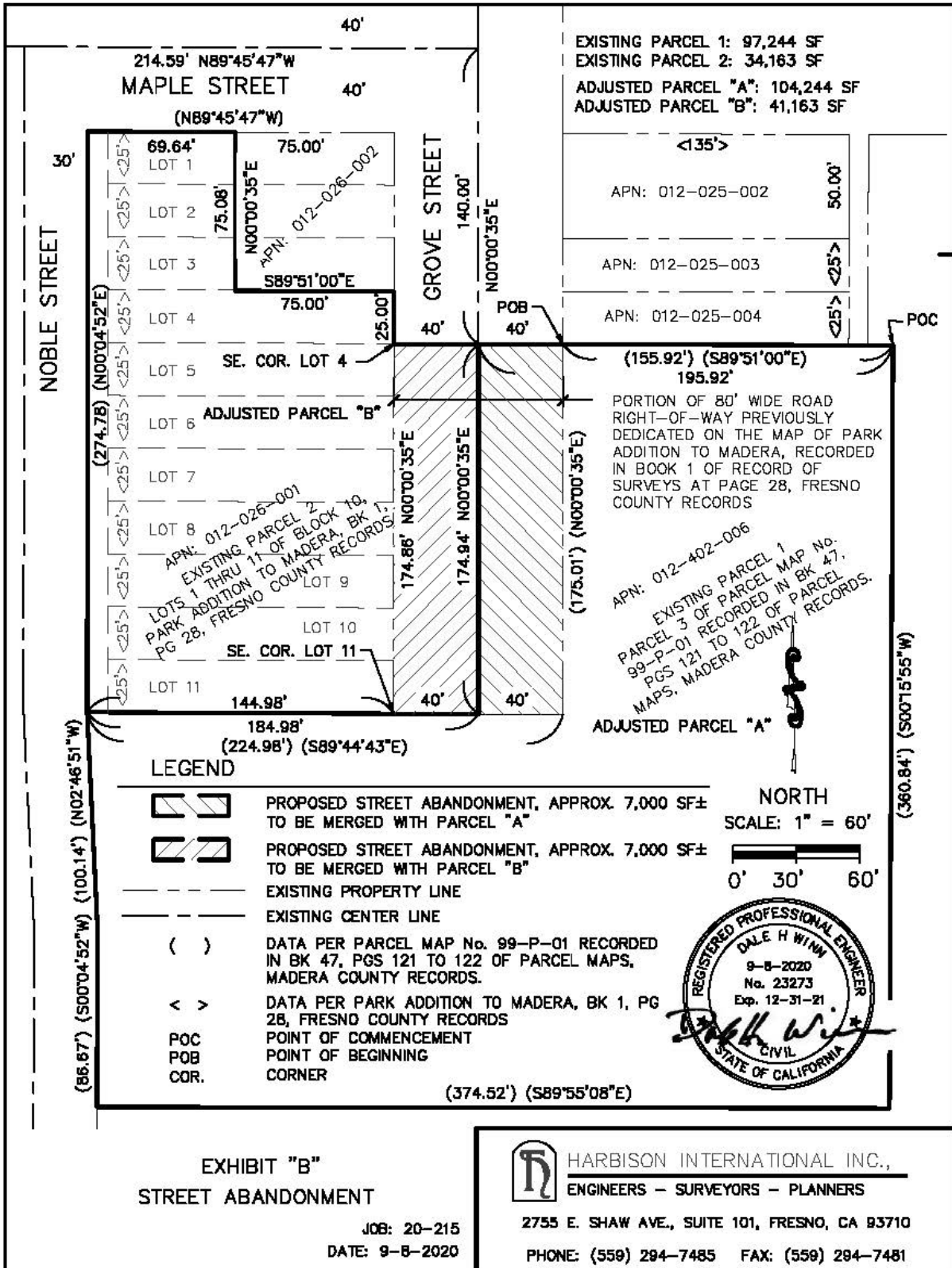


EXHIBIT "B"  
STREET ABANDONMENT

JOB: 20-215  
DATE: 9-8-2020



HARBISON INTERNATIONAL INC.,  
ENGINEERS - SURVEYORS - PLANNERS

2755 E. SHAW AVE., SUITE 101, FRESNO, CA 93710  
PHONE: (559) 294-7485 FAX: (559) 294-7481

Attachment 7: ABN 2020-01 Map

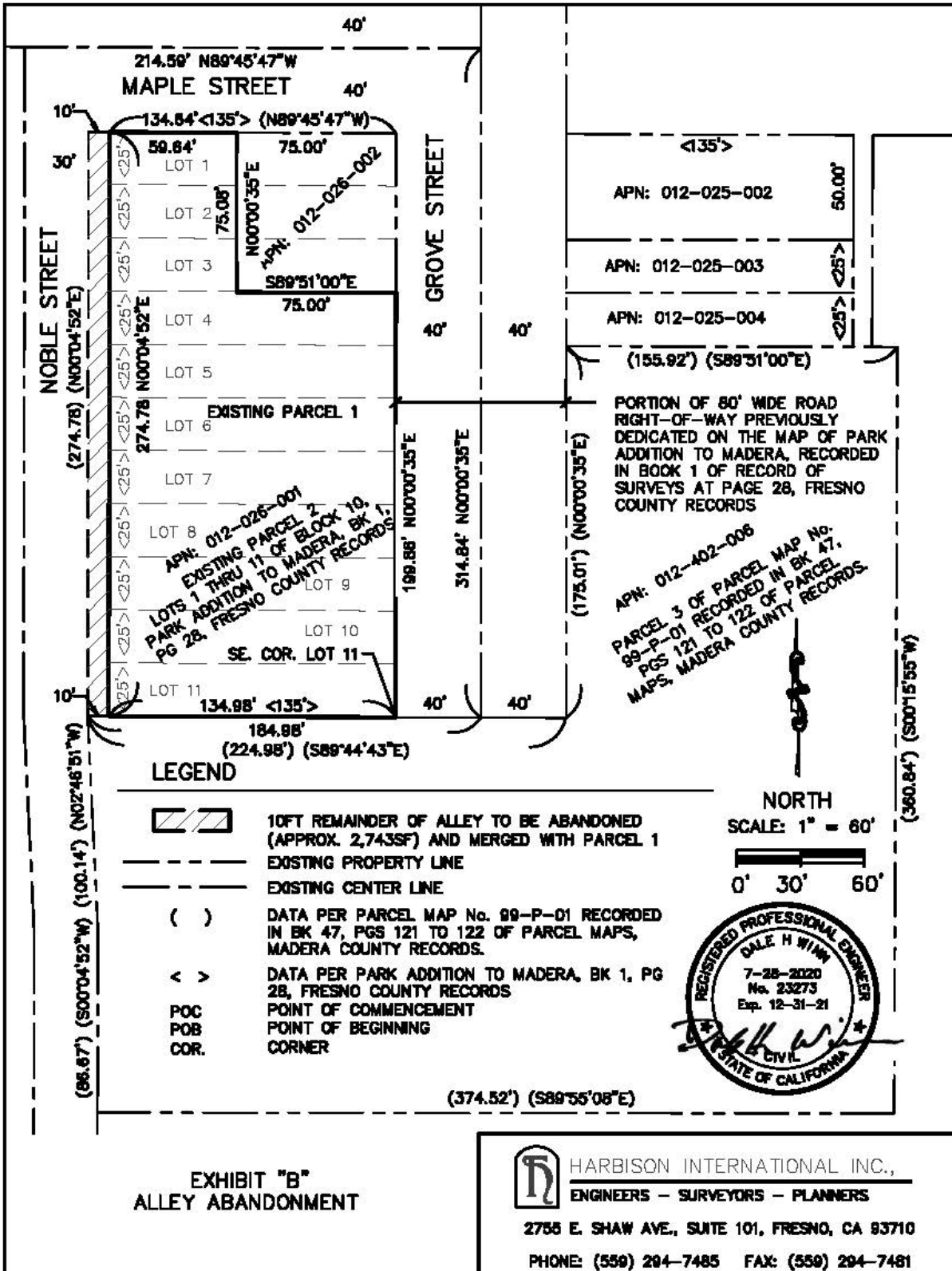


EXHIBIT "B"  
ALLEY ABANDONMENT

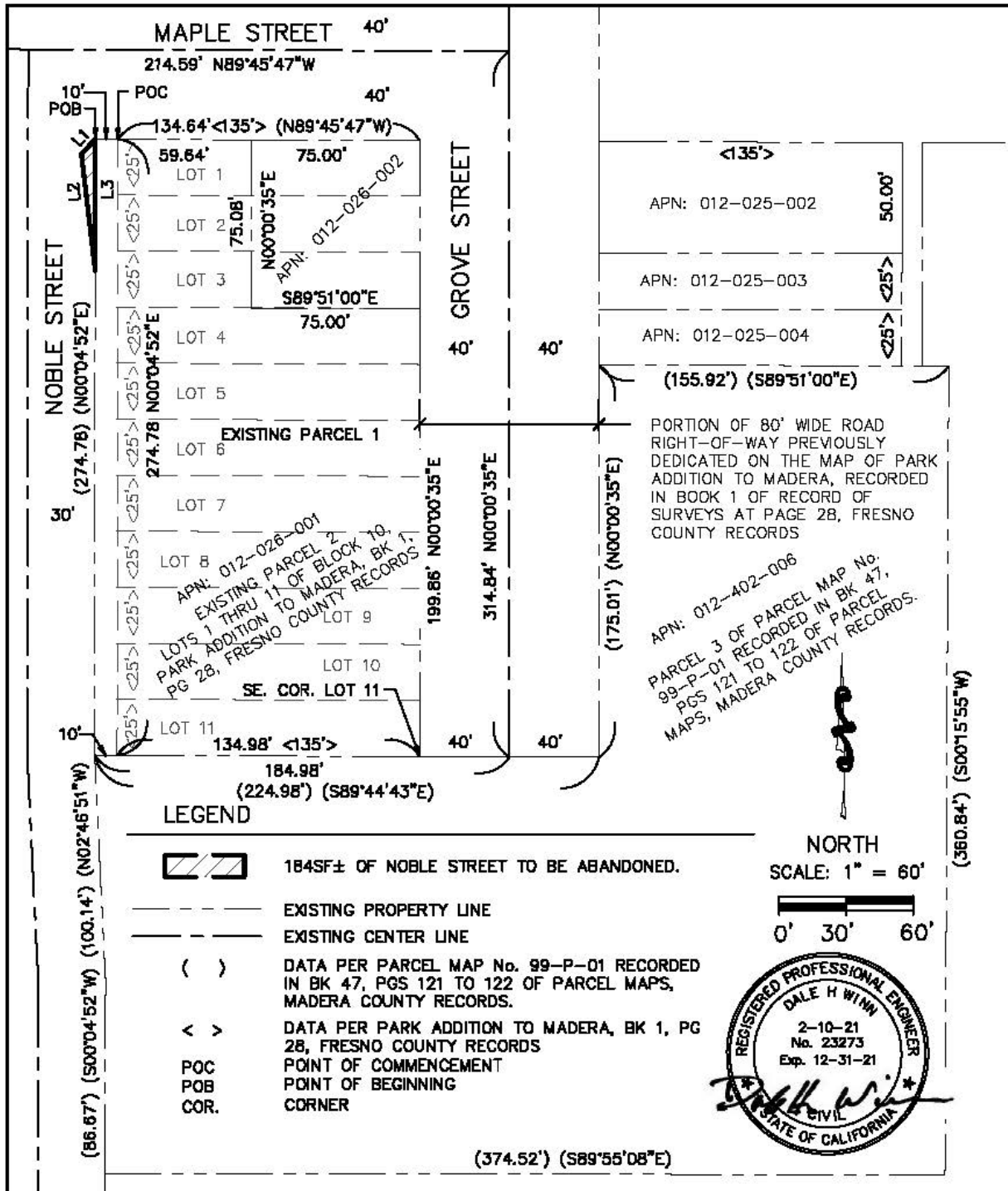


HARBISON INTERNATIONAL INC.,  
ENGINEERS - SURVEYORS - PLANNERS

2755 E. SHAW AVE., SUITE 101, FRESNO, CA 93710

PHONE: (559) 294-7485 FAX: (559) 294-7481

Attachment 8: ABN 2021-01 Map



LEGEND



184SF± OF NOBLE STREET TO BE ABANDONED.



EXISTING PROPERTY LINE



EXISTING CENTER LINE



DATA PER PARCEL MAP No. 99-P-01 RECORDED IN BK 47, PGS 121 TO 122 OF PARCEL MAPS, MADERA COUNTY RECORDS.



DATA PER PARK ADDITION TO MADERA, BK 1, PG 28, FRESNO COUNTY RECORDS

POC

POINT OF COMMENCEMENT

POB

POINT OF BEGINNING

COR.

CORNER

NORTH  
SCALE: 1" = 60'

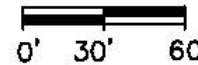


EXHIBIT "B"  
NOBLE STREET ABANDONMENT  
(PORTION)



HARBISON INTERNATIONAL INC.,  
ENGINEERS - SURVEYORS - PLANNERS

2755 E. SHAW AVE., SUITE 101, FRESNO, CA 93710

PHONE: (559) 294-7485 FAX: (559) 294-7481



**Attachment 10: Amendment to Initial Study/Negative Declaration for Grove Gardens**



## PLANNING DEPARTMENT

Gary Conte, AICP, Planning Manager

**Date:** October 12, 2021  
**To:** City of Madera Planning Commission  
**From:** Derek Sylvester, Associate Planner  
**Subject:** Amendment to Initial Study/Negative Declaration for Grove Gardens

### Introduction

The Amendment to Initial Study/Negative Declaration for Grove Gardens (Amended IS/ND) includes the analysis of the subsequent right-of-way abandonments and lot line adjustment in response to the right-of-way abandonments and modifications to the project not previously contemplated in the adopted Initial Study/Negative Declaration for the Grove Gardens project. The original Initial Study/Negative Declaration for Grove Gardens project was adopted by the Planning Commission of the City of Madera on May 12, 2020. The Amended IS/ND provides additional information to be incorporated into the Initial Study and covered by the Negative Declaration. The amendment provides information for clarification and amplification purposes and does not constitute a substantial revision per the California Environmental Quality Act (CEQA) Guidelines Section 15073.5 (b), which would warrant recirculation of the Initial Study/Negative Declaration.

### Amendment to Project

The proposed project is amended to include the abandonment of an alley abutting and parallel to Noble Street, running the entire length of the project site's westerly boundary (ABN 2020-01, the southern terminus of Grove Street (ABN 2020-02), and the abandonment of Noble Street right-of-way on the southeast corner of its intersection with Maple Street (ABN 2021-01). A lot line is also proposed to realign the existing property lines in conformance with the proposed property lines resulting from the proposed abandonments (LLA 2020-04). The proposed abandonments will add approximately 16,927 square feet to the developable portion of the project site.

Modifications to the approved project precise line are also proposed (PPL 2020-03 MOD). While the overall footprint of each building is to remain, the interior floorplan of the units is revised from a two-bedroom, one-bathroom units to units composed of three-bedroom and two-bathrooms.

The site layout depicted in PPL 2020-03 MOD proposes a similar design to the original precise plan. Building A to the northeast of the property remains the same except for the community garden along the eastern elevation being repositioned and expanded to maximize utility. Directly south of Building A, the parking area has been rearranged for increased efficiency in utilization of space and a barbeque area and tot-lot have been proposed.



Building B to the interior of the site remains in the same location. The open space area along the northern elevation of the building has increased in size due to corrections made in depiction of the property line neighboring with the adjoining property. Building B is the location of the manager's residence and leasing office.

Building C is located along Noble Street and is repositioned more so than the others as proposed in PPL 2020-03 MOD. The building is proposed to be located at a slight angle to provide appropriate spacing between Building B as well as adequate front, side, and rear yards. The shortest distance between Building C and Building B, as well as the property line shared with the neighboring residence, is approximately 17 feet. This modification reduced the rear yard from 12 feet to 5 feet. The loss of yard open space between the buildings, is accounted for by the addition of a tot-lot located to the southeast corner of the site. The addition of the tot-lot resulted in a reduction of three parking spaces as well as reconfiguration of parking area. The loss of three parking spaces results in a 2.5 percent deviation from the parking requirements of the City's Municipal Code.

### **Amendment to Project**

The proposed abandonments, lot line adjustment and modifications to the previously approved precise plan would not result in any additional impacts that would not be addressed by the Initial Study/Negative Declaration previously adopted. Because the changes presented would not result in any new significant impacts or increase impact significance from what was identified in the original IS/ND, recirculation of the Grove Gardens project is not required.

CITY OF MADERA

AMENDMENT TO INITIAL STUDY / ENVIRONMENTAL CHECKLIST

---

I. BACKGROUND AND PROJECT DESCRIPTION

1. **Application No.:**  
GPA 2020-02, REZ 2020-01, PPL 2020-03 MOD, LLA 2020-04, ABN 2020-01, ABN 2020-02, ABN 2021-01 & VAR 2020-02
2. **Project Title:**  
Grove Gardens
3. **Lead Agency Name and Address:**  
City of Madera, 205 W. 4<sup>th</sup> St., Madera, CA 93637
4. **Contact Person and Phone Number:**  
Derek Sylvester ~~Jesus R. Orozco~~ (559) 661-5436
5. **Project Location:**  
304 Grove Street / Southeast corner of Maple Street and Noble Street
6. **Project Applicant's/Sponsor's Name and Address:**  
Berry Construction – 413 W. Yosemite Avenue, Madera, CA 93637
7. **General Plan Designation:**  
Current: I (Industrial) Proposed: HD (High Density)
8. **Zoning:**  
Current: I (Industrial) Proposed: PD-2000 (Planned Development)
9. **Project Background/Description:**  
The proposal is an application for a General Plan Amendment from the I (Industrial) to an HD (High Density) concurrent with a rezone from the I (Industrial) zone district to the PD-2000 (Planned Development) zone district providing consistency between the land use and the zone district that will allow for the development of a multi-family apartment complex (see Figures in Environmental Setting section). The precise plan application will guide the development of a 34-unit multi-family apartment complex composed of four, three story buildings. As a result of providing the necessary parking requirements, the project will be deficient in open space as required by ordinance. The variance will allow for the development of less than the required minimum open space area of 25,500 square feet. The project will provide for approximately 18,200 square feet of landscape open area to include open area for passive recreation and three community garden areas, and other landscape features surrounded by perimeter fencing. The overall development is contingent upon ~~the future abandonments of a segment of public right-of-way and a lot line adjustment. These abandonments include portions of Noble and Grove Streets and an alley adjacent to the western property line, that currently bisects the project site and the recordation a parcel map.~~ The future abandonments and lot line adjustment will be subject to applicable State government code and municipal code. The parcel map will be subject to the Subdivision Map Act

and municipal code.

10. **Public Agencies Whose Approval or Review Is Required:**  
Madera Irrigation District, Madera Unified School District and San Joaquin Valley Air Pollution Control District.
11. **Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?**  
California Native American tribes traditionally and culturally affiliated with the project area did not request consultation pursuant to Public Resources Code Section 21080.3.1.

## II. ENVIRONMENTAL SETTING

The project site encompasses two separate properties and the future abandonments of public right-of-way. As of February 2019, the site vacated five building structures, two single family residences and their associated structures. The project site is currently vacant unattended open space. The project site encompasses approximately 1.80-acres. Access to the property will occur from Noble Street and Grove Street. The project site is surrounded by single-family residential dwellings to the north, an open sports complex to the east, and commercial services/light industrial uses to the south and west.

**Figure 1**

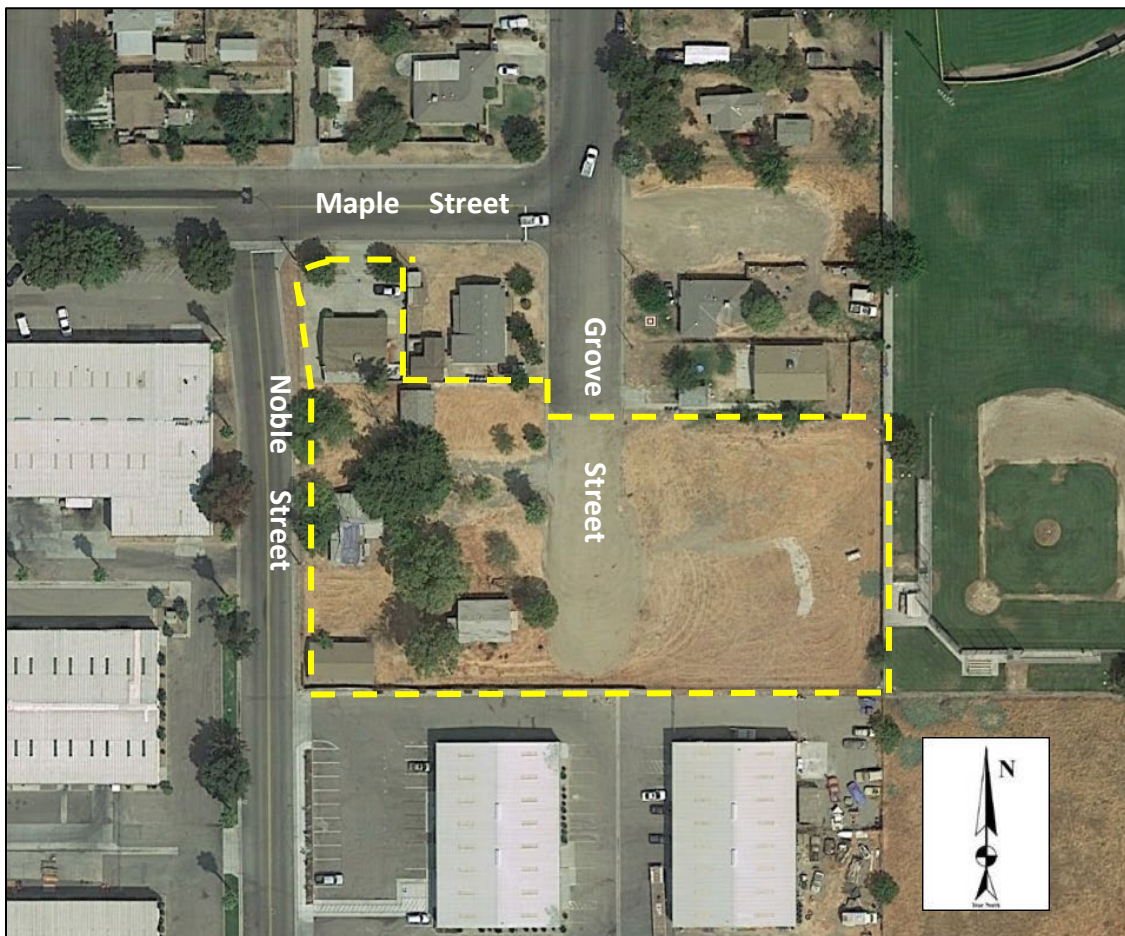


Figure 2

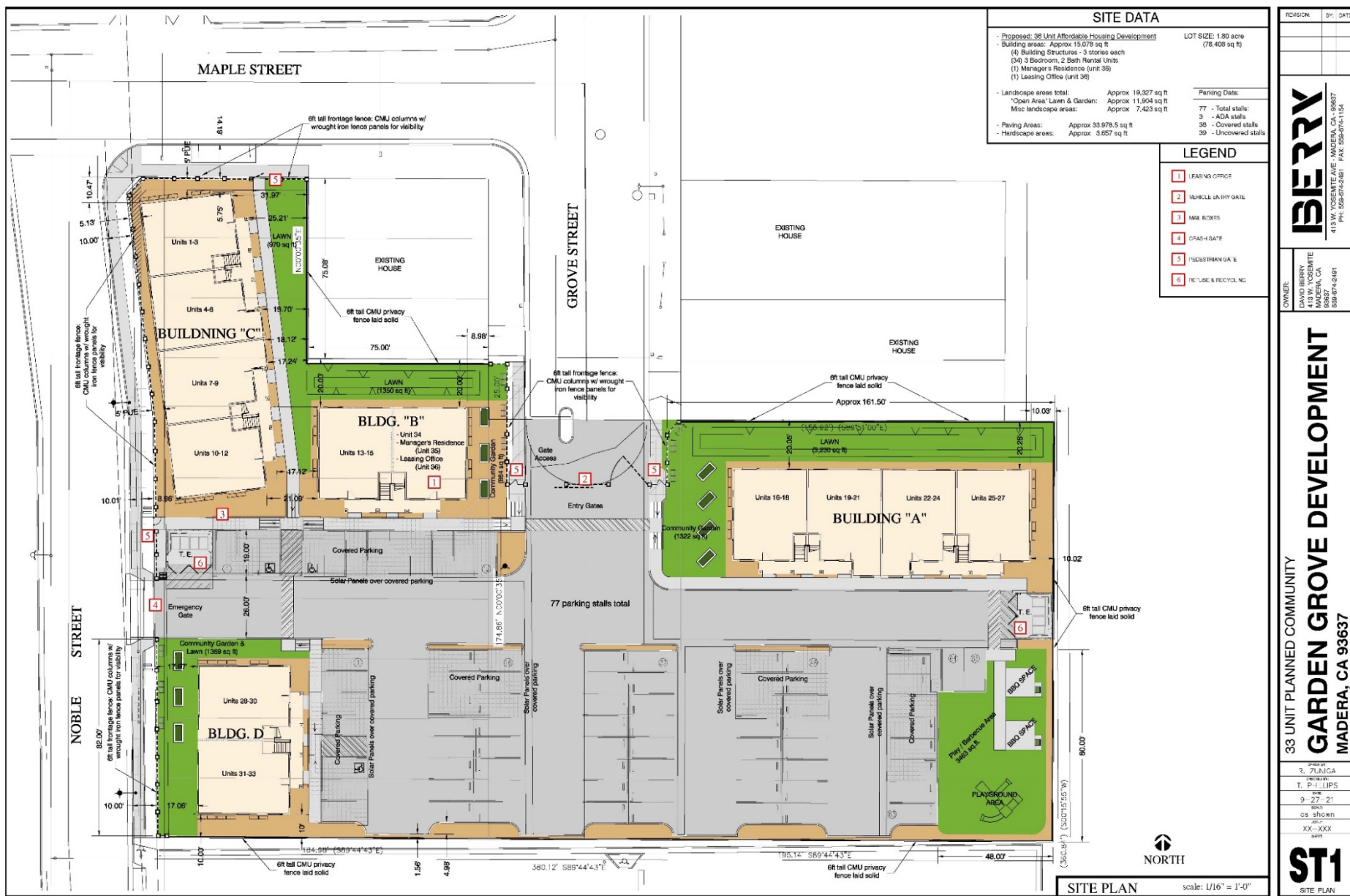


Figure 3



FRONT ELEVATION



SIDE ELEVATION



SIDE ELEVATION



BACK ELEVATION

**BUILDINGS "A" & "C"**

ELEVATION PLANS

scale: 3/16" = 1'-0"

REVISION	BY	DATE

OWNER:  
DAVID BERRY  
COMMUNITY DEVELOPMENT  
MADERA, CA 93637  
559-674-2461

33 UNIT PLANNED COMMUNITY  
**GROVE GARDEN DEVELOPMENT**  
MADERA, CA 93637

DESIGNED BY:  
R. Z. ANISA  
ARCHITECT  
17711 LINDSEY  
MADERA, CA 93637  
PHONE:  
559-674-2461  
FAX:  
559-674-2461

**A3**  
ELEVATION PLAN

Figure 4



REVISION	BY	DATE

**BERRY**  
 413 W. YOSEMITE AVE. MADERA, CA. 93637  
 PH: 559-674-2461 FAX: 559-674-1124

OWNER:  
 DAVID BERRY  
 413 W. YOSEMITE  
 MADERA, CA  
 93637  
 559-674-9491

33 UNIT PLANNED COMMUNITY  
**GROVE GARDEN DEVELOPMENT**  
 MADERA, CA 93637

DESIGNER:  
 R. ZUNIGA  
 PREPARED BY:  
 T. PHILLIPS  
 DATE:  
 1-28-21  
 SCALE:  
 NONE  
 SHEET:  
 XX-XXX  
 OF XX

**A2**  
 ELEVATION PLAN

**BUILDINGS "B" & "D"** ELEVATION PLANS scale: 1/4" = 1'-0"

### III. ENVIRONMENTAL CHECKLIST

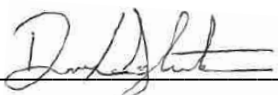
**Environmental Factors Potentially Affected by the Project:** Some of the environmental factors checked below would be potentially affected by this project, although none of the environmental factors have a "Potentially Significant Impact" or "Potentially Significant Impact Unless Mitigation Incorporation," as indicated by the checklist on the following pages.

✓	Aesthetics		Agricultural and Forest Resources	✓	Air Quality
	Biological Resources		Cultural Resources	✓	Energy
	Geology / Soils	✓	Greenhouse Gas Emissions		Hazards and Hazardous Materials
	Hydrology / Water Quality		Land Use / Planning		Mineral Resources
	Noise	✓	Population / Housing		Public Services
✓	Recreation		Transportation		Tribal Cultural Resources
✓	Utilities/Service Systems		Wildfire		Mandatory Findings of Significance

### IV. DETERMINATION

Based on this initial evaluation:

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

Signature: 

Date: 10/12/2021

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>1. AESTHETICS. Except as provided in Public Resources Code Section 21099, would the project:</b>				
a) Have a substantial adverse effect on a scenic vista?				✓
b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?				✓
c) Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?				✓
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			✓	
<p><b>Discussion</b> Development of 34-unit multi-family apartment complex composed of four, three story buildings does not affect a scenic vista or have an overall adverse visual impact on the immediate area. The project would not affect a scenic highway and would not have an overall adverse visual impact on any scenic resources. The project will add some additional sources of light within the urban environment. The site is not proximate to locally prominent scenic or visually significant resources. The project would conform with and incorporate General Plan policies and requirements. No additional analysis is required.</p> <p><b>Less than Significant Impacts</b> d) There will be an increase in light and glare and other aesthetic impacts associated with the development as a result of the project, although it will be a less than significant impact upon implementation of City standards. Exterior lighting on building and in open areas will be shielded or muted by design of fixtures, surrounding buildings and substantial landscaping. The overall impact of additional light and glare will be minimal.</p> <p><b>No Impacts</b> a. The project will not result in the obstruction of federal, state or locally classified scenic areas, historic properties, community landmarks or formally classified scenic resources, such as a scenic highway, national or state scenic area, or scenic vista. b) The project will not substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway. c) The project will not substantially degrade the existing visual character or quality of the site and its surroundings. The project does not also conflict with applicable zoning and other regulations governing scenic quality.</p>				



ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p><b>2. AGRICULTURE AND FOREST RESOURCES.</b> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement Methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</p>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				✓
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				✓
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				✓
d) Result in the loss of forest land or conversion of forest land to non-forest use?				✓
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?				✓
<p><b>Discussion</b> The project site is located on land identified as “Urban and Built-Up Land” on the 2016 California Farmland Mapping and Monitoring Program map.</p> <p><b>No Impacts</b></p> <p>a) The project would not convert prime farmland, unique farmland, or farmland of statewide importance (as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency) to non-agricultural use. The project site is identified as “Urban and Built-Up Land” on the 2016 California Farmland Mapping and</p>				

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>Monitoring Program map, which includes land that is occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. The project site has been identified for industrial use within the City of Madera General Plan, and the land is not currently being utilized for agricultural purposes.</p> <p>b) The project would not conflict with existing zoning for agricultural use and there are no Williamson Act contracts affecting the subject property.</p> <p>c) The project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production because the project property is not defined as forest land (as defined by Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526) or timberland zoned Timberland Production (as defined by Government Code Section 51104(g)).</p> <p>d) The project would not result in the loss of forest land or conversion of forest land to a non-forest use because the parcel is not defined as forest land (as defined by Public Resources Code Section 12220(g)).</p> <p>e) The project, which will facilitate the development of 34-unit multi-family apartment complex composed of four three story buildings, will not involve other changes in the existing environment, due to the project property's location or nature, that would result in the conversion of Farmland to a non-agricultural use or conversion of forest land to non-forest use.</p>				
<p><b>3. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:</b></p>				
a) Conflict with or obstruct implementation of the applicable air quality plan?			✓	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			✓	
c) Expose sensitive receptors to substantial pollutant concentrations?			✓	
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?			✓	

<b>ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):</b>	<b>Potentially Significant Issues</b>	<b>Potentially Significant Unless Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
<p><b><u>Discussion</u></b></p> <p>The project site is located within the San Joaquin Valley Air Basin (SJVAB). Air quality conditions in the SJVAB are regulated by the San Joaquin Valley Air Pollution Control District (SJVAPCD). The region is classified as a State and Federal non-attainment area for PM10 (airborne particulate matter with an aerodynamic diameter of less than 10 microns), and ozone (O3).</p> <p>Air quality is determined by the type and amount of contaminants emitted into the atmosphere, the size and topography of the SJVAB, and its meteorological conditions. National and state air quality standards specify the upper limits of concentrations and duration in the ambient air for O3, CO, nitrogen dioxide (NO2), PM10, sulfur dioxide (SO2) and lead (Pb). These are “criteria pollutants.” The SJVAPCD also conducts monitoring for two other state standards: sulfate and visibility.</p> <p>The State of California has designated the project site as being a severe non-attainment area for 1-hour O3, a non-attainment area for PM10, and an attainment area for CO. The EPA has designated the project area as being an extreme non-attainment area for 1-hour O3, a serious non-attainment area for 8-hour O3, a serious non-attainment area for PM10, and a moderate maintenance for CO.</p> <p>The project would not conflict with or obstruct the implementation of applicable Regional Air Quality Control Plans.</p> <p>Similarly, the project will be evaluated to determine required compliance with District Rule 9510, which is intended to mitigate a project’s impact on air quality through project design elements or by payment of applicable off-site mitigation fees. Any applicant subject to District Rule 9510 is required to submit and Air Impact Assessment (AIA) application to the District no later than applying for final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit. Demonstration of compliance with District Rule 9510, including payment of all applicable fees before issuance of the first building permit would be made a condition of project approval.</p> <p>Short-term construction impacts on air quality, principally from dust generation, will be mitigated through watering. The project would not create substantial air emissions or deterioration of ambient air quality, and the development will be subject to SJVAPCD review. Construction equipment will produce a small amount of air emissions from internal combustion engines and dust. The project will not violate any air quality standard or substantially contribute to an existing or projected air quality violation. The project will not result in a considerable net increase in non-attainment pollutants in this area. The project will not expose sensitive receptors to any significant amount of pollutants. The project will not create any objectionable odors.</p> <p>The proposed General Plan amendment and rezoning for the project site, and the development of the project site will not create impacts beyond those analyzed and addressed through the General Plan Update and the accompanying environmental impact report. All phases of site development will conform with and incorporate General Plan policies and requirements. All phases of development will</p>				

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
similarly conform with and implement regional air quality requirements. No additional analysis is required. Any unique features or project impacts which are identified as specific projects are proposed within the project site will be evaluated and addressed on a project-by-project basis.				
<b>Less than Significant Impacts</b>				
<p>a) According to the San Joaquin Valley Air Pollution Control District (SJVAPCD), the project is subject to some District Rules. The project will not conflict with or obstruct implementation of the applicable air quality plan.</p> <p>b) According to the SJVAPCD, the project would have a less than significant impact on air quality when compared to the significance thresholds of the following annual criteria pollutant emissions: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides in 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).</p> <p>c) The project would not expose sensitive receptors to substantial pollutant concentrations.</p> <p>d) The development of the project would not result in other emissions, such as those leading to odors adversely affecting a substantial number of people.</p>				
<b>4. BIOLOGICAL RESOURCES. Would the project:</b>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?				✓
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?				✓
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				✓
d) Interfere substantially with the movement of any native resident or migratory fish or				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				✓
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				✓
<p><b>Discussion</b></p> <p>With the preparation of the City of Madera General Plan, no threatened or endangered species were identified in the project area. There is no record of special-status species in the project area. Development of the project area is consistent with the urbanization of the Madera area, as evaluated in the General Plan and its EIR; therefore, impacts in this category are not anticipated to exceed the impacts addressed in those documents.</p> <p>The project site is void of any natural features, such as seasonal drainages, riparian or wetland habitat, rock outcroppings, or other native habitat or associated species. Development of the site would not conflict with any local policies or ordinances protecting biological resources, or conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.</p> <p><b>No Impacts</b></p> <p>a) The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.</p> <p>b) The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.</p> <p>c) The project would not have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.</p>				

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>d) The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.</p> <p>e) The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</p> <p>f) The project does not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.</p>				
<b>5. CULTURAL RESOURCES. Would the project:</b>				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in Section 15064.5?				✓
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?				✓
c) Disturb any human remains, including those interred outside of formal cemeteries?				✓
<p><b>Discussion</b> The project does not have the potential to cause a physical change that would affect unique historic, ethnic, or cultural values. The project would not disturb any archaeological resources. The project would not disturb any unique paleontological or geologic resources. The project would not disturb any human remains. In the event any archaeological resources are discovered during project construction, all activities shall cease and the Community Development Department shall be notified so that the procedures required by State law may be applied.</p> <p><b>No Impacts</b></p> <p>a) The project would not cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5 because there are no known historical resources located in the affected territory.</p> <p>b) The project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 because there are no known archaeological resources located in the affected territory.</p> <p>c) The project would not disturb any human remains, including those interred outside of formal cemeteries, because there are no known human remains located in the affected territory. When development occurs in the future and if any remains are discovered, the requirements of CEQA that regulate archaeological and historical resources (Public Resources Code Section</p>				

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
21083.2 and 21084.1), and all local, state, and federal regulations affecting archaeological and historical resources would be complied with.				
<b>6. ENERGY. Would the project:</b>				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			✓	
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?				✓
<b>Less than Significant Impacts</b>				
a) The project could utilize inefficient or unnecessary consumption of energy resources during project construction or operation, but because the project will be built to comply with Building Energy Efficiency of the California Building Code (Title 24), the project will not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.				
<b>No Impacts</b>				
b) State and local authorities regulate energy use and consumption. These regulations at the state level intended to reduce energy use and greenhouse gas (GHG) emissions. These include, among others, Assembly Bill (AB) 1493 – Light-Duty Vehicle Standards, California Code of Regulations Title 24, Part 6 – Energy Efficiency Standards, California Code of Regulations Title 24, Part 11 – California Green Building Standards. The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.				
<b>7. GEOLOGY AND SOILS. Would the project:</b>				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				✓
ii. Strong seismic ground shaking?				✓
iii. Seismic-related ground failure, including liquefaction?				✓
iv. Landslides?				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil?				✓
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				✓
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?				✓
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				✓
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				✓
<p><b>Discussion</b></p> <p>There are no known faults on the project site or in the immediate area. The project site is subject to relatively low seismic hazards compared to many other parts of California. Potential ground shaking produced by earthquakes generated on regional faults lying outside the immediate vicinity in the project area may occur. Due to the distance of the known faults in the region, no significant ground shaking is anticipated on this site. Seismic hazards on the built environment are addressed in The Uniform Building Code that is utilized by the City of Madera Building Division to monitor safe construction within the City limits.</p> <p><b>No Impacts</b></p> <p>a)</p> <p>i. The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury or death involving the rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault. No known faults with evidence of historic activity cut through the valley soils in the project vicinity. The major active faults and fault zones occur at some distance to the east, west and south of the project site. Due to the geology of the project area and its distance from active faults, the potential for loss of life, property damage, ground settlement, or liquefaction to occur in the project vicinity is considered minimal.</p>				



ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>ii. The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury or death involving strong seismic ground shaking. Ground shaking generally decreases with distance and increases with the depth of unconsolidated alluvial deposits. The most likely source of potential ground shaking is attributed to the San Andreas, Owens Valley, and the White Wolf faults. Based on this premise and taking into account the distance to the causative faults, the potential for ground motion in the vicinity of the project site is such that a minimal risk can be assigned.</p> <p>iii. The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury or death involving seismic-related ground failure, including liquefaction. Liquefaction describes a phenomenon in which a saturated soil loses strength during an earthquake as a result of induced shearing strains. Lateral and vertical movement of the soil mass combined with loss of bearing usually results. Loose sand, high groundwater conditions (where the water table is less than 30 feet below the surface), higher intensity earthquakes, and particularly long duration of ground shaking are the requisite conditions for liquefaction.</p> <p>iv. The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury or death involving landslides.</p> <p>b) The project would not result in substantial soil erosion or the loss of topsoil. Construction of urban uses would create changes in absorption rates, drainage patterns, and the rate and amount of surface runoff on the selected project site. Standard construction practices that comply with the City of Madera ordinances and regulations, the California Building Code, and professional engineering designs approved by the Madera Engineering Department will mitigate any potential impacts from future urban development, if any.</p> <p>c) The project would not be located on a geologic unit or soil that is unstable as a result of the project, and not potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.</p> <p>d) The project would not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), not creating substantial direct or indirect risks to life or property.</p> <p>e) The project would not have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water. The City of Madera would provide necessary sewer and water systems upon project approval.</p> <p>f) The project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.</p>				

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>8. GREENHOUSE GAS EMISSIONS. Would the project:</b>				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			✓	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			✓	
<p><b>Discussion</b></p> <p>Climate change is a public health and environmental concern around the world. Globally, temperature, precipitation, sea level, ocean currents, wind patterns, and storm activity are all affected by the presence of greenhouse gas (GHG) emissions in the atmosphere. Human activity contributes to emissions of six primary GHG gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. Human-caused emissions of GHGs are linked to climate change.</p> <p>In 2006, the California State Legislature adopted AB32, the California Global Warming Solutions Act of 2006, which aims to reduce GHG emissions in California. GHGs, as defined by AB 32, includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. AB 32 requires the California Air Resources Board (ARB), the State agency which regulates statewide air quality, to adopt rules and regulations that would achieve GHG emissions equivalent to 1990 statewide levels by 2020.</p> <p>As part of the 2011 City of Madera General Plan update, the Conservation Element includes several goals, policies and programs in the Air Quality, GHG Emissions and Climate Change sections which address and promote practices that meet or exceed all state and federal standards and meet or exceed all current and future state-mandated targets for reducing GHG emissions. The City also requires applicants for all public and private development integrate appropriate methods that reduce GHG emissions consistent with the Energy and Green Building sections of the Conservation Element, General Plan Policy CON-40 through 46.</p> <p><b>Less than Significant Impacts</b></p> <p>a) The project would not, by itself, generate significant GHG emissions or contribute to global warming because the new development that is proposed will be required to adhere to local, regional and state regulations.</p> <p>b) The project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.</p>				
<b>9. HAZARDS AND HAZARDOUS MATERIALS. Would the project:</b>				

<b>ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):</b>	<b>Potentially Significant Issues</b>	<b>Potentially Significant Unless Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				✓
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				✓
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼ miles of an existing or proposed school?				✓
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				✓
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?				✓
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				✓
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p><b>Discussion</b></p> <p>The project will not create hazards or expose people or property to hazardous conditions. The anticipated development will be consistent with the General Plan and will be delineated with the accompanying site plan.</p> <p><b>No impacts</b></p> <p>a) The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.</p> <p>b) The project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.</p> <p>c) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼ miles of an existing or proposed school.</p> <p>d) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, it would not create a significant hazard to the public or the environment.</p> <p>e) The project site is not located within an airport land use plan and would result in a safety hazard or excessive noise for people residing or working in the project area.</p> <p>f) The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.</p> <p>g) The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildfires.</p>				
<b>10. HYDROLOGY AND WATER QUALITY. Would the project:</b>				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?				✓
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?				✓
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
river or through the addition of impervious surfaces, in a manner which would: i. Result in substantial erosion or siltation on- or off-site;				
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;				✓
iii. Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff; or				✓
d) In flood hazard, tsunami or seiche zones, risk release of pollutants due to project inundation?				✓
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?				✓

**Discussion**

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

The project would not expose people or property to water-related hazards. Standard construction practices and compliance with City ordinances and regulations, The Uniform Building Code, and adherence to professional engineering design approved by the Madera Engineering Department would mitigate any potential impacts from this project. This development would be required to comply with all City ordinances and standard practices which will assure that storm water would be adequately drained into the approved storm water system. The project would not create any impacts on water quality.

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

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>No Impacts</b>				
<p>a) The project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. The development of the project site will be required to comply with all City of Madera ordinances and standard practices which assure proper grading and storm water drainage into the approved storm water systems. Any development will also be required to comply with all local, state, and federal regulations to prevent any violation of water quality standards or waste discharge requirements.</p> <p>b) The project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.</p> <p>c)</p> <p>i. The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would not result in substantial erosion or siltation on- or off-site.</p> <p>ii. The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would not substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.</p> <p>iii. The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would not create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</p> <p>d) The project is not located in flood hazard, tsunami or seiche zones and it will not risk release of pollutants due to project inundation.</p> <p>e) The project does not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.</p>				
<b>11. LAND USE AND PLANNING. Would the project:</b>				
a) Physically divide an established community?				✓
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
purpose of avoiding or mitigating an environmental effect?				
<p><b>Discussion</b></p> <p>The project will not provide conflict with the General Plan and Zoning Ordinance because the General Plan Amendment and the rezone will provide consistency with the proposed 34-unit apartment complex as well as build a bridge between the single-family residential uses to the north and the commercial service/light industrial uses to the south and west.</p> <p><b>No Impacts</b></p> <p>a) The project would not physically divide an established neighborhood. The project logically allows development to occur in an orderly manner, adjacent to future urban development.</p> <p>b) The project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.</p>				
<b>12. MINERAL RESOURCES. Would the project:</b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				✓
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				✓
<p><b>No Impacts</b></p> <p>a) The project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.</p> <p>b) The project would not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</p>				
<b>13. NOISE: Would the project result in:</b>				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies?				✓
b) Generation of excessive ground borne vibration or ground borne noise levels?				✓
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted,				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				
<p><b>Discussion</b></p> <p>These potential impacts were addressed in the General Plan EIR, and goals and mitigation measures were adopted to reduce potential impacts to a less than significant level. Development of the project area is consistent with the urbanization of the Madera area, as evaluated in the General Plan, and its EIR. Use of outdoor leisure areas, particularly those designed for children, will result in the generation of associated noise. The development's design shelters and buffers these areas from adjacent residential properties. Therefore, impacts in this category are not anticipated to exceed the impacts addressed in these documents. Construction activities must comply with applicable noise policies and standards established by the City.</p> <p><b>No Impacts</b></p> <p>a) The project would not generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies.</p> <p>b) The project would not generate excessive ground borne vibration or ground borne noise levels.</p> <p>c) The project site is not located within the vicinity of a private airstrip or an airport land use plan and would not expose people residing or working in the project area to excessive noise levels.</p>				
<b>14. POPULATION AND HOUSING. Would the project:</b>				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			✓	
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				✓
<p><b>Discussion</b></p> <p>The proposed project would not induce additional substantial growth in this area. The project site would not displace any housing. Likewise, the project would not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.</p> <p><b>Less than Significant Impacts</b></p> <p>a) The project does induce unplanned population growth in the area directly with the construction of thirty-four new dwelling units, but the growth will not be substantial.</p>				



ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>No Impacts</b>				
b) The project will not displace substantial numbers of existing people or housing which will not necessitate the construction of replacement housing elsewhere.				
<b>15. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or need for new or physical altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:</b>				
a) Fire protection?				✓
b) Police protection?				✓
c) Schools?				✓
d) Parks?				✓
e) Other public facilities?				✓
<b>Discussion</b>				
<p>The development of the project site would not result in substantial adverse physical impacts from new or altered public facilities. As development occurs, there would be a resultant increase in job opportunities, and a greater demand placed upon services, such as fire and police protection, and additional park and school facilities. This additional demand is consistent with the demand anticipated in the General Plan and evaluated in the General Plan EIR.</p>				
<p>The project would not bring about the need for new wastewater treatment facilities. The project would not significantly increase the demand on water supplies beyond the levels anticipated in the General Plan and the Water Master Plan. There will not be a significant reduction in the amount of groundwater otherwise available for public water supplies as a result of this project. The project would not increase the need for additional storm water drainage facilities beyond the existing and master planned drainage basin facilities that are planned to serve the project area. The project area would be required to provide additional facilities within the development, and comply with the City's Master Plan, ordinances and standard practices. The project would not bring about a significant increase in the demand for solid waste disposal services and facilities.</p>				
<b>No Impacts</b>				
a) The project would not result in substantial adverse physical impacts to fire protection services.				
b) The project would not result in substantial adverse physical impacts to fire protection services.				
c) The project would not result in substantial adverse physical impacts to school services. The Madera Unified School District levies a school facilities fee to assist defraying the impact of residential development.				
d) The project would not result in substantial adverse physical impacts to park facilities.				

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
e) The project would not result in substantial adverse physical impacts on other public facilities.				
<b>16. RECREATION. Would the project:</b>				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			✓	
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				✓
<p><b>Discussion</b> Residential development is consistent with the City of Madera General Plan and Zoning Ordinance. Impacts in this category are not anticipated to exceed the impacts addressed in those documents.</p> <p><b>Less Than Significant Impact</b> a) The project would cause some increase on the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. The project will provide open space areas consistent with zone districts open space requirements, which would reduce the impacts to existing neighborhood and regional parks or other recreational facilities to a less than significant impact.</p> <p><b>No Impacts</b> b) The project will include the construction of large open space community areas including a playground, covered lounge areas, a tree surrounded by a seat wall and tot lot that would provide for recreational activities, but they will not have an adverse physical effect on the environment.</p>				
<b>17. TRANSPORTATION. Would the project:</b>				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?				✓
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?				✓
c) Substantially increase hazards due to a geometric design feature (for example, sharp curves or dangerous intersections) or incompatible uses (for example, farm equipment)?				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Result in inadequate emergency access?				✓
<p><b>Discussion</b></p> <p>The project site was included in the General Plan and its accompanying EIR and the potential traffic generated from the eventual development of this land is considered. The goals and policies of the General Plan serve to mitigate traffic impacts that occur as a result of new development.</p> <p><b>No Impacts</b></p> <p>a) The project would not conflict with any program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. All pedestrian walkways will be constructed consistent with the City of Madera Engineering Department standards and Americans with Disabilities Act (ADA) standards.</p> <p>b) The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). The project is not located within one-half mile of an existing major transit stop or along an existing high-quality transit corridor.</p> <p>c) The project would not substantially increase hazards due to a geometric design feature (for example, sharp curves or dangerous intersections) or incompatible uses (for example, farm equipment).</p> <p>d) The project would not result in inadequate emergency access.</p>				
<b>18. Tribal Cultural Resources. Would the project:</b>				
<p>Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:</p> <p>a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or</p>				✓
<p>b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the</p>				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
lead agency shall consider the significance of the resource to a California Native American tribe				
<b>No Impacts</b>				
<p>a) The project would not cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and the project is not listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). As described above, no known TCRs have been identified (as defined in Section 21074) within the project area. Therefore, the project would not cause a significant adverse change in the significance of a TCR that is either listed in, or eligible for listing in, the CRHR, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).</p> <p>b) The project is not a resource determined by the lead agency (City of Madera), in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. The project site is not listed as a historical resource in the California Register of Historical Sources. As described above, no known TCRs have been identified (as defined in Section 21074) within the project area, and no substantial information has been provided to the City to indicate otherwise. Therefore, the project would not cause a significant adverse change, based on substantial evidence, in the significance of a TCR.</p>				
<b>19. UTILITIES AND SERVICE SYSTEMS. Would the project:</b>				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or which could cause significant environmental effects?			✓	
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?				✓
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				✓

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?				✓
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?				✓

**Discussion**

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

**Less than Significant Impacts**

a) The project would require the relocation of electric power, natural gas, but the construction would not cause significant environmental effects. The developer will be subject to local and regional requirements for the relocation, expansion and/or installation of any mandatory utility services.

**No Impacts**

- b) The project would have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years.
- c) The project would result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.
- d) The project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.
- e) The project would comply with federal, state, and local management and reduction statutes and regulations related to solid waste.

**20. WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:**

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Substantially impair an adopted emergency response and/or emergency evacuation?				✓
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?				✓
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?				✓
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?				✓
<p><b>Discussion</b></p> <p>The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. The project will be developed consistent with all regulations of the California Fire Code and would provide no impact to wildfire hazards.</p> <p><b>No Impacts</b></p> <p>a) The project would not substantially impair an adopted emergency response and/or emergency evacuation.</p> <p>b) The project would not, due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.</p> <p>c) The project would not require the installation or maintenance of roads and will not exacerbate fire risk or result in temporary or ongoing impacts to the environment as the project is also not located in or near state responsibility areas or lands classified as very high fire hazard severity zones.</p> <p>d) The project would not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.</p>				

ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>21. MANDATORY FINDINGS OF SIGNIFICANCE. Would the project:</b>				
e) Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				✓
f) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.)				✓
g) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				✓
<p><b>Discussion</b></p> <p>Based upon staff analysis and comments from experts, it has been determined that the proposed project could generate some limited adverse impacts in the areas of Aesthetics, Air Quality, Energy, Greenhouse Gas Emissions, Population and Housing, Recreation and Utilities and Service Systems.</p> <p>The potential impacts identified in this Initial Study are considered to be less than significant since they will cease upon completion of construction or do not exceed a threshold of significance. Therefore, a Negative Declaration is the appropriate level of documentation for this project.</p>				

<b>ENVIRONMENTAL IMPACTS Issues (and Supporting Information Sources):</b>	<b>Potentially Significant Issues</b>	<b>Potentially Significant Unless Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
<p><b><u>No Impacts</u></b></p> <p>a) The project would not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.</p> <p>b) The project would not have cumulatively considerable impacts that are beyond less than significant.</p> <p>c) The project would not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.</p>				



**Attachment 11: Resolution and Conditions of Approval**

**RESOLUTION NO. 1895**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA  
ADOPTING THE AMENDMENT TO NEGATIVE DECLARATION FOR GROVE  
GARDENS, MAKING A REPORT TO THE CITY COUNCIL OF THE CITY OF MADERA  
FINDING THAT ABANDONMENT 2020-01, ABANDONMENT 2020-02, AND  
ABANDONMENT 2021-01 ARE IN CONFORMITY WITH THE CITY OF MADERA  
GENERAL PLAN, APPROVING LOT LINE ADJUSTMENT 2020-04, AND  
APPROVING PRECISE PLAN 2020-03 MODIFICATION FOR THE GROVE GARDEN  
MULTI-FAMILY RESIDENTIAL COMPLEX**

**WHEREAS**, the applicant, Berry Development (“Owner” and “Applicant”) owns APNs 012-026-001 and 012-402-006 in Madera, California (“site”); and

**WHEREAS**, the 1.8-acre site is vacant and is planned High Density Residential and zoned PD - 2,000 (*Planned development, one unit for each 2,000 sq. ft. of site area*) for residential land uses; and

**WHEREAS**, the site was previously approved for a 34-unit multi-family residential complex by the Planning Commission of the City of Madera on May 12, 2020, under Precise Plan (PPL) 2020-03, which called for additional applications of abandonment of Grove Street and a parcel map; and

**WHEREAS**, an Initial Study/Negative Declaration was previously prepared, circulated, and made available for public comment pursuant to the California Environmental Quality Act (CEQA), and was found that the project will not individually or cumulatively have an adverse effect on wildlife resources, and the City of Madera Planning Commission approved the assessment at a duly noticed meeting on May 12, 2020; and

**WHEREAS**, the Owner is seeking a precise plan modification (PPL 2020-03 MOD) to allow for the site to include various alterations in building and site layout and project scope to include the addition of abandonments of Noble Street (ABN 2021-01), an alley adjacent to the western property line of the site (ABN 2020-01), abandonment of the southern terminus of Grove Street (ABN 2020-02) and a lot line adjustment (LLA 2020-04) in lieu of a parcel map application; and

**WHEREAS**, an amendment to the previously adopted Initial Study/Negative Declaration for Grove Gardens was drafted that considers the addition of project scope to include the abandonments and lot line adjustment as well as the site plan and floor plan modifications proposed in PPL 2020-03 MOD, and it is determined the previously Negative Declaration adopted by the Planning Commission on May 12, 2020, is sufficient and no additional environmental analysis is required; and

**WHEREAS**, the proposed abandonment applications ABN 2020-01, ABN 2020-02, and ABN 2021-01 are determined to not be in conflict with the goals and policies of the City of Madera General Plan; and

**WHEREAS**, Lot Line Adjustment 2020-04 is found to be consistent with the General Plan and Zoning Ordinance of the City of Madera, is not subject to any specific plans, and will not be detrimental to health and safety of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood or general welfare of the City; and

**WHEREAS**, under the City’s Municipal Code, the Planning Commission is authorized to review and approve precise plans on behalf of the City; and

**WHEREAS**, the City provided notice of the October 12, 2021, Planning Commission hearing as required by law; and

**WHEREAS**, the Planning Commission received and reviewed ABN 2020-01, ABN 2020-02, ABN 2021-01, LLA 2020-04, and PPL 2020-03 MOD at a duly noticed meeting on October 12, 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 the amendment to Initial Study/Negative Declaration for Grove Gardens, finds that ABN 2020-01, ABN 2020-02, and ABN 2021-01 are in conformity with the City of Madera General Plan, approve LLA 2020-04, and approve PPL 2020-03 MOD.

**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: This project has been previously assessed and an amendment to Initial Study/ Negative Declaration for Grove Gardens has been prepared. Planning Commission finds that pursuant to CEQA Guidelines Section 15164 (Addendum to an EIR or Negative Declaration) subsequent environmental review is not required for PPL 2020-03 MOD based on the following:
  - a. No substantial changes are proposed in the project which will require major revisions of the previous negative declaration (ND) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In this case, PPL 2020-03 MOD maintains the same density, intensity and is otherwise consistent with the development, including the abandonment of the southern terminus of Grove Street, originally proposed for the subject site as contemplated by the ND and the abandonment of a portion of Noble Street and the alley abutting and parallel to Noble Street would not result in impacts or mitigation measures not previously identified. As such, no further environmental review is necessary or required.
  - b. No substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In this case, PPL 2020-03 MOD is consistent with the originally approved project that was assessed by the ND and there are no new substantial changes in the physical environment that were not anticipated in the ND, including its analysis in light of development contemplated in the General Plan.
  - c. There is no new information, which was not known and could not have been known at the time of the previous ND that the project will have significant effect not discussed in the ND. The project will not have any more significant effects than that already discussed and assessed in the ND. As a negative declaration was previously adopted for the considerations set forth in CEQA Guidelines § 15162(a)(3)(C) and (D), related to the adequacy and feasibility of previously adopted mitigation measures, are not applicable.
3. Findings for ABN 2020-01, ABN 2020-02, and ABN 2021-01:

- a. *The proposal is consistent with the General Plan.*

The abandonment of a portion of Noble Street, Grove Street, and the alley segment adjacent to and paralleling Noble Street does not conflict with the City of Madera's adopted General Plan and any policies within, therefore it is determined to be consistent. These abandonments for the purpose of developing unutilized land into a multi-family residential complex also supports the General Plan's vision of a well-planned City and good jobs and economic opportunities.

- b. *The proposal is compliant with the provision of the California Environmental Quality Act (CEQA).*

The project has been analyzed pursuant to the provisions of CEQA in an amendment to the IS/ND previously adopted for the project. The amendment to the IS/ND reflected in the document does not affect the adequacy or findings of the previous environmental analysis prepared for the project.

4. Findings for LLA 2020-04:

- a. *Proposal is consistent with the City General Plan, and Zoning and Subdivision Ordinances.*

The property is zoned Planned Development (PD) 2,000, one unit for each 2,000 sq. ft. of site area, which is consistent with the General Plan land use designation of High Density Residential (HD). The project proposes a deviation in setback requirements, as allowed under the provisions of precise plans. PPL 2020-03 MOD is consistent with the purpose and intent of the PD-2000 zone district and does not conflict with City standards or other provisions of the Code.

- b. *Proposal is consistent with any specific plan*

The project is not subject to any specific plan.

- c. *Proposal will not, under the circumstances of the particular case, be detrimental to the health and safety of persons residing or working in the neighborhood or be detrimental or injurious to property and improvements to the neighborhood or general welfare of the City.*

The proposed project will not have a significant adverse effect on the environment. Conditions of approval will ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. The resulting parcel sizes are compliant with the requirements of property zoned PD-2,000.

5. Findings for PPL 2020-03 MOD: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of PPL 2020-03 MOD, as conditioned. With conditions, the project is consistent with the requirements of the Municipal Code, including Sections 10-3.4 and Sections 10-3.501 through 10-3.510. 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.*

The property is zoned PD-2000, one unit for each 2,000 sq. ft. of site area, which is consistent with the General Plan land use designation of High Density Residential (HD). The project proposes a deviation is setback requirements, as allowed under the provisions of a PPL. PPL 2020-03 MOD is consistent with the purpose and intent of the PD-2000 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.*

The project site is not subject to any 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.*

PPL 2020-03 MOD has been reviewed and is consistent with surrounding uses and with all applicable requirements for development in the PD-2000 zone district, including provisions for access to and from the site, parking facilities, drainage, and lighting. The project would not have an adverse effect on surrounding properties.

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

PPL 2020-03 MOD requires the implementation of improvements in accordance with City standards. Related infrastructure improvements will also be required for storm drainage in conformance with City standards. The project site has access to Noble Street and Grove Street, which can accommodate traffic generated from the proposed project. Based on the previous environmental analysis prepared and the IS/ND as amended with adjustments to real property boundaries, the project will not have a significant impact on traffic or the environment.

6. Effective Date: This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 12<sup>th</sup> day of October 2021, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

---

Robert Gran Jr.  
Planning Commission Chairperson

Attest:

---

Gary Conte, AICP  
Planning Manager

Exhibit "A" – Conditions of Approval for PPL 2020-03 MOD, ABN 2020-01, ABN 2020-02, ABN 2021-01 AND LLA 2020-04

**Exhibit "A"**  
**CONDITIONS OF APPROVAL**  
**PPL 2020-03 MOD, ABN 2020-01, ABN 2020-02, ABN 2021-01, and LLA 2020-04**

**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 fifteen (15) days of the date of approval for PPL 2020-03 MOD, ABN 2020-01, ABN 2020-02, ABN 2021-01, and LLA 2020-04.
2. All plans submitted for on-site construction or building permits must incorporate and reflect all requirements outlined in the herein listed conditions of approval. Should the need for any deviations from these requirements arise, or for any future changes or additions not considered by the Planning Commission, they may be requested in writing for consideration of approval by the Planning Manager. The Planning Manager may determine that substantive changes require formal modification to the precise plan by the Planning Commission.
3. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specified in the conditions of approval listed herein or mandated by statutes.
4. It shall be the responsibility of the property owner to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to any building permit final issuance.
5. The project shall be developed in accordance with the conditions of approval listed herein and the approved site plan, floor plans, and elevation drawings. Minor modifications to the approved plans necessary to meet regulatory or engineering constraints may be made with the approval of the Planning Manager. All on- and off-site improvements shall be completed in advance of any request for building permit final inspection.
6. Prior to issuance of building permits or any future division of the property, the applicant at their sole expense shall cause the property to be annexed into the Citywide Community Facilities District No. 2005-01 and shall pay all applicable fees.

**Building Department**

7. At time of submittal for building permit plan check, a minimum of three (3) sets of the following plans to the Building Department is required. Plans shall be prepared by an individual licensed to practice architecture and include the following required drawings drawn to an appropriate scale:
  - Site plan bearing City approval or a plan incorporating all site related conditions.
  - Grading plan prepared by an individual licensed to practice land surveying, civil engineering or architecture.
  - Floor plan - The uses of all rooms and activity areas shall be identified on the plans.
  - All exterior elevations.

- Site utilities plan showing on-site sanitary sewer, water, storm sewer, water meters, backflow prevention devices, roof drains, etc., and the connections to off-site utilities.
8. Current State of California and federal accessibility requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection, and shall apply to proposed and future development.

## **Engineering Department**

### General

9. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
10. Impact fees shall be paid at time of building permit issuance.
11. The developer shall pay all required fees for completion of project. Fees due may include but shall not be limited to the following: plan review, easement acceptance, encroachment permit processing and improvement inspection fees.
12. Improvement plans signed and sealed by an engineer shall be submitted to the Engineering Division in accordance with the submittal process.
13. The improvement plans for the project shall include the most recent version of the City's General Notes.
14. In the event archeological resources are unearthed or discovered during any construction activities on site, construction activities shall cease, and the Community Development Director or City Engineer shall be notified so that procedures required by state law can be implemented.
15. Improvements within the City right-of-way shall require an encroachment permit from the Engineering Department.
16. All off-site improvements shall be completed prior to issuance of final occupancy.
17. The applicant/developer shall coordinate with the United States Post Office relative to the proposed location of the poral boxes for the project.

### Sewer

18. Probable sewer connection is to a 5-inch main in Grove Street between the project site and Oak Street and 8-inch between Oak Street and West Olive Avenue based on available City records. The developer shall be responsible for confirming the capacity of the existing sewer main to its connection on West Olive Avenue.
19. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards.



20. Existing sewer service connections that will not be used for the project shall be abandoned at the mains per current City of Madera standards.
21. Sewer main connections 6" and larger diameter shall require manhole installation.
22. Existing septic tanks, if found, shall be removed pursuant to issuance of a permit and inspection by the City of Madera Building Department.

#### Storm Drain

23. Storm runoff from this project site will surface drain into existing facilities and eventually into the Madera Irrigation District (MID) canal. Water runoff from the site must be cleaned before entering the existing storm water system to the satisfaction of MID through the use of an on-site oil/water separator or drop inlet inserts at the drop inlets that receive runoff from the site. The developer shall coordinate with MID and obtain MID's approval signature on the final improvement plans prior to submittal to the City for approval.
24. Support calculations shall be provided that provide the existing storm drain facilities are capable of intercepting runoff in accordance with the provisions of the Storm Drainage System Master Plan.
25. This project shall comply with the design criteria as listed on the National Pollutant Elimination Systems (NPDES) General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer System (MS4's) as mandated by Water Quality Order No. 2013-0001-DWQ, NPDES General Permit No. CAS000004. For the purpose of this proposed development, post development runoff shall match or be less than pre-development runoff. The development shall submit to future inspections by the City or other designated agencies relative to the improvements installed as a result of this condition to ensure they remain in compliance with the conditions imposed under this condition.

#### Streets

26. The developer shall install sidewalk along the Noble Street, Maple Street and Grove Street project frontages in accordance with City and ADA standards.
27. The developer shall construct an ADA access ramp on the southeast corner of Noble Street and Maple Street in accordance with City and ADA standards.
28. All portions of the facility shall provide an ADA accessible path of travel to the intersection of Noble Street and Maple Street for the purpose of demonstrating equal access to all units of the complex.
29. The existing driveway approach on Maple Street shall be removed and replaced with concrete sidewalk, curb and gutter in accordance with current City and ADA standards.
30. The developer shall repair or replace all broken or damaged concrete improvements including curb, gutter and sidewalk to current City and ADA standards.
31. The developer shall install streetlights along the project frontage in accordance with City standards.

32. The developer shall dedicate a Public Utility Easement (PUE) ~~10~~ five-foot wide along the entire project parcel frontage on Noble Street, Maple Street and Grove Street. A \$466 fee or the fee in effect at that time for grant easement or deed acceptance shall be paid with the Engineering Department.
33. The developer shall record a reciprocal ingress/egress, utility and parking easement acceptable to the City of Madera across the entire project site and applicable to all parcels. The easements shall provide the mutual right of access for all future uses in the project site. The developer shall pay associated fees with the Engineering Department
34. It shall be the property owner/developer's responsibility ~~the~~ to ensure the portion of ~~the~~ Grove Street right-of-way, Noble Street right-of-way, and alley that bisects/is adjacent to the project is vacated by the City in accordance with Streets and Highways Code Section 8330-8334.5 and/or other applicable state code. Development of the project shall not commence prior to the completion of the public right-of-way abandonment process.
35. The developer shall confirm adequate sight distance is provided for vehicles exiting the driveway immediately south of the project site with the proposed improvements (e.g., CMU wall) along Noble Street.
36. The developer shall annex into and execute such required documents that may be required to participate in Landscape Maintenance District Zone 51 for the purposes of participating in the cost of maintaining landscape improvements within said zone.
37. All existing and proposed public utilities (electric, telephone, cable, etc.) shall be undergrounded, except transformers, which may be mounted on pads.

#### Water

38. 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.
39. Fire flow calculations shall be required as part of the improvement plan submittal to confirm availability given the water line in Maple Street is a 6-inch.
40. A separate water meter and backflow prevention device will be required for existing or proposed landscape areas.
41. Existing water service connections that will not be used for the project shall be abandoned at the mains per City standards.
42. The developer shall reimburse its fair share cost to the city for previously constructed water main along the entire project frontage on Noble Street.

43. Existing wells, if any, shall be abandoned as directed and permitted by the City of Madera for compliance with State standards.

### **Fire Department**

44. All improvements to the property shall require a building permit.
45. Fire extinguishers shall be provided in accordance with the CFC. A minimum of one 2A10BC rated fire extinguisher is required for each 3,000 square feet or fraction thereof on each floor, and the travel distance shall not exceed 75 feet from any point in the structure to reach a fire extinguisher.
46. A Knox Box shall be provided in accordance with the Fire Marshal requirements.
47. The site design shall provide adequate fire rated separations as required by the California Building Code and California Fire Code. All fire rated assemblies shall be fully detailed.
48. All buildings shall be equipped with fire sprinklers. Fire Department connection locations shall be approved prior to building permit issuance.
49. Fire sprinkler monitoring alarms shall be required for each structure. Fire alarm control units shall be placed in a closet used exclusively for fire equipment.
50. An -site fire hydrants may be required. The plans submitted for plan check shall indicate the placement of existing fire hydrants for final determination by the Fire Marshal.

### **Planning Department**

#### General

51. On-site vandalism and graffiti shall be corrected per the Madera Municipal Code.
52. The property owner, operator and/or manager shall keep the property clear of all trash, rubbish and debris at all times, and disposal of refuse shall be restricted to the dumpster located on the subject properties.
53. 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.
54. The applicant shall comply with all federal, state and local laws. Material violations of any of those laws concerning the use may be cause for revocation of these permits.
- ~~55. A tentative parcel map for the project parcel APN: 012-402-006 shall be completed prior to commencement of any development of the project.~~

#### Building and Site Aesthetics

56. The applicant/developer shall provide a ~~revised final site plan with modification to building placement to the extent necessary as to not encroach into setbacks and/or public utility easements~~ revised final site plan reflecting all conditions of approval listed herein. Substantial changes to the site plan resulting in changes to number of units, buildings, required parking or open space, may require an amendment to Precise Plan 2020-03 MOD.
57. The construction of all buildings approved as part of PPL 2020-03 MOD shall be in close conformance with the approved elevation drawings, as reviewed and approved by the Commission. A final color and materials board shall be submitted to the Planning Department for review and approval.
- 57a. PPL 2020-03 MOD approves the development of an approximate 1.80 acres site inclusive of the following:
- 34 leasable three-bedroom, two-bathroom units
  - One manager's residence, to remain as a manager's residence only and not leased at a later date
  - One leasing office containing a model floorplan to be used strictly for office and showcase use only; not to be leased at a later date.
58. Variance 2020-02 allows for less than the required open space by the Planned Development zone district. The developer shall submit an open space site plan with no less than 18,200 square feet of open space. Plans shall include community garden areas, a tot-lot, and a barbecue area.
59. Prior to the issuance of building permits, applicant to identify on the site plan the following information for Planning Department review and approval:
- The location of all-natural gas and electrical utility meter locations
  - The location of all HVAC (heating, ventilation or air conditioning) equipment
  - The location of all compressor equipment, and mechanical and electrical equipment
60. Wherever feasible, electrical/mechanical equipment shall be located in the interior of the proposed new structure(s) within electrical/mechanical service rooms. When not feasible, electrical/mechanical equipment located either on the exterior of the building or ground mounted shall be located such that it is not visible from the public right-of-way and screened with landscaping and/or fencing.
61. The specifications and types of exterior lighting fixtures to be installed on the site shall be submitted to and approved by the Planning Department prior to issuance of building permits. All exterior lighting shall be directed away from adjoining properties and not interfere with the driving safety of vehicular traffic. Exposed bulbs will not be permitted.
62. All parking lot lights/lighting shall be incorporated into landscaped areas.
63. The developer shall contact the City Engineer when all site lighting is operational. Additional light screening may be required.

#### Landscaping

64. A detailed landscaping and irrigation plan shall be prepared by a licensed landscape architect and submitted to and approved by the Planning Department prior to issuance of building permits. The plan shall include:
- Demonstration of compliance with the State of California Model Water Efficient Landscape Ordinance.
  - Areas throughout the project shall be planted to provide a minimum of 70% vegetative cover upon maturity.
  - Landscaped areas shall be developed along all street frontages and within parking fields.
  - Shade trees shall be planted throughout the parking lot, with a minimum of one tree per five parking spaces.
  - Landscaped areas are to be provided with permanent automatic irrigation systems.
  - A detailed planting list for landscaping, with the number, size, spacing (where applicable) and specie of all plantings shall be included as part of the approved landscaping plan prepared by a licensed landscape architect.
65. On-site and off-site landscaping and irrigation shall not be installed until plans are approved by the Engineering Department and the Parks and Community Services Department. Any deviation shall require prior written request and approval. Removal or modification shall be at developer's expense.
66. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the city. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, mowing lawns consistent with industry standards, and replacing dead or unhealthy vegetation.

#### Parking

67. Parking stalls shall be developed in close conformance with the approved site plan.
68. All parking and loading areas shall be marked and striped to city standards: Perpendicular (90 degree) parking spaces shall measure a minimum of nine feet wide by nineteen feet deep. No compact stalls shall be incorporated into the parking field. Minimum drive aisle/backing/maneuvering space is 26 feet.
69. On-site parking shall always be provided in conformance with the Municipal Code. Further expansion of the use or additional or accessory uses may require the provision of additional parking spaces in compliance with city standards prior to establishment of the use. All required parking shall be permanently maintained with all parking spaces to be shown on plans submitted for building permits. Any modifications in the approved parking layout shall require approval by the Planning Department.
70. Carport structures shall require plans be submitted for review and approval by the Planning Department. Carport designs shall be in keeping with the primary building's architecture and materials.

#### Signage

71. Signage shall be in accordance with city standards, and all signing shall be reviewed and approved by the Planning Department prior to issuance of a separate sign construction permit which may be required by the Building Department.
72. Address sign designs shall be approved by the Planning Department prior to issuance of building permits.
73. All proposed construction announcement sign uses shall conform to the Municipal Sign Ordinance.

#### Walls and Fences

74. A trash enclosure shall be constructed of masonry block consistent with city standards with a finish color to match the primary structure. The final location of the trash enclosure shall be determined by the Public Works Director.
75. All perimeter fencing shall be six feet in height. The fencing along Noble Street, Maple Street, and the entrance to the complex on Grove Street shall be wrought iron with CMU columns at a spacing no greater than 16' on-center. These columns shall be a minimum of split-face CMU with decorative capstone. Perimeter fencing along property lines adjacent to existing residences and shared to the east, ~~shared~~ with the public facilities baseball field and to the south with the industrial development shall be a ~~concrete masonry unit of seven~~ CMU wall with cap not to exceed six feet in height.

#### **San Joaquin Valley Air Pollution Control District**

76. The applicant shall comply with the rules and regulations of the San Joaquin Valley Air Pollution Control District.

#### **Lot Line Adjustment and Abandonment**

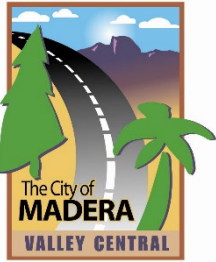
##### Lot Line Adjustment

77. Compliance with § 10-2.305 Lot Line Adjustment of the Municipal Code is required.
78. A \$696 fee shall be paid at time of submittal for Engineering Division review of the proposed lot line adjustment.
79. Copies of deeds and title reports for each affected existing parcel shall be submitted. New deeds written in metes and bounds description will require closure calculations stamped by a licensed land surveyor or civil engineer authorized to perform land surveying.
80. Deed for newly created parcels on deed forms, signed and notarized, for recording shall be submitted.
81. An 8 ½" X 11" lot line exhibit map intended for recordation shall be submitted. The map shall indicate existing and proposed lot lines, final lot sizes, existing structures with dimensions to setbacks (existing or resultant), location of existing utility services, easements, dedications and any information affecting the parcels indicated on the title report.

82. Any dedications required shall be dedicated by separate instrument.
83. Setbacks shall be reviewed for conformance with Planning and Building Code requirements.
84. A county Preliminary Change of Ownership Report (PCOR) form for each affected lot from the County Assessor's Office shall be submitted.
85. All fees associated with the lot line adjustment including recording fees shall be paid prior to recording of the lot line adjustment.
86. Prior to recording of the lot line adjustment, any current, delinquent, or estimated Madera County or Madera Irrigation District taxes for the upcoming assessment year shall be paid in accordance with Subdivision Map Act Section 66492-66494.1.
87. Before recordation, the deeds will be reviewed for technical accuracy by the City and approved by a certificate of compliance consisting of a stamp on each deed original or on a separate document signed by the approving representative. City Staff will deliver documents to the County Recorder's Office.
88. New property corners shall be marked, and the lot line adjustment shall be recorded prior to issuance of any related building permit.
89. All public easements on the property which are identified on the required title report must be shown on the lot line adjustment map with recording date.
90. Failure to complete the recording process within one year of approval will render the approval null and void.
91. Each newly created or redefined parcel shall have a separate water service. If not already in place, new connection(s) shall be constructed to current City standards including Automatic Meter Reading (AMR) water meter located within City right-of-way and backflow prevention device located within private property. Existing cross lot connections shall be severed.
92. Each newly created or redefined parcel shall have a separate sewer service. New connection(s) shall be constructed to current City standards. Existing cross lot connections shall be severed.

#### Abandonment

93. An easement shall be provided for any public utility that is to remain within abandoned area or those utilities shall be abandoned per City standards.



# CITY OF MADERA PLANNING COMMISSION

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

## Staff Report: Alpha Motors CUP 2021-24 & SPR 2021-26 Item #3 – October 12, 2021

---

**PROPOSAL:** An application for a site plan review and conditional use permit to allow the operation of an online only used car sales and parts business, Alpha Motors. The address is currently being used for an existing business, Boost Mobile, where the business operations of Alpha Motors will be conducted out of a spare office within the same building suite. The site plan proposes no modifications to the building; however, one parking space will be dedicated to Alpha Motors for storage of one vehicle while sales are pending.

---

<b>APPLICANT:</b>	David Estrada 516 E Yosemite Avenue Madera, CA 93638	<b>OWNER:</b>	Richard and Betty Braddy 222 Wild Oak Court Lincoln, CA 95648
<b>SITE ADDRESS:</b>	512 E. Yosemite Ave.	<b>APN:</b>	007-171-012
<b>APPLICATION:</b>	CUP 2021-24 & SPR 2021-26	<b>CEQA:</b>	Categorical Exemption

---

**LOCATION:** The project is located on the east corner of North A Street and East Yosemite Avenue.

**STREET ACCESS:** The parcel has vehicle access via an alley perpendicular to East Yosemite Avenue.

**PARCEL SIZE:** The project parcel is approximately 6,657 square feet.

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

**ZONING DISTRICT:** C-1 (Light Commercial)

---

**SITE CHARACTERISTICS:** The proposed project is located within a multi-tenant commercial building at 516 East Yosemite Avenue. The site is occupied by an existing business, Boost Mobile, which has displays and a sales floor that covers most of the floor area of the suite. Parking is provided in front of the multi-tenant building and to the rear of via alley access from East Yosemite Avenue. The property shares a common wall with the commercial offices to the west along East Yosemite Ave as well as shared parking lot access in the rear which exits onto North A Street.

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

---



**SUMMARY:** Conditional Use Permit 2021-24 and Site Plan Review 2021-26 allow for an online only used car and parts sales business, Alpha Motors, to be established within a vacant office at 516 East Yosemite Ave, the current operating location of Boost Mobile. One parking space of four spaces available for 516 East Yosemite Ave will be dedicated specifically for the operations of Alpha Motors. This space will be used upon the delivery of a vehicle ordered to Alpha Motors and the completion of sale transaction between Alpha Motors and the purchaser that ordered the vehicle. This parking space will be one of the four stalls dedicated specifically to 516 East Yosemite Ave. The employee of Alpha Motors will share the remaining one of the three remaining parking spaces with the employees and customers of Boost Mobile. There are no interior or exterior improvements proposed on site with the addition of Alpha Motors operating within the tenant suite.

## **APPLICABLE CODES AND PROCEDURES**

### Site Plan Review

#### *Madera Municipal Code (MMC) § 10-3.4.0102 Site Plan Review Applicability*

A site plan review is required for all projects which require 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

#### *MMC § 10-3.1301 – MMC § 10.3.1311 Use Permits*

#### *MMC § 10-3.802 Uses Permitted; Light Commercial Zones*

Subject to the Madera Municipal Code (MMC § 10-3.802(C)(12)), used car sales within a Light Commercial Zone District 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.

## **PRIOR ACTION**

There are no entitlements on record for the property that allude to when it was established. Madera County records show the current structure being built in approximately 1967. On record with the Planning Department are previous approvals for sign permits issued to various businesses within the suite. Previously, this site was the location for a thrift store and is currently being utilized as a cellular phone business (Boost Mobile). Approval of CUP 2021-24 and SPR 2021-26 would establish an entitlement record for 516 East Yosemite Avenue within the Planning Department.

## **ANALYSIS**

### Operations

The applicant proposes to establish at the current business location for Boost Mobile, 516 East Yosemite Ave, a business conducting online sales of used motor vehicles and vehicle parts business out of a vacant office, Alpha Motors. Vehicles and parts will be delivered directly to customers' home address or picked up by the customer at various car lots throughout the County of Madera. A sellers permit through the Department of Motor Vehicles and business license is required for documentation and tax purposes. The current business occupying most of the floor area, Boost Mobile, conducts sales of cell phones and cell phone accessories.

The hours of operation for Alpha Motors will be that of Boost Mobile, Monday through Friday, 8 a.m. to 4 p.m. The applicant is the sole employee who will be running both businesses out of the site. Considering the operations of Alpha Motors is online, there will be minimal customer visits to the site to conduct business. To operate the business on site, the applicant will utilize a vacant office where standard office items will be used, such as a computer, scanner, printer, filing cabinet, and miscellaneous stationery.

### Site Plan Review

Under MMC §10-3.4.0102, the applicability of the site plan review process applies to all uses subject to a use permit. While there are no interior or exterior improvements proposed by the applicant to accommodate locating Alpha Motors on site, the site plan review process evaluates the current standards of applicable codes to the existing conditions of the entire property. Being the site is already developed, there is already infrastructure in place to fully serve the businesses located on the property. However, there exist some needs for improvements to the curb, sidewalk, and alley approach for access to rear parking. The curb is cracking and has missing chunks near the approach. It also could use repainting to indicate no parking closest to the entrance of the alley. The alley approach has similar conditions of cracking and missing pieces that can cause water to build up and further damage the concrete. Staff is recommending as conditions of approval for this project, repairs be made to these improvements in efforts to better serve vehicular traffic to and from the business, as well as for aesthetic purposes.

### Parking

Section 10-3.1202 of the MMC (Parking Spaces Required) specifies motor vehicle sale establishments in the downtown parking area to provide one (1) on-site parking space for every 600 square feet (sf) of gross floor area. Retail stores, such as Boost Mobile, are to provide one (1) on-site parking space for every 450 sf of gross floor area. The subject site is an approximate 1,350 sf commercial suite and thus would require a minimum of three (3) parking spaces marked in accordance with the Madera Municipal Code.

The site currently has four (4) rear parking spaces dedicated solely to 516 East Yosemite Ave and an additional three (3) street parking spaces along the front. Of the four (4) parking spaces to the rear of the building, one will be dedicated for the sole purpose of Alpha Motors if there ever is a need for a customer to visit the site or a vehicle to be parked while a sale is pending. A vehicle pending sales can be parked at 516 East Yosemite Ave for no longer than 48 hours. The operations of Alpha Motors will predominately be online therefore it is anticipated customer visits will be uncommon. The existing parking facilities ensure there is sufficient parking to serve the proposed use.

A site plan review of a project takes into consideration code compliance of the overall property, including compliance with the Americans with Disabilities Act (ADA). The project has been conditioned to ensure proper improvements are made to the site for ADA accessibility standards to be achieved.

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

Staff have 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 a parcel with existing services and utilities. There are no proposed modifications to the interior or exterior of the structure, nor will there be any expansions to the existing building. Furthermore, 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 used car sale businesses are 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. Following this vision, staff is supportive of new business opportunities to serve the community.

## **RECOMMENDATION**

The information presented in this report provides support for the adoption of a resolution conditionally approving Conditional Use Permit 2021-24 and Site Plan Review 2021-26. 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 Conditional Use Permit 2021-24 and Site Plan Review 2021-26, subject to the findings and conditions of approval.

## **PLANNING COMMISSION ACTION**

The Commission will be acting on the Categorical Exemption, Conditional Use Permit 2021-24, and Site Plan Review 2021-26 and determining to either:

- Adopt a resolution adopting a Finding of a Categorical Exemption pursuant to CEQA Guidelines Section 15301 for the project, and approving Conditional Use Permit 2021-24 and Site Plan Review 2021-26 as conditioned (Motion 1); **or**
- Continue the hearing to the November 9, 2021, Planning Commission hearing 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**
- Continue the hearing to the November 9, 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 Conditional Use Permit 2021-24 and Site Plan Review 2021-26, based on and subject to the findings and conditions of approval as follows:

### Findings to Approve a Conditional Use Permit

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

The property is zoned C-1 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). As conditioned, Conditional Use Permit 2021-26 is consistent with the purpose and intent of the C-1 zone district and does not conflict with

City standards or other provisions of the Code. Therefore, the project is consistent with the General Plan and Zoning Ordinance of the City of Madera.

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

The project site is suited for commercial uses and businesses. Generally, the project would not be conducive of operating a traditional used car sales business. However, with the nature of operations for Alpha Motors being online, the project site can accommodate the addition of this business being located here in conjunction with Boost Mobile. The project site is located near similar commercial businesses and would be a compatible use for the site.

*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 is compatible with surrounding properties and will not have a significant, adverse environmental impact. The establishment of the additional business at the site, Alpha Motors, will not be detrimental to the overall well-being of neighborhood or City. The project, as conditioned, will provide for an additional business to serve the area.

#### Findings to Approve a Site Plan Review

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

The property is zoned C-1 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). As conditioned, Site Plan Review 2021-26 is consistent with the purpose and intent of the C-1 zone district and does not conflict with City standards or other provisions of the Code. Therefore, the project is consistent with the General Plan and Zoning Ordinance of the City of Madera.

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

The project site is not subject to any 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 2021-26 has been reviewed and is consistent with surrounding uses and with all applicable requirements for development in the C-1 zone districts including provisions for access to and from the site, parking, drainage, and lighting. No modifications, interior or exterior in nature, are proposed therefore existing conditions will remain and be improved or corrected where required in the conditions of approval. 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 2021-26 requires no street improvements as it is located in a developed area. Moreover, the subject site has access to East Yosemite Avenue via an existing alley which can accommodate traffic generated by the proposed project and provides off-site parking necessary to serve the proposed use.

**(OR)**

**Motion 2:** Move to continue the public hearing on CUP 2021-24 and SPR 2021-26 to the November 9, 2021, Planning Commission meeting with direction to staff to return with an updated resolution containing 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 public hearing on CUP 2021-24 and SPR 2021-26 to the November 9, 2021, Planning Commission meeting with direction to staff to return with an updated resolution containing appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial.)

#### **ATTACHMENTS**

Attachment 1: Vicinity Map

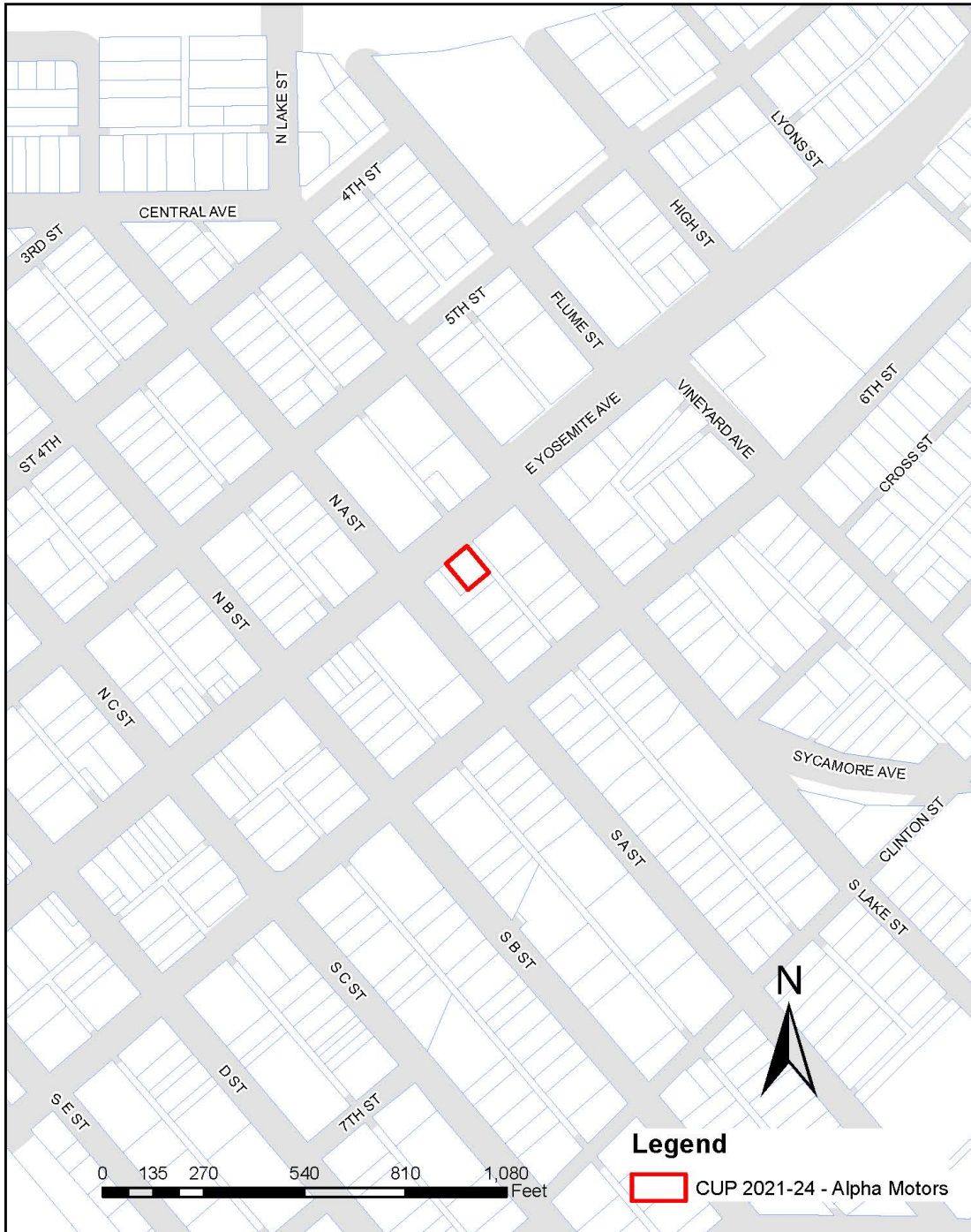
Attachment 2: Site Plan

Attachment 3: Floor Plan

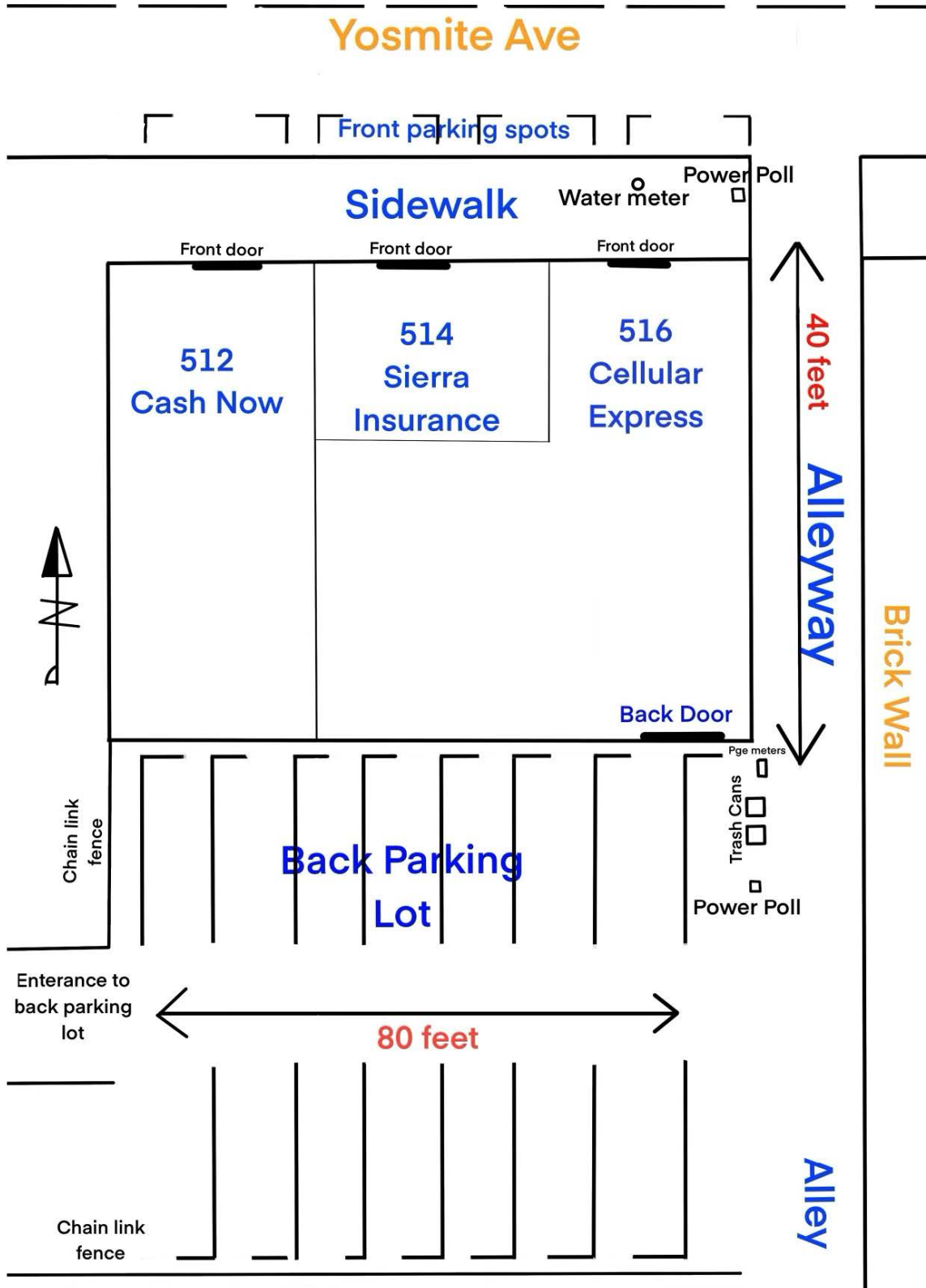
Attachment 4: Planning Commission Resolution with Conditions of Approval

**Attachment 1: Vicinity Map**

**Alpha Motors - Vicinity Map**



Attachment 2: Site Plan



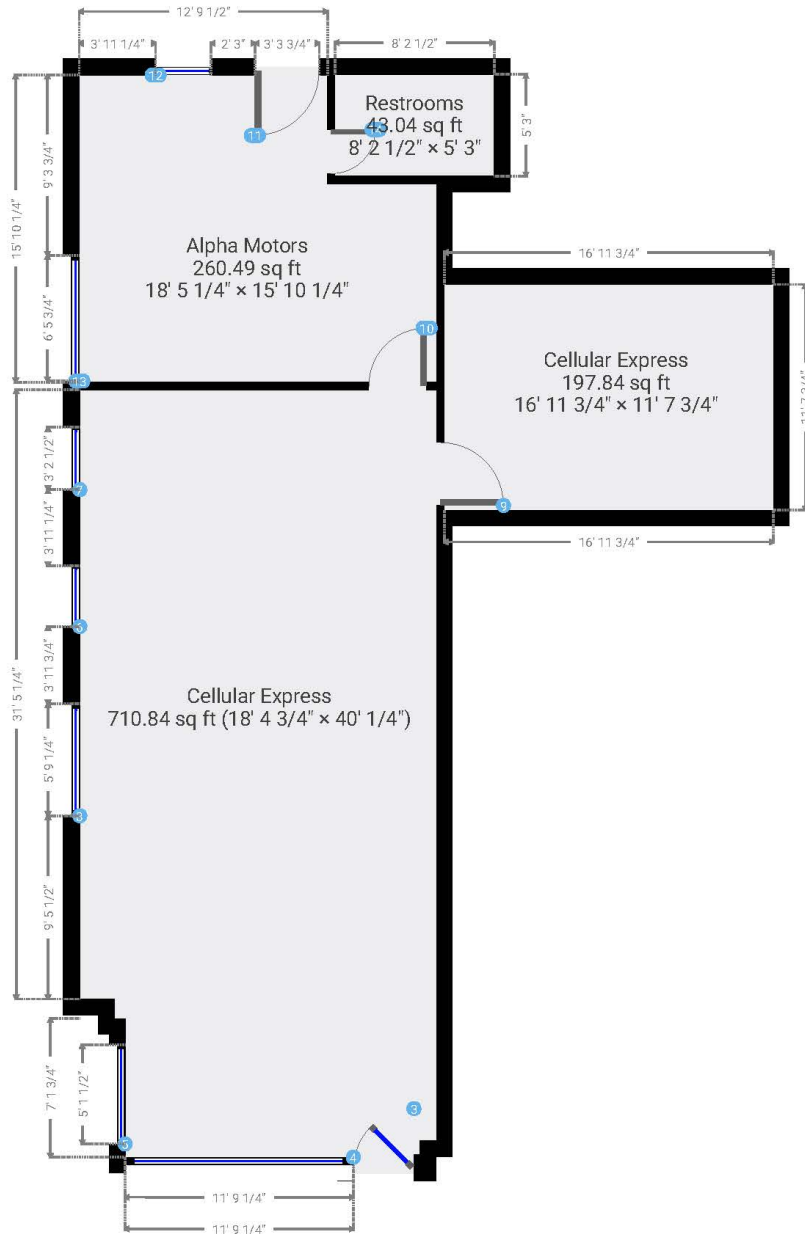
# Alpha Motors/Cellular Express

516 E Yosemite ave, 93638 Madera, California, USA  
TOTAL AREA: 1386.66 sq ft • LIVING AREA: 1386.66 sq ft • FLOORS: 1 • ROOMS: 4



## ▼ Ground Floor

TOTAL AREA: 1386.66 sq ft • LIVING AREA: 1386.66 sq ft • ROOMS: 4



THIS FLOORPLAN IS PROVIDED WITHOUT WARRANTY OF ANY KIND. SENSOPIA DISCLAIMS ANY WARRANTY INCLUDING, WITHOUT LIMITATION, SATISFACTORY QUALITY OR ACCURACY OF DIMENSIONS.





## **Attachment 4: Planning Commission Resolution with Conditions of Approval**

**RESOLUTION NO. 1896**

**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 2021-24 AND SITE PLAN REVIEW 2021-26 (ALPHA MOTORS, 516 EAST  
YOSEMITE AVENUE)**

**WHEREAS**, Richard and Betty Braddy (“Owners”) own an existing multi-tenant commercial structure at 516 East Yosemite Avenue in Madera, California, APN 007-171-012 (“site”); and

**WHEREAS**, David Estrada (“Applicant”) is acting on behalf of the Owner; and

**WHEREAS**, the site contains an existing retail business within one of the suites, Boost Mobile, with an unused and vacant back office; and

**WHEREAS**, the Applicant is seeking a conditional use permit (CUP) to allow the establishment of an online only used car and parts sales business within the existing Boost Mobile store utilizing the vacant office, as proposed by CUP 2021-24; and

**WHEREAS**, the Applicant is seeking a site plan review (SPR) to allow for the establishment of an online only used car and parts sales business located within the vacant, unused office space within the existing structure, as proposed by SPR 2021-26; and

**WHEREAS**, based on a preliminary environmental assessment, this project would be subject to a Class 1 (Existing Facilities) categorical exemption (CEQA Guidelines Section 15301); 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 CUP 2021-24 and SPR 2021-26 at a duly noticed meeting on November 9, 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 CUP 2021-24 and SPR 2021-26, 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 will only be minor interior changes involving negligible or no relative expansion of use. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project.

3. Findings for CUP 2021-24: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2021-24, 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 C-1 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). As conditioned, Conditional Use Permit 2021-24 is consistent with the purpose and intent of the C-1 zone district and does not conflict with City standards or other provisions of the Code. Therefore, the project is consistent with the General Plan and Zoning Ordinance of the City of Madera.

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

Basis for Finding: The project site is suited for commercial uses and businesses. Generally, the project would not be conducive of operating a traditional used car sales business. However, with the nature of operations for Alpha Motors being online, the project site can accommodate the addition of this business being located here in conjunction with Boost Mobile. The project site is located near similar commercial businesses and would be a compatible use for the site.

- 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 establishment of the additional business at the site, Alpha Motors, will not be detrimental to the overall well-being of neighborhood or City. The project, as conditioned, will provide for an additional business to serve the area.

4. Findings for SPR 2021-26: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2021-26, 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 C-1 (Light Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). As conditioned, Site Plan Review 2021-26 is consistent with the purpose and intent of the C-1 zone district and does not conflict with City standards or other provisions of the Code. Therefore, the project is consistent with the General Plan and Zoning Ordinance of the City of Madera.

- b. The proposal is consistent with any applicable specific plans.

Basis for Finding: The project site is not subject to any 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 2021-26 has been reviewed and is consistent with surrounding uses and with all applicable requirements for development in the C-1 zone districts including provisions for access to and from the site, parking, drainage, and lighting. No modifications, interior or exterior in nature, are proposed therefore existing conditions will remain and be improved or corrected where required in the conditions of approval. 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 2021-26 requires no street improvements as it is located in a developed area. Moreover, the subject site has access to East Yosemite Avenue via an existing alley which can accommodate traffic generated by the proposed project and provides off-site parking necessary to serve the proposed use.

5. Approval of CUP 2021-24 and SPR 2021-26: Given that all findings can be made, the Planning Commission hereby approves CUP 2021-24 and SPR 2021-26 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 12th day of October 2021,  
by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

---

Robert Gran Jr.  
Planning Commission Chairperson

Attest:

---

Gary Conte, AICP  
Planning Manager

Exhibit "A" – Conditions of Approval for CUP 2021-24 and SPR 2021-26

**EXHIBIT "A"**  
**CUP 2021-24 AND SPR 2021-26**  
**CONDITIONS OF APPROVAL**  
**October 12, 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 CUP 2021-24 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. All discretionary conditions of approval for SPR 2021-26 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 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 conditional use permit and 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.

Approval of this use permit and/or conditional 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 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, leasee, operator, or any other person or entity making use of this use permit.

### **Conditions of Approval**

#### **General Conditions**

1. Approval of this conditional use permit or 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 conditional use permit 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 either this conditional use permit or site plan review, the zoning ordinance, and all City standards and specifications. This conditional 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 conditional use permit and 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.
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/owner 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 CUP 2021-24 and SPR 2021-26.

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 2021-26) will expire one (1) year from the effective date, unless a building permit, if needed, 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 2021-24) 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.



9. All on-site and off-site requirements listed herein shall be completed in advance of any request for building permit final inspection, occupancy of the building or issuance of a business license unless otherwise noted.

## **Planning Department**

### General

10. Site Plan Review (SPR) 2021-26 allows for a single vacant office within 516 East Yosemite Ave to be utilized as an online only used car sale and used parts business. The project site shall be developed in conformance with the site plan as reviewed and approved under CUP 2021-24 and SPR 2021-26. 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 CUP 2021-24 or SPR 2021-26. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to CUP 2021-24 and/or SPR 2021-26 be filed for review and approval through the applicable City process.
11. If the exterior of the building is to be painted, a color and materials board shall be reviewed and approved by the Planning Manager.
12. Any proposed future modifications to the site, including, but not limited to, the building structural exteriors and parking areas shall require an amendment to CUP 2021-24 and/or SPR 2021-26.
13. 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.
14. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
15. The applicant shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
16. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster and refuse containers owned by the property owner.
17. No outdoor display of merchandise shall be allowed.
18. Conditional Use Permit 2021-24 allows for the operation of an online only used car and parts sales business within a vacant office at 516 E Yosemite Avenue. Such sales are to be online only, and storage of more than a single vehicle pending sales is prohibited. Storage of a vehicle pending sale shall be within a single parking space dedicated to Alpha Motors and said vehicle shall vacate the premise within 48-hours of delivery to Alpha Motors.
19. CUP 2021-24 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.

20. Conditional Use Permit 2021-24 may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the Conditional Use Permit.

#### Accessibility

21. The applicant/owner shall repaint the parking area to clearly define the boundaries of the spaces. The spaces shall be marked in accordance with the approved site plan.
22. The applicant/owner shall provide necessary improvements to the parking lot and business entryways to ensure compliance with the Americans with Disabilities Act (ADA). The improvements shall be done within 180 days of approval of CUP 2021-24 and SPR 2021-26 or the approvals will become null and void.

#### Signage

23. No on building or free-standing signs are approved as part of CUP 2021-24 or SPR 2021-26.
24. All signage shall be in compliance with the City of Madera Sign Ordinance. All signage is required to have an approved Sign Permit issued by the Planning Department per MMC §10-6. Sign permit applicability shall be determined by the Planning Manager or by his/her designee.

### **Engineering Department**

#### General

25. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
26. The developer shall pay all required fees for completion of project. Fees due may include but shall not be limited to the following: plan review, easement acceptance, encroachment permit processing and improvement inspection fees.
27. Improvement plans signed and sealed by an engineer shall be submitted to the Engineering Division in accordance with the submittal process.
28. The improvement plans for the project shall include the most recent version of the City's General Notes.
29. In the event archeological resources are unearthed or discovered during any construction activities on site, construction activities shall cease, and the Planning Manager or City Engineer shall be notified so that procedures required by state law can be implemented.
30. Prior to the construction of improvements within the City right-of-way, an Encroachment Permit will be required from the Engineering Division.
31. Improvements within the State of California right-of-way require Encroachment Permit from Caltrans.
32. All off-site improvements shall be completed prior to issuance of final occupancy.

### Water

33. Any new or existing connection shall be constructed or upgraded 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.
34. Existing water service connections that will not be used for the project shall be abandoned at the main per City of Madera standards.

### Sewer

35. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards.
36. Existing sewer service connections that will not be used for the project shall be abandoned at the main per current City of Madera standards.

### Streets

37. The developer shall repair or replace all broken or damaged concrete improvements including curb, gutter, and sidewalk to current City of Madera and ADA standards. Limits of repairs shall be established by the City Engineering Inspector.
38. The extent of improvements along Yosemite Avenue shall be determined by Caltrans as Yosemite Avenue is a State Highway.

-END OF CONDITIONS-