

**CITY OF MADERA PLANNING COMMISSION  
REGULAR MEETING  
July 14, 2020**

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

**ROLL CALL**

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

**ABSENT:** None

**STAFF:** Gary Conte, Planning Manager  
Keith Helmuth, City Engineer  
Tiffany Ljuba, Assistant Engineer  
Brandi Garcia, Recording Secretary  
Olga Garcia, Community Services Coordinator/Planning Assistant  
Mark Souders, Information Services Manager

Commissioner Gran asked about Jesus Orozco not being in attendance.

Mr. Conte said that Jesus had a chance to broaden his horizon and had accepted a job with the City of Bakersfield.

**PLEDGE:** None

**PUBLIC COMMENT:** None

**MINUTES:** Commissioner Gran moved to approve the minutes from February 11, 2020, March 10, 2020, April 14, 2020 and June 9, 2020. Commissioner Tyler seconded the motion and it carried unanimously.

Mark Souders, Information Services Manager noted it appeared there was someone wanting to speak, maybe for the public comment.

Commissioner Cortes tried to get the participant on the line but was unable to get an answer.

**NON-PUBLIC HEARING ITEMS:** None

**CONSENT ITEMS:** None

**PUBLIC HEARING ITEMS:**

**1. Consideration of a Resolution finding that the 2020/2021 to 2024/2025 Capital Improvement Program is in Conformance with the General Plan**

A noticed public hearing to consider a resolution finding the Fiscal Year 2020/2021 to 2024/2025 Capital Improvement Program is in conformance with the General Plan and Specific Plans of the City of Madera pursuant to the Government Code Section 65401.

There was a problem getting the power point to show for the presentation, so the commissioners asked questions of Keith Helmuth, City Engineer as it pertained to the item.

Commissioner Gran said he was looking at the overall budget and knows they really don't have input, but he asked what was going on with the big expenditures, Olive and Sharon Blvd., anything over a million. He asked what the plans are.

Mr. Helmuth said he would take the harder one first; Olive Ave. widening Gateway to Knox is what it says, they will be widening Olive Ave. to a full arterial road from Gateway technically to Roosevelt and installing a traffic signal at Knox and widening out where the house used to be. There are a couple houses missing and they will be widening that. Several structures have been demolished as part of phase one. Phase two is the undergrounding of the overhead utilities which you should start to see work on that in the next couple weeks or so, maybe less, and phase three will be the actual widening of the road. They want to advertise that in the next few weeks or so, they are still dealing with Union Pacific Railroad on that, but the funding is secure for the project.

Looking at Sharon Blvd. many of those reimbursements are for improvements that were constructed by the developer of Love's. They built a municipal well, and new roadways, a widened offramp at the interchange and two new traffic signals in the area. Much of what you see on Sharon is reimbursement for the Love's truck stop as part of the Development Agreement.

Commissioner Gran asked what was going on with all the water meters and spending almost three million dollars on them.

Mr. Helmuth said there are two or three different water meter projects. One is to complete any areas that are not complete. One is a landscape district and the last is the annual review where any meters that are aged are replaced. As meters age they tend to read at a slower rate than they should.

Commissioner Gran asked if the new meters were the responsibility of the developer.

Mr. Helmuth said yes, but a lot of these date back to when the City wasn't requiring water meters. So, anything that's happened in the last 15 years, the meters are required as part of the development but prior to that they weren't. This will get us to having meters everywhere, which is required by the year 2025.

Commissioner Gran asked Mr. Helmuth if he could speak on the Parks portion. He said he noticed they go from 1.1 million this year to 2.4 next year and it's basically because of the Rotary Sports Complex.

Mr. Helmuth said he cannot speak on that as well as he would like to, but he could speak better regarding the Park Acquisition. The Youth Center was paid off in the last year or two which allows the City to start accumulating money to do other things.

India Park was a park donation and there are some plans to go along with that and clean up the site. He can look into the other and have an answer by the end of the meeting.

Commissioner Gran said that was ok and asked Mr. Conte if he was able to get his presentation. Mr. Conte said he was and is ready to continue and presented the item to the Commission.

The item was opened for public comment but there was nobody present to speak on the item.

The item was returned to the Commission for further processing.

Commissioner Gran moved to approve Motion 1, seconded by Commissioner Cerioni the motion carried unanimously.

**2. CUP 2020-02 & 03 – Captain Mart & Wireless**

A continued noticed public hearing to consider two conditional use permits to allow for the sale of alcohol (beer and wine) to be consumed off-site and for the sale of tobacco products (excluding vapor devices and flavored products used in vapor devices) in conjunction with a retail grocery store. The project site is located on the southeast corner of Olive Avenue and Martin Street (300 W. Olive Avenue) in the C1 (Light Commercial) Zone District, with a C (Commercial) General Plan land use designation (APN:012-051-016).

The item was presented by Planning Manager, Gary Conte.

Commissioner Gran asked why the School Districts objection was not included in their packet.

Mr. Conte said they did not submit in a formal letter to the City, it was submitted on our internal routing sheet.

Commissioner Gran said, then they did not object, before when they have an objection a formal letter is received.

Mr. Conte said that there is not a formal letter that was written and submitted to the City, they only indicated it in writing when the project was routed.

Commissioner Gran said then it's as good as a phone call.

Mr. Conte said yes, of record.

Commissioner Gran confirmed that the noodle place, Pho Dera serves beer and saki.

Mr. Conte said it's a different type of license, not a Type 20.

Commissioner Gran said yes but it's going into the property owner's pocket and it's right next to the church. He also noted that the owner and the property owner of the shopping center there

don't like each other. He noted when this was done before, Chris actually came up with a solution and he thinks they were going to allow two employees to park in the back where the deliveries come but the owner decided not to do that since it may interfere with the deliveries. If he were able to operate with the existing parking, he would need to get a variance or restrict the size of the store to meet the parking ration of the current parking lot, is that correct?

Mr. Conte said that is correct. The applicant, at this time did not submit for a site plan review or a parking variance. As it was understood he wanted to see what the result of the CUP would be investing any time or energy pertaining to the site plan review or parking variance.

Commissioner Gran said his solution has been to operate illegally for five years. He doesn't understand and sincerely questions that if they give him anything, he will continue to operate until he has to have the site plan review. He doesn't even understand how he could be open. If he has a broken sprinkler at the theatre, Code Enforcement is all over him.

Commissioner Cortes asked if the applicant needs to initiate the site plan review or does this trigger a site plan review.

Mr. Conte replied that the correct way this should have taken place is that in order for a CUP to move forward we would have needed to approve a site plan review and secondly approve a parking variance to address those issues. Without those two, you cannot provide the ability to sell alcohol because you're going to change the dynamics of the facility and have to meet the requirements that would have been part of the site plan conditions. The same with the variance and parking. You have changed the clientele base that would be patronizing the facility and that would change the parking requirements and the need for the parking variance or to change the site to provide the two extra parking stalls.

Commissioner Gran said that in talking to staff he would feel more comfortable if he comes back with a complete set of a parking variance or site plan review so they can move forward. He's asking for B to happen before A happens. We will have to open it up for public hearing though and give him his say, but this is not this gentleman's first rodeo. He had a location over by Fine Donuts on Cleveland so he's aware of all the City's rules and regulations.

Commissioner Cortes opened the item for public hearing.

The Applicant, Junaid Latif spoke. He said his goal is to create an International ethnic grocery store for the Indian population. As far as the parking variance that was brought up, yes, previously they were in agreement that they would use the garage in the back and the driveway as parking. He is still ok with that. Applying for the variance can happen quickly, he's ok with that as well as using the two spots in the back as parking.

Commissioner Gran asked him why he continued to operate the business for five years if he knew all that.

Mr. Latif said that he has not been open for five years. Previously he was still operating as a cell phone store. He had recently contacted Madera County and received approval from the Health Dept. for the store portion and they said he could operate as a store, so he did it. It was never his intent to operate as an illegal business.

Commissioner Cerioni asked how long he has been operating the grocery store.

Mr. Latif said for about five to six months now.

Commissioner Gran said that makes more sense that five years.

Mr. Latif said that the store over by Fine Donuts was his dads, not his.

Commissioner Gran said that's fine, but he saw him working there too so they will leave it at that.

Commissioner Cortes asked if anyone else would like to speak on the item.

With no responses, the item was closed for public comment and returned to the Commission for further processing.

Mr. Souders noted it appeared that someone else wanted to talk.

Commissioner Cortes re opened the public hearing.

Bobby Sheikh of 2671 Marie Dr. in Madera spoke, he is the brother of the applicant Junaid Latif. He wanted to clarify a few things. The business was not there for five years operating illegally. They had contacted the Madera County Health Department and applied for a food permit. Madera County requested they build a bathroom, so they got a permit for a mop sink. It was legally completed, and Madera County issued the permit for dry packaged food. They have everything on record and are not looking to do any illegal activity. He said they don't have a problem with the variance. They handed the City plans to show that the two parking stalls in the back would be used. If the City wants a variance that's fine or if they chose to accept the two spots in the back, then that's fine also. He said as far as the church goes, they respect them and if the church is a problem, they are willing to shut the store down while they are open. They have not used the site illegally at all or did they have any intention to do so. Maybe there was miscommunication between the County and the City Business License Dept. They will take care of the building and are already planning on redoing the façade and they want their customers to be happy and have a nice place to shop.

Commissioner Cortes asked if the tobacco would include vaping products.

Mr. Sheikh said there would not be any vaping products and it's noted in the conditions.

Commissioner Cortes said he just wanted to make sure.

Commissioner Gran said maybe there was confusion about the term illegal. When they use it here, it means they are not operating within the defined content of the permit for the building. That's where they become illegal. They were approved to operate as a cell phone and cellphone repair shop. They tried five years ago to do the convenience store. The County Health Dept. is another branch of Government that needs to approve any grocery store or food sales as part of the approval with the City Business License, but they didn't come back to the City and say they wanted to sell food so that's where the problem lies. They are currently operating illegally based on the type of license they have.

Mr. Sheikh wanted to apologize for that error on their part and they can stop the sales immediately, but he would like the City to approve it.

Commissioner Gran said he just wanted to clarify that.

Commissioner Cerioni asked about the exterior modifications or improvements that were mentioned and if they have any plans they could look at and maybe bring it back with the parking variance.

Mr. Sheikh said when they submitted this application, they also submitted plans that showed what they wanted to do with the exterior of the building. It was given to Darrell. It also showed the parking in the back and everything they wanted to do on the front; paint, fascia, etc. They just want to know if this will be approved and they can submit for the site plan review as early as tomorrow.

Commissioner Cortes asked if there was anyone else to speak on the item. Seeing none, the public hearing was closed, and the item was returned to the Commission for further processing.

Commissioner Gran said that it seems they are trying to get their pulse a little bit. Does anyone have an objection with the alcohol or the tobacco? Right now, that's what they're after. He thinks they can get the correct site plan and whatever else staff is after but before they go out and spend all that money, he wants to find out if they are going to be allowed to sell alcohol and tobacco.

Commissioner Cerioni said he can't blame them.

Commissioner Gran said he drove by the location today about 3:00 in the afternoon and there was only one car in the parking lot.

Commissioner Lopez said he didn't quite understand how many licenses are allowed and how many are there now.

Commissioner Cortes said there are nine already in that tract and that is the maximum amount.

Mr. Conte said that there are nine Type 20 licenses allowed in that Tract and there are nine. However, because they had filed their application in 2015, it's looked at being an in-process application and ABC is willing to override that and make this the tenth one for that tract.

Commissioner Lopez said 'so, that's the City's requirement not the State'.

Mr. Conte said no, that is a decision by ABC, we have no control over the issuance of a license. We do have the ability to issue a Conditional Use Permit to allow the sale at that property but if we deny the CUP then the applicant cannot move forward with ABC and be granted the license to sell the alcohol at that location.

Commissioner Gran said we have the ability to tell them yes, we approve this so they can go through the process of getting the license. If we start having a problem with them with Code Enforcement, etc. ABC will pull their license. We have to determine if we are comfortable with them selling tobacco and alcohol in this location. ABC has said they will do it only because he

had his application in. If he didn't have his application in, we could still say it's ok and then he would have to roll the dice with ABC.

Commissioner Cortes asked Commissioner Gran about the last time when this application was denied because of the parking issue.

Commissioner Gran said also, a couple of the Commissioner's at that time expressed that it was too close to the school. The one that is 450 feet away wasn't a part of it last time. He's not sure what that is.

Commissioner Cortes said it's the Gould Center for children with special needs.

Commissioner Gran said he doesn't believe it was there last time the concern previously was Madison and they thought that kids would be walking by. ABC and the state agencies use a 600-foot rule. We have always done traditionally a 1000-foot rule when looking at these things. It depends on what school you're looking at and where. In his thought the only one's that would be trying to buy cigarettes or alcohol would be high schoolers.

Commissioner Cerioni said the distance is 1000 feet to the corner of the baseball diamond at the high school, he would think.

Commissioner Gran said he doesn't recall any violations on them at the previous location for selling to underage kids, they sound like they are very hands on, so he doesn't see it as a problem. He's not sure how it is now days but there was always that one kid in high school who was able to buy beer.

Commissioner Cortes noted he would like to see the process followed with the Variance and Site Plan Review.

Commissioner Gran asked if anyone else had an issue with the alcohol.

Commissioner Salazar said it doesn't concern him and he agrees the measurement to the high school is probably to the sign on the corner.

Commissioner Gran said he doesn't know how it is now, but he remembers kids walking and heading towards the Shell station that is now the Valero in the other direction.

Commissioner Salazar said when he was in school it was Monty's liquor where they hung out on that corner.

Commissioner Gran said the kids he will be getting walking by there will be the kids that are walking to the homes directly behind them. There's not that many houses on the other side of Madera Avenue. They are going to be making right turns right before him or right after. They have the same access in the Rite Aid shopping center. If they don't live over in that neighborhood though they probably won't be walking in that direction.

Commissioner Cerioni noted the applicant said he will get his ducks in a row tomorrow if we approve this.

Commissioner Gan said that he needs to come back to the City before he goes to ABC. We have to sign off on the parking since that is one of the things needed for ABC.

Mr. Conte said that is correct. The conditions specify a time frame he has to submit his site plan and variance for parking. He has 180 days to do so.

Commissioner Gran asked how everyone felt about it.

Commissioner Tyler said she was one that advocated against it last time but now she doesn't see an issue at this point. There is Rite Aid and the Madera Market there also. As long as he does his paperwork, she's ok with it.

Commissioner Salazar said it also seems like he's willing to adjust his hours for the church.

Commissioner Gran said he doesn't think he even needs to do that but maybe just not sell alcohol while they are there.

Commissioner Cerioni said their willingness to even do that speaks a lot of them.

Commissioner Gran moved to approve Motion 1. Seconded by Commissioner Tyler, the motion carried unanimously.

**ADMINISTRATIVE REPORTS:** None

**COMMISSIONER REPORTS:**

Commissioner Gran reminded everyone to stay safe and wear a mask so we can flatten the curve. When the largest school district in the Nation (L.A. County) holding online classes, it puts Madera in a bad spot. Teachers are saying this could be the lost generation.

Commissioner Tyler said she believes this will be the lost generation. Cover up and protect yourself and others around you.

Commissioner Gran said it's show of respect.

Commissioner Tyler added that means to cover your nose too, not ½ way down your mouth.

**ADJOURNMENT:** 6:14 pm

  
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Planning Commission Chairperson

  
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Brandi Garcia, Recording Secretary