

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

**CITY HALL – COUNCIL CHAMBERS  
TUESDAY  
December 14, 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: [#87987821264](https://www.zoom.us/j/87987821264) followed by \*9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/87987821264>. 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:** May 24, 2021 & June 8, 2021

**CONSENT ITEMS:** None

**PUBLIC HEARING ITEMS:**

**1. CUP 2021-05 & SPR 2021-23 MOD – Gateway & Almond Convenience Store (Sara Allinder)**

A noticed public hearing requesting to modify a previously approved Site Plan Review and approve a Conditional Use Permit that would accommodate the construction and operation of a drive through facility in association with a quick serve restaurant to be located within a previously approved building on an approximately one-acre site. The site is located at the northeast corner of South Gateway Drive and East Almond Avenue in the CH (Highway Commercial) zone district and has a C (Commercial) General Plan land use designation. APN: 012-390-023

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15332 (In-Fill Development Projects).

Staff is Requesting this item be continued to a later date.

**2. CUP 2021-16 & SPR 2021-33 – Dutch Bros Coffee Shop**

A noticed public hearing to consider an application for a site plan review, which would allow for the construction of a 950 square foot coffee shop with a drive through on an approximately 0.65-acre site and a conditional use permit which would allow for the operation of the drive through in association with the coffee shop. The site is located in the Vallarta Shopping Center at the southeast corner of Country Club Drive and Clark Street in the C1 (Light Commercial) zone district and has a C (Commercial) General Plan land use designation. (APN: 003-210-019)

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15332 (In-Fill Development Projects).

Staff is requesting this item be continued to a later date.

**3. REZ 2021-04 & TPM 2021-04 – Adelaide Avenue**

A noticed public hearing to consider an application for a rezone and tentative parcel map to subdivide a previously developed parcel at 700 Adelaide Avenue and to establish zone district conformity with the General Plan. The applicant proposes to subdivide a 0.65-acre parcel into 3 parcels ranging in size from 0.187 to 0.273 acres as well as rezone all parcels to R1 (One unit per each 6,000 sf of site area). The property's General Plan designation is LD (Low Density Residential). (APN: 008-101-023)

The proposed project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) Guidelines, Section 15315 (Minor Land Divisions).

Staff is requesting this item be continued to a later date.

**4. CUP 2021-02 & SPR 2019-25 – Country Club Commercial Center (Gary Conte)**

A noticed public hearing to consider an application for a conditional use permits and a site plan review allowing for the establishment of an approximate 4,000 square foot (sf) convenience store and a 5,800-sf retail space (2,200 sf drive through coffee shop and 3,600 sf future retail space) and to permit the sale of alcohol (beer and wine) for off-site consumption and tobacco products. The project also includes a proposed 3,200 sf fuel canopy with 6 fuel islands and 12 fuel pumps. The site is located at the southeast corner of Country Club Drive and Adell Street in

the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. (APN: 003-250-026)

An Initial Study/Negative Declaration was prepared for consideration and adoption by the Planning Commission, consistent with the provisions of the California Environmental Quality Act, CEQA Guidelines.

**NON-PUBLIC HEARING ITEMS:** None

**ADMINISTRATIVE REPORTS:**

1. 2022 Meeting Calendar
2. Departure of Derek Sylvester, Associate Planner

**COMMISSIONER REPORTS:**

**ADJOURNMENT:**

The next regular meeting will be held on January 18, 2022.

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.

**CUP 2021-05 & SPR 2021-23 MOD**  
**Gateway & Almond Convenience Store**

Staff is requesting this item be continued to a later date.

**CUP 2021-16 & SPR 2021-33**

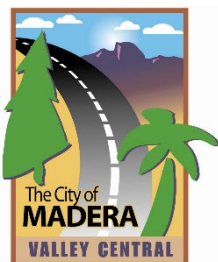
**Dutch Bros Coffee Shop**

Staff is requesting this item be continued to a later date.

**REZ 2021-04 & TPM 2021-01**

**Adelaide Avenue**

Staff is requesting this item be continued to a later date.



## CITY OF MADERA PLANNING COMMISSION

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

### Staff Report: Country Club Commercial Center CUP 2021-02 & SPR 2019-25 Item #4– December 14, 2021

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**PROPOSAL:** Consideration of an application for a site plan review to allow for the establishment of a new Chevron self-service fueling station, new convenience store, and a new retail building independent and separate from the convenience store to include a coffee shop with a drive-through window and future undetermined business. The applicant has applied for a conditional use permit (CUP 2021-02) allowing for the sale of alcohol beverages and tobacco at the proposed convenience store and to allow for the development and operation of drive-through coffee shop.

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**APPLICANT:** Lion Builders, Inc.  
3323 Pendragon Street  
Bakersfield, CA 93313

**OWNER:** Lion Builders, Inc.  
3323 Pendragon Street  
Bakersfield, CA 93313

**SITE ADDRESS:** No address assigned

**APN:** 003-250-026

**APPLICATION:** CUP 2021-02 & SPR 2019-25

**CEQA:** Negative Declaration

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**LOCATION:** Southeast corner of the intersection of Country Club Drive and Adell Street

**STREET ACCESS:** Access is proposed along both Country Club Drive and Adell Street

**PARCEL SIZE:** Approximately 1.37 acres

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

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

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**SITE CHARACTERISTICS:** The project site is a vacant, undeveloped parcel devoid of trees or shrubs located at the southeast corner of Country Club Drive and Adell Street (refer to Attachment 1). The property appears to be disced regularly to control on-site vegetation. Surrounding uses include existing large-lot rural residential development to the north across Adell Street, vacant land to the east, existing commercial development (Tractor Supply Company) to the south, and large-lot rural residential development to the east across Country Club Drive. Utility poles extend along the northern property line of the site and the City Limits form the northern property line of the project site.



**Table 1. Existing Uses, General Plan Designations, and Zone Districts of Surrounding Properties**

Direction from Project Site	Existing Use	General Plan Designation	Zone District
<b>North</b>	Rural Residential	Low Density Residential	County
<b>East</b>	Vacant	Commercial	C1
<b>South</b>	Retail	Commercial	C1
<b>West</b>	Rural Residential	Commercial	C1
County – Outside City Limits subject to County Zoning C1 – (Light Commercial)			

In the immediate vicinity of the project site, Country Club Drive is a designated 4-lane arterial roadway with a shared 2-way left turn lane used for vehicles entering the existing commercial development immediately south and adjacent to the site. A raised median is present beginning at the north end of the driveway and extending approximately 260 feet south. Country Club Drive improvements include an existing monolithic curb, gutter, sidewalk along the project site frontage and an Americans with Disabilities Act (ADA) access ramp on the northwestern corner of the property. There are no marked crosswalks present at the Country Club Drive / Adell Street intersection. Adell Street is a designated collector roadway with no improvements other than 2 lanes of pavement paralleling the project site. The intersection of Country Club Drive and Adell Street is a minor leg stop controlled tee intersection – vehicle traffic on Adell Street must yield to through traffic on Country Club Drive.

**ENVIRONMENTAL REVIEW:** An Initial Study/Negative Declaration (IS/ND) was prepared for consideration by the Planning Commission, consistent with the provisions of the California Environmental Quality Act (CEQA) Guidelines.

**SUMMARY:** The applicant, Lion Builders, Inc., is applying for SPR 2019-25 to develop the southeast corner of Country Club Drive and Adell Street (SPR 2019-25) with a new Chevron service station composed of a 40 foot by 82 feet canopied fueling station inclusive of 6 fuel islands totaling twelve self-service 12 pumps and a new 4,000 square foot (sf) convenience store. In addition, the applicant proposes to construct a new 5,800-sf retail center on the eastern side of the property of which a 2,200-sf building will be developed as a coffee shop with a drive-through window plus a 3,600-sf building pad for one or more future retail uses (refer to Attachment 2).

The project site will be accessible from three driveways. This includes two new driveways along Adell Street. Of the two Adell Street driveways, one driveway and drive aisle will separate the convenience store and retail center from one another, and the second driveway will be positioned east of the 5,800-sf retail center. The driveway separating the convenience store and retail center will be restricted to right-in and right-out movements. The existing driveway serving the existing commercial use (Tractor Supply Company) immediately south and adjacent to the project site will become a shared driveway. The project also proposes to extend the existing median along Country Club Drive to allow only right-in and right-out movements.

The applicant is applying for a use permit to establish and operate a drive-through coffee shop, as well as for the sale of beer and wine for off-site consumption and the sale of tobacco products. As required by prior practices of the City, the applicant submitted multiple use permit applications to address each individual use subject to a use permit. The City has since changed its practice of requiring an independent use permit application for each and every use subject to a use permit for given project, and now only

requires a project with one or more uses subject to a use permit to one use permit addressing all uses. Thus, CUP 2019-19 (tobacco sales), 2019-20 (alcohol sales) and 2021-02 (drive-through coffee shop) originally submitted on behalf of this project have been consolidated into a singular use permit request (CUP 2021-02). CUP 2021-02 now covers addresses the proposed establishment and operation of drive-through coffee shop as well as the proposed sale of beer and wine, and the sale of tobacco products. CUP 2021-02 limits the sale of alcohol beverages and tobacco products to the convenience store. CUP 2021-02 does not allow for the sale of alcohol beverages or tobacco products within the proposed 5,800 sf retail center. Nor does CUP 2021-02 allow for more than one drive-through establishment on the project site.

After review of the proposed project, the site plan is anticipated to be compatible with the surrounding land uses in the area. Conditions, as appropriate have been recommended for the site plan (SPR 2019-25) to ensure consistency with the City Zoning Ordinance and General Plan and other applicable City plans and policies. Conditions, as appropriate, have also been recommended for the conditional use permit (CUP 2021-02) to ensure consistency with the Zoning Ordinance and General Plan and other applicable City plans and policies.

## **APPLICABLE CODES AND PROCEDURES**

### Site Plan Review

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

To ensure that use and development of property in the City is in conformity with the intent and provisions of the City's General Plan, Design and Development Guidelines for Commercial Development, Zoning Code and other applicable standards, review of proposed site plan developments is necessary. Review is necessary to ensure that new, expanded, or changed uses of property are regulated to ensure that structures, parking areas, walks, landscaping, street improvements, and other site improvements are properly related to the proposed development and prepare the surrounding areas to accommodate the proposal. The site plan review process is intended to prevent unforeseen complications to surrounding areas and existing or proposed improvements planned in the area. Coordination of the proposal is achieved through the site plan review process that includes input from affected City Departments and affected agencies. Site plan is required for all uses of property which involve the construction of new structures, new uses which necessitate on-site improvements, including uses subject to the approval of a conditional use permit.

### Conditional Use Permit

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

Establishment of alcohol and/or tobacco sales as a component of a site development require the approval of a use permit per MMC §10-3.802(C)(16) and Determination of Use (DOU) 2015-01. No building permit shall be issued for development where a use permit is required unless and until that use permit has been granted by the Commission or Council. Use permits can be revocable, conditions, or valid for a specified period for any purpose or use which is permitted within that Zone District. The Commission makes an action after investigation by staff and presentation in the form of findings that the establishment of the use will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and persons living and/or working in the area of the proposed use.

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on- or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application(s) may be subject to further review, modification, or revocation by the Commission as necessary.

## **PRIOR ACTION**

The property has remained vacant for as far back as 1998 according to satellite imagery of the site. There is no history in record with the City for any entitlements on the site. The commercial development immediately south (Tractor Supply Co) completed construction in 2015.

## **ANALYSIS**

### Site Plan Review

The project is proposed on a vacant 1.37-acre parcel on the southeast corner of Country Club Drive and Adell Street. The project proposes to develop the entire parcel, which has approximately 150 linear feet (ft) of frontage along Country Club Drive and approximately 400 linear ft of frontage along Adell Street. The proposed convenience store is located to the northwest corner of the property, with the fuel dispensers being located immediately south of the store. The proposed retail stores and drive-through are located east of the convenience store with parking located along the property line shared with Tractor Supply Co.

The proposed site plan submitted with the application has access along Country Club Drive through an existing driveway that serves Tractor Supply Co. The conditions of approval for the project includes the recordation of an easement allowing shared ingress/egress via this driveway as well as additional utilities that serve both sites. The site plan also proposes two separate driveways along Adell Street; however, the project is conditioned to have a single driveway a minimum distance of 150 ft from the intersection of Country Club Drive and Adell Street unless a median is installed along Adell Street which limits left turn movements from the westernmost driveway.

The proposed retail center at the eastern end of the property totals 5,800 sf of potential commercial building space of which 2,200 sf is proposed as a drive-through coffee shop. The queueing lane for the drive-through wraps around the entire commercial pad area, with the entrance nearest to the eastern property line and exiting into the parking area of the commercial stores. The drive-through is conditioned to have a three ft high block wall to screen headlights from impacting traffic along Adell Street.

### Parking

On-site parking for the site is subject to City of Madera Standard E-4, which calls for 9 ft by 19 ft parking spaces with 26 ft of backing space. The Americans with Disabilities Act (ADA) requires there be a minimum of two accessible stalls per parking area, one in each instance must be van accessible. The ratio for providing adequate parking spaces is found in MMC §10-3.1202.

### *Convenience Store*

MMC §10-3.1202 requires a ratio of 1 parking space per 300 sf of retail store space. The proposed 4,000 sf convenience store will require 14 spaces. Two of the 14 spaces within the defined parking area of the convenience store will be required to be ADA compliant.

As proposed, the convenience store's defined parking area only provides 11 spaces, two of which are ADA spaces. The proposed convenience store parking area is deficient three parking spaces. To meet the required parking ratio, the proposed convenience store floor area will need to be reduced 700 sf. The maximum floor area of the convenience store cannot exceed 3,300 sf. The convenience store is conditioned to limit its maximum floor area to 3,300 sf to conform with the City's parking requirements.

### *Retail Center*

The proposed 3,600 sf building pad identified as future retail space, also subject to the same ratio of 1 space per 300 sf of floor area, will require 12 spaces. The proposed 2,200 sf drive-through coffee shop with inside seating is subject to a ratio of 1 space for each 3 seats of a fixed nature, plus an additional space for every 50 sf of floor area available for non-fixed seating. The proposed floor plan for the drive-through coffee shop proposes 23 fixed seats and 300 sf of non-fixed seating area (refer to Attachment 3), requiring the coffee shop to provide a total of 14 spaces. The proposed 2,200 sf drive-through coffee shop and the 3,600-sf future retail building pad combined will require a total of 26 spaces. Two of the 26 spaces within the defined parking area of the retail center will be required to be ADA compliant.

As proposed, the retail center's defined parking area provides 26 spaces, two of which are ADA spaces. The proposed retail center's parking area meets the minimum parking spaces required of the City.

### Architecture

The convenience store elevations include a four-color scheme with façade pop-outs and awnings. The main entryway includes a metal hip-roof that creates a defining entryway into the convenience store. The building elevations include a cap painted an accent color to pop out and break up the continuous wall face. Between the façade pop-outs are recessed stucco walls of a different color with a cap that add depth to the elevations. Awnings cover the main entryway and adjacent windows to further add depth and protection from the weather (refer to Attachment 4). Because the structures will be visible in all directions, it is recommended that all elevations include a stone veneer base five feet in height to further add visual interest to the building. It is also recommended decorative lighting be added to the elevations and that west, north and east elevations include wall mounted trellises to provide architectural relief to further break-up the continuous wall faces.

The proposed drive-through coffee shop incorporates similar design characteristics of the convenience store. With the same paint scheme being used with an additional two accent paints for a total of six different colors, the mass of the elevations is broken up through alternating colors. Like the convenience store, the drive-through coffee shop includes an entryway with a flat roof that extends well above adjacent walls to clearly define the entrance. A flat awning like the convenience store covers the entryway as well as the drive-through window, and a sloped awning covers the windows on the walls adjacent to the entryway. Staff recommends the drive-through coffee shop include a five-foot stone veneer base, decorative lighting to all elevations and wall mounted trellises to the west, north and east elevations consistent to the convenience store stone veneer base, decorative lighting, and trellises to further add visual appeal to the building.

Because the structures will be visible in all directions, it is recommended that all exterior utilities be located within the interior of the building or that they be significantly screened by landscaping. Staff also recommends that roof access be located within the interior of the structures and that all roof mounted mechanical equipment be screen from public view.

### Landscaping

A landscape plan prepared by a licensed landscape architect will be required prior to issuance of any building or grading permit. The project has been conditioned to provide plans at the time of building permit application, which are required to be prepared in accordance with California's MWELO laws and the City's adopted Commercial Design and Development Guidelines.

The site plan provided notes that landscape areas cover approximately 30 percent of the site, or roughly 17,650 sf. Of this landscaped area, the project is required per the Commercial Design and Development Guidelines to have at least 75 percent covered with vegetative matter. These areas are inclusive of street

frontages along Country Club Drive and Adell Street, parking islands, and other landscaped surfaces. Street trees are also conditioned to be provided along both street frontages according to the City's approved street tree list.

General conditions regarding style and placement have also been applied to the project. Being that the northern elevations along Adell Street are viewable from the street, the project's landscaping should include species of a type to soften the mass of the wall. All landscape areas should be guarded from auto traffic via raised curb and by pedestrian traffic via raised planters. The landscape plans should also demonstrate a minimum of five percent of the parking areas being landscaped.

The City of Madera General Plan designates land to the north as low density residential and land to the east, south, and west as commercial uses. Taking into consideration the existing large-lot single family homes to the north of the project site across Adell Street, the project is being conditioned to provide sufficient landscape screening to ensure resident privacy is maintained. Further, any lighting on site will be required to direct light away from neighboring residences and shielded to prevent any unwanted glare.

#### Circulation

A traffic analysis was prepared to study and identify the effects (level of service) the project will have on the area roadway network and local intersections. The analysis assumed the project will construct the various street improvements described above (i.e., extending the median along Country Club Drive, converting the existing Country Club Drive driveway to a shared driveway). The analysis determined the project will require improvements to both Country Club Drive and Adell Street. The project has been conditioned to install frontage half-street improvements and restripe Adell Street to include separate westbound left and right turn lanes. Implementing these improvements will improve the intersection of Country Club Drive and Adell Street to LOS C conditions. The project is also required to contribute its fair share to the cost of circulation improvements via the existing Citywide traffic impact mitigation (TIM) fee program.

#### Use Permit

##### *Drive-Through*

The proposed coffee shop has the drive-through stacking lane running parallel and adjacent to Adell Street public right-of-way. With this arrangement, there exists potential for headlights to impact the vision of cars traveling along Adell Street. The project has been conditioned to provide the placement of a three-foot high block wall along the exterior perimeter of the drive-through lane to effectively screen issues of headlight glare into the public right-of-way as required by City's Design and Development Guidelines for Commercial Development. In conjunction with the block wall, there shall be a screen hedge along the exterior of the block wall to aid in aesthetics of the appearance to the public.

Drive-through stacking lanes per the Design and Development Guidelines for Commercial Development require a minimum of 10 vehicle spaces, measured at length of 20 per vehicle, for queueing. The project, as proposed, the drive-through stacking lane provides capacity for 12 vehicles. Being that drive-through coffee shops have proven to be very popular in the recent years, an overflow queueing traffic management plan is required as a condition for this project. The traffic management plan will need to demonstrate how the tenant business will maintain sufficient traffic flow in the parking area, if and when queueing conditions exceed the capacity of the stacking lane.

##### *Alcohol Sales*

The applicant proposes to sell alcohol at the convenience store for the purpose of off-site consumption. MMC §10-3.802(C)(16) requires a use permit for the sale of packaged alcohol. The Alcoholic Beverage Control (ABC) requires approval of any required City permits prior to issuing an alcohol license to the site.

The specific type of license being applied for with the ABC is a Type 20 Liquor License. A Type 20 Liquor License allows for the sale of beer and wine for off site consumption.

In January of 1998, Section 23817.5 of the State of California Business and Professional Code was amended to permanently establish a moratorium on the issuance of California State Department of Alcohol Beverage Control (ABC) Type 20 Licenses in cities and counties where the ratio of Type 20 Licenses exceeds one license for each 2,500 inhabitants. The moratorium as of January 30, 2017, includes all of Madera County. The moratorium specifically prohibits the purchase of a new Type 20 License or transfer of a Type 20 License from any city or county outside Madera County. The moratorium does not apply to transferred licenses from within Madera County. Conditions of approval require a Type 20 License to be obtained as a transfer license only. The license should only be transferred from another location within the boundaries of Madera County.

The project site is within Census Tract 6.04 which currently has 5,255 inhabitants. As such, Census Tract 6.04 allows for the maximum of two Type 20 Licenses. There is presently one active Type 20 License within Census Tract 6.04. If approved, there would not be an over-concentration of Type 20 Licenses in the Census Tract. Conditions of approval will ensure the sale of beer and wine for off-site consumption in conjunction with the proposed convenience store will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the project site.

The ABC also considers whether there are schools within 1,000 linear feet of the proposed location of alcohol sales. There are no public or private school facilities within 1,000 linear feet of the proposed convenience store.

#### *Tobacco Sales*

Determination of Use (DOU) 2015-01 approved by the Planning Commission in September 2015 requires the approval of a use permit for an establishment to sell tobacco or tobacco products. The Commission acknowledged concerns that tobacco sales be located sensibly within commercial areas of the City, mindful of surrounding land uses. Schools are a primary land use that is negatively affected by the sale of tobacco. Schools within one-half mile of the project site include Sherman Thomas Charter (0.3 mile) School, Ezequiel Tafoya Alvarado Academy (0.4 mile) and Matilda Torres High School (0.5 mile). The City, however, has not adopted an ordinance which specifies the length of distance a tobacco retailer should be from any school or other sensitive use.

Staff recommends the applicant be limited to only the sale of cigarettes and tobacco only, consistent with the recommended conditions of approval. Specific tobacco products specifically prohibited from being sold include vape products, including vape juices, hookah products, including hookah tobacco and charcoal, e-cigarettes, and pipes and pipe tobacco.

#### **DEPARTMENT AND AGENCY COMMENTS**

The project was reviewed by various City Departments and outside agencies. The responses and recommendations have been incorporated into the recommended conditions of approval.

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

The proposed project has been reviewed for compliance with CEQA. The City has prepared an initial study and determined that the project will not have a significant effect on the environment, and that a Negative Declaration is appropriate for this project (refer to Attachment 5). The Initial Study/Negative Declaration

(IS/ND) was published for a 21-day public review and comment period commencing on October 9, 2021 and ending on October 29, 2021. During that time, the City received only one comment letter - a letter from the San Joaquin Valley Air Pollution Control District (SJVAPCD). SJVAPCD's comments have been incorporated into the project's conditions of approval.

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

Construction of a convenience store, gas fueling station, and retail is not specifically mentioned or addressed in the vision or action plans of the Madera General Plan. However, overall, the project does support Action 115.2 of the Vision Madera 2025 Plan, which states, "As a component of the General Plan Update, increase retail outlets and promote Shop Madera..." Also, the project supports one of the four visions for the City: Good Jobs and Economic Opportunities. Following this principle, it is recognized the need to provide additional employment opportunities within the City.

### **RECOMMENDATION**

The information presented in this report provides support for the adoption of a resolution adopting a Negative Declaration for the project and conditionally approving Conditional Use Permit 2021-02 and Site Plan Review 2019-25. It is recommended that the Commission consider the information in this report, as well as testimony received at the public hearing, and make a determination on the Negative Declaration, Conditional Use Permit 2021-02, and Site Plan Review 2019-25, subject to the findings and conditions of approval.

### **PLANNING COMMISSION ACTION**

The Commission will be acting on the Negative Declaration, Conditional Use Permit 2021-02, and Site Plan Review 2019-25 and determining to either:

- Adopt a resolution adopting a Negative Declaration for the project pursuant to CEQA, approving Conditional Use Permit 2021-02, and Site Plan Review 2019-25 as conditioned (Motion 1); *or*
- Continue the hearing to the January 11, 2022, 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 January 11, 2022, 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 Negative Declaration pursuant to CEQA, approving Conditional Use Permit 2021-02, and approving Site Plan Review 2019-25, 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, the project 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 and planned for commercial uses and businesses. The review of the site plan and environmental study have ensured that the project will not be harmful to or incompatible with surrounding uses. The project site is located near and adjacent to commercial businesses and as proposed 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 convenience store with alcohol and tobacco sales, a fueling station, coffee shop, and future retail will not be detrimental to the overall well-being of neighborhood or City. The project, as conditioned, will provide for business opportunities within the City and more retail options to serve residents.

#### 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, the project 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 2019-25 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. The project is conditioned to provide the necessary improvements for pedestrian and vehicular traffic, both on- and off-site, to ensure safety and welfare of the public is maintained. 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 2019-25 requires street improvements as it is in a developing area of the City. Improvements to both Country Club Drive and Adell Street are required for the frontage of the property. The site will be accessible via Country Club Drive and Adell Street, which after conditioned improvements are made will be able to accommodate the traffic generated from the site. The proposal also provides off-site parking necessary to serve the proposed uses. All established legal policies relating to traffic, street improvements, and environmental quality will be satisfied.

**(OR)**

**Motion 2:** Move to continue the public hearing on CUP 2021-02 and SPR 2019-25 to the January 11, 2022, 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)**

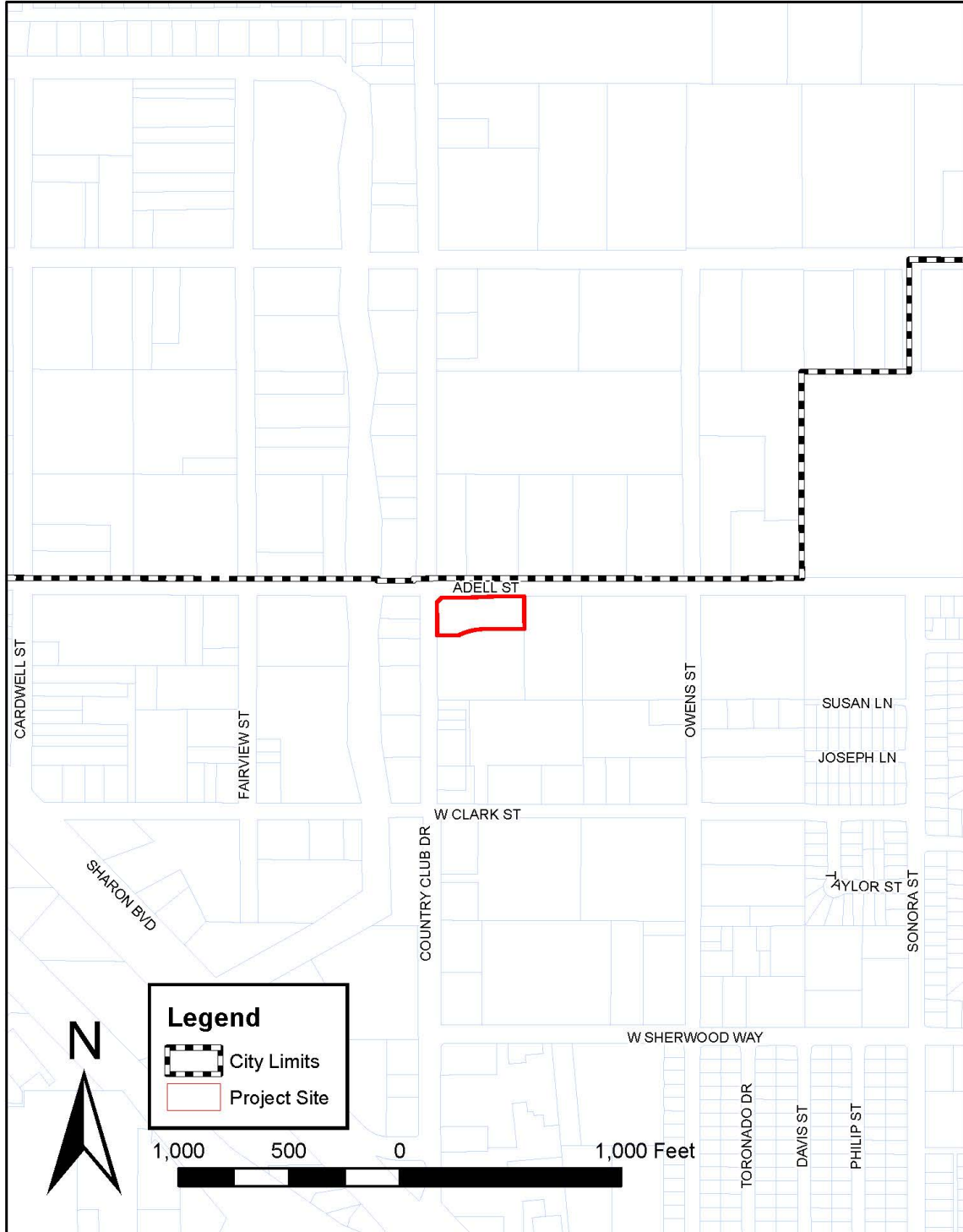
**Motion 3:** Move to continue the public hearing on CUP 2021-02 and SPR 2019-25 to the January 11, 2022, Planning Commission meeting with direction to staff to return with an updated resolution containing appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial.)

#### **ATTACHMENTS**

- Attachment 1: Vicinity Map
- Attachment 2: Site Plan
- Attachment 3: Floor Plans
- Attachment 4: Elevations
- Attachment 5: Initial Study and Negative Declaration
- Attachment 6: Planning Commission Resolution  
Exhibit A - Conditions of Approval

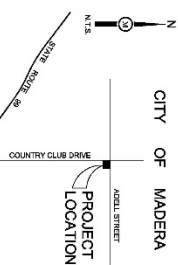
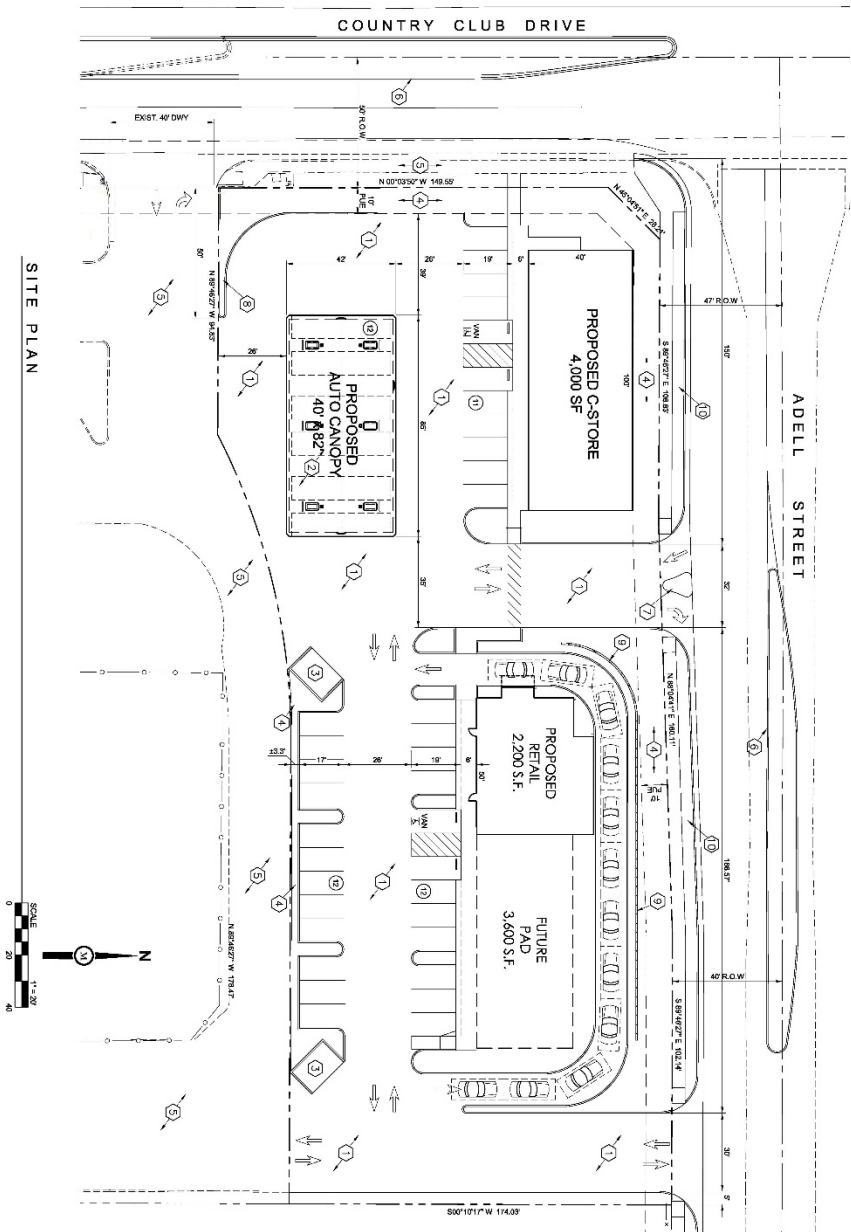
## Attachment 1: Vicinity Map

### Attachment 1 - Vicinity Map



## SHEET INDEX

- [illegible]

VICINITY MAP

**LOT DATA:**

ASSESSOR'S PARCEL NUMBER(S): 003-250-026

PARCEL SIZE:

59,677 (1.37 AC)

**EXISTING ZONING**

C-1 LIGHT COMMERCIAL

## PROPOSED ZON

C-1 LIGHT COMMERCIAL

**EXISTING USE**

VACANT PARCEL

**PROPOSED USE:**

**GAS STATION, CONVENIENCE  
STORE, AND RETAIL BUILDING**

**SITE COVERAGE:**

**9,800 SF (16.4%)**

## PAVED SURFACE AREA:

32,225 SF (54.0%)

PARKING DATA:

= 14 SPACES

## RETAIL SPACE (2,200 SF)

1

2000

(המחיר והמסלול יבוצעו לפי שיעור המרה של 1 שקל = 1000 ש"ח)

33

## (1 SPACE PER 300 SF)

**PROVIDED:**

FUEL SPACE AT PUMP (9'x19')

12 SPACES

**PROVIDED:**

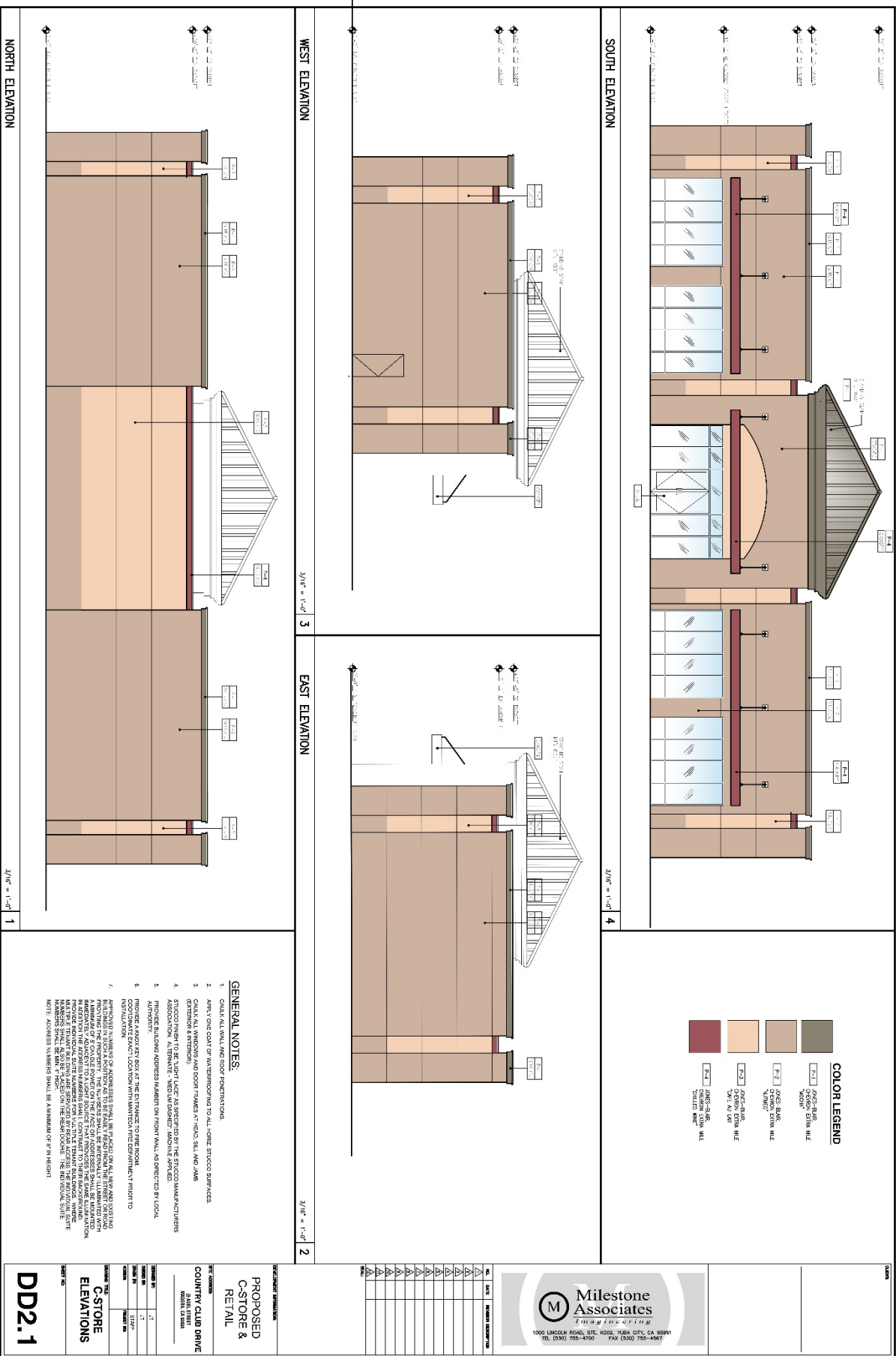
4 / SPACES

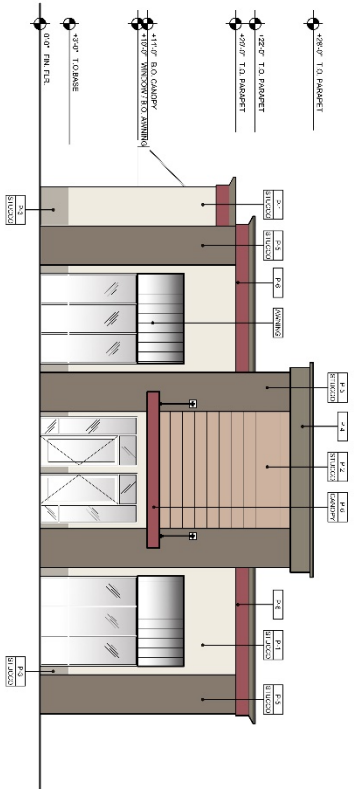
[illegible]

## SUBMITTAL DATE:

[illegible]

## Attachment 4: Elevations



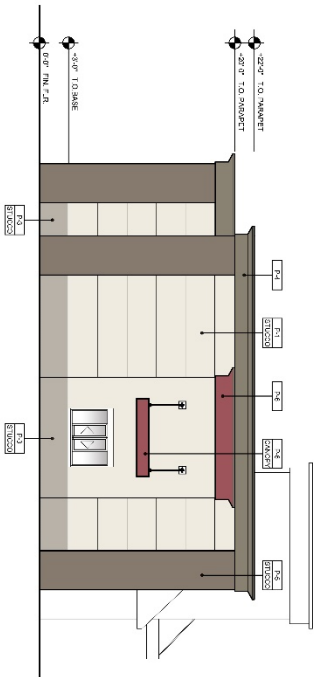


### MATERIAL LEGEND

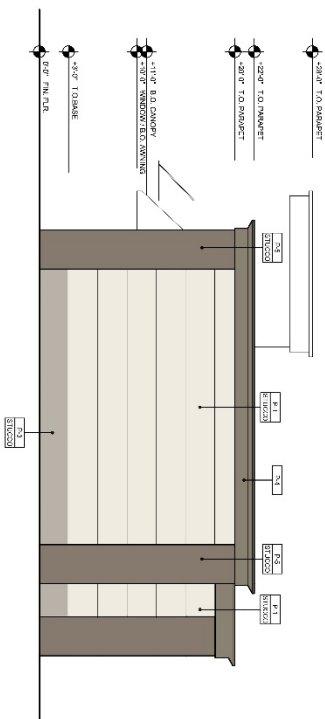
- STUCCO** 3/4" GRAFT PLASTER  
TEXTURE: FINE SAND FINISH

### COLOR LEGEND

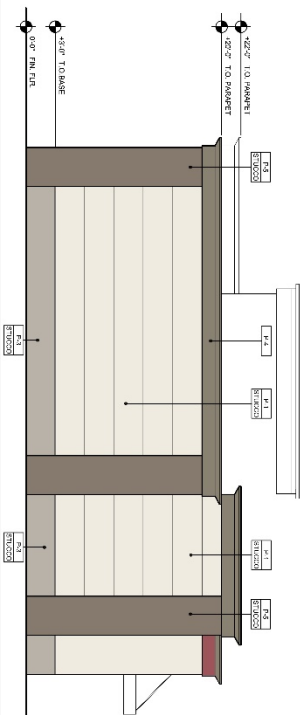
- |     |  |
|-----|--|
| P-3 | JONES BLAIR<br>CHILD WARD<br>CHILDREN CENTRAL WILC |
| P-2 | JONES BLAIR<br>CHILDREN CENTRAL WILC               |
| P-1 | JONES BLAIR<br>CHILDREN CENTRAL WILC               |



WEST ELEVATION

$$\frac{3/16'' = 1'-0''}{3}$$


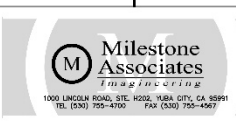
## EAST ELEVATION

$$\frac{3/16^{\circ} = 1^{\circ}-0^{\circ}}{2}$$


## NORTH ELEVATION

$3/16'' = 1'-0''$	<b>1</b>
-------------------	----------

NO.	DATE	REVISIONS DESCRIBED
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		



DD3.1

SUBMITTAL DATE:

## **Attachment 5: Initial Study and Negative Declaration**

This document is available at

<https://www.madera.gov/home/departments/planning/#tr-current-projects-environmental-review-2436011>



**Attachment 6: Planning Commission Resolution with Conditions of Approval**

**RESOLUTION NO. 1900####**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA  
ADOPTING A NEGATIVE DECLARATION PURSUANT TO CEQA AND APPROVING  
CONDITIONAL USE PERMIT 2021-02 AND APPROVING SITE PLAN REVIEW 2019-  
25 (COUNTRY CLUB COMMERCIAL CENTER)**

**WHEREAS**, the project site is a vacant 1.37-acre property located at the southeast corner of Country Club Drive and Adell Street; and

**WHEREAS**, the applicant is seeking a site plan review and conditional use permits to construct a convenience store with alcohol and tobacco sales, a fueling station, a drive-through coffee shop, and space dedicated for future retail businesses; and

**WHEREAS**, the City prepared an Initial Study with a Negative Declaration (IS/ND) that was circulated and made available for public comment pursuant to the California Environmental Quality Act (CEQA); and

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

**WHEREAS**, the Planning Commission has independently reviewed and considered the information contained in the IS/ND; and

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

**WHEREAS**, the Planning Commission received and reviewed SPR 2019-25 and CUP 2021-02 at a duly noticed meeting on December 14, 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 approve SPR 2019-25 and CUP 2021-02 with conditions, and adopt a Negative Declaration for the project.

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

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA: The Planning Commission finds an environmental assessment Initial Study and Negative Declaration were prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included distribution of requests for comment from other responsible or affected agencies and interested organizations. Preparation of the environmental assessment necessitated a thorough review of the proposed project and relevant environmental issues. Based on this review and assessment, the Planning Commission finds that the project will not have any significant adverse effects on the environment and that a Negative Declaration is appropriate for this project. The Planning Commission further finds the Initial Study and Negative

Declaration were timely and properly published and noticed as required by CEQA. As such, the Planning Commission adopts a Negative Declaration for the project.

3. Findings for CUP 2021-02: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of CUP 2021-02 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, the project 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 and planned for commercial uses and businesses. The review of the site plan and environmental study have ensured that the project will not be harmful to or incompatible with surrounding uses. The project site is located near and adjacent to commercial businesses and as proposed 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 convenience store with alcohol and tobacco sales, a fueling station, coffee shop, and future retail will not be detrimental to the overall well-being of neighborhood or City. The project, as conditioned, will provide for business opportunities within the City and more retail options to serve residents.

4. Findings for SPR 2019-25: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of SPR 2019-25, 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, the project 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 applicable specific plans.

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

Basis for Finding: Site Plan Review 2019-25 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. The project is conditioned to provide the necessary improvements for pedestrian and vehicular traffic, both on- and off-site, to ensure safety and welfare of the public is maintained. 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 2019-25 requires street improvements as it is in a developing area of the City. Improvements to both Country Club Drive and Adell Street are required for the frontage of the property. The site will be accessible via Country Club Drive and Adell Street, which after conditioned improvements are made will be able to accommodate the traffic generated from the site. The proposal also provides off-site parking necessary to serve the proposed uses. All established legal policies relating to traffic, street improvements, and environmental quality will be satisfied.

4. Approval of SPR 2019-25 and CUP 2021-02: Given that all findings can be made, the Planning Commission hereby approves SPR 2019-25 and CUP 2021-02 as conditioned as set forth in the Conditions of Approval attached as Exhibit "A."

5. Effective Date: This resolution is effective immediately.

\* \* \* \* \*

Passed and adopted by the Planning Commission of the City of Madera this 14<sup>th</sup> day of December 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 2021-02 & SPR 2019-25 ~~and CUP 2021-02~~

**EXHIBIT "A"**  
**CUP 2021-02 AND SPR 2019-25**  
**CONDITIONS OF APPROVAL**  
**December 14, 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 2021-02 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 2019-25 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**

- ❖ The sale of beer and wine for off-site consumption pursuant to Conditional Use Permit 2021-02 is subject to conditions of approval 39 through 55.
  - ❖ Sale of tobacco products excluding vapor devices and flavored products used in vapor devices pursuant to Conditional Use Permit 2021-02 is subject to conditions of approval 56 through 62.
  - ❖ The establishment and operation of a drive-through coffee shop pursuant to Conditional Use Permit 2021-02 is subject to Conditions of Approval 63 through 70.
  - ❖ Site Plan Review 2019-25 is subject to Conditions of Approval 1 through 118.
1. Approval of conditional use permits 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.
  2. Approval of conditional use permits, and 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 Determination 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) business days following action on the project.
6. Please note site plan review approval (SPR 2019-25) will expire one (1) year from the effective date, unless a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan or the required action is taken to extend the approval before expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval). Please also note that conditional use permit approval (CUP 2021-02) 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. Deferrals are not permitted for any condition included herein, unless specifically stated in that condition.
11. The project site shall be developed in conformance with the site plan as reviewed and approved. 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 the approved site plan. However, should the Planning Manager determine that modifications are substantive, he/she may require that an amendment to use permits and/or site plan be filed for review and approval through the applicable City process.
12. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
13. The applicant shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
14. 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.
15. No outdoor display of merchandise shall be allowed.
16. No additional outdoor storage of goods, materials and/or activities shall be allowed without first securing proper approval from the Planning Manager or, if necessary and applicable, by the Planning Commission.
17. The applicant, prior to issuance of building permits, shall submit to the Planning Department a final site plan detailing all requirements and conditions of approval herein to be kept on file with the Planning Department as final record of the development proposal.

### Building Architecture, Materials, Color and Lighting

18. The building exteriors shall match the conditionally approved elevations. Prior to issuance of building permits, the Planning Department shall be provided a color and materials board with color elevations for review and approval.
19. A decorative stone-veneer base shall be installed around the each of the buildings, extending five feet above the building concrete pad.
20. West, north and east building elevations shall include wall mounted trellises providing architectural relief.

21. Decorative lighting shall be added to the elevations of each building on the entryway façade facing the parking area.
22. Convenience store maximum floor area shall be limited to 3,300 square feet.
23. Roof access for all buildings shall be located within the interior of the structure.
24. Trash enclosures shall be constructed of masonry block according to City of Madera Standard Drawing E-7. Each trash enclosure shall have the capacity to accommodate two (2) bins – one (1) bin for general waste and one (1) bin for recycle waste.
25. Trash enclosures finish and color shall match primary structures.
26. All exterior lighting shall be directed away from adjoining properties and not interfere with the driving safety of vehicle traffic.
27. All parking lot lights/lighting shall be incorporated into landscape areas.

#### HVAC & Utility Placement Considerations/Screening Requirements

28. All existing and proposed public utilities (electric, telephone, cable, etc.) shall be undergrounded, except transformers, which may be mounted on pads and screened from public review.
29. All electrical and HVAC equipment shall be screened to the specifications of the Planning Department.
30. All HVAC equipment shall be roof-mounted and completely screened from view and architecturally integrated into the roof using roof wells or continuous building perimeter fascia screening.
31. Natural gas meter placement and exterior ground mounted utilities shall be screened from public view per Planning Department approval.

#### Landscaping

32. Landscape and irrigation plan shall be prepared by a licensed Landscape Architect and submitted as part of the submittals for a building permit. Landscape and irrigation plans shall be approved by the Planning Department prior to issuance of building permits. The plans shall:
  - a) Demonstrate compliance with the State of California's Model Water Efficient Landscape Ordinance (MWELO);
  - b) Permanent automatic irrigation systems for all landscaped areas;
  - c) Provide vegetative matter coverage of a minimum of 75 percent of all landscaped areas;
  - d) Include a hedge with a minimum height of 3-feet along the entire outer edge of the drive-through stacking lane.
  - e) Locate landscape material in such a way that it does not interfere with utilities above or below ground; and
  - f) Provide detailed planting lists for all landscaping, with the number, size, spacing (where applicable) and species of all plant life and groundcover, as well as soil preparation techniques for all landscaped areas.

33. Street trees shall be installed within the landscape planting strip paralleling the County Club Drive and Adell Street property frontages. The trees shall be of a type and spacing consistent with the City's standards and shall not infringe upon, or interfere with, vehicle, truck, bicycle or pedestrian traffic. Trees shall be planted in accordance with City standards prior to issuance of a certificate of completion. Trees shall be selected from the adopted City of Madera Master Street Tree List.
34. The property owner shall maintain all landscaping in a healthy and well-manicured appearance. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation with drought-tolerant plantings.
35. Landscaped areas shall be guarded from vehicular and pedestrian traffic via installation of a concrete curb, raised planter, or similar method.

#### Signage

36. 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.

#### Parking

37. All parking and loading areas shall be marked, striped, and permanently maintained at all times in conformance with City standards and shall be consistent with the approved final site plan. All modifications in the approved parking layout shall require the approval by the Planning Manager.
38. The parking spaces utilized as required off-street parking per Madera Municipal Code §10-3.1202 shall be installed as detailed in City of Madera Standards & Specifications Drawing E-4.

#### Beer and Wine Sales

39. Conditional Use Permit 2021-02 allows for the sale of beer and wine for off-site consumption in conjunction with the convenience store. This entitlement requires a Type 20 License from the California Department of Alcoholic Beverage Control (ABC) to be obtained and maintained at all times.
40. The sale of alcoholic beverages in conjunction with the convenience store shall be restricted to off-site consumption only. No sale of alcoholic beverages for on-site consumption shall be allowed in or occur as a component of the store.
41. There shall be no exterior advertisement or signs of any kind or type placed on the exterior windows or door of the premises promoting or indicating the availability of alcoholic beverages. Signs promoting alcoholic beverages shall be located at least five (5) feet away from the store entrance.
42. The business owner/manager shall regularly monitor the area under its control to prevent loitering of persons about the premise.
43. The business owner/manager shall post signs in the area under its control prohibiting open containers and loitering at the location and stating that no loitering will be tolerated.
44. No promotional signage and/or displays promoting alcohol products shall be utilized in any way on the exterior of the convenience store or premise.

45. There shall be no coin-operated video or arcade games. No adult magazines or videos shall be allowed to be viewed or sold.
46. Digital security cameras shall be installed to monitor the interior and exterior of the premises. The footage shall be maintained in a digital format for no less than thirty (30) days. Footage shall be shared with law enforcement upon request.
47. Cooler doors for alcoholic beverage products shall be locked during hours when alcoholic beverages may not be sold.
48. The sale of beer shall occur in packs of six (6) or greater. However, 24-ounce bottled imported and/or specialty craft beer not normally sold in multi-package containers may be sold individually or in packs of four (4).
49. The sale of 32-ounce to 40-ounce beer and malt beverage products shall be prohibited.
50. The sale of wine coolers shall occur in no less than packs of four (4).
51. The sale of wine shall not be sold in containers less than 750 ml.
52. No malt liquor or fortified wine products shall be sold.
53. No display of alcohol shall be made from an ice tub, barrel or similar container.
54. No sale or distribution of alcoholic beverages shall be made from a drive-through or walk-up window.
55. The applicant and/or successors-in-interest shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause of revocation of this permit.

#### Tobacco Sales

56. Conditional Use Permit 2021-02 allows for the sale of cigarettes in either single packs or cartons of ten or fewer. Other tobacco and tobacco-related products allowed for sale at the convenience store shall be as follows:
  - a. Smokeless tobacco
  - b. Roll-your-own pouched/canned tobacco
  - c. Cigars and cigarillos (except for any flavored products such as, but not limited to, grape, watermelon, bubble gum and fruit punch flavored products)
  - d. Rolling papers.
57. Conditional Use Permit 2021-02 prohibits the following tobacco and tobacco related products:
  - a. Vape products, including juices
  - b. Hookah products, including hookah tobacco/charcoal
  - c. E-cigarettes
  - d. Pipes and pipe tobacco.
58. Drug related paraphernalia such as bongs, pipes and other products meant for the use with non-tobacco substances as determined by the Planning Manager, is strictly prohibited.

59. All tobacco and tobacco-related products shall be secured behind a counter or other fixture, unavailable to the public except with the assistance of a store employee.
60. There shall be no exterior display of signage promoting or advertising the sale of cigarettes, cigars, tobacco and/or tobacco-related products on the project site.
61. The property/business owner shall post "No Smoking" signage to the extent required by law.
62. The drive-through stacking lane shall be developed consistent with the final site plan designed to queue no less than ten vehicles between the drive-through entry lane and the length of the drive aisle. No vehicle spillover of the drive-through lane is to be permitted into public right-of-way.

#### Drive-Through Coffee Shop

63. Site Plan Review 2019-25 and Conditional Use Permit 2021-02 allows for the construction and operation of a 2,200 square foot coffee shop with a drive-through window. Any alterations to the site plan, use permit, or building shall require Planning Commission approval.
64. Business hours shall be limited to 5:00 a.m. through 11:00 p.m., seven (7) days a week.
65. Delivery of stock foods, drinks, supplies, etc. shall be received by 6:00 a.m.
66. The drive-through stacking lane shall be developed consistent with the final site plan designed to queue no less than twelve (12) vehicles between the drive-through entry lane and the length of the drive aisle and no less than seven (7) vehicles between the drive-through menu order board and the pick-up window. No vehicle spillover of the drive-through lane is to be permitted into public right-of-way or on-site parking area.
67. A split-face masonry wall measuring three feet in height with cap stone shall be constructed along the exterior perimeter of stacking lane of the drive-through sufficient to screen headlight glare into the public right-of-way and shall be setback a minimum of two (2) feet from the back edge of the public right-of-way. The decorative wall shall be reviewed and approved by the Planning Manager prior to issuance of a building permit.
68. The applicant/owner/tenant of the coffee shop shall submit a traffic management plan detailing how overflow traffic will be directed in the event the drive-through vehicles in que exceeds stacking lane capacity. The plan shall be submitted to the Planning Department for approval prior to occupancy of the building.
69. The drive-through shall be allowed a maximum of one (1) preview board, one (1) menu board, and one (1) digital ordering screen, all subject to the approval of Sign Permit. No additional freestanding signage shall be allowed as a component of the drive through coffee shop.
70. Preview and menu boards and digital ordering screen placed within ten (10) of the building shall not measure more than sixty (60) inches in width and forty-eight (48) inches in height with the base not reaching higher than seventy-two (72) inches. Preview and menu boards, or digital ordering screen placed more than ten (10) feet from the building shall not measure more than forty-eight (48) inches in width and thirty-six (36) inches in height and must not exceed 60 inches in total height. The reverse side of menu/preview boards positioned in a manner viewable to the public shall be obscured from the public visa a landscape screen.

## **Engineering Department**

### General

71. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
72. Impact fees shall be paid at time of building permit issuance.
73. The developer shall pay all required fees for completion of the project. Fees due may include but shall not be limited to the following: plan review, easement acceptance, encroachment permit processing and improvement inspection fees.
74. Improvement plans shall be signed and sealed by an engineer and submitted to the Engineering Division according to the Engineering Plan Review Submittal Sheet and Civil Plan Check Submittal Checklist.
75. The improvement plans for the project shall include the most recent version of the City's General Notes.
76. 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.
77. Prior to the construction of improvements within the City right-of-way, an Encroachment Permit will be required from the Engineering Division.
78. All off-site improvements shall be completed prior to issuance of final occupancy.
79. The developer shall coordinate with the United States Post Office relative to the proposed location of the postal boxes for the project.

### Water

80. 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.
81. A separate water meter and backflow prevention device will be required for existing or proposed landscape areas.
82. Existing water service connections that will not be used for the project shall be abandoned at the mains per City standards.
83. The developer shall reimburse its fair share cost to the City for the previously constructed water main along the entire project parcel frontage on Country Club Drive.
84. Existing wells, if any, shall be abandoned as directed and permitted by City of Madera for compliance with State standards, prior to issuance of building permits or any activities in which the well to be abandoned may be further damaged resulting in potential contamination to the aquifer below.
85. The developer shall construct a 12-inch water main in Adell Street along the project frontage in accordance with the plans and specifications on file for the Adell Street Improvement Project drawings. The oversize component (difference in cost between 12-inch and 8-inch pipe) of the construction of this line is considered reimbursable through the City's Development Impact Fee

Program, subject to availability of funds. Half of the 8-inch component is reimbursable from adjacent properties as they develop and connect.

86. The developer shall construct fire hydrants along Country Club Drive and Adell Street in accordance with the Adell Street Improvement Project drawings.

#### Sewer

87. New or existing sewer service connection(s) shall be constructed or upgraded to current City standards.
88. Existing sewer service connections that will not be used for the project shall be abandoned at the mains per current City of Madera standards.
89. Sewer main connections 6 inches and larger in diameter shall require manhole installation.
90. Existing septic tanks, if found, shall be removed pursuant to issuance of a permit and inspection by the City of Madera Building Department.
91. The developer shall construct an 8-inch sewer main in Adell Street and a 12-inch sewer main in Country Club Drive along the project parcel frontage in accordance with the plans and specifications for the Adell Street Improvement Project. The oversize component (difference in cost between 12-inch and 8-inch pipe) of the construction of these lines is considered reimbursable through the City's Development Impact Fee Program, subject to availability of funds. Half of the 8-inch component is reimbursable from adjacent properties as they develop and connect.

#### Storm Drain

92. Storm runoff from this project site is planned to go to the Sherwood Basin located southeast of the proposed project site per the 2014 Storm Drainage System Master Plan (Master Plan). Subsequent review by staff indicates this design may be impractical. If determined practical, the developer shall, as may be necessary, construct sufficient facilities in accordance with criteria in the Master Plan to convey storm runoff to the existing basin and excavate or expand the basin to an amount equivalent to this project's impact on the basin. A detailed drainage study shall be provided to support the chosen path of conveyance and design of any necessary conveyance facilities.

Subject to approval of the County of Madera, through a separate action, drainage from this development may be directed to a County owned basin. At present, the County is not accepting additional runoff from development into said basin. Subject to this approval, the developer shall construct an 18-inch storm drain main in Adell Street along the project parcel frontage including full intersection improvements at the intersection of Country Club Drive in accordance with the plans and specifications for the Adell Street Improvement Project. The construction of these storm drain improvements is considered 100 percent reimbursable through the City's Development Impact Fee Program, subject to availability of funds.

93. Support calculations shall be provided that prove the existing storm drain facilities are capable of intercepting runoff in accordance with the provisions of the Storm Drainage System Master Plan.
94. 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 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

95. Curb access ramps shall be constructed at all curb returns in accordance with current City standards.
96. Access to the site shall be limited to the existing shared driveway on Country Club Drive and one driveway on Adell Street with a minimum spacing of 150 feet from the intersection with Country Club Drive. If a second driveway on Adell Street is proposed, a median island shall be installed from Country Club Drive to east of the western drive approach and shall accommodate a left turn pocket at Country Club Drive.
97. The developer shall record a Reciprocal Easement Agreement for ingress/egress at a minimum and utility, drainage, access for emergency services, and parking easements as may be necessary for this project parcel and that parcel to the south in the City of Madera standard form. The easements shall provide the mutual right of access for all future uses in the project site. The developer shall be responsible for paying all associated fees to the Engineering Department. If an existing cross access agreement has already been recorded, it shall be revised based upon the proposed changes.
98. The proposed driveway approach(es) on Adell Street shall be constructed to a street-type entrance with a minimum face of curb radius of fifteen feet and be constructed in accordance with City and ADA standards.
99. The driveway approach on Country Club Drive shall have a minimum throat length of 50 feet from face of curb. The driveway approach(es) on Adell Street shall have a minimum throat length of 30 feet from face of curb. The throat length shall be justified based on anticipated operation of the facility and the ability to ensure vehicles queues do not extend into the public right-of-way.
100. The existing curb ramp on the southeast corner of Country Club Drive and Adell Street shall be removed and reconstructed, as necessary, to meet current City and ADA standards.
101. The south half of Adell Street along the entire project parcel frontage shall be improved to an 80-foot collector roadway standard in accordance with the plans and specifications for the Adell Street Improvement Project and shall include all improvements shown thereon including but not limited to fire hydrants, streetlights, curb and gutter, park strip, five-foot sidewalk, and storm drain inlets. All improvements shall be constructed in accordance with current City standards. The center three lanes are eligible for reimbursement through the City's Development Impact Fee Program, subject to availability of funds. Adequate transitions with the existing improvements relative to grade and alignment shall be provided.
102. The east half of Country Club Drive along the entire project parcel frontage shall be improved to a 100-foot arterial roadway standard, consistent with that found immediately to the south, and shall include but not be limited to fire hydrants, streetlights, storm drain inlets, and extension of the median island to Adell Street. Additionally, a median island shall be constructed between the intersection with Adell and the existing median to the south. All improvements shall be constructed in accordance with current City standards. The median island is eligible for



reimbursement through the City's Development Impact Fee Program, subject to availability of funds.

103. In addition to City standard improvements, the developer shall comply with the mitigation measures provided within the traffic study dated September 29, 2020, and any comments resulting from a review thereof.
104. Regardless of results of the traffic study, the developer shall install traffic signal poles less signal mast arm including all related pull boxes and conduit associated with said pole(s), as necessary for a future four-leg intersection.
105. "No Parking" signs shall be installed along the Country Club Drive and Adell Street project parcel frontages in accordance with City standards.
106. The developer shall install metered streetlights along the Country Club Drive and Adell Street project parcel frontages in accordance with current City standards. Streetlights shall be LED using Beta Lighting standards or equal in accordance with City standards.
107. The developer shall repair or replace all broken or damaged concrete improvements including curb, gutter, and sidewalk, as necessary, to current City and ADA standards.
108. 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.

#### Dry Utilities

109. All existing and proposed public utilities (electric, telephone, cable, etc.) shall be undergrounded, except transformers, which may be mounted on pads. Public utility easements shall be dedicated outside and adjacent to all streets rights-of-way. All public utilities within the project property and adjacent to the project property frontage on peripheral streets (on the development side of the street centerline) shall be placed underground except those facilities exempted by the Public Utilities Commission Regulations or operating at 70,000 volts or greater.

#### **Fire Department**

110. Building permits are required for construction of the buildings. Separate permits are required for UG Fire Mains, Fire Sprinklers, Fire Alarms and the fueling system.
111. One, 2A10BC rated fire extinguisher is required for each 3,000 square feet of retail space or fraction thereof. At least one 3A40BC rated fire extinguisher is required within 50 feet of all fuel dispensers.
112. Door hardware must open from the inside without the use of a key or any special knowledge or effort.
113. A Knox Box is required for each enclosed structure.
114. The shell building must comply with the requirements of the City of Madera for "Shell Buildings". Shell building are not occupiable and cannot be used for storage. Subsequent permits are required for tenant improvements/demising of the shell building.
115. Fire lanes are required and must be properly posted in accordance with the California Fire Code and California Vehicle Code.
116. The fire Department Connection (FDC) must be placed 40 feet away from the structure and must be located within 50 feet of the nearest fire hydrant.

**San Joaquin Valley Air Pollution Control District**

117. Applicant, developer and/or successors-in-interest shall comply with all applicable rules, regulations, and fees of the San Joaquin Valley Air Pollution Control District (SJVAPCD).
118. Applicant, developer and/or successors-in-interest shall demonstrate to the Planning and Building Departments all applicable SJVAPCD permits have been secured prior to issuance of any grading or building permit.

-END OF CONDITIONS-