



REGULAR MEETING OF THE MADERA PLANNING COMMISSION

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

**Tuesday, January 10, 2023
6:00 p.m.**

**Council Chambers
City Hall**

The Council Chambers will be open to the public. This meeting will also be available for public viewing and participation through Zoom. Members of the public may comment on agenda items at the meeting or remotely through an electronic meeting via phone by dialing (669) 900-6833 enter ID: 87567447789# followed by *9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/87567447789>. Comments will also be accepted via email at planningcommissionpubliccomment@madera.gov or by regular mail at 205 W. 4th Street, Madera, CA 93637.

CALL TO ORDER:

ROLL CALL:

Chairperson Robert Gran Jr.
Vice Chair Ramon Lopez-Maciel
Commissioner Rohi Zacharia
Commissioner Khubaib Sheikh
Commissioner Balwinder Singh
Commissioner Saim Mohammad
Commissioner Jose Eduardo Chavez

INTRODUCTION OF STAFF:

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: None

PUBLIC COMMENT:

The first 15 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. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened.

PUBLIC HEARINGS:**1. SPR 2009-21 EXT 10 & CUP's 2013-04, 05, 06 & 07 EXT 10 – Foxglove Shopping Center**

Subject: A continued noticed public hearing item from the December 13, 2022 Planning Commission meeting to consider a request for a one-year extension on SPR 2009-21 and multiple CUPs previously approved for the development of a retail shopping center located on the southeast corner of N. Schnoor Ave. and Foxglove Way in the C2 (Heavy Commercial) zone district with a C (Commercial) General Plan land use designation.

Recommendation:

- a. Conduct the public hearing and make the necessary findings.
- b. Adopt a Resolution approving the one-year extension to February 13, 2024 subject to the original conditions of approval.

ADMINISTRATIVE REPORTS:

1. 2023 Planning Commission Calendar

COMMISSIONER REPORTS:**ADJOURNMENT:**

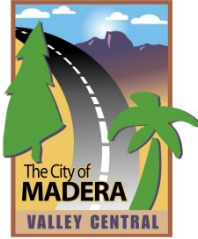
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation 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.



REPORT TO THE PLANNING COMMISSION

Prepared by:

Gary Conte, AICP, Planning Manager

Meeting of: January 10, 2023

Agenda Item: 1

SUBJECT:

Foxglove Shopping Center Conditional Use Permits 2013-04, 05, 06 and 07 Time Extension No. 10 and Site Plan Review 2009-21 Time Extension No. 10

Applicant requested this item be continued to the January 10, 2023 Planning Commission meeting. At its regularly scheduled December 13, 2022 meeting, the Planning Commission (Commission) unanimously approved a motion to continue this item to the regularly scheduled January 10, 2023 meeting.

RECOMMENDATION:

Continue the public hearing; and

- 1) Adopt a resolution approving a one-year time extension for Conditional Use Permits 2013-04, 05, 06 and 07, and for Site Plan Review 2009-21, subject to the findings and conditions of approval.

PROPOSAL:

Consideration of a request for a one-year (1-year) time extension of the Foxglove Shopping Center various use permits (CUPs 2013-04, 05, 06 and 07) and Site Plan Review (SPR 2009-21) in support of the development of a retail shopping center (herein referenced as the “project” or “proposed project”). The request is the tenth extension requested by the applicant for the Foxglove Shopping Center CUPs and Site Plan Review originally approved in February 2013. All previously approved conditions of approval remain in effect.

SITE CHARACTERISTICS:

The project site is approximately 20.47 acres in size. The Home Depot Shopping Center and Sonic drive-through restaurant are located north of the site. Madera Market Place is located to the south and North Schnoor Avenue fronts the property to the west. A Madera Irrigation District canal and State Route 99 are located directly east of the proposed site. The project site itself consists of vacant and undeveloped land.

The City General Plan Land Use Map designates the subject site C (Commercial). The subject site is zoned C2 (Heavy Commercial).

Table 1: Project Overview	
<i>Project Number:</i>	CUPs 2013-04, 05, 06 and 07, and SPR 2009-21
<i>Applicant:</i>	Zinkin Development
<i>Property Owner:</i>	Dewayne Zinkin Family Partnership, LP
<i>Location:</i>	Southeast Corner of North Schnoor Ave and Foxglove Way (APN 013-151-035)
<i>Project Area:</i>	20.5 acres
<i>Plan Land Use:</i>	C – Commercial
<i>Zoning District:</i>	C2 – Heavy Commercial
<i>Site Characteristics</i>	Vacant parcel which is annually disced for weed control. North Schnoor Avenue abutting the property to the west includes curb and gutter improvements along the property's frontage. Parcel street improvement parallels a portion of the property's westerly boundary. Street improvements serve The Home Depot shopping center abutting the property to the north.

PRIOR ACTIONS:

The Foxglove Shopping Center site plan review and multiple use permit entitlements were originally approved by the Planning Commission (Commission) on February 12, 2013. The Commission also adopted a resolution certifying the project's environmental impact report (EIR) and adopting the project's findings of fact, statement of overriding considerations, and mitigation monitoring and reporting program. Time extensions for the use permits and site plan review originally approved in February 2013 have been granted annually by the Commission since 2014.

APPLICABLE CODES AND PROCEDURES

Madera Municipal Code § 10-3.4.0114 (Lapse of Site Plan Approval)

Madera Municipal Code § 10-3.1311 (Termination and Revocation)

California Public Resources Code Section 21000 et. seq., California Environmental Quality Act.

Madera Municipal Code (MMC) Section (§) 10-3.4.0114 requires that all site plan approvals be void one year following the date on which approval by the Community Development Director, Commission, or City Council became effective unless, prior to the expiration of one (1) year, a building permit is issued, and construction is commenced or a written request for an extension is submitted to the Director.

MMC § 10-3.1311 sets forth the requirement of any use permit granted by the City to be utilized within 12 months after the effective date thereof. Failure to act on any use permit within those 12 months shall render the permit null and void unless a written request for extension is submitted to the Director and Commission prior to the expiration date of said permit. Upon receipt of a written request for an extension, the Commission shall review the request at its next regularly scheduled meeting.

The Commission, in considering the time extension request, may approve, deny, or conditionally approve a time extension. If the time extension is denied, the applicant may re-file the site plan review and use permit requests for further consideration by the Commission.

ANALYSIS:

The proposed project is a retail shopping center with up to 191,500 square feet (sf) of tenant space on approximately 20 acres of vacant and unimproved land. The primary anchor space would be approximately 84,000 sf of gross floor area. Several smaller anchors, shops and freestanding pads would fill out the remaining square footage. Site Plan Review 2009-21 establishes a site plan, building design, and construction requirements for the proposed shopping center. The multiple conditional use permits (CUPs 2013-04, 05, 06 and 07) memorialize uses such as outdoor seating, a drive-thru window, and alcohol sales in conjunction with restaurants and retail stores within the shopping center.

CUPs 2013-04, 05, 06 and 07, and SPR 2009-21 are set to expire February 12, 2023. On November 8, 2022, the City received a letter from the applicant requesting an extension of the approved CUPs and Site Plan Review consistent with the Commission's prior extension approval of the project. In its letter, the applicant requested a 1-year extension for the Site Plan Review SPR 2009-21 and for all previously approved use permits associated with the Foxglove Shopping Center. The letter noted the property owner had been in contact with prospective tenants over the past year and are now in the process of finalizing a lease agreement with a major tenant. The applicant is also noted that they are in negotiations with other potential tenants. Subject to the finalizing a lease agreement, the applicant anticipates site development to commence in early 2023 (refer to Attachment 2).

Subsequent to receipt of the written extension request, and as required by MMC § 10-3.1311, the extension request was noticed for consideration at the next regularly scheduled Commission meeting – December 13, 2022. On December 7, 2022, the City received a subsequent letter from the applicant requesting the item be moved from the December 13, 2022 Commission meeting to the Commission's regularly scheduled meeting in January 2023 to allow more time for the applicant to work through the details of lease agreement they are attempting to secure with a major tenant with the goal of being able to share more information about the prospective major tenant with Staff and the Commission (refer to Attachment 3). Given the extension request had been publicly noticed prior to Staff's receipt of the second letter requesting the item be moved to the Commission's January 2023 meeting, the extension request remained scheduled for the December 7, 2022 hearing for consideration. At its December 7, 2022, the Commission unanimously approved a motion to continue the request to their regularly scheduled January 10, 2023 meeting.

If approved by the Commission, the project will have an additional year to commence construction. In total, 10 years of time will have been granted to project proponents since the original approval in February 2013. As there have not been substantive changes in the City's zoning ordinance over the past year, a new application for the same project would likely generate similar conditions, hence, a time extension rather than a re-filing is appropriate.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Conditional Use Permits 2013-04, 05, 06 and 07, and Site Plan Review 2009-21 have been determined to provide consistency with the Madera Vision 2025 Plan by supporting a well-planned city, good jobs, and economic opportunity. The proposed time extension in question does not alter or amend the original findings and therefore remains consistent with the goals and policies set forth by the Madera Vision Plan 2025.

ENVIRONMENTAL REVIEW:

The project has previously been subject to an environmental review. An EIR, mitigation monitoring and reporting program, statement of overriding considerations, and related findings for all project components were completed in conjunction with the proposal. As noted above, the EIR was certified by the Planning Commission on February 12, 2013. Since the certification of this project's EIR, there have been no additional developments in the surrounding area that would require an updated analysis. This time extension does not require any physical alterations to the environment and does not require an updated EIR. Therefore, the adopted original EIR is sufficient and, pursuant to the California Environmental Quality Act Guidelines Section 15162, which identifies the requirements for which subsequent analysis is required, no further environmental review is required.

RECOMMENDED ACTION:

The Commission will be acting on a one-year extension for CUPs 2013-04, 05, 06 and 07, and Site Plan Review 2009-21 subject to the original conditions. All required findings for approval under the Municipal Code and law can be made and are described in the proposed Resolution attached to the report. Staff recommends the Commission:

1. Move to approve a one-year (1-year) time extension for CUPs 2013-04, 05, 06 and 07, and for Site Plan Review 2009-21 based on, and subject to, the findings and original conditions of approval.

ALTERNATIVES:

As an alternative, the Commission may:

1. Move to continue the public hearing to a date specified for the following reasons or in order for the following information to be provided: (Specify – Commission to specify date and reasons for continuance).
2. Move to deny the request based on the following appropriate findings for denial: (Specify – Commission to specify findings for denial).

ATTACHMENTS:

1. Site Plan
2. Zinkin Development November 8, 2022 Letter Request for a 1-Year Extension for Site Plan Approval SPR 2009-21 and for Conditional Use Permit Approvals CUP 2013-04, 05, 06 and 07
3. Zinkin Development December 7, 2022 Letter Request for a Planning Commission Hearing Continuance
4. Planning Commission Resolution
Exhibit "A" – SPR 2009-21 and CUP 2013-04, CUP 2013-05, CUP 2013-06, and CUP 2013-07 (Foxglove Retail Center) Conditions of Approval as Amended February 12, 2013

ATTACHMENT 1
FOXGLOVE RETAIL CENTER SITE PLAN

ATTACHMENT 2
ZINKEN DEVELOPMENT NOVEMBER 8, 2022 LETTER
REQUEST FOR A 1-YEAR EXTENSION FOR SITE PLAN REVIEW
APPROVAL SPR 2009-21 AND FOR CONDTIONAL USE PERMIT
APPROVALS CUP 2013-04, 05, 06 AND 07



November 8, 2022

Brandi Garcia | Administrative Assistant
City of Madera | Planning Department
205 West 4th Street, Madera, CA 93637

Brandi,

The purpose of this letter is to request a one-year extension for the Site Plan Review approval for SPR 2009-21 and all of the various conditional use permits that were granted and approved with it at the Planning Commission meeting on February 12, 2013. We are optimistic about commencement of construction in 2023, however we will need some extra time to work through construction requirements with the City of Madera. We would like to request another one-year extension from the City and I would appreciate it if you would please put that on the calendar of the City Planning Commission for action in December 2022, or January, 2023, whichever is first available. A check in the amount of \$1,650.00 for the extension filing fees will be sent to your attention immediately.

We would appreciate the extension of the CUP and entitlements so that we can move forward with the project as soon as we have finalized a lease with the major tenant. We are working closely with multiple tenants, including a major tenant, and are very hopeful that the project can be commenced in early 2023, but potentially after February, 2023. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard L. Fairbank', is written over a horizontal line.

Richard L. Fairbank
Attorney at Law

RLF/kc

ATTACHMENT 3
ZINKEN DEVELOPMENT DECEMBER 7, 2022 LETTER
REQUEST FOR A PLANNING COMMISSION HEARING
CONTINUANCE



ZINKIN

DEVELOPMENT

December 7, 2022

City of Madera
Gary Conte
205 W. 4th Street
Madera, California 93637
GConte@madera.gov

SENT VIA EMAIL ONLY

Re: SPR 2009-21 – Foxglove and Schnoor

Gary,

Nick asked me to send this letter to you regarding the hearing of the application for extension of the entitlements and permits under SPR 2009-21 and various conditional use permits related to the Foxglove Shopping Center. We currently have an item on the agenda of the Planning Commission for Tuesday, December 13, 2022 for an extension of the current entitlements. However, Nick believes that we may have more information to share with the Staff and the Planning Commission in early January, that would be helpful for all to know. There is no guarantee of that, but that is our hope and current thinking. For that reason, we are requesting that the agenda item be moved from December 13, 2022, to the Planning Commission meeting in January, which I believe is on the second Tuesday of January, specifically January 10, 2023. We are working through the details that will ensure that the project would be feasible and go forward in the near future and would appreciate a little more time before we take the matter back to the Planning Commission. Please acknowledge the continuance of the hearing to January 10, 2023 by having the appropriate person sign in the place provided below and return an executed copy to me. Thank you for your help on this.

Thank you,

A handwritten signature in blue ink, appearing to be 'Kathy Copeland', is written over a light blue horizontal line.

Kathy Copeland, on behalf of Nick Zinkin for the property owner

This will acknowledge that the item above mentioned which was placed on the Planning Commission Meeting on December 13, 2022, has been continued to and now is on the agenda of the Planning Commission for hearing and consideration on January 10, 2023.

_____ December __, 2022

Office: _____

Cc: Brandi Garcia – Bgarcia@madera.gov

ATTACHMENT 4
PLANNING COMMISSION RESOLUTION

Including:
Exhibit A – Conditions of Approval

RESOLUTION NO. 1939

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
APPROVING CUPs 2013-04 EXT 10, CUP 2013-05 EXT 10, CUP 2013-06 EXT 10
AND CUP 2013-07 EXT 10 AND SPR 2009-21 EXT 10 ONE-YEAR TIME
EXTENSION TO FEBRUARY 13, 2024 SUBJECT TO THE ORIGINAL CONDITIONS
OF APPROVAL**

WHEREAS, Planning Commission (Commission) of the City of Madera approved Site Plan Review (SPR) 2009-21 and Conditional Use Permits (CUPs) 2013-04, 05, 06 and 07 at a regularly scheduled hearing on February 8, 2013; and

WHEREAS, the Commission of the City of Madera may grant approval of Use Permit and Site Plan Review extension requests for one-year periods of time according to Madera Municipal Code (MMC) Sections 10-3.4.0114 and 10-3.1311; and

WHEREAS, the Commission of the City of Madera granted yearly subsequent extensions to CUPs 2013-04, 05, 06 and 07, and SPR 2009-21 at regularly scheduled hearings since February 8, 2013, and most recently at a regularly scheduled hearing on February 8, 2022; and

WHEREAS, the City received written request on November 8, 2022, prior to the February 13 2023 expiration date, from the authorized representative of the owner requesting an extension to CUPs 2013-04, 05, 06 and 07, and SPR 2009-21; and

WHEREAS, upon receipt of a written request for an extension, the Commission pursuant to MMC Section 10-3.1311 shall review the request at its next regularly scheduled meeting; and

WHEREAS, the City provided notice of the December 13, 2022 Commission hearing as required by law; and

WHEREAS, the City received written request on December 7, 2022 from the authorized representative of the owner requesting the December 13, 2022 Commission hearing to consider the extensions to CUPs 2013-04, 05, 06 and 07, and SPR 2009-21 public hearing be continued to the January 10, 2023 Commission hearing; and

WHEREAS, the Commission received and reviewed the public hearing continuance request at a duly noticed meeting on December 13, 2022; and

WHEREAS, on December 13, 2022, the Commission continued the public hearing for the extension requests to the Commission's next regularly scheduled on January 10, 2023; and

WHEREAS, the Commission received and reviewed the extension requests at a duly noticed meeting on January 10, 2023; 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 Commission; and

WHEREAS, the Commission now desires to approve the extension request for CUPs 2013-04, 05, 06 and 07, and for SPR 2009-21 subject to the original conditions of approval.

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

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

2. CEQA: The Commission finds that this project has previously been environmentally assessed. An environmental impact report, mitigation monitoring and reporting program, statement of overriding considerations, and related findings for all project components were completed in conjunction with the proposal. The environmental impact report was certified by the Planning Commission on February 12, 2013. The setting for the project has not substantially changed since the adoption of the EIR. No additional development in the area has occurred since the approval of SPR 2009-21 and CUPs that would require additional environmental analysis of the project. The extension of time does not involve any physical changes in the environment and hence does not have the potential for causing a significant effect on the environment. There is no new information, which was not known and could not have been known at the time of the EIR that the project will have significant effect not discussed in the EIR. None of the mitigation measures and alternatives previously determined to be infeasible are now feasible. In addition, no new mitigation measures or alternatives that would substantially reduce one or more significant effect on the environment have been identified. Therefore, the adopted EIR is sufficient and, pursuant to State CEQA Guidelines Section 15162, which identifies the requirements for which subsequent analysis is required, no further environmental review is required.

3. Findings to Approve Conditional Use Permits 2013-04, 05, 06, and 07 One-Year Extension

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

The proposals for a drive-through window, outdoor seating and dining, and alcohol sales as ancillary uses to the retail shopping center are consistent with the purposes of the C – Commercial General Plan land use designation and the C1 – Heavy Commercial zone district.

- b. *The proposed uses permissible by CUPs 2013-04, 05, 06, and 07 are comparable uses to those surrounding the proposed site.*

Because the site has been designed for the development of an integrated shopping center to accommodate a variety of retail and restaurant uses, the conditional uses proposed, as conditioned, will not be detrimental to health, safety, peace, comfort, morals or general welfare of the neighborhood or the City, and will be compatible with the surrounding area.

- c. *The proposed site has enough space to accommodate all uses proposed.*

There is adequate parking and site area to accommodate the participants of the existing and proposed uses, including stacking distances required for the drive-through window.

4. Findings to approve SPR 2009-21 Extension:

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

Basis for Finding: The property is zoned C2 (Heavy Commercial), which is consistent with the existing General Plan land use designation of C (Commercial). Site Plan Review 2009-21 is consistent with the purpose and intent of the C2 (Heavy Commercial) zone district and does not conflict with City standards or other provisions of the Code.

- b. *The proposed 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 2009-21 has been previously reviewed and is consistent with surrounding uses.

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

Site Plan Review 2009-21 as approved is consistent with established street and circulation improvements and conditioned to conform with City policies and improvement standards for street improvements, dedication, and safety. The previously approved SPR has been subject an EIR certified by the City.

- 5. Approval of time extension of one year for Site Plan Review 2009-21, and CUPs 2013-04, 05, 06, and 07: Given that all findings can be made, the Commission hereby approves CUPs 2013-04 EXT 10, 2013-05 EXT 10, 2013-06 EXT 10 and 2013-07 EXT 10 and SPR 2009-21 EXT 10 and, the one-year time extension request to February 13, 2024 for CUPs 2013-04, 05, 06 and 07 and SPR 2009-21 and as conditioned as set forth in the Conditions of Approval attached as Exhibit "A."
- 6. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 10th day of January 2023, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Gary Conte
Planning Manager

EXHIBIT "A"

**SPR 2009-21 AND CUP 2013-04, CUP 2013-05,
CUP 2013-06, AND CUP 2013-07
(FOXGLOVE RETAIL CENTER)
CONDITIONS OF APPROVAL
AS AMENDED FEBRUARY 12, 2013**

CONDITIONS OF APPROVAL

A. Site Plan Review Conditions

General Conditions

1. The project approval is conditioned upon acceptance of these conditions contained herein within 30 calendar days, as evidenced by the applicant's signature on a required acknowledgment form.
2. The applicant's or owner's failure to utilize this site plan review within one year following the date of this approval shall render the site plan review null and void unless a written request for extension has been submitted to and approved by the Planning Commission.
3. The approval of this site plan review authorizes the development of the improvements as specified in the site plan, subject to the revisions and clarifications required in these conditions of approval below. All standard permits and approvals required for the improvements, including, but not limited to building permits, grading permits, and construction permits, shall be obtained prior to commencing construction. Modifications to actual building/unit sizes may be authorized by the Community Development Director prior to the issuance of building permits. Such changes may not substantively change the nature of the site plan or building elevations and may not increase the overall square footage allowances for the development as specified in the environmental impact report for the project.
4. Any changes to the site plan required after, or because of, the preparation of grading plans, final on and off-site utility plans, or other changes made by the developer will require the approval of the Community Development Director. Substantive changes to the site plan, as determined by the Community Development Director, may require the completion of an amended site plan review process.
5. The development of the shopping center shall be subject to compliance with, and implementation of, the mitigation measures identified in the mitigation monitoring and reporting program approved as part of the Foxglove Shopping Center Final Environmental Impact Report.

ENGINEERING DEPARTMENT

6. Engineering plans for off-site improvements and for on-site public improvements shall comply with Section 27 of the City of Madera Standard Plans and Specifications and approved addenda and shall be submitted to the City Engineer for review and approval, prior to issuance of building permits. Engineering plans shall be wet stamped by a licensed civil engineer and shall be accompanied by a final site plan showing existing and/or re-established lot corner monuments,

including a bearing and distance for each boundary line. Plans shall show dedication of all land by easements or other mechanism which may be acceptable to the City for all public streets, sanitary sewer mains (on and off site), water mains (on and off site), storm drains lines (on and off site) and detention basins.

7. Construction work within the City rights-of-way shall not begin prior to obtaining an encroachment permit from the Engineering Division in accordance with Section VI, Madera Municipal Code. All encroachment permits shall be obtained prior to the commencement of construction within the public rights of way.
8. Excavated or graded material shall be sufficiently watered to prevent excessive amounts of air borne dust. Watering should occur at least twice a day with complete coverage, preferably in the late morning and after work as directed by the City Engineer.
9. Material transported offsite should be securely covered to prevent excessive amounts of dust.
10. Streets adjacent to the project may be required to be swept and silt removed manually or mechanically at least once a day as required by the City Engineer. Water hosing will not be allowed as a cleanup method.

Grading and Drainage

11. Under the direction of a licensed architect or civil engineer, a site grading and drainage plan shall be prepared. No lot fill, rough grading or rough plumbing shall commence until plans are approved. The grading plan should include cut and fill quantities, along with a City Engineer approval signature line. This plan shall demonstrate that storm water drainage will be adequately handled. This plan shall be approved by the City Engineer prior to the issuance of any building permits. Storm drainage runoff engineering calculations shall be submitted for compliance with City standards.
12. As part of a master grading plan, the applicant shall provide detailed drainage calculations to demonstrate to the satisfaction of the City Engineer that the existing storm drain basin (Basin 43550) located southwest of the intersection of Foxglove Way and Schnoor Avenue is sufficiently sized to accommodate both the commercial development and the Fairgrounds related storm water runoff. Calculations shall be submitted for basin capacity and sizing of onsite main.
13. The site shall be graded to provide drainage to approved storm drainage facilities. Fill in excess of 8-inches requires compaction tests when supporting structures. Geotechnical and soil testing reports shall be submitted prior to issuance of building permits in compliance with state requirements.
14. Grading certification by developer's soils and civil engineers upon completion of each building pad shall be provided by letter or as built plans prior to temporary or final occupancy.

Streets and Drives

15. The development shall implement any and all traffic mitigation measures specified in the Final Environmental Impact Report and Mitigation Monitoring and Reporting Program prepared for the Foxglove Shopping Center project. All measures requiring physical improvements shall be incorporated into civil improvement plans required pursuant to Condition #6.

16. Proposed entrances on North Schnoor Avenue shall be a minimum of 24 feet wide, shall be street type entrances with minimum face of curb radius of 15 feet and shall include the construction of standard handicapped ramps with an ADA accessible path from ramp to ramp. Proposed driveways shall be spaced in accordance with the results of the traffic study prepared for this project.
17. A median island shall be constructed on Foxglove Way that extends from North Schnoor Avenue to a minimum of 50 feet east of the first driveway on the north side of Foxglove Way.
18. Project driveways on Foxglove Way should be aligned with those on the north side of the street. If this is not feasible due to overall project design constraints, reasonable measures shall be implemented to minimize vehicular conflicts.
19. Free and unimpeded access shall be maintained from this development to the Marketplace shopping center located to the south.
20. All public utilities shall be undergrounded, except transformers, which may be mounted on pads.
21. Prior to the issuance of a grading permit, the developer shall dedicate an additional 8 feet to an existing 7-foot Public Utility Easement (PUE) to complete a 15-foot PUE along North Schnoor Avenue.
22. Prior to the issuance of the grading permit, the developer shall record a reciprocal ingress/egress, utility and parking easement acceptable to the City of Madera across the entire center that is applicable to all existing and/or future parcels. The easement shall provide the mutual right to cross access and parking for all future uses. With such easements in place, compliance with City parking standards for each building will be based on total number of spaces available at the Center.
23. Prior to issuance of a grading permit, the developer shall cause the existing 60-foot-wide easement for access and utilities to be shifted westward to avoid the proposed structures being constructed within the easement.
24. The developer shall reimburse its fair share of cost to the City for previously constructed infrastructure in and on Foxglove Way to the extent that such infrastructure is utilized by the project. The developer shall not be responsible for reimbursement of cost for those improvements removed due to the project's reconstruction of Foxglove Way or improvements otherwise not incorporated into the project. Determination of fair share costs will be calculated in conjunction with submittal and review of civil plans for off-site improvements.
25. Additional detailed review will be conducted by the City when more detailed off-site street plans, and on/off site utility plans are submitted to the City; additional requirements may be specified based on this subsequent review. This will include, but not be limited to, further refinement to street plan for Foxglove Way alignment from North Schnoor Avenue through transition to private drive alignment on the project site.

Sewer

26. Sewer service connection shall be constructed to current City standards.

27. Sewer connections larger than 4 inches shall require construction of a manhole.
28. Existing septic tanks, if found, shall be removed, permitted, and inspected by the City of Madera Building Department.
29. Prior to the issuance of encroachment permits to construct utility connections, the developer shall reimburse its fair share of cost to the City for the previously constructed sewer main in North Schnoor Avenue. Total reimbursement due by the developer to the City is \$12,293.00.

Water

30. Water service connection(s) shall be constructed to current City standards including water meter(s) located within the City right-of-way and shall read in cubic feet. A backflow prevention device shall be located within private property.
31. A separate water meter and backflow prevention device will be required for landscape consumption.
32. Existing wells, if any, shall be abandoned as directed and permitted by City of Madera for compliance with state standards.
33. Prior to the issuance of encroachment permits to construct utility connections, the developer shall reimburse its fair share of cost to the City for the previously constructed water main in North Schnoor Avenue. Total reimbursement due by the developer to the City is \$7,822.00.
34. Additional detailed review of the water system requirements will be conducted by the City when more detailed off-site street plans, and on/off site utility plans are submitted to the City; additional requirements may be specified based on this subsequent review.

PLANNING DEPARTMENT

Site Plan and Building Design - General

35. This site plan approval authorizes the development of an integrated shopping center with a cohesive parking and circulation system and consistent design criteria. All buildings, regardless of tenant, shall be designed and constructed in a manner consistent with the City's Design and Development Guidelines for Commercial Development and the master design guidelines prepared for the project.
36. Consistent with the above-described guidelines, consideration will be given to all tenants to be allowed to retain important elements of their corporate identity and architectural details which support their branding and themed experience. While buildings and related site features shall incorporate a standard color palette, architectural features, roof types, and materials, etc., they may feature such aforementioned corporate elements and architectural details as well as variations to the color palette. Final elevations for all buildings/units are subject to the approval of the Community Development Director prior to the issuance of building permits.

37. The landscape and irrigation plan submitted for the project shall be in compliance with the State Department of Water Resources Model Water Efficient Landscape Ordinance.
38. Prior to the issuance of the first building permit, a final landscaping plan for the shopping center shall be submitted which encompasses the following revisions and clarifications:
- a. A phasing plan for all site landscaping shall be submitted for approval.
 - b. All landscaping areas shall have a minimum of 75% vegetative ground cover.
 - c. Indicate species, size and spacing of shrubs where used. Clear distinction between landscaping symbols should be provided.
 - d. Clearly designate what is ground cover and what is turf.
 - i) Landscape islands with shade trees separating facing parking stalls shall be a minimum of 5'x18' (at outside of curb). Where used, tree wells shall be a minimum of 5' in length and minimum of 5' in width (at outside of curb).
 - e. Raised planters, free standing planters (pots, containers), and tree wells in walking surfaces (with grates) shall be incorporated along storefronts which abut parking spaces.
 - f. Root barriers shall be provided for all trees which are planted 5' or less from curb, gutter and walkways.
 - g. Along the rear of the site, adjacent to the existing MID canal, it is recommended that efforts be made to create a more functional screen of this area for views from SR99. This can be accomplished in a variety of ways, including through the addition of berms or solid fencing, by planting additional evergreen trees, or combination thereof.
 - h. All landscaping shall be developed with permanent irrigation systems and shall be controlled with an irrigation control system approved by the Parks and Community Services Director. Tree wells should provide for deep watering versus surface watering.
 - i. All unpaved areas within the public right-of-way along the street frontages shall be landscaped and maintained by the developer/property owner. Landscaping shall be continuous from the curb-face, around the sidewalks, and up to the pavement in the parking area. Detailed landscape and irrigation plans shall be submitted and approved by the Parks and Community Services Director prior to issuance of any building permits. Street trees shall be placed as specified in the approved landscaping plan. No temporary or permanent occupancy of any buildings shall be approved until the landscaping has been installed as per the landscaping phasing plan and approved by the Parks and Community Services Director.
 - j. Any fencing, landscaping and irrigation within the public right-of way shall not be installed until the Parks and Community Services Director approves the plans. Any deviation shall require prior written request by the developer and approval by the Parks and Community Services Director. Removal or modification shall be at the developer's expense. A landscaping water meter (if applicable) shall be connected after a back-flow device.

- k. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design approved as part of the project's landscape and irrigation plan(s). This includes, but is not limit to, ensuring properly operating irrigation equipment at all times, trimming and pruning trees and shrubs, mowing lawns consistent with industry standards, replacing dead or unhealthy vegetation, etc.
 - l. Landscaping inspection fees for this project shall be paid in accordance with the fee schedule adopted by the Resolution of the City Council, no later than the issuance of building permits for the first building.
- 39. The location of all exterior transformers and similar utility/service equipment within the parking and circulation areas, common areas, and landscaped areas shall be shown on building plans; above ground features shall be screened with a combination of landscaping, berms, architecturally treated walls, etc. to the satisfaction of the Community Development Director.
 - 40. All building-related electrical and utility service panels and equipment shall be enclosed in mechanical rooms or screened from public views with architectural features or landscaping.
 - 41. Roof access ladders shall be located inside the buildings or be located within an enclosure matching the adjacent architectural features.
 - 42. Submit for review and approval a lighting plan and information (tear sheets) on fixtures. This should be accomplished in conjunction the requirements of the mitigation measures required for the project.
 - 43. Outdoor lighting fixtures shall be directed downward and shielded away from adjacent properties, unless accent lighting is specifically authorized by the City. Any nuisance lighting conditions which are found to exist after commencement of operation shall be corrected by the owner to a configuration that is acceptable to City at the owner's expense, within (30) days of notification by the City.
 - 44. A plan for internal pedestrian crossings shall be submitted for review and administrative approval by the Community Development Director which indicates the type and design of pavement markers (e.g., stamped concrete, pavers) pursuant to the provisions of the Master Design Guidelines. The use of painted lines in lieu of alternative pavement types to delineate pedestrian connections should be used only where alternative pavement is limited by ADA access requirements.
 - 45. To the extent feasible, pedestrian connections/sidewalks shall be meandered with landscape strips to avoid long, continuous paved edges. Meander may be accomplished with a curvilinear or angular pattern.
 - 46. The placement and design of bollards or planters adjacent to store fronts shall be shown on the building plans for all buildings. Any such features shall be consistent with the overall architectural style for the center. Bollards shall have decorative features rather than simple solid pipes or posts and may vary by design.
 - 47. Submit for review and administrative approval by the Community Development Director, a plan and detail for refuse storage areas. Where any side is exposed to public view, landscape screening (and

berm, where possible) shall be incorporated, or the enclosure shall be surfaced with an architectural treatment compatible with the adjacent building.

48. Provide details and locations for cart storage areas in conjunction with each building permit application. Storage areas shall be buffered with landscaping or architectural features. The only signage allowed will be a basic symbol.
49. Vandalism and graffiti shall be corrected at the owner's expense within 72 hours of notification.

Site Plan and Building Design – Specific Modifications

50. Light sconces or other architectural embellishments should be included along building frontages to break up wall mass. Wainscoting and/or banding treatment are recommended at columns and entryways.
51. Major A – The building shall be modified in accordance with the provisions of the City's Design and Development Guidelines. A stucco finish shall be applied to the front exterior elevation, currently presented as a painted CMU (Concrete Masonry Unit) block finish. This would bring the lines and exterior finish of the building closer to the conceptual elevations of other buildings in the shopping center.
52. Shops A1 and A2 – The buildings shall be modified in accordance with the provisions of the City's Design and Development Guidelines. Landscape features such as tree wells and/or planter beds shall be included at the rear of buildings where currently none are indicated. The use of awnings or other structures placed over rear service doors should be considered.
53. Buildings B & C – The buildings shall be modified in accordance with the provisions of the City's Design and Development Guidelines. Along the southeasterly elevation of Building C (side of building) the project shall include planters and/or tree wells along the curb face where parking spaces abut building. Architectural features shall be included to break up the wall massing of this side of the building, such as vertical landscaping, trellis structures, or combination thereof. The use of awnings or other structures placed over rear service doors should be considered.
54. Pads D, E & F – The rear (northwesterly elevation) of the building proposed for Pad F shall be modified consistent with the General Plan and the Design and Development Guidelines to take into consideration public views from Foxglove Way. A "four-sided building" shall be designed for Pad F and the utility equipment shall be screened by landscaping or by incorporating the mechanical areas into the architectural design of the building. Utility equipment for buildings proposed for Pads D & E should be located at the rear of buildings (southerly elevations), out of public views.
55. Pad G – Pharmacy Use - The building shall be modified to incorporate a smooth textured finish to soften the CMU construction, using colors from the center's primary color palette. Along the northwesterly elevation of Building C (frontage of building facing Foxglove Way) the project shall include planters and/or tree wells along the curb face where parking spaces abut building. The screening enclosure for the trash compactor and trash bins must carry the same architectural treatments as the adjoining walls.

56. A design for the transit site shall be submitted for review and approval of the Community Development Director. The design should:
- Encourage the use of transit services by providing a positive appealing space.
 - Be located in an area inclusive of the general activities.
 - Be a well landscaped attractive setting.
 - Provide separation from the traffic.
 - Provide a shade and rain shelter that is architecturally consistent with the area,
 - Include provisions for seating, trash receptables and a screened area for depositing carts.

Master Sign Plan

57. A master sign plan shall be developed to demonstrate unified sign styles within the center and to establish allowances for individual sign permits when they are proposed. The plan shall cover building signage, monument signage, or other freestanding signage including any proposed "directional monument". The master sign plan shall be submitted by the applicant and reviewed and approved by the Planning Department prior to issuance of building permits.
58. All freestanding directional, monument and/or pylon type signs shall be designed to be consistent with the architecture and color schemes of the commercial center. Presentation of multiple tenant names and or symbols shall be done in a manner that provides a uniform consistent presentation. Consistency may be achieved in several ways including but not limited to uniform background colors, alignment of lettering, consistency in font sizes or types. The intent is not to prevent unique tenant identification, but to present corporate images/logos and signage in a thematically coordinated manner rather than in an uncoordinated, dissimilar fashion.

FIRE REQUIREMENTS

59. Fire Department connections shall be located in posted fire lanes 40 feet from the structure protected. Where multiple Fire Department connections are located together, each shall be clearly identified as to the building it serves.
60. Portable fire extinguishers must be provided. A minimum of at least one, 2A10BC-rated portable fire extinguisher is required for each 3,000 square feet of area or fraction thereof. The fire extinguishers must be mounted in visible and accessible locations with 75 feet of travel distance of all portions of each building.
61. Fire sprinklers are required in most buildings. The exact use and occupancy of the smaller structures will determine if fire sprinklers are required.
62. Exit signs and emergency lighting are required in buildings with two or more required exits.
63. Fire lanes need to be provided and clearly identified on the Site Plan including the method of posting. NOTE: The drive access along the north side of the project does not appear to provide proper turning movements for fire apparatus. This may require a slight redesign in building placement or parking layout.

64. The addresses for each building must be visible from the street and the method and placement must be shown on the front elevation of the plans.
65. A fire alarm system for supervision of the fire sprinkler system is required. An evacuation alarm may be required based upon the requirements of California Fire Code Chapter 9 and California Building Code Chapter 9.
66. When commercial cooking systems are proposed, a fire suppression system will be required.
67. The specific use of the "Patio Areas" will need to be identified during the plan review phase.
68. There does not appear to be an adequate accessible path of travel at the rear of Building B and possibly not at Building A either. This shall be addressed prior to submittal for building permits.
69. The proposal shows interconnectivity with the rear of the Marketplace Shopping Center. The fire access lanes need to be identified for review. Careful attention should be given regarding maintenance of the fire lanes.
70. Note, this project will be subject to the City of Madera's new "Shell Building Policy" if such buildings are proposed as is common with this type of development.
71. Cross-access agreements are required for the multiple properties that comprise this site. The access to the existing Home Depot site will be affected and this must be clarified.
72. All onsite underground fire mains and above ground fire protection systems (such as fire hydrants) must be tested and operational prior to the delivery of combustible construction materials to the site.

Building Plans, Permits, Processes

73. Existing property corners shall be found or installed and noted on the site plan, along with the distance from the property lines to the face of curb and street centerline. New property corners shall require record of survey prior to any site construction or issuance of building permits.
74. For each building to be constructed, provide a minimum of 2 sets of the following plans to the Building Division for the initial plan check. The size of plans shall be at least 36" x 24". A complete set of plans shall be prepared by and bearing the stamp and signature of an individual licensed to practice architecture, including the following required drawings drawn to an appropriate scale:
 - a. Site plan bearing City approval or a plan incorporating all site related conditions
 - b. Grading plan prepared by an individual licensed to practice land surveying, civil engineering or architecture
 - c. Floor plan
 - d. Site utilities plan showing on-site sanitary sewer, water, storm sewer, water meters, back flow prevention devices, roof drains, etc., and the connections to off-site utilities
 - e. All exterior elevations
 - f. Engineering plans and calculations
 - g. Foundation plan

- h. Ceiling framing plan
 - i. Roof framing plan
 - j. Electrical plan
 - k. Plumbing plan
 - l. Mechanical plan
 - m. Sections and details
 - n. Disabled access compliance drawings
 - o. Energy compliance drawings and documentation
 - p. Landscape plan
 - q. Landscape irrigation plan
75. The site plan submitted with each building permit application shall include all modifications and clarifications required by these conditions of approval, as applicable to the building proposed for construction. Information required on the plan shall include, but not be limited to: water and sewer service, water meter and sewer cleanout, backflow preventer location and type, existing fire hydrants within (100) feet and street lights within (100) feet, traffic striping and signing, and any other existing or proposed improvements.
76. The plans submitted for building permits shall show compliance with the herein listed conditions of approval and shall comply with the uniform building codes, along with federal and state laws, local resolutions and ordinances. Site development shall be consistent with the approved site plan, floor plan and elevations. Any deviations shall require prior written request and approval from the Community Development Director. The site plan and all plans submitted for building permit purposes shall be at a scale large enough to allow all dimensions and distances to be legible.
77. Site and buildings must meet federal and state disability access regulations. Each first- floor unit must meet accessibility requirements from public spaces and parking lots to each unit. In addition, inside each unit all rooms must meet accessibility and be adaptable for future compliance to disabled access regulations.

San Joaquin Valley Air Pollution Control District

78. The SJVAPCD has commented that the project is subject to District Rule 9510 (Indirect Source Review). District Rule 9510 states that a project proponent shall submit an Air Impact Assessment (AIA) prior to final discretionary approval. It is recommended that the project applicant consult with the SJVAPCD regarding District Rule 9510, as well as any other applicable District Rules and Regulations prior to submittal for building permits.

Caltrans

79. The project applicant shall enter into a fair share agreement with Caltrans to address off-site improvements as identified in the Draft EIR and MMRP prepared for the Foxglove Shopping Center.
80. The applicant shall make all required traffic improvements as identified in the Draft EIR and MMRP prepared for the Foxglove Shopping Center.

Madera Irrigation District

81. The applicant shall coordinate with Madera Irrigation District regarding the location and configuration of required fencing along the canal alignment.

B. Conditional Use Permit Conditions

General

1. Conditioned upon acceptance of the conditions of approval contained herein within thirty (30) days, as evidenced by the Applicant's dated signatures on the required acknowledgment.
2. An applicant's failure to utilize any use permit within one year following the date of this approval shall render the conditional use permit null and void unless a written request for extension has been submitted to and approved by the Planning Commission for the specified permit.

Outdoor Seating (CUP 2013-04)

3. The defined outdoor seating areas for the site shall be limited to use in conjunction with food and beverage service and may be defined and separated from the parking area by a planter or low fence. The seating areas shall not interfere with required path of travel required for the center.

Drive-thru Use (CUP 2013-05)

4. A drive-thru window is proposed for the drug store use. There shall be adequate area to accommodate the drive-thru window and sufficient vehicle stacking area in both drive-thru lanes. The drive-thru window shall be incorporated into the design of the building and not substantively detract from the overall architectural value of the building.

Alcohol Sales for On-Site Consumption (CUP 2013-06...)

5. Alcohol sales for on-site consumption of beer, wine and spirits, within the shopping center project shall be limited to sale and consumption within restaurant/cafe tenants where alcohol is an accessory component to food service. Alcohol sale for on-site consumption shall be limited to Shops A1 and A2, and also for Pads D, E and F.
6. A separate conditional use permit shall be assigned to each specific location. Each shall operate independent of the others, and each shall require individual review for compliance and/or any requested extensions or modifications.
7. Specific locations approved for alcohol sales for on-site consumption shall have the following use permit numbers assigned:
 - Shop A1 - CUP 2013-06A1
 - Shop A2 - CUP 2013-06A2
 - Pad D - CUP 2013-06D
 - Pad E - CUP 2013-06E
 - Pad F - CUP 2013-06F

8. The service and consumption of alcohol in the outdoor seating area for the five identified locations will require that a specific seating area be established, and defined with a fence and gate, and that alcohol not be taken from that area.
9. ~~Hours of operation for the restaurant/café uses shall not be earlier than 8:00 a.m. or later than midnight.~~
9. Sales of alcoholic beverages for on-site consumption shall not occur earlier than 8:00 a.m. or later than midnight.
10. The applicant must, prior to commencing the use contemplated by this permit, provide evidence of a valid ABC license for the sale of alcoholic beverages for consumption on-site of the premises of the restaurant/café use.
11. Music or obnoxious noise from the operation or business shall not be audible to persons in the public rights-of-way or on adjacent or nearby properties.
12. Loitering shall be prohibited in, upon the premises and in adjacent, and nearby areas both public and private.
13. An adult operator or employee 21 years of age or older shall be on site during all hours of operation.
14. The limitation/restriction on the number and locations for alcohol sales for on-site consumption within the center, as part of this approval, shall not be construed as a prohibition from a future conditional use permit application being submitted to the City for consideration.

Alcohol Sales for Off-Site Consumption (CUP 2013-07)

15. Alcohol sales for off-site consumption within the shopping center project shall be limited to Major A (Grocery Store use) and Pad G (Pharmacy use) locations.
16. A separate conditional use permit shall be assigned to each specific location. Each shall operate independent of each other and require individual review for compliance and/or any requested extensions or modifications.
17. Specific locations approved for alcohol sales for off-site consumption shall have the following use permit numbers assigned:
 - Major A (Grocery Store use) – CUP 2013-07A
 - Pad G (Pharmacy use) – CUP 2013-07G
18. ~~Sales of alcoholic beverages for off site consumption shall not occur earlier than 8:00 a.m. or later than midnight.~~
19. The applicant must, prior to commencing the use contemplated by this permit, provide evidence of a valid ABC license for the sale of alcoholic beverages for consumption off the premises of the store.

20. Loitering shall be prohibited in, upon the premises and in adjacent, and nearby areas both public and private.
21. An adult operator or employee 21 years of age or older shall be on site during all hours of operation.
22. The limitation/restriction on the number and locations for alcohol sales for off-site consumption within the center, as part of this approval, shall not be construed as a prohibition from a future conditional use permit application being submitted to the City for consideration.