



REGULAR MEETING OF THE MADERA PLANNING COMMISSION

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

Tuesday, November 14, 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: 84411879703# followed by *9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/84411879703>. 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. 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 that item is called. 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.

WORKSHOP:

1. MEASURE T – Presentation on behalf of Madera County Transportation Commission

PUBLIC HEARINGS:

1. CUP 2022-04 & SPR 2022-05 – Townplace Suites (Report by Adi Rueda)

Subject: A continued public hearing to consider a conditional use permit and site plan review to allow for the development of a 53,313 sq. ft., 5-story Townplace Suites Hotel with 94 suites and 92 parking spaces on a 1.48-acre parcel approximately 400 feet southwest of the Avenue 17 / Airport Drive intersection. The site access will be via one driveway on the east side of the site connecting to an existing private drive with connectivity to Avenue 17 and Airport Drive. The site is zoned C2 (Heavy Commercial) with a General Plan land use designation of C (Commercial). APN: 013-012-020

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) Guidelines, Section 15332 (Infill Development). The project is consistent with the site's General Plan and Zoning Ordinance and the site is served by public services and utilities. The site has no value as habitat for endangered, rare or threatened species. Nor would the project result in any significant effects related to traffic, noise, air quality or water quality.

Recommendation:

Staff is requesting this item be continued to the December 12, 2023, Planning Commission meeting.

2. VAR 2023-04 & SGN 2023-30 – Ross Sign (Report by Adi Rueda)

Subject: A noticed public hearing to consider a variance which would allow for an increase in on-building signage at the Ross located at 2237 W. Cleveland Ave. in the Madera Marketplace Shopping Center. The site is located in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. The maximum on-building signage for this tenant space is 165 sq. ft. Ross is proposing 303 sq. ft. of on-building signage. This is an approximate 83.63% increase in on-building signage.

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) Guidelines, Section 15311 Accessory Structures.

Recommendation:

Staff is requesting this item be continued to the December 12, 2023, Planning Commission meeting.

3. TSM 2022-03 & TSM 2022-04 – Ventana Subdivisions (Report by Robert Smith)

Subject: A noticed public hearing to consider two Tentative Subdivision Maps. TSM 2022-03 will subdivide approximately 237.5 acres into 999 lots for the development of 855 single-

family residences, 144 multi-family residential units, 3 park sites and a drainage basin consistent with the adopted 237.5-acre Ventana Specific Plan. The 237.5-acre site is bound by Pecan Avenue to the north, Road 28 ¼ to the east, Hazel Avenue to the south and an existing subdivision and Parkwood Elementary School to the west. TSM 2022-04 proposes to subdivide the 237.5-acre Ventana Specific Plan Area into 19 parcels.

The project site is zoned PD-3000 (one unit for every 3,000 sq. ft. of site area), PD-4500 (one unit for every 4,500 sq. ft. of site area), PD-6000 (one unit for every 6,000 sq. ft. of site area), CN (Neighborhood Commercial) and PF (Public Facilities) Zone Districts with an MD (Medium Density) General Plan land use designation. APN's: 012-490-002, 004, 005 & 006.

An Environmental Impact Report (EIR) was previously prepared and certified for the Specific Plan, in March 2007. Pursuant to CEQA Guidelines, Sections 15162 and 15164, no subsequent Environmental Impact Report, Negative Declaration or addendum is required for approval of the project.

Recommendation:

The applicant is requesting this item be continued to the December 12, 2023, Planning Commission meeting.

4. CUP 2023-07 & SPR 2023-23 – Walmart Seasonal Storage Trailers (Report by Gary Conte)

Subject: A noticed public hearing to consider a conditional use permit and site plan review to allow for the yearly placement of outdoor storage containers for the holiday season at the Walmart located approximately 1,000 feet east of the intersection of Schnoor Avenue and West Cleveland Avenue (1977 W. Cleveland Ave.) in the C1 (Light Commercial) Zone District with a C (Commercial General Plan land use designation. APN: 013-160-014

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) Guidelines, Section 15304(e) Minor Alterations to Land.

Recommendation:

Conduct the public hearing and:

- a. Adopt a Resolution approving Conditional Use Permit 2023-07 and Site Plan Review 2023-23 for the yearly placement of the seasonal storage trailers located at Walmart (1977 W. Cleveland Ave).

ADMINISTRATIVE REPORTS:

COMMISSIONER REPORTS:

ADJOURNMENT:

-
- The meeting room is accessible to the physically disabled. Requests for accommodations for persons with disabilities such as signing services, assistive listening devices, or alternative format agendas and reports needed to assist participation in this public meeting may be made by calling the Planning Department's Office at (559) 661-5430 or emailing planninginfo@madera.gov. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service. Requests should be made as soon as

practicable as additional time may be required for the City to arrange or provide the requested accommodation. Requests may also be delivered/mailed to: City of Madera, Attn: Planning Department, 205 W. 4th Street, Madera, CA 93637. At least seventy-two (72) hours' notice prior to the meeting is requested but not required. When making a request, please provide sufficient detail that the City may evaluate the nature of the request and available accommodations to support meeting participation. Please also provide appropriate contact information should the City need to engage in an interactive discussion regarding the requested accommodation.

- The services of a translator can be made available. Please contact the Planning Department at (559) 661-5430 or emailing planninginfo@madera.gov to request translation services for this meeting. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service. Requests should be submitted in advance of the meeting to allow the City sufficient time to provide or arrange for the requested services. At least seventy-two (72) hours' notice prior to the meeting is requested but not required.

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 2022-04 & SPR 2022-05
Townplace Suites

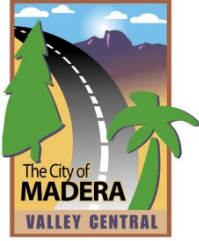
Staff is requesting this item be continued to the December
12, 2023 Planning Commission meeting.

VAR 2023-04 & SGN 2023-30
Ross Sign

Staff is requesting this item be continued to the December
12, 2023 Planning Commission meeting.

**TSM 2022-03 & TSM 2022-04
Ventana Subdivisions**

The applicant is requesting this item be continued to the
December 12, 2023 Planning Commission meeting.



REPORT TO THE PLANNING COMMISSION

Prepared by:

Gary Conte, Planning Manager

Meeting of: November 14, 2023

Agenda Item: 4

SUBJECT

Conditional Use Permit 2023-07 and Site Plan Review 2023-23– Walmart Seasonal Storage Containers (Continued from October 10, 2023)

RECOMMENDATION

Conduct a public hearing and:

1. Adopt a Resolution adopting a determination of a Class 3 Categorical Exemption pursuant to the California Environmental Quality Act Guidelines Section 15303(e) Accessory structures) for the project and approving Conditional Use Permit 2023-07 and Site Plan Review 2023-23, subject to the findings and conditions of approval.

PROPOSAL

The applicant (Walmart) is requesting a Conditional Use Permit (CUP 2023-07) and Site Plan Review (SPR 2023-23) to allow for the annual placement and use of up to 35 temporary storage containers at the Walmart store (Walmart #1583) located at 1977 West Cleveland Avenue (Madera County Assessor's Parcel (APN) 013-160-014) (refer to Attachment 1). Walmart proposes to place the storage containers at the rear of the Walmart building temporarily utilizing approximately 35 parking spaces (refer to Attachment 2).

This item was continued from the October 10, 2023, Planning Commission hearing. The Planning Commission (Commission) continued its consideration on the proposal from October 10, 2023, to an unspecified future Commission hearing at staff's request. With the exception of staff requesting a continuance on this item and the Commission approving a motion to continue the item to an unspecified Commission hearing, this item was not presented to the Commission.

SITE CHARACTERISTICS

Walmart is the largest parcel and anchor retail business within the Marketplace shopping center. The shopping center is located at the southwest corner of North Schnoor Avenue and West Cleveland Avenue. Four driveways provide access to the shopping center from West Cleveland Avenue – 3 of which are west and in front of the Walmart building and 1 that is east and to the rear of the Walmart building. The driveway to the east and rear of the Walmart building is generally used for delivery services for Walmart and other businesses within the Marketplace shopping center, and is commonly accessed by tractor and trailers, as well as by delivery trucks and vans.

The subject site is a developed irregular shaped 12.5-acre parcel with the Walmart building measuring approximately 120,225 square feet (sf). The majority of Walmart’s on-site parking is located in front of the Walmart building with an additional 52 employee parking spaces located to the rear of the building (refer to Attachment 1). The Madera General Plan designates the site as C (Commercial) and is zoned C-1 (Light Commercial).

Table 1 below provides an overview of the project site characteristics and General Plan land use designation and zoning district.

Table 1: Project Overview	
<i>Project Number:</i>	Conditional Use Permit 2023-07 and Site Plan Review 2023-23
<i>Applicant:</i>	Walmart
<i>Property Owner:</i>	Walmart Reality
<i>Location:</i>	Madera Market Place Shopping Center; 1977 West Cleveland Avenue (APN 013-160-014)
<i>Project Area:</i>	12.5 acres
<i>Planned Land Use:</i>	C (Commercial)
<i>Zoning District:</i>	C1 (Light Commercial)
<i>Site Characteristics</i>	Developed site

SURROUNDING LAND USES

In the immediate vicinity of the project site, West Cleveland Avenue is a designated 4-lane divided Arterial roadway with dedicated left turn lane used for vehicles to enter the Madera Market Place shopping center to the north and The Commons shopping center and the Madera County Fairgrounds located south of West Cleveland Avenue. West Cleveland Avenue improvements include an existing monolithic curb, gutter, sidewalk along the project site frontage and an Americans with Disabilities Act (ADA) access ramp at each driveway approach leading into the Madera Market shopping center. Businesses south of West Cleveland Avenue, directory across from Walmart include Grocery Outlet, Walgreens and Marshalls.

The Midland Tractor sales and service center abuts the project site to the east. A six-foot-high concrete masonry unit (CMU) is present along the property line separating the project site from the adjacent Midland Tractor sales and service center. A pole mounted overhead electrical transmission line parallels the property lines. The power poles are positioned on the adjacent Midland Tractor property. The area of the Midland Tractor property abutting the location of the proposed temporary containers is used for the storage of new and used tractor equipment.

Table 2 below provides an overview of the surrounding characteristics and surrounding property General Plan land use designations and zoning districts.

Table 2: Existing Uses, General Plan Designations and Zoning Districts of Surrounding Properties			
<i>Direction from Project Site</i>	<i>Existing Use</i>	<i>General Plan Designation</i>	<i>Zone District</i>
North	Various retail and Food Services	C (Commercial)	C1 (Light Commercial)
East	Midland Tractor Sales & Services	C (Commercial)	C2 (Heavy Commercial)
South	Walgreens & Grocery Outlet	C (Commercial)	C2 (Heavy Commercial)
West	Chase Bank; Parking for the Market Place Shopping Center	C (Commercial)	C1 (Light Commercial)

BACKGROUND

Development of the Walmart store occurred in the early 1990s after approval by the Commission. Since its original development, Walmart has expanded the building's garden center and received approval of various use permits and zoning administrator permits that primarily allowed for outdoor display and sales. Walmart has previously submitted applications annually specifically for the temporary placement of storage containers annually since 2012.

ANALYSIS

Conditional Use Permit 2023-03

Section 10-3.802(C) of the Madera Municipal Code (MMC) requires a use permit for any use in a C1 (Light Commercial) zone district for uses, not specifically expressed or identified, but in the opinion of the Commission could be considered of similar in nature to those permitted or subject to approval by the Zoning Administrator or the Commission. Walmart is requesting an allowance for the placement of up to 35 storage containers for the primary purpose of storing miscellaneous layaway merchandise during the holiday season sales period. Other seasonal merchandise could also be stored within up to six of the storage containers, as needed. The placement and use of temporary storage containers could be considered of similar in nature use as to the "[t]emporary outdoor display of merchandise and sales activities" (MMC Section 10-3.802(B)(4)) which is subject to Zoning Administrator approval, and that of the "[o]utdoor sales establishments" (MMC Section 10-3.802(C)(9)) which is subject to a use permit.

The City's Zoning Ordinance allows for the granting of a use permit by the Commission subject to the Commission being able to make findings that the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

If the Commission cannot make the appropriate findings, 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 site improvements required to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification, or revocation by the Commission, as necessary.

Site Plan Review 2023-23

Section 10-3.4 of the MMC establishes procedures for the review and approval of site plan reviews. Pursuant to Section 10-3.4.0103 of the MMC, a site plan review is required for all projects subject to a use permit, including a change in use where on-site construction or improvements are proposed or required. Sections 10-3.803 through and including 10-3.805 of the MMC establish standards specific to development within the C1 (Light Commercial) zone district. Off-street parking space requirements specific to uses are provided in Section 10-3.1202 of the MMC.

Site plan review approval is subject to the proposed action being in compliance with the City General Plan, any applicable specific plan, all applicable provisions of the MMC, and all rules and regulations applicable to the proposed action. Approval of SPR 2023-23 would allow for the seasonal placement and use of temporary storage containers by Walmart at 1977 West Cleveland Avenue and define project site conditions of approval.

Primary concerns considered in relation to outdoor activities in any commercial zone district include traffic congestion, pedestrian safety, loitering, noise, trash, litter, vector control, visual blight and site maintenance. While conditions of approval are imposed to address these concerns, implementation and monitoring of compliance with those conditions would be a necessity by the applicant, property manager and City staff. Recommended conditions of approval address public safety, visual blight and land use compatibility as primary concerns of the use.

Walmart proposes to place the temporary storage containers along the eastern fringe of the store's property over approximately 35 existing parking stalls. The storage containers would be delivered to the site annually no earlier than October 1, and remain onsite until no later than January 31 for a maximum annual duration of 123 days. The storage container distributor would be required to remove the storage containers no later than January 31.

The location of the eighteen 8-foot x 20-foot storage containers, as proposed, will not be a visual distraction to traffic along West Cleveland Avenue nor will it cause blight on the site. Each storage container will be 8.5 feet tall. Based on the length of the Wal-Mart building in relation to the length of the 35 storage containers, the storage containers will be able to be adequately screened from the public right of way. An increase in traffic to the site is anticipated as a result of the seasonal sales. The increase in traffic is indicative of a potential for an increase in traffic accidents. It is recommended that traffic signage be installed, and pedestrian controls implemented so as to adequately provide for public safety of motorists, pedestrians and employees in the vicinity of the temporary storage containers. It is also recommended that the area in and around the storage containers be kept free of trash, debris, fixtures and other associated materials that could cause distraction for motorists maneuvering through the areas in proximity to the storage containers.

The placement of up to 35 storage containers would temporarily eliminate access to approximately 35 non-designated handicap parking spaces used primarily by employees. Such parking spaces are generally under-utilized. The loss of these spaces would not present a significant effect given Walmart parcel was developed with excess parking to allow for future expansion of the store.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Staff has performed a preliminary environmental assessment and determined that the project is categorical exempt under Section 15303(E) (Accessory Structures) of the California Environmental Quality Act (CEQA) as this action is the location of a limited number of small facilities and the number of structures described will not violate the zoning district's maximum allowable square footage or conflict with yard setback or building height restrictions, or the City's parking ordinances. The site has previously been used for similar temporary storage for the holidays for many years. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project and the project does not present an unusual circumstance as the use of temporary storage containers is common for large retail stores and these proposed containers will be adequately screened from the public right of way and there is no evidence these temporary storage containers will cause a significant effect on the environment.

PLANNING COMMISSION ACTION

The Commission will be acting on the Conditional Use Permit 2023-07 and SPR 2023-23. Staff recommends that the Commission:

1. Move to adopt a Resolution of the Planning Commission of the City of Madera adopting a Finding of Categorical Exemption pursuant to California Environment Quality Act (CEQA) Guidelines Section 15303(E) (Accessory Structures) and approving Conditional Use Permit 2023-07 and SPR 2023-23 subject to the findings and conditions of approval.

ALTERNATIVES

1. Move to refer the item back to staff and /or continue the public hearing to a future Commission meeting at a date certain with direction to staff to return with an updated staff report and / or resolution: (Commission to specify date and reasons for continuance).
2. Move to deny the request based on specific facts that do not permit the Commission to make the necessary findings for approval of a conditional use permit or site plan review: (Planning Commission to articulate reasons for denial).
3. Provide staff with other alternative directions.

ATTACHMENTS

- 1: Aerial Vicinity Map
- 2: Site Plan
- 3: Storage Container
- 4: Planning Commission Resolution
“Exhibit A” - Conditions of Approval

ATTACHMENT 1

Aerial Vicinity Map



Project Vicinity

Walmart Property Boundary

Walmart # 1583

Highway 99

N Schnoor St

W Cleveland Ave

West Cleveland Avenue

500 ft

Google Earth

© 2020 Google



ATTACHMENT 2

Site Plan



Approved Storage Boundary



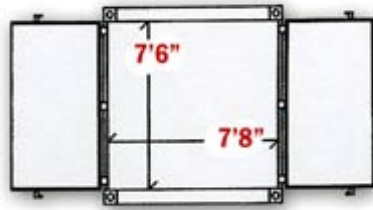
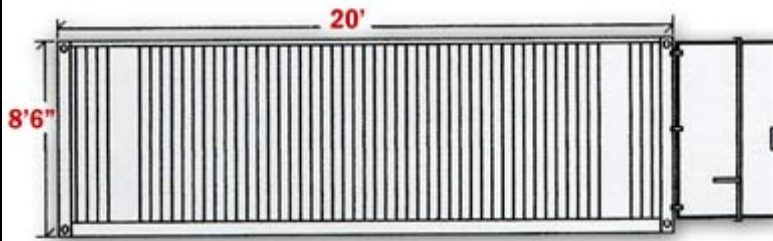
Storage Bins



ATTACHMENT 3

Storage Container

20' Standard Dry Cargo Container





ATTACHMENT 10

Planning Commission Resolution
(Includes "Exhibit A" – Conditions of Approval)

RESOLUTION NO. 1971

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA APPROVING CONDITIONAL USE PERMIT 2023-07 AND SITE PLAN REVIEW 2023-23 (WALMART SEASONAL STORAGE CONTAINERS) AND ADOPTING A FINDING OF A CLASS 3 CATEGORICAL EXEMPTION PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTION 15303(e) (ACCESSORY STRUCTURES) (WALMART SEASONAL STORAGE CONTAINERS)

WHEREAS, Walmart (“Applicant”) currently operate a business known as Walmart #1583, located at 1977 West Cleveland Avenue (Madera County Assessor Parcel Number (APN) 013-160-014) in the City of Madera, California (“site”); and

WHEREAS, the site, owned by Walmart Realty, is approximately 12.45 acres; and

WHEREAS, Applicant is seeking a conditional use permit (CUP 2023-07) and site plan review (SPR 2023-23) to allow for the placement and use of up to thirty-five (35) 8-foot wide x 20-foot long x 8.5-foot high temporary storage containers for seasonal storage; and

WHEREAS, the temporary storage containers will be located at the rear of the building temporarily extinguishing approximately 35 parking stalls; and

WHEREAS, although parking stalls will be non-accessible during the holiday sales season, there is still a sufficient number of parking stalls to serve the site; and

WHEREAS, Walmart has previously submitted use permit applications specifically for the temporary placement of storage containers annually since 2012; and

WHEREAS, the storage containers would be placed on the site annually no earlier than October 1 until no later than January 31 for a maximum annual duration of 123 days; and

WHEREAS, the location of the storage containers, as proposed, will not extend beyond the northern or southernmost limits of the Walmart building, and will not be a visual distraction to traffic along West Cleveland Avenue nor will it cause blight on the site; and

WHEREAS, the City performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in Section 15303 of the California Environmental Quality Act (CEQA) Guidelines as the project is the location of a limited number of small facilities and the number of structures described will not violate the zoning district’s maximum allowable square footage or conflict with yard setback or building height restrictions, or the City’s parking ordinances; and

WHEREAS, under the City’s Municipal Code, the Planning Commission (Commission) is authorized to review and approve use permits and site plan reviews on behalf of the City; and

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

WHEREAS, at its regularly scheduled October 10, 2023 hearing, the Commission, at staff’s request, continued CUP 2023-07 and SPR 2023-28 to an unspecified future Commission hearing; and

WHEREAS, the Commission received and reviewed CUP 2023-07 and SPR 2023-23 at a duly noticed meeting on November 14, 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 has independently completed its review of the staff report and documents submitted for CUP 2023-07 and SPR 2023-23, and evaluated the information contained within the report and documents submitted, and considered the testimony received as part of the public hearing process; and

WHEREAS, the Commission now desires to approve CUP 2023-07 and SPR 2023-23, with conditions, and adopt a finding of a categorical exemption for the project.

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: A preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning Commission finds and determines that the project falls within the Class 3 Categorical Exemption set forth in CEQA Guidelines Section 15303 as the project is the location of a limited number of small facilities and the number of structures described will not violate the zoning district's maximum allowable square footage or conflict with yard setback or building height restrictions, or the City's parking ordinances. The site has previously been used for similar temporary storage for the holidays for many years. Furthermore, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines section 15300.2 apply to this project and the project does not present any unusual circumstances. As such, the Commission adopts a determination of a Categorical Exemption under CEQA Guidelines section 15303 (Accessory Structures) for this project.
3. Findings for CUP 2023-07 and SPR 2023-23 (Walmart Seasonal Storage Containers): The Commission finds and determines that there is substantial evidence in the administrative record to support the adoption of CUP 2023-07 and SPR 2023-23, as conditioned, is it is consistent with the requirements of the Municipal Code including Section 10-3.13 (Use Permit). The 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:

Findings to Approve a Conditional Use Permit

- a. The proposal is consistent with the General Plan and zoning ordinance.

Basis for Finding: The temporary placement of storage containers for seasonal storage is consistent with the purposes of the C (Commercial) General Plan land use designation and the C1 (Light Commercial) Zone District which provides for the use, subject to the issuance of a conditional use permit.

- b. There is adequate parking and site features to allow for the temporary placement of storage containers.

Basis for Finding: The placement of up to 18 storage containers would temporarily eliminate access to approximately 32 parking stalls used primarily by employees. Such parking stalls are generally under-utilized. The loss of these stalls should not present a significant problem because Walmart was developed with excess parking to allow for future expansion of the store. There is adequate parking on the site given the proposed use and its temporary nature.

- c. As conditioned, the temporary placement of storage containers will be compatible with surrounding properties.

Basis for Finding: Conditional Use Permit 2023-07 has been reviewed and, subject to the conditions of approval, has been determined that the temporary location and use of up to 18 storage containers will be positioned such that they will be consistent with surrounding development and will not have a negative effect on the surrounding area. The temporary use of the storage containers will not generate significant amounts of noise, light or traffic.

- d. As conditioned, the establishment, maintenance and/or operation of the use will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare or 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 development is compatible with surrounding properties and will not have a significant, adverse environmental impact.

With the conditions imposed, the project will not be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City, etc.

Findings to Approve a Site Plan Review

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

SPR 2023-23 is consistent with the General Plan land use designation of C (Commercial). SPR 2022-42 is consistent with the purpose and intent of the C1 (Light Commercial) zone district and does not conflict with City standards or other provisions of the Code.

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

The site is not located within the boundary of an adopted specific plan.

- 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*

SPR 2023-23 has been reviewed and is consistent with surrounding uses and with all applicable requirements for development in the C1 (Light Commercial) zone district. Public improvements will be installed to ensure that vehicular and pedestrian circulation is provided and that utilities on-site will be accommodated consistent with City standards. Review of the site determined that the project would not result in a significant generation of noise, light, or traffic, and there will be no adverse effects on surrounding property.

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

SPR 2022-42 will be required to install sidewalk improvements in accordance with City standards. Related infrastructure improvements may also include curb, gutter, storm drainage, utilities and other related street infrastructure in conformance with City standards.

Establishment of an operation of the wholesale / retail welding and automotive supply business will not have a significant impact on traffic or the environment.

4. Approval of CUP 2023-07 and SPR 2023-23: Given that all findings can be made, the Planning Commission hereby approves CUP 2023-07 and SPR 2023- as conditioned as set forth in the Conditions of Approval attached as Exhibit "A." All prior use permits, zoning administrator permits, and site plan review approvals remain in full force and effect consistent with their conditions of approval.

5. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 14th day of November 2023, 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 2023-23 and SPR 2023-23 (Walmart Seasonal Storage Containers)

EXHIBIT "A"

CUP 2023-07 and SPR 2023-23 (Walmart Seasonal Storage Containers) Conditions of Approval November 14, 2023

NOTICE TO PROJECT APPLICANT

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, 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 plan 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 Conditional Use Permit 2023-07 (CUP 2023-07) will ultimately be deemed mandatory unless appealed by the applicant to the City Council within 15 days after the decision by the Planning Commission (Commission). All discretionary conditions of approval for Site Plan Review 2023-23 (SPR 2023-23) will ultimately be deemed mandatory unless appealed by the applicant to the City Council within 10 days after the decision by the Commission. In the event you wish to appeal the Commission's decision or discretionary conditions of approval, 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 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 this

use permit and 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. Unless the conditions of approval specifically require operation inconsistent with the application, a new or revised use permit and / or site plan review 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 and / or 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 use permit and 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 use permit and site plan review, or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use permit and site plan review, 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 site plan review, 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

- Conditional Use Permit 2023-07 is subject to Conditions of Approval 1, 2, 4 through 10, and 12 through 30.
- Site Plan Review 2023-23 is subject to Conditions of Approval 1, 2, 3, and 6 through 17.

GENERAL CONDITIONS

1. 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.
2. The applicant/owner shall submit to the City of Madera Planning Department a check in the amount necessary to file a Notice of Exemption at the Madera County Clerk. This amount shall equal the Madera County filing fee in effect at the time of filing. **Such check shall be made payable to the Madera County Clerk and submitted to the City of Madera Planning Department no later than three (3) business days following adoption of the CEQA for the project.**
3. SPR 2023-23 shall 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).
4. CUP 2023-07 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.

5. CUP 2023-07 may be made null and void without any additional public notice or hearing at any time upon both the benefactors of CUP 2023-07 and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
6. The project shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If, at any time, the use is determined by staff to be in violation of the conditions of approval, staff may schedule an item before the Commission so that it may determine whether to consider setting a hearing regarding revocation of the permit.
7. The project shall be developed and operated in accordance with the conditions of approval, as reviewed and approved.
8. It shall be the responsibility and the property owner and manager to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained prior to the placement of the storage containers.
9. The applicant shall comply with all federal, state, and local laws. Material violations of any of those laws concerning the use(s) may be cause for revocation of CUP 2023-07 and / or SPR 2023-23.
10. Deferrals are not permitted for any condition included herein, unless specifically stated in that condition.
11. Site improvements required as part of this use permit shall be completed in advance of any request for a building permit final inspection and/or placement of storage containers.
12. 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.

FIRE DEPARTMENT

13. Placement of the temporary storage containers shall not obstruct the fire lanes or access to fire hydrants.

PLANNING DEPARTMENT

General

14. Vandalism and graffiti shall be corrected per the Madera Municipal Code (MMC).
15. The property owner operator and/or manager shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.
16. The property owner, operator and/or manager shall keep the property clear of all trash, rubbish and debris at all times; and the dumping of refuse shall be restricted to the dumpster and refuse containers owned by the property owner.
17. The applicant shall comply with all federal, state and local laws. Material violations of applicable laws concerning the use will be cause for revocation of CUP 2020-11.

Temporary Storage Containers

18. CUP 2023-07 allows for on-site placement of up to 35 containers, each container encompassing 8-foot wide by 20-foot deep by 8.5-foot high to be used as follows:
 - layaway merchandise.
 - miscellaneous high-volume merchandise.
19. Placement of the outdoor storage containers shall be consistent with the site plan filed with the use permit and site plan review application as reviewed by the Planning Department and conditionally approved and attached hereto as Attachment 1.
20. Placement of the outdoor storage containers shall not extend beyond the northern or southernmost limits of the Walmart building.
21. The outdoor storage containers shall not be placed on-site annually prior to the 1st day of October and shall be entirely removed from the site by the following 31st day of January.
22. The area in and around the storage containers shall be kept free of trash, debris, fixtures, and other associated materials that could cause a distraction for motorists maneuvering through the areas in proximity to the temporary storage containers.
23. The use of the storage containers shall be specifically limited to only those approved for storage in the containers. No chemicals, flammables or foods shall be stored in the storage containers.
24. All storage containers shall be a minimum of 10 feet from all fire hydrants and 20 feet from the building. A 10-foot clearance shall be maintained from any combustible storage (trash containers or trash compactor).
25. The property owner, operator and/or manager shall be responsible for ensuring that security is provided for the business at all times, and that customers and persons other than the employees do not loiter on or near the storage containers, on the property or near the business on public or private property at any time.

26. Vehicle driveways and pedestrian access shall remain open at all times. Ingress and egress to the parking lot or store entrances shall not be blocked at any time.
27. Any damages caused to the site's landscape areas, parking field, community parking light poles, signage and/or structures as a result of the storage containers shall be restored or rehabilitated no later than the 15th day of February following the removal of the storage containers.

Signage

28. Traffic signage shall be installed, and pedestrian controls implemented per the direction of the City Engineer so as to adequately provide for public safety of motorists, pedestrians and employees in the vicinity of temporary storage containers at all times.
29. Loitering shall be prohibited in proximity to the storage containers and in adjacent, and nearby areas for both public and private. A prominent, permanent sign or signs stating "No Loitering" shall be posted in a place that is clearly visible to customers.
30. No advertising signage shall be posted on or about the temporary storage containers.
31. Any and all signage shall have an approved sign permit issued by the Planning Department per Section 10-6 of the Madera Municipal Code.

ATTACHMENTS

Attachment 1: Storage Container Site Plan

-END OF CONDITIONS-

Attachment 1
Storage Container Site Plan

