



REGULAR MEETING OF THE MADERA PLANNING COMMISSION

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

**Tuesday, January 16, 2024
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: 85306421019# followed by *9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/85306421019>. 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.

PUBLIC HEARINGS:

1. REZ 2022-04 - Carmel II and Carmel IV

(The Public Hearing for TSM 2022-01 and TSM 2023-02 is continued to the next regularly scheduled meeting of the Planning Commission to be held on February 13, 2024)

Subject: Consideration of Rezone Application No. REZ 2022-04 for ±57.53 Acres of Property Located on the Southwest Corner of the Intersection of West Pecan Avenue and Stadium Road.

Recommendation:

Conduct a public hearing and adopt:

- a. A Resolution of the Planning Commission of the City of Madera recommending the Council of the City of Madera adopt the Mitigated Negative Declaration (SCH No. 2023120574) and the Mitigation Monitoring and Reporting Program prepared for purposes of the proposed project; and recommending the Council approve Rezone Application No. 2022-04.

2. SPR 2009-21 EXT 11 & CUP's 2013-04, 05, 06 & 07 EXT 11– Foxglove Shopping Center

Subject: Consideration of a Request for Extension of Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06 & 07 for the Foxglove Shopping Center Project located on the Easterly Corner of North Schnoor Avenue and Foxglove Way. (Extension No. 11)

Recommendation:

Conduct the public hearing and:

- a. Adopt a Resolution approving a one-year time extension for Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06 & 07, subject to the findings and conditions of approval.

3. TPM 2020-01 EXT 1, PPL 2020-03 & VAR 2020-02 EXT 1 – Grove Garden Apartments

(This item is continued to the next regularly scheduled meeting of the Planning Commission to be held on February 13, 2024)

Subject: Consideration of a Discretionary Extension Request for Tentative Parcel Map No. 2020-01, Precise Plan No. PPL 2020-03, and Variance Application No. VAR 2020-02 for the Grove Gardens Apartment Project Located on the Southeast Corner of Maple and Noble Streets. (Extension No. 1)

Recommendation:

Conduct the public hearing and:

- a. Adopt a Resolution approving a two-year time extension for Tentative Parcel Map TPM 2020-01, Precise Plan 2020-03 and Variance 2020-02, subject to the findings and conditions of approval.

ADMINISTRATIVE REPORTS:**COMMISSIONER REPORTS:****ADJOURNMENT:**

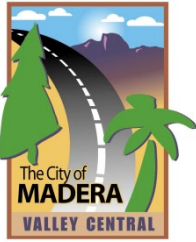
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- The meeting room is accessible to the physically disabled. Requests for accommodations for persons with disabilities such as signing services, assistive listening devices, or alternative format agendas and reports needed to assist participation in 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.



REPORT TO THE PLANNING COMMISSION

Prepared by:

Robert Smith, Senior Planner

Meeting of: January 16, 2024

Agenda Number: 1

SUBJECT:

Consideration of Rezone Application No. REZ 2022-04 for ±57.53 Acres of Property Located on the Southwest Corner of the Intersection of West Pecan Avenue and Stadium Road.

RECOMMENDATION:

Conduct a public hearing and adopt:

1. A Resolution of the Planning Commission of the City of Madera recommending the Council of the City of Madera adopt the Mitigated Negative Declaration (SCH No. 2023120574) and the Mitigation Monitoring and Reporting Program prepared for purposes of the proposed project; and, recommending the Council approve Rezone Application No. 2022-04.

SUMMARY:

The applicant, Mike Pistoressi / DMP Development Corp, has filed Rezone Application No. REZ 2022-04 proposing to rezone ±57.53 acres of land located on the southwest corner of the intersection of West Pecan Avenue and Stadium Road (the project site) from the R-1 (Residential, One unit for each 6,000 square feet of site area) zone district to the PD-4500 (Planned Development, One unit for each 4,500 square feet of site area) zone district.

REZ 2022-04 has been filed in order to facilitate approval of a proposed subdivision of the project site for purposes of creating a 317-lot single family residential planned development in accordance with Tentative Subdivision Maps TSM 2022-01 (Carmel II) & TSM 2023-02 (Carmel IV).

Pursuant to the provisions of City Municipal Code (CMC) §§ 10-3.1507 & 10-3.1508, public hearings (for amendments to zone boundaries/changes of property from one zone to another) shall be held before the Commission; and the Commission shall render a report and recommendation (Resolution for adoption) to the Council, prior to the Council adopting the amendment or any part thereof.

The proposed tentative subdivision maps will be scheduled for Planning Commission consideration and potential action at the next regularly scheduled meeting of the Commission following consideration of the rezoning and environmental findings by the City Council.

ANALYSIS:

Pursuant to CMC §10-3-4.101(A) the purpose of the P-D zones is to authorize and regulate density of planned developments and other residential subdivisions. The district is intended to allow use of special

design criteria for maximum utility of the site and to allow maximum design flexibility within the density limitations provided.

The proposed planned development project intends to subdivide the project site for the purposes of creating single family residential lots ranging from 4,500 to more than 7,500 square feet in area. REZ 2022-04 proposes to rezone the project site to the PD-4500 zone district to permit a density of one residential unit for each 4,500 square feet of site area to accommodate lot sizes of less than 6,000 square feet in area.

The more intensive rezoning allows the applicant to install a greater variety of lot sizes, serving a more diverse range of potential occupiers, to the benefit of diverse home provision and for the project design. A greater number of lots in the subdivision also aids the more efficient use of land. As such, the current General Plan designation, due to the site-specific design criteria, is consistent with the proposed zone district with no amendment to the General Plan Land Use designation required.

Specific development guidelines for the project site will be created through the precise plan process which is typically secured by Conditions of Approval attached to a tentative subdivision map. Precise Plan elements and development standards will be incorporated within the project conditions of approval and presented to the Commission at the time of consideration of the tentative maps.

The entirety of the project site is designated for Low Density Residential (2.1 to 7 dwelling units per acre) land use by the Madera General Plan. The Low-Density Residential land use designation includes a Target Density of 5.25 dwelling units per acre (as defined in General Plan Policy LU-7).

Policy LU-32 of the Madera General Plan provides that zoning shall be consistent with General Plan land use designations. In areas where the zoning and the land use designation are not identical, Table LU-A: General Plan/Zoning Consistency of the Madera General Plan shall be used to determine consistency for rezoning applications. The PD-4500 zone district is consistent with the Low-Density Residential land use designation pursuant to Table LU-A of the Madera General Plan.

In addition, the proposed planned development project including 317 dwelling units on the ±57.53-acre site yields a density of approximately 5.51 dwelling units per acre: consistent with the Low Density Residential range as well as the Target Density.

Site Characteristics:

The project site, located on the southern edge of the City, west of Highway 99, is collectively bound by West Pecan Avenue to the north, Stadium Road (Rd. 26½) to the east, and existing farmland and settlement ponds to the west. The City limits form the project site's western and southern boundaries.

The project site consists of an active nut orchard with a long history of agricultural disturbance. The site is devoid of most native and non-native species naturally occurring in this area. The plant diversity in this habitat is low and is composed primarily of non-native grasses and other ruderal plants.

The site is located outside the Federal Emergency Agency (FEMA) 100-year floodplain (FEMA Special Flood Hazard Area, Zone AO). In major storm events, where large amounts of precipitation fall within a 24-hour period, run-off is unlikely to pool in this area.

An overview of the proposed project and project site characteristics are provided in Table 1 below.

Table 1: Project Overview	
<i>Project Number:</i>	REZ 2022-04
<i>Applicant:</i>	Mike Pistoresi
<i>Property Owner:</i>	DMP Development Corporation Inc
<i>Location:</i>	Southwest corner of West Pecan Avenue and Stadium Road (Avenue 26 ½) APN(s): 012-480-008 and 012-480-009
<i>Project Area:</i>	57.3-acres.
<i>Planned Land Use:</i>	LD (Low Density Residential)
<i>Zoning District:</i>	Rezone from R-1 to PD-4500 (Planned Development, one unit per 4,500 square feet of site area)
<i>Site Characteristics</i>	The project is located on land that is currently used for agriculture. Planned land use bordering the site is Low Density Residential.

Surrounding Land Uses:

The site is bordered to the north by West Pecan Avenue, which is a planned Arterial roadway. Madera High School is located beyond Pecan Avenue to the north, on land that is designated for Public Facilities. Stadium Road (Rd. 26½) is a planned Collector roadway bordering the site to the east. A portion of the neighboring property to the east is already developed into a residential subdivision with the other portion currently being used for agriculture and a Madera irrigation basin. The project will dedicate right of way for a portion of Avenue 12½ to the south, which is a planned Collector roadway. Land beyond and to the south contains agriculture. The site is bordered to the west by settlement ponds and agriculture. Land to the east is zoned Low Density Residential, land to the south is outside the current city limit, including land to the west, with these area's identified for Industrial development in the current City of Madera General Plan.

Table 2 below summarizes the existing development/uses, and the General Plan land use designations and zoning districts surrounding the proposed project site. The General Plan designations identified in Table 2 represent the City's General Plan land use designations surrounding the project site. The zoning districts identified in Table 2 include both City and County zone districts based on where the City limit boundary abuts the project site.

Table 2: Bordering Site Information			
<i>Direction</i>	<i>Existing Use</i>	<i>General Plan Designation</i>	<i>Zone District</i>
<i>North</i>	Madera High School	P&SP	U (City)
<i>East</i>	Agriculture and residential	Low Density Residential	R-1 and PD 6,000
<i>South</i>	Agriculture	Village Reserve	ARE-40 (County)
<i>West</i>	Agriculture	Industrial	ARE-5 (County)
AR-5 – Agricultural, Rural, (Five Acre) District (County) ARE-20 – Agricultural, Rural, Exclusive (20 acre) District (County) PD 4500 – Planned Development (One unit per each 4,500 square feet) (City)			

ENVIRONMENTAL REVIEW:

The proposed project has been reviewed for compliance with the requirements of the California Environmental Quality Act (CEQA) Guidelines.

4Creeks, Inc. has prepared an initial study, performed environmental analyses and evaluated the project in accordance with the CEQA Guidelines and criteria on behalf of the City as lead agency. The conclusions and findings resultant from these environmental studies, analyses and an evaluation of the proposed

project determined that although the project could have a significant effect on the environment, there will not be a significant effect because mitigation measures have been identified to reduce the significant direct, indirect or cumulative effects on the environment, and that a Mitigated Negative Declaration is appropriate for this project.

The Notice of Intent to Adopt a Mitigated Negative Declaration was filed with the County Clerk on December 1, 2023, published in the Madera Tribune on December 2, 2023, and posted with the Governor's Office of Planning and Research (OPR) on December 22, 2023, initiating a public review period effectively commencing on December 1, 2023, and ending January 22, 2024.

The Planning Commission with this action will be making a recommendation to the City Council regarding adoption of the Mitigated Negative Declaration (SCH No. 2023120574), including the Mitigation Monitoring and Reporting Program for purposes of the proposed project. The Planning Commission's recommendation, in the form of an adopted Resolution, will be presented with staff's report and considered by the City Council along with any/all other public comments received during the public review period prior to the Council taking action to adopt or reject Mitigated Negative Declaration (SCH No. 2023120574) for purposes of Rezone Application No. 2022-04 and the proposed project.

COMMISSION ACTION:

The Commission will be acting on REZ 2022-04. Staff recommends that the Commission:

1. A Resolution of the Planning Commission of the City of Madera recommending the Council of the City of Madera adopt the Mitigated Negative Declaration (SCH No. 2023120574) and the Mitigation Monitoring and Reporting Program prepared for purposes of the proposed project; and recommending the Council approve Rezone Application No. 2022-04.

ALTERNATIVES:

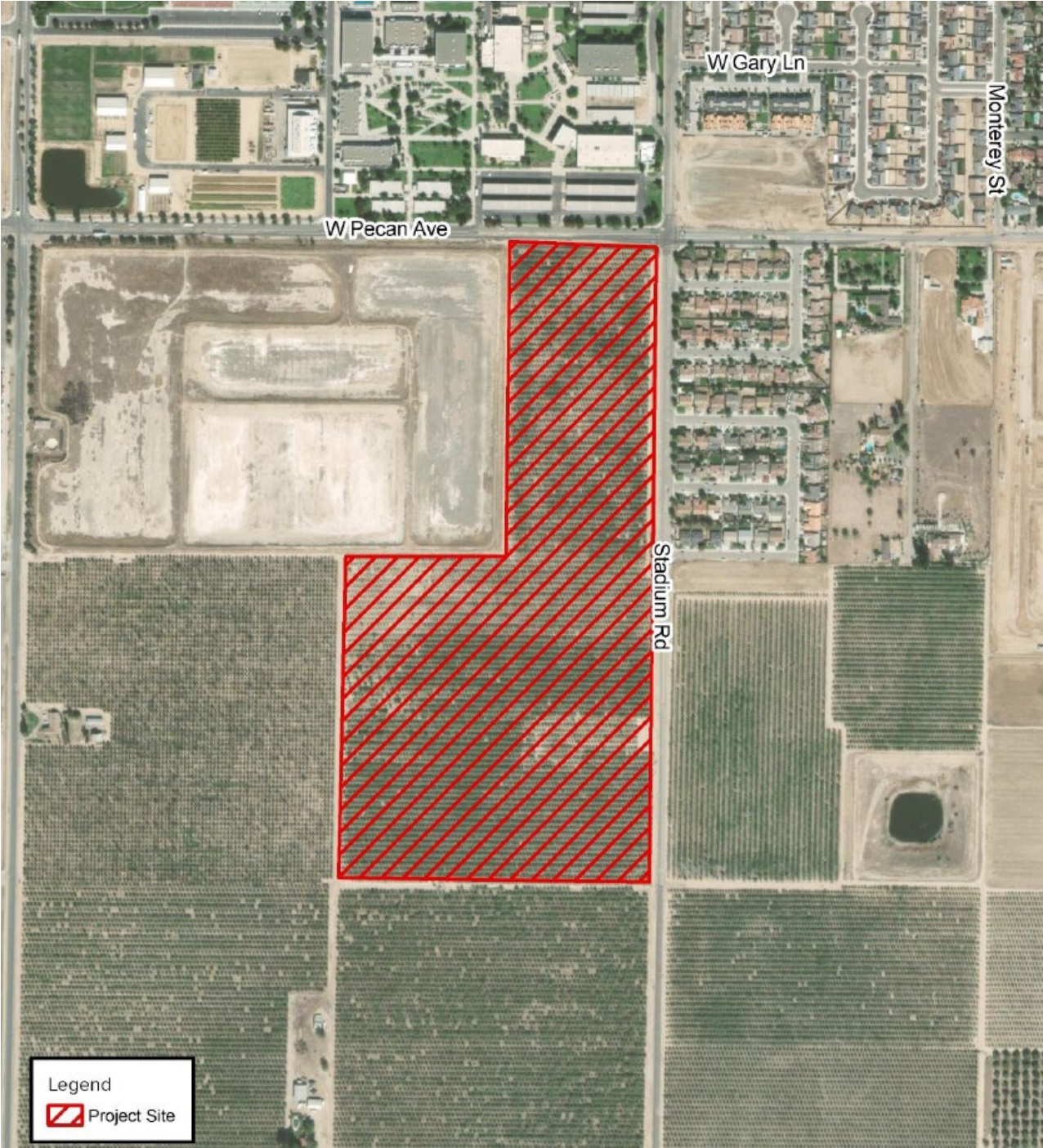
As an alternative, the Commission may elect to:

1. Move to continue the public hearing to a future Planning Commission meeting at a date and time certain (Planning Commission to specify date) or refer the matter back to staff to be rescheduled at a later meeting date to-be-determined; with direction to staff.
2. Move to recommend denial of the proposed application based on specific findings: (Planning Commission should articulate reasons for denial).

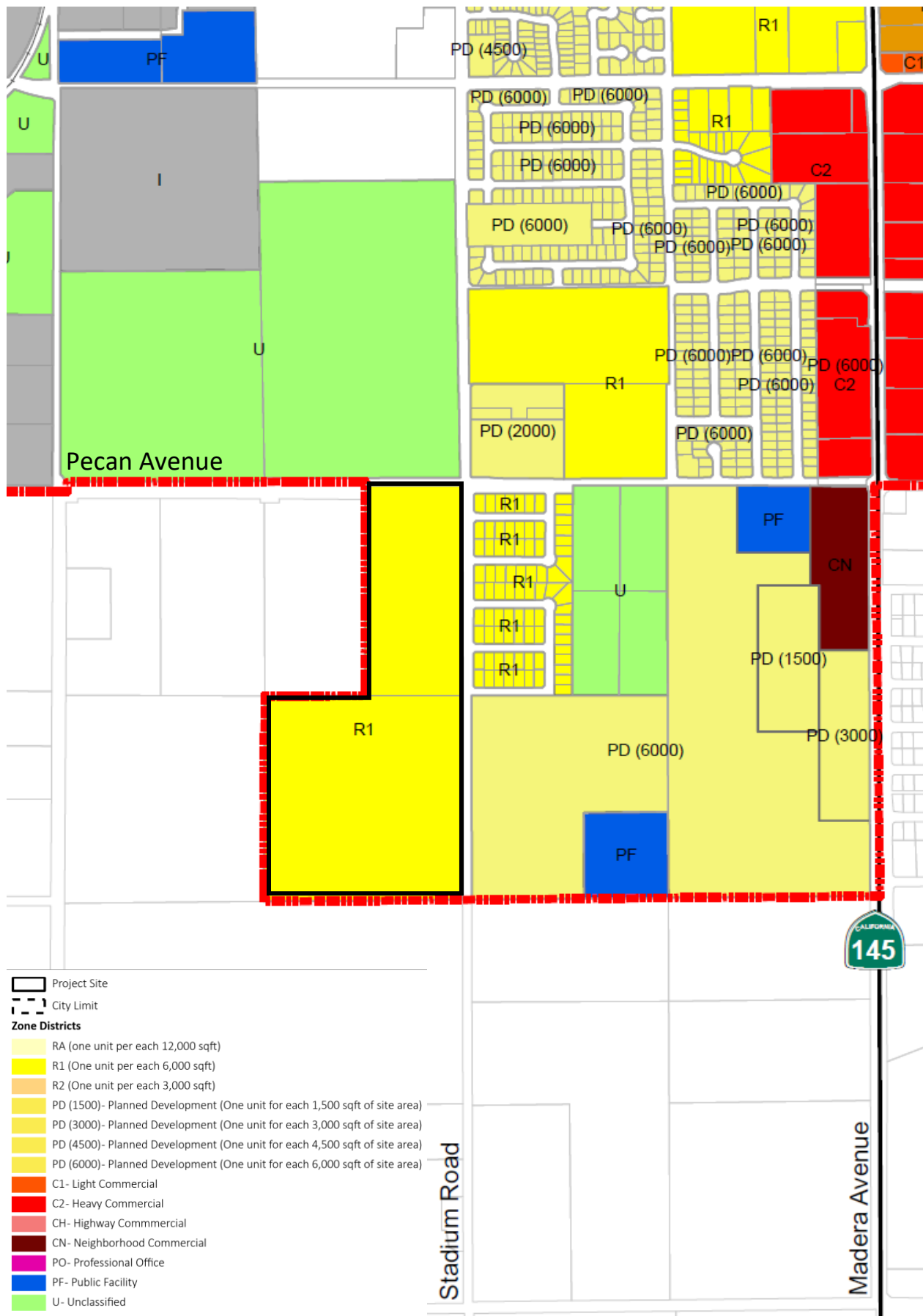
ATTACHMENTS:

1. Vicinity Map
2. Existing City Zoning Map
3. City General Plan Land Use Map
4. County Zoning Map
5. Planning Commission Resolution
Exhibit "A" – Mitigation Monitoring and Reporting Program
Exhibit "B" – PD (4500) zone district
6. Environmental Review – IS/MND

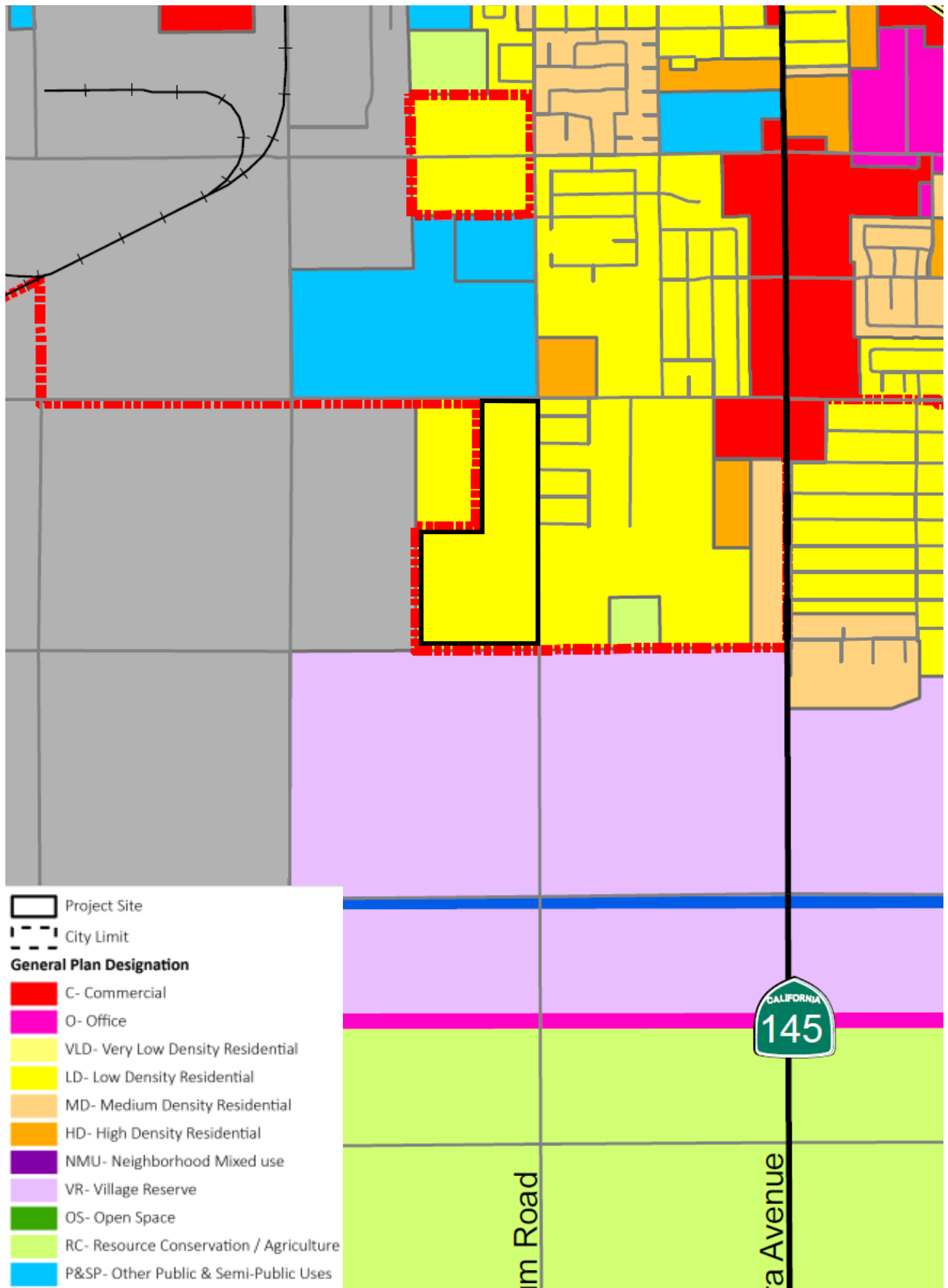
ATTACHMENT 1
Vicinity Map



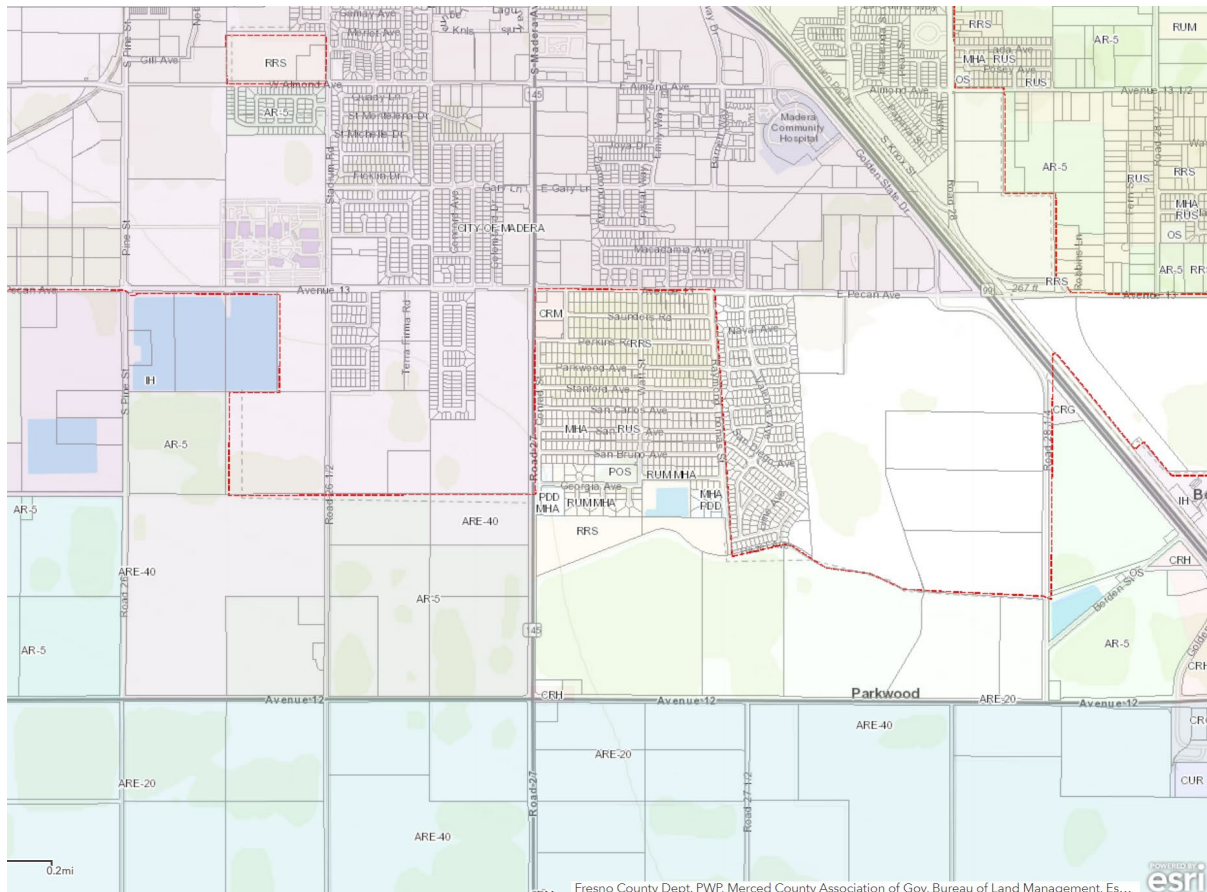
ATTACHMENT 2
City Zoning



ATTACHMENT 3
City General Plan



ATTACHMENT 4
County Zoning Map



- VCO
- TV-VLDR
- TV-ST
- TV-SP
- TV-S
- TV-OSB
- TV-OS
- TV-MUN
- TV-MUCC
- TV-MDR
- TV-LI
- TV-LDR
- TV-HSC
- TV-HDR
- TV-DB
- TPZ
- SUO (Overlay)
- RUS
- RUM
- RRS-5
- RRS-3
- RRS-2 1/2
- RRS-2
- RRS-10
- RRS
- RRM
- RMS
- QMD
- POS
- PDD
- OS
- NFV-VLDR
- NFV-RR
- NFV-OSUA
- NFV-OSP
- NFV-OSN

ATTACHMENT 5
Planning Commission Resolution

RESOLUTION NO. 1975

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECOMMENDING THE CITY COUNCIL OF THE CITY OF MADERA ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVE REZONE NO. 2022-04

WHEREAS, DMP Development Corp (“Owner”) submitted an application for a rezone (REZ 2022-04) for approximately 57.53 acres of land located on the southwest corner of the intersection of West Pecan Avenue and Stadium Road (Rd. 26½), comprising APN(s) 012-480-008 and 012-480-009, in the City of Madera, California (“site”); and

WHEREAS, REZ 2022-04 was filed to facilitate approval of two tentative subdivision maps (TSM 2022-01 & 2023-02) and a Precise Plan proposing to subdivide the site for purposes of creating a 317-lot single family residential planned development; (collectively, the “Project”); and

WHEREAS, the site is planned for Low Density Residential land uses in the adopted City of Madera General Plan and is currently zoned R-1 (Residential, One unit for each 6,000 square feet of site area) by the Zoning Ordinance; and

WHEREAS, the Owner is seeking approval to rezone the site to the PD-4500 (Planned Development, One unit for each 4,500 square feet of site area) pursuant to REZ 2022-04; and

WHEREAS, this project was assessed under the California Environmental Quality Act (“CEQA”) resulting in preparation of a Mitigated Negative Declaration (SCH No. 2023120574) including a Mitigation Monitoring and Reporting Program, which has been circulated, and made available for public review pursuant to CEQA and the City of Madera Municipal Code (CMC); and

WHEREAS, pursuant to the CMC, a public hearing (for amendments to zone boundaries/changes of property from one zone to another) shall be held before the Planning Commission of the City of Madera (Commission) and the Commission shall render a report and recommendation (Resolution) to the City Council of the City of Madera (Council), prior to the Council adopting the amendment or any part thereof; and

WHEREAS, the City provided notice of the Planning Commission hearing as required by law for the hearing of January 16, 2024; and

WHEREAS, the Planning Commission received and independently reviewed REZ 2022-02 and Mitigated Negative Declaration (SCH No. 2023120574) at the duly noticed meeting on January 16, 2024; and

WHEREAS, at the January 16, 2024, public hearing, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Planning Commission; and

WHEREAS, after due consideration of all the items before it, the Planning Commission now desires to adopt this Resolution recommending the Council adopt Mitigated Negative Declaration (SCH No. 2023120574) for purposes of the proposed project and recommending the Council approve REZ 2022-04.

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

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

2. CEQA: The Planning Commission finds an environmental assessment initial study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations. Preparation of the environmental assessment necessitated a thorough review of the proposed Project and relevant environmental issues. Based on this review and assessment, the Planning Commission finds that although the project could have a significant effect on the environment, there will not be a significant effect because mitigation measures have been identified to reduce the potential significant direct, indirect or cumulative effects on the environment, and that a Mitigated Negative Declaration is appropriate for this project. The Planning Commission further finds the Initial Study and Mitigated Negative Declaration were timely and properly published and noticed as required by CEQA. As such, the Planning Commission recommends the City Council adopt Mitigated Negative Declaration (SCH No. 2023120574) including the Mitigation Monitoring and Reporting Program (Exhibit A) for the project following the close of the public review period and following consideration of any public comments received.
3. Recommendation to City Council to Approve REZ 2022-04: The Planning Commission finds and determines that the proposed PD-4500 zone district as requested for the site (comprising APN[s] 012-480-008 and 012-480-009) pursuant to REZ 2022-04, is consistent with the adopted LD (Low Density Residential) General Plan land use designation for the site pursuant to, and in accordance with, Policy LU-32 and Table LU-A: General Plan/Zoning Consistency of the Madera General Plan. Therefore, based on evidence in the record, the Planning Commission recommends that the City Council approve REZ 2022-04 consistent with the General Plan Land Use designation and as shown in Exhibit B.
4. Effective Date: This resolution is effective immediately.

* * * * *

Passed and recommended to City Council for adopting by the Planning Commission of the City of Madera this 16th day of January 2024, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Will Tackett
Community Development Director

Exhibit "A" – Mitigation Monitoring and Reporting Program
Exhibit "B" – Existing and Proposed Zone District Map

ATTACHMENT 5
Exhibit "A"

Chapter 5 Mitigation Monitoring and Reporting Program

This Mitigation Monitoring and Reporting Program (MMRP) has been formulated based upon the findings of the Initial Study/Mitigated Negative Declaration (IS/MND) for the Carmel Homes II & IV in the City of Madera. The MMRP lists mitigation measures recommended in the IS/MND for the Project and identifies monitoring and reporting requirements.

Table 5-1 presents the mitigation measures identified for the proposed Project. Each mitigation measure is numbered with a symbol indicating the topical section to which it pertains, a hyphen, and the impact number. For example, AIR-2 would be the second mitigation measure identified in the Air Quality analysis of the IS/MND.

The first column of **Table 5-1** identifies the mitigation measure. The second column, entitled “When Monitoring is to Occur,” identifies the time the mitigation measure should be initiated. The third column, “Frequency of Monitoring,” identifies the frequency of the monitoring of the mitigation measure. The fourth column, “Agency Responsible for Monitoring,” names the party ultimately responsible for ensuring that the mitigation measure is implemented. The last columns will be used by 4Creeks to ensure that individual mitigation measures have been complied with and monitored.

Table 5-1 Mitigation Monitoring and Reporting Program

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
Biological Resources					
Mitigation Measure BIO-1a: <i>(Pre-construction Surveys and Construction Timing).</i> If construction is to occur between February 1 and August 31, a qualified biologist will conduct pre-construction surveys for active bird nests within 10 days prior to the start of ground disturbing activities should work commence during the nesting season (February 15 to September 15). The survey area will encompass the site and accessible surrounding lands within 250 feet for nesting migratory birds and 500 feet for raptors (i.e., birds of prey).	10 Days Prior Construction	Prior to and During Project Construction	City of Madera	Review of Documentation Submittal	
Mitigation Measure BIO-1b: <i>(Avoidance of Active Nests).</i> Should any active nests be discovered in or near proposed construction zones, the biologist will identify a suitable construction-free buffer around the nest. This buffer will be identified on the ground with flagging or fencing and will be maintained until the biologist has determined that the young have fledged and are capable of foraging independently.	Prior and During Project Construction	Ongoing During Construction	City of Madera	Review of Documentation Submittal	
Cultural Resources					
Mitigation Measure CUL-1: If previously unknown resources are encountered before or during grading activities, construction shall stop in the immediate vicinity of the find (within a 100-foot radius) and a qualified historical resources specialist shall be consulted to determine whether the resource requires further study. The qualified historical resources specialist shall make recommendations to the City on	During Construction	Ongoing During Construction	City of Madera	Review of Documentation Submittal	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
the measures that shall be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines and the City's Historic Preservation Ordinance. If the resources are determined to be unique historical resources as defined under Section 15064.5 of the CEQA Guidelines, measures shall be identified by the monitor and recommended to the Lead Agency. Appropriate measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds. No further grading shall occur in the area of the discovery until the Lead Agency approves the measures to protect these resources. Any historical artifacts recovered as a result of mitigation shall be provided to a City-approved institution or person who is capable of providing long-term preservation to allow future scientific study.					
Mitigation Measure CUL-2: If human remains are uncovered during construction, the Madera County Coroner is to be notified to investigate the remains and arrange proper treatment and disposition. If the remains are identified on the basis of archaeological context, age, cultural associations, or biological traits to be those of a Native American, California Health and Safety Code 7050.5 and PRC 5097.98 require that the coroner notify the NAHC within 24 hours of discovery. The NAHC will then identify the Most Likely Descendent who will be afforded an opportunity to make recommendations regarding the treatment and disposition of the remains.	During Construction	Ongoing During Construction	City of Madera	Review of Documentation Submittal	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
Geology and Soils					
Mitigation Measure GEO-1: In the event of accidental discovery of unidentified paleontological resources during development or ground-moving activities in the Project area, all work should be halted in the immediate vicinity (within a 100-foot radius) until a qualified paleontologist can identify the discovery and assess its significance. The qualified paleontologist shall make recommendations to the City on the measures that shall be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines and the City's Historic Preservation Ordinance. If the resources are determined to be unique paleontological resources, measures shall be identified by the monitor and recommended to the Lead Agency. Appropriate measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds. No further grading shall occur in the area of the discovery until the Lead Agency approves the measures to protect these resources. Any paleontological artifacts recovered as a result of mitigation shall be provided to a City-approved institution or person who is capable of providing long-term preservation to allow future scientific study.	During Construction	Ongoing During Construction	City of Madera	Review of Documentation Submittal	
Mitigation Measure GEO-2: Should the construction crew or paleontologist uncover any bones or teeth, all construction-related activities in the immediate vicinity would be stopped until the paleontologist has assessed the find and, if deemed significant, salvaged it for	During Construction	Ongoing During Construction	City of Madera	Review of Documentation Submittal	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
deposition in a repository such as University of California Museum of Paleontology where it would be properly curated and preserved for scientific study. Any period in which construction is halted shall be kept to the minimum amount of time feasible under the circumstances. To avoid any unnecessary loss of time during construction, the City shall require the paleontologist to assess the significance of the affected resources as soon as is feasible under the circumstances. Following the completion of the above tasks, the paleontologist shall prepare a report documenting the absence or discovery of fossil resources on-site. If fossils are found, the report shall summarize the results of the inspection program, identify those fossils encountered, recovery and curation efforts, and the methods used in these efforts, as well as describe the fossils collected and their significance. A copy of the report shall be provided to the Madera Community Development Department and to the Natural History Museum of Los Angeles County.					
Hydrology and Water Quality					
Mitigation Measure HYD-1: Prior to issuance of grading permits, the Project proponent shall submit a NOI and SWPPP to the RWQCB to obtain coverage under the General Permit for Discharges of Stormwater Associated with Construction Activity. The SWPPP shall specify and require the implementation BMPs, with the intent of keeping all products of erosion from moving offsite and into receiving waters during construction. The requirements of the SWPPP shall be incorporated into design specifications and construction contracts. Recommended BMPs for the construction phase shall	Prior to issuance of grading permits.	Prior to Project Construction	City of Madera	Review of Documentation Submittal	

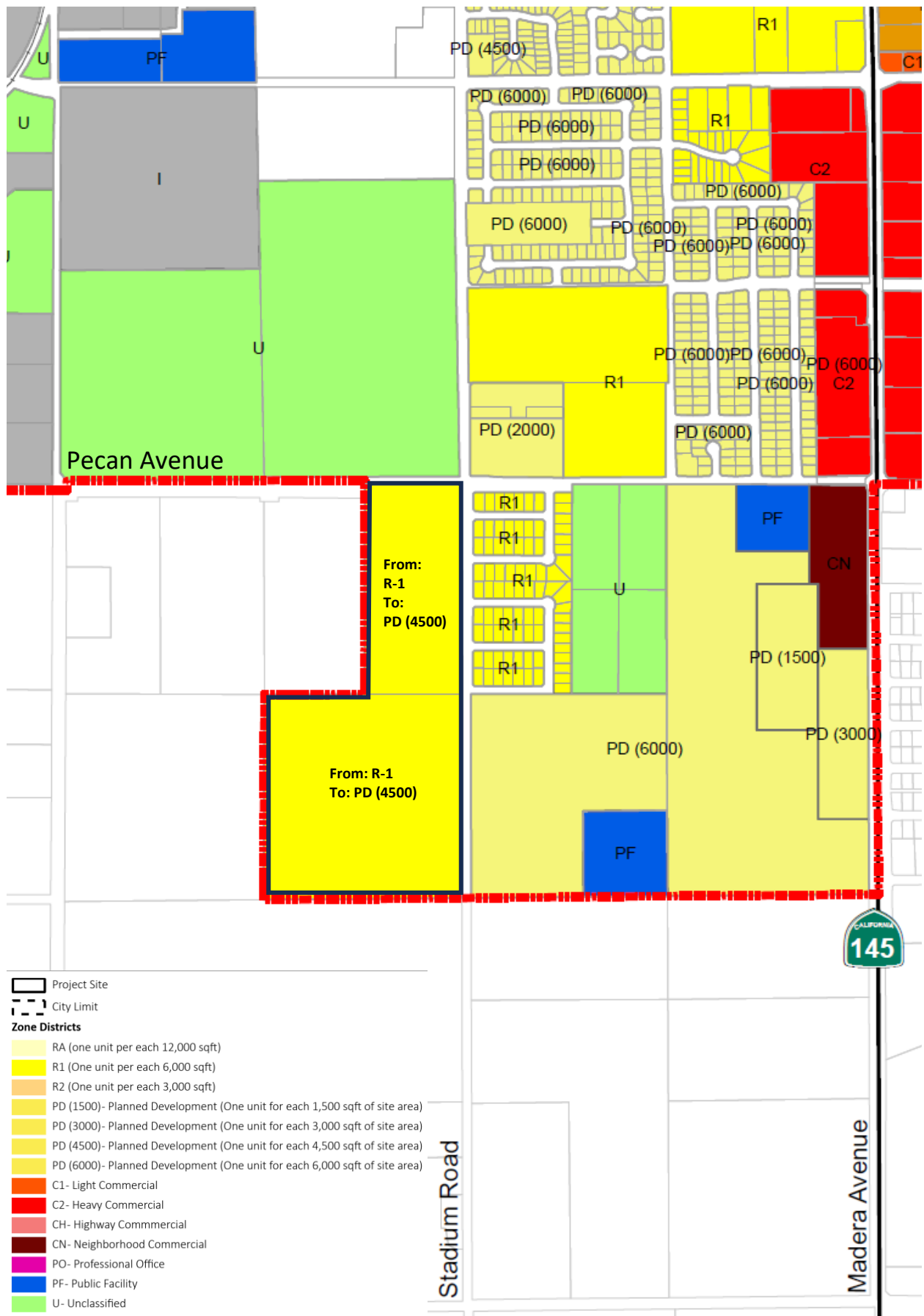
Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
<p>include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Stockpiling and disposing of demolition debris, concrete, and soil properly; • Protecting existing storm drain inlets and stabilizing disturbed areas; • Implementing erosion controls; • Properly managing construction materials; and • Managing waste, aggressively controlling litter, and implementing sediment controls. <p>The developer shall provide the City of Madera Engineering Division with evidence of an approved SWPPP prior to issuance of grading permits.</p>					
<p>Mitigation Measure HYD-2: Prior to issuance of grading permits, the Project proponent shall prepare a drainage plan for the Project for approval by the City Engineer that identifies postconstruction treatment, control, and design measures that minimize surface water runoff, erosion, siltation, and pollution. The drainage plan shall be prepared in accordance with the City's SWMP and California Stormwater Quality Association's Storm Water Best Management Practices Handbook as well as the City Engineer's Technical Specifications and Public Improvement Standards. During final design of the Project, the Project proponent shall implement a suite of post-construction stormwater treatment and control BMPs designed to address the most likely sources of stormwater pollutants resulting from operation and maintenance of the Project. These measures shall account for the proposed 21 acres of commercial development at the Project site. Stormwater</p>	<p>Prior to issuance of grading permits.</p>	<p>Prior to Project Construction</p>	<p>City of Madera</p>	<p>Review of Documentation Submittal</p>	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
<p>infrastructure will be designed adhering to methods and standards described in Section E.12.e.ii.c of the SWRCB Phase II Small MS4, General Permit (Order No. 2013-0001-DWQ).</p> <p>The City Engineer may also require other necessary BMPs and design features. Incorporation of City Engineer-approved BMPs and design features into the Project design and construction documents shall ensure that operational water quality exceeds applicable water quality standards. The Project proponent shall also prepare and submit an Operations and Maintenance Agreement to the City of Madera for its approval identifying appropriate procedures to ensure that stormwater quality control measures work properly during operations.</p>					
<p>Mitigation Measure HYD-3: A Development Maintenance Manual for the Project shall include comprehensive procedures for maintenance and operations of any stormwater facilities to ensure long-term operation and maintenance of post-construction stormwater controls. The maintenance manual shall require that stormwater BMP devices be inspected, cleaned and maintained in accordance with the manufacturer's maintenance conditions. The manual shall require that devices be cleaned prior to the onset of the rainy season (i.e., mid-October) and immediately after the end of the rainy season (i.e., mid-May). The manual shall also require that all devices be checked after major storm events. The Development Maintenance Manual shall include the following:</p>	<p>Prior to issuance of grading permits.</p>	<p>Prior to Project Construction</p>	<p>City of Madera</p>	<p>Review of Documentation Submittal</p>	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
<ul style="list-style-type: none"> Runoff shall be directed away from trash and loading dock areas; Bins shall be lined or otherwise constructed to reduce leaking of liquid wastes; Trash and loading dock areas shall be screened or walled to minimize offsite transport of trash; and, Impervious berms, trench catch basin, drop inlets, or overflow containment structures nearby docks and trash areas shall be installed to minimize the potential for leaks, spills or wash down water to enter the drainage system. 					
Noise					
<p>Mitigation Measure NOISE-1: To mitigate noise created by stationary sounds, such as construction, the following best practices shall be implemented to reduce noise to acceptable levels:</p> <ul style="list-style-type: none"> All construction equipment shall be properly maintained and muffled as to minimize noise generation at the source. Noise-producing equipment shall not be operating, running, or idling while not in immediate use by a construction contractor. All noise-producing construction equipment shall be located and operated, to the extent possible, at the greatest possible distance from any noise-sensitive land uses. Locate construction staging areas, to the extent possible, at the greatest possible 	During Construction	Ongoing During Construction	City of Madera	Review of Conditions	

Mitigation Monitoring and Reporting Program					
Mitigation Measure/Condition of Approval	When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance
<p>distances from any noise-sensitive land uses.</p> <ul style="list-style-type: none"> Signs shall be posted at the construction site and near adjacent sensitive receptors displaying hours of construction activities and providing the contact phone number of a designated noise disturbance coordinator. 					

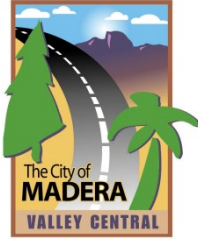
ATTACHMENT 5
Exhibit "B"



ATTACHMENT 6

Initial Study Mitigated Negative Declaration

<https://www.madera.gov/wp-content/uploads/2023/11/CARMEL-HOMES-ISMND-WITH-APPENDICES-7.26.23.pdf>



REPORT TO THE PLANNING COMMISSION

Prepared by:

Will Tackett, Community Development Director

Meeting of: January 16, 2024

Agenda Item: 2

SUBJECT:

Consideration of a Request for Extension of Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06 & 07 for the Foxglove Shopping Center Project (Extension No. 11)

RECOMMENDATION:

Hold a public hearing; and

- 1) Adopt a resolution approving a one-year time extension for Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06 & 07, subject to the findings and conditions of approval.

SUMMARY:

Consideration of a request for a one-year (1-year) time extension to exercise rights afforded by Site Plan Review (SPR 2009-21) and the various use permits (CUPs 2013-04, 05, 06 & 07) approved for purposes of the development and operation of a retail shopping center (the Foxglove Shopping Center Project). The request is the eleventh extension requested by the applicant for the Foxglove Shopping Center Site Plan Review and Conditional Use Permits, which were originally approved in February 2013. All previously approved project conditions of approval remain in effect.

ANALYSIS:

Site Plan Review (SPR 2009-21) and the various use permits (CUPs 2013-04, 05, 06 & 07) for the Foxglove Shopping Center 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. One-year time extensions for the site plan review and related use permits, first approved in February 2013, have been granted annually by the Commission since 2014.

The project site is approximately 20.47 acres in size and located on the easterly corner of the intersection of North Schnoor Avenue and Foxglove Way. The Home Depot Shopping Center and Sonic drive-through restaurant are located north of the site. Madera Marketplace is located to the south. 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 C-2 (Heavy Commercial).

Table 1: Project Overview	
<i>Project Number:</i>	SPR 2009-21 and CUPs 2013-04, 05, 06 & 07
<i>Applicant:</i>	Zinkin Development
<i>Property Owner:</i>	Dewayne Zinkin Family Partnership, LP
<i>Location:</i>	Easterly Corner of the intersection of North Schnoor Avenue and Foxglove Way (APNs 013-160-005 & 016)
<i>Project Area:</i>	±20.47 acres
<i>Plan Land Use:</i>	C – Commercial
<i>Zoning District:</i>	C-2 (Heavy Commercial)
<i>Site Characteristics</i>	Vacant and undeveloped land, surrounded by urban uses and with partially completed .

The proposed project is a retail shopping center with up to 191,500 square feet (sf) of tenant space. 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 No. SPR 2009-21 establishes a site plan (Attachment 1), building design, and construction requirements for the proposed shopping center. The multiple conditional use permits (CUPs 2013-04, 05, 06 & 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.

SPR 2009-21 and CUPs 2013-04, 05, 06 & 07 are set to expire February 13, 2024. The City of Madera has received a letter from the applicant dated December 14, 2023 (Attachment 2), requesting a one-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 states the applicant is, “working closely with multiple tenants, including a major tenant,” and that the extensions are requested so the applicant may move forward with the project as soon as a lease with the major tenant is finalized.

If approved by the Commission, the project will have an additional year to commence construction. As there have not been substantive changes in the City’s Zoning Regulations nor have substantial changes occurred with respect to the circumstances under which the project would be undertaken 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.

APPLICABLE CODES AND PROCEDURES

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

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

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

CMC § 10-3.4.0114 provides that all site plan approvals shall 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.

CMC § 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.

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.

At this time, no substantial evidence has been revealed which would provide a basis to determine that changes to the project or its circumstances have occurred, or that new information has become available, which would require a subsequent EIR to be prepared pursuant to the provisions of California Environmental Quality Act (CEQA) Guidelines Section 15162. It is staff's opinion that no further environmental review is required to support the requested one-year extension of the site plan and related CUPs for the project.

CONCLUSION:

The Commission will be acting on a one-year extension for SPR 2009-21 and CUPs 2013-04, 05, 06 & 07, subject to the original project conditions of approval. 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 (Attachment 3).

ALTERNATIVES:

As an alternative, the Commission may:

1. Move to continue the public hearing to a date and time certain or refer the item back to staff with/without direction to staff to provide additional information for consideration.
2. Move to deny the request based on the following appropriate findings for denial: (Specify – Commission to specify findings for denial).

ATTACHMENTS:

1. Foxglove Shopping Center Site Plan
2. Zinkin Development Letter of Request for a 1-Year Extension for SPR 2009-21 and for CUPs 2013-04, 05, 06 & 07, dated December 14, 2023
3. 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 Shopping Center Site Plan

ATTACHMENT 2
Zinkin Development
Letter of Request for a one-year extension
for SPR 2009-21 and CUPS 2013-04, 05, 06 & 07,
dated December 14, 2023

18268

Pd.



ZINKIN DEVELOPMENT

December 14, 2023

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 another 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 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 January, 2024. A check in the amount of \$1,650.00 for the extension filing fees is enclosed.

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. Thank you for your time and attention to this matter.

Sincerely,

Richard L. Fairbank

RLF/kc

ATTACHMENT 3
Planning Commission Resolution

Including:
Exhibit “A” – Conditions of Approval

RESOLUTION NO. 1976

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
APPROVING A ONE-YEAR TIME EXTENSION TO EXERCISE RIGHTS GRANTED IN
ACCORDANCE WITH APPROVAL OF SITE PLAN REVIEW NO. SPR 2009-21 AND
CONDITONAL USE PERMIT NOS. CUP 2013-04, 05, 06 & 07**

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 (collectively, the “Project Entitlements”) at a regularly scheduled hearing on February 8, 2013; and

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

WHEREAS, the Commission of the City of Madera granted yearly subsequent extensions for the Project Entitlements, at regularly scheduled hearings since February 8, 2013, and most recently at a regularly scheduled hearing on January 10, 2023; and

WHEREAS, the City received written request, prior to the February 13, 2023 expiration date, from the authorized representative of the owner requesting a one-year extension to exercise rights granted by the Project Entitlements; and

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

WHEREAS, the City provided notice of the January 16, 2024 Commission hearing as required by law; and

WHEREAS, the Commission received and reviewed the subject extension request at the duly noticed meeting on January 16, 2024; and

WHEREAS, a public hearing was held, the public was provided an opportunity to comment, and any and all evidence received, both written and oral, was considered by the Commission; and

WHEREAS, the Commission now desires to approve the extension request for the Project Entitlements 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. The extension of time does not involve any physical changes in the environment and hence does not have the potential, in and of itself, to cause a significant effect on the environment. No substantial evidence has been revealed which would provide a basis to determine that changes to the project or its circumstances have occurred, or that new information has become

available, which would require a subsequent EIR to be prepared pursuant to the provisions of California Environmental Quality Act (CEQA) Guidelines Section 15162. Therefore, the adopted EIR is sufficient and no further environmental review is required.

3. Findings to approve SPR 2009-21 (One-Year 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 EIR prepared for the SPR has been certified by the City and pursuant to the provisions of Section 15162 of the CEQA Guidelines, no further environmental review is required.

4. Findings to Approve Conditional Use Permits 2013-04, 05, 06, & 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 C-2 (Heavy Commercial) zone district.

- b. *The proposed uses permissible by CUPs 2013-04, 05, 06, & 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.

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 a one-year extension to the period of time in which rights granted pursuant to the approval of Site Plan Review No. SPR 2009-21 and Conditional Use Permit Nos. CUP 2013-04, 05, 06, & 07 must be exercised to February 13, 2025; subject to 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 16th day of January 2024, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Will Tackett
Community Development Director

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 of the 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 limited 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 with 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 a 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 the 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 the required path of travel required for the center.

Drive-thru Use (CUP 2013-05)

4. A drive-thru window is proposed for 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.

TPM 2020-01 EXT, PPL 2020-03 EXT & VAR 2020-02 EXT
Grove Garden Apartments

This item is being continued to the next regularly scheduled meeting on
February 13, 2024.