

**CITY OF MADERA PLANNING COMMISSION
REGULAR MEETING
January 12, 2016**

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

ROLL CALL

PRESENT: Commissioner Kenneth Hutchings (Chairperson)
Commissioner Ruben Mendoza
Commissioner Pamela Tyler
Commissioner Jim DaSilva
Commissioner Jeff Dal Cerro

ABSENT: Commissioner Robert Gran, Jr.
Commissioner Bruce Norton

STAFF: David Merchen, Community Development Director
Christopher Boyle, Planning Manager
Kira Noguera, Assistant Planner
Keith Helmuth, City Engineer
Francisco Nuñez, Assistant Engineer
Brent Richardson, City Attorney
Zelda León, Recording Secretary

PLEDGE: Commissioner Tyler led the Pledge of Allegiance.

PUBLIC COMMENT: None

NON-PUBLIC HEARING ITEMS

NP1. Election of Chairperson and Vice-Chairperson for 2016

Discussion ensued; no further nominations were made.

Motion made by Commissioner Mendoza; seconded by Commissioner Tyler to appoint Kenneth Hutchings as Planning Commission Chairperson; motion was carried unanimously.

Motion made by Commissioner Tyler; seconded by Commissioner Dal Cerro to appoint Jim Da Silva as Planning Commission Vice Chairperson; motion was carried unanimously.

MINUTES: December 8, 2015

Motion made by Commissioner Dal Cerro; seconded by Commissioner DaSilva to approve the Minutes of December 8, 2015; motion was carried unanimously.

CONSENT ITEMS: None

PUBLIC HEARING ITEMS

David Merchen, Community Development Director advised the Commission that there were two items on the agenda that have requested a continuance to the February 9, 2016 Planning Commission and would recommend they be addressed first.

4. CUP 2015-34 & SPR 2015-39 - Bachelorette Novelty Shop

A noticed public hearing to consider a conditional use permit and site plan review to allow for the establishment of a bachelorette apparel and novelty shop at the southeast corner of West Clark Street and Country Club Drive (1475 Country Club Drive) in the C1 (Light Commercial) Zone District, with a C (Commercial) General Plan land use designation. (APN: 003-210-009) The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

Motion made by Commissioner DaSilva; seconded by Commissioner Dal Cerro to continue the application for Conditional Use Permit 2015-34 and Site Plan Review 2015-39 to the February 9, 2016 Planning Commission meeting; motion was carried unanimously.

7. GPA 2016-02 & REZ 2016-02 - MUSD General Plan Amendment & Rezoning

A noticed public hearing to consider a General Plan amendment and rezoning of approximately 18.96 acres of land located at the northwest corner of Tozer Street (Road 28) and South A Street. The property is proposed to be rezoned into the PF (Public Facility) Zone District. The General Plan amendment would change the General Plan land use designation from the MD (Medium Density) land use designation to the P&SP (Public and Semi-Public) land use designation.

Motion made by Commissioner Dal Cerro; seconded by Commissioner Mendoza to continue the public hearing on General Plan Amendment 2016-02 and Rezone 2016-02 to the February 9, 2016 Planning Commission meeting in order for the applicant to submit a complete project description; motion was carried unanimously.

1. Development Agreement Annual Review - Madera Town Center

A public hearing to conduct an annual review of the development agreement approved in conjunction with the Madera Town Center project (Ordinance 821) for the period running through August 1, 2015. This annual review has been scheduled pursuant to Section 10-3.1715 of the Madera Municipal Code, which required that the Planning Commission determine whether the principle party to the agreement, Zelman Retail Partners, has complied in good faith with the terms of the development agreement. (APN: 013-240-001) An environmental impact report (EIR) was prepared and certified for the shopping center project. No additional environmental review is required in conjunction with the annual review of the development agreement.

David Merchen, Community Development Director summarized the report. The Madera Town Center Development Agreement was considered by the Planning Commission in July 2007 and approved by the City Council in August 2007. The primary purpose of the agreement was to lock in the project approvals and development requirements for the shopping center and define reimbursements and fee credits that would be received by the developer. An annual review of the development agreement is required pursuant to the California Government Code and the Madera Municipal Code to verify that the developer has complied in good faith with the terms of the agreement. A review of the agreement indicates that the obligations of the developer are triggered when the shopping center is developed, which has not yet occurred. As such, it is recommended

that the Commission find that the developer has complied in good faith with the terms of the development agreement.

The item was opened for public comment.

No public comment on this item was presented; public hearing on this item was closed.

Motion made by Commissioner Tyler; seconded by Commissioner Mendoza to approve a resolution declaring a statement of compliance under periodic review for the development agreement approved in conjunction with the Madera Town Center Project (Ord 821), for the period through August 1, 2015; motion was carried unanimously.

Findings

- As summarized in Table 1 of this staff report, Zelman Madera LLC has complied with the terms of the development agreement which trigger compliance on the part of the applicant. There are no developer obligations which required compliance during the period through August 1, 2015.

2. CUP 2015-05 & CUP 2015-06 – DPF Filters Revocation Review Continuance

A continued public hearing to consider revocation of two Conditional Use Permits which allowed for the establishment of two uses. The first use is the maintenance and installation of diesel particulate filter systems on both diesel trucks and stationary diesel power generation systems. The second use is the storage of diesel “big rig” tractors and trailers. The project site is located at 2832 North Golden State Boulevard in the I (Industrial) General Plan land use designation (APN: 013-250-002).

Christopher Boyle, Planning Manager summarized the report. The site is in compliance with the conditions of approval for Conditional Use Permit 2015-05 and 2015-06. Staff recommends that the Planning Commission make a determination that revocation is not warranted as all conditions have been brought into compliance.

The item was opened for public comment.

No public comment on this item was presented; public hearing on this item was closed.

Motion made by Commissioner Mendoza; seconded by Commissioner DaSilva to find that revocation of Conditional Use Permit 2015-05 and 2015-06 is not warranted at this time with the findings as stated; motion was carried unanimously.

Findings

- Conditions of approval adopted by the Planning Commission and agreed to by the applicant and property owner are currently being complied with.
- Site improvements required to be completed within specific timeframes have been completed.
- Based on observations of staff and the evidence from the whole of the record, the use is now operating in compliance with conditions of approval; and
- The continued 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 of persons residing or working in the neighborhood of such

proposed use, or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city, and;

- The above findings are supported by evidence presented at the public hearing, by field observations by multiple City departments, and in staff reports during the processing and review of this entitlement; which is made a part of this record by this reference.

3. CUP 2015-32 & SPR 2015-37 - Iglesia Pentecostes Espiritu Santo y Fuego

A noticed public hearing to consider a conditional use permit and site plan review to allow for the establishment of a church in a commercial development located at the southeast corner of West Olive Avenue and Martin Street (200 West Olive Avenue) in the C1 (Light Commercial) Zone District, with a C (Commercial) General Plan land use designation. (APN: 012-053-017) The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

Kira Noguera, Assistant Planner summarized the report. The use is consistent with the purpose and intent of the Zoning Ordinance and is harmonious with the surrounding uses. Staff recommends approval of the use permit and site plan review.

The item was opened for public comment.

Applicant, Juan Bedolla, 200 W. Olive Avenue, Madera, CA spoke in favor of the project. Mr. Bedolla stated:

- They are open on Sunday 3:30 – 9:30 pm
Tuesday 7:30 – 9:30 pm
Thursday 7:30 – 9:30 pm
- He has never seen the restaurant or the martial arts business open on Sundays.
- The church does not use all the parking.
- If they grow; they may have to move from the site.
- Parking has not been an issue as they only seat 40 people.
- Although someone else from the church was notified that they needed a permit, he was never advised of the requirement.
- They do not park across the street
- Families come together in SUVs or vans.
- If someone were to go to the site during services, there would still be 10-15 available parking spaces.
- He has not been able to speak to the property owner yet regarding the conditions of approval regarding water meter, sewer and ramp “as not coming out of church”.

Irene Chavez of Planada, CA spoke in favor of this project. Ms. Chavez stated that most of the people who attend do not own vehicles, so they carpool to church. Having a church is always a positive effect [to the neighborhood].

Khalid Chaudry, property owner of the site spoke in favor of the project. Mr. Chaudry stated that the letter in opposition was probably from the Naz family. Mr. Chaudry was asked several times if he was in agreement with the conditions of approval. Mr. Chaudry responded affirmatively and would then state that there are issues with having water meters for each business. He stated that he is in agreement with the conditions of

approval; he is ok with everything, but that the Commission was being selective [in regards to this site].

Commissioner Dal Cerro stated that it would be "selective" if the Planning Commission didn't require the conditions from the site.

No further public comment on this item was presented; public hearing on this item was closed.

Commissioner Mendoza stated that the applicant has not done his due diligence and is hoping that others will help with the conditions of approval. He would like to see the applicant come back to the Commission once Mr. Bedolla has a better understanding of the conditions and can address them all.

Commissioner Dal Cerro wants to have an understanding of who is going to pay for the improvements.

Motion made by Commissioner Mendoza; seconded by Commissioner DaSilva to continue the application for Conditional Use Permit 2015-32 and Site Plan Review 2015-37 to the February 9, 2016 Planning Commission meeting; motion was carried unanimously.

5. ABN 2015-02 - Silva Ford H Street Vacation

A noticed public hearing to consider a request for General Plan Conformity and an Environmental Determination for a proposed vacation of approximately 750 feet of South H Street right-of-way immediately north of Madera Avenue. The street section is not required for provision of access to private property and/or important to street circulation.

Christopher Boyle, Planning Manager summarized the report. The existing street segment does not provide meaningful benefit or service to the City. The summary vacation of this street segment is in conformity with the City's General Plan, would not create any significant environmental impacts and has been determined to be exempt from CEQA.

Mr. Boyle was asked and responded

- that vacated property usually reverts to both owners, but in this case it will only be going to the property of Silva Ford as Cal-trans doesn't want a section
- issues such as re-locating a street light, would be addressed as part of the Site Plan Review that follows this application approval
- traffic loads do not indicate the need to provide new street access

The item was opened for public comment.

No public comment on this item was presented; public hearing on this item was closed.

Motion made by Commissioner Dal Cerro; seconded by Commissioner Tyler to adopt a resolution adopting a report to the City Council making a determination of conformity with the General Plan for summary vacation of street right-of-way for an approximately 45 foot wide by 600 foot long segment of South H Street located between the 9th Street alignment and the Madera Avenue right-of-way; and affirming the determination that the project is exempt from the California Environmental Quality Act under §15305 (Minor Alterations in Land Use Limitations); motion was carried unanimously.

Findings

- The summary vacation of an approximately 45 foot wide by 600 foot long segment of street right-of-way is categorically exempt under §15305 (Minor Alterations in Land Use Limitations), of the California Environmental Quality Act (CEQA) which allows for minor alterations in land not involving the creation of a new parcel.
- The summary vacation of an approximately 45 foot wide by 600 foot long segment of street right-of-way is consistent with the purpose and intent of the General Plan and the C (Commercial) General Plan land use designation.

Commissioner Dal Cerro recused himself from the following item and left the room.

6. REZ 2015-03 - Nassar West Yosemite Rezone

A noticed public hearing to consider a rezone of property from the R1 (Low Density Residential) Zone District to the WY (West Yosemite Professional Office) Zone District. The property encompasses two parcels located on the south side of West Yosemite Avenue, west of its intersection with O Street (1006 and 1010 West Yosemite Avenue), within the O (Office) General Plan land use designation (APN: 010-104-001 and 002).

Christopher Boyle, Planning Manager summarized the report. The proposed rezone provides consistency with the General Plan and prepares two parcels for future conversion to office uses. Staff recommends adoption of a Resolution recommending to the City Council adoption of an ordinance rezoning the property.

The item was opened for public comment.

No public comment on this item was presented; public hearing on this item was closed.

Motion made by Commissioner DaSilva seconded by Commissioner Tyler to adopt a Resolution recommending to the City Council adoption of an ordinance rezoning the property to the WY (West Yosemite Professional Office) Zone District, with the findings and conditions as listed; motion was carried by Commissioner DaSilva, Commissioner Mendoza, Commissioner Tyler and Commissioner Hutchings. Commissioner Dal Cerro abstained from the vote (recused himself of this project).

Findings

- The proposed rezoning is exempt under Section 15061(b)(3) of the California Environmental Quality Act "CEQA" because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
- The proposed rezone will provide the required consistency between the General Plan and zoning.
- The proposed rezone represents good zoning practice.
- The rezone is not expected to be detrimental to the health, safety, peace, comfort or general welfare of the neighborhood or the city.

Commission Dal Cerro returned to his seat.

8. GPA 2016-01 & REZ 2016-01 - Parksdale General Plan Amendment & Rezoning

A noticed public hearing to consider a General Plan amendment and rezoning of approximately 600 properties encompassing approximately 500 acres of land located in and near Parksdale (County Service Area #3) immediately east of the City. The boundaries of the rezoning area are generally described as Avenue 13½ to the north, Avenue 13 to the south, Road 29¼ to the east, and Road 28 to the west. A General Plan amendment is proposed to accurately reflect existing land uses. An Addendum to the 2009 General Plan Environmental Impact Report has also been prepared pursuant to CEQA Guidelines Section 15162 and 15164.

Christopher Boyle, Planning Manager summarized the report. The proposed project provides compatibility between the General Plan and existing land uses, and establishes rezoning consistent with the General Plan. It is recommended that the Commission adopt a Resolution recommending approval of the requested general plan amendment and rezoning to the City Council.

Mr. Boyle stated that this hearing is for the rezoning of the properties, so that in the event of annexation, those properties would have a City zone already set up. An annexation hearing will follow, but annexation is not part of the decision taking place tonight. Mr. Boyle mentioned that staff had spoken to hundreds of residents regarding this project.

Commissioner Dal Cerro advised the audience that if anyone was opposed to the annexation, then the hearing they should attend to voice their opposition is the LAFCO hearing.

Brent Richardson, City Attorney stated that although, the proper venue for voicing opposition to the annexation is the LAFCO hearing, people are still allowed to speak at this meeting.

The item was opened for public comment.

The following people stepped up to the podium:

- Lester Moore, 13440 Road 29½, Madera, CA
- Maura Solis, 13325 Road 29, Madera, CA (Stepped up to podium twice.)
- James Turney, one acre parcel on Avenue 13, Madera, CA
- John Prado, 13368 Cronin Street, Madera, CA (Stepped up to podium twice.)
- Bernice Jackson, Fern Street, Madera, CA (Stepped up to podium twice.)
- Enrique Renteria, 13320 Road 29, Madera, CA
- Mark Duval, Avenue 13½, Madera, CA
- John Prado, 13368 Cronin Street, Madera, CA
[Different from previous with same name]
- Mr. Garcia, 28111 Lada Avenue, Madera, CA
- Julian Martinez, Cronin Street, Madera, CA
- Victoria Gutierrez, 28167 Avenue 13½, Madera, CA

Concerns from the Audience

- They like living in the “county” and do not want to be in the “city”.
- Who is going to pay to bring properties up to code?
- What is going to happen to landlocked properties?
- Notification of this meeting was only by mailed notice.
- Do not want current property activities to be extinguished.
- Do not want to enter City as would need to comply with City rules regarding animals, cars in yards, etc.
- Neighbors are not fully aware of this issue as they are Spanish speakers.
- Why does the City want to take this area from the County?
- Has gone through a previous annexation and after it was rezoned, had to sell the property, because he couldn't do anything with it.
- Against the rezoning
- Against the annexation
- Where would the funds come from to pay for street improvements?
- Since the City would make improvements in sections, then the City should annex in sections (one block at a time).
- Staff indicated they had spoken to many people, but they were not contacted.
- The area can remain a county island.
- Request that the Planning Commission vote no on this rezone.
- Is there planned development for this area?
- What happens if homes are not up to code? Will the City be “kicking people out”?
- Everyone is against this; leave us alone.
- Who/What is LAFCO?
- Mailed notice had a meeting date of 12/08/16 then another was received with a meeting date of 01/12/16.
- If a petition against annexation is generated, who would they present that to?
- What can they do so it [annexation] doesn't pass?
- The City lawyer has advised you not to tell us anything, so what good are you [Planning Commission] doing?
- What can they do or can they not do anything?
- Notice envelope was postmarked 12/24/15, but the meeting date was for 12/08/15.
- It would be nice to have a three (3) month notice.
- Notice should be in English, Spanish and Hmong.
- If this rezone vote is “nay”, will there still be a hearing [on the annexation]?

Chairperson Hutchings asked staff to respond to concerns and questions.

Responses to Concerns

- This meeting is only in regards to rezoning and general plan amendment.
- The recourse for objections to the annexation is at the LAFCO annexation hearing.
- Studies will be made to identify inadequacies.
- Inadequacies will be addressed as Capital Improvement Projects (CIP) as needed.
- Existing permitted uses would be grandfathered in as existing non-conforming uses.

- The hearing is for the prezone and the general plan amendment; the Planning Commission does not determine annexation; LAFCO determines annexation.
- LAFCO annexation could be denied if opposed at their hearing.
- Staff is not sure who notices the property owners when there is an annexation hearing.
- Dave Braun of Madera LAFCO (Local Agency Formation Commission) stated that there is a LAFCO in every county in California. LAFCO is charged with overseeing special districts and cities with the idea of providing services and development. Any time a city wishes to annex an area into its city limits, it has to be reviewed and approved by LAFCO. The LAFCO board is made up of two (2) County Board members, two (2) City members and one (1) at-large member. Notices are sent to the property owners and registered voters. An annexation meeting is scheduled roughly 30 days after an annexation application is received. Prezone must be completed first per state law.
- The land use schedule and the permitted uses would change.
- If a use is legal per the County, then it is protected and grandfathered in as an existing non-conforming use. It cannot be intensified.

Examples

- If a resident legally has two (2) cows, they would be able to keep the two (2) cows, but they cannot get more cows.
 - If a resident legally has two (2) cows, but they get rid of their cows, then cows would no longer be allowed.
 - If a resident legally has 20 dogs, they would be able to keep the 20 dogs.
- If the use is not legal, then it would not be protected.
 - The grandfather clause no longer applies if the use is discontinued for six (6) months.
 - Annexation is initiated if a community is immediately adjacent to and in the path of growth, such as in the case with the South East Madera annexation.
 - The City would address improvements over time.
 - When an annexation occurs is strictly up to LAFCO.
 - The Planning Commission cannot do anything to identify phasing of annexations.
 - No improvements or constructions is proposed at this time.
 - Staff is glad to answer and questions from the Commission regarding prezone, but back and forth discussion between the public and staff is not conducive to the prezone.
 - Understands that the audience has questions, but unless they are related to zoning, there is very little the Planning Commission would be able to do with the comments this evening.
 - Annexation – changes occur to jurisdiction and the property gets enveloped into the City limits instead of being unincorporated.
 - LAFCO – Local Agency Formation Commission
 - This meeting addresses rezoning only. Annexation issues should be addressed at the LAFCO hearing for annexation.
 - The Commission is aware of the opposition to the annexation.

- Brent Richardson, City Attorney advised the Commission that it would be improper to advise anyone on how to proceed (with a petition or procedure in opposition to annexation).
- Chairperson Hutchings advised the audience that questions regarding annexation should be directed to LAFCO as this hearing is on the rezoning process only.
- The Planning Commission cannot give members of the audience legal advice.
- Christopher Boyle, Planning Manager was asked and responded to the comments on noticing.
 - The notices were sent out with the incorrect meeting date.
 - A correction on the meeting was sent out soon after.
 - Notices were sent to the properties affected, as well as to residents in proximity to the area.

In between some of the comments, Khalid Chaudry stepped up to the podium and started speaking on a different project. Commissioner DaSilva confirmed that Mr. Chaudry was speaking about the church project that appeared earlier in the agenda and advised Mr. Chaudry that a vote had already been conducted on that item. Chairperson Hutchings advised Mr. Chaudry that the Commission would not be accepting any more testimony on that item.

No further public comment on this item was presented; public hearing on this item was closed.

Brent Richardson, City Attorney stated that state law requires that when an annexation like SMD occurs, then disadvantage communities next to it are also annexed.

David Merchen, Community Development Director stated that state law and LAFCO conditions of approval state that the City file an annexation application. We invite the community to come into the City. If they don't want to come, there will be opportunities to protest and LAFCO will handle that process. It is not the City's intent to force a community to annex.

Commissioner Dal Cerro stated that he appreciates the heartfelt comments of the individuals. He sees this as a preliminary step which will allow for a smooth transfer to City should it ultimately be the decision of residents of that area and the involved government agencies.

Motion made by Commissioner Dal Cerro; seconded by Commissioner Mendoza to adopt a Resolution recommending to the City Council approval of General Plan Amendment 2016-01 and Rezone 2016-01, allowing for the requested land use designation changes and rezoning as described in the in Exhibits A and B to the Resolution, with the findings as stated; motion was carried by a 3 to 2 vote by Commissioner Mendoza, Commissioner Hutchings and Commissioner Dal Cerro; Commissioner DaSilva and Commissioner Tyler opposed the vote.

Findings

- An Addendum to the 2009 General Plan Environmental Impact Report has also been prepared pursuant to CEQA Guidelines Section 15162 and 15164, and considered as part of this proceeding.

- The proposed General Plan Amendment will provide consistency between the General Plan and existing land uses.
- The proposed rezoning will zone affected properties in a manner consistent with the General Plan.

<u>Roll Call</u>	<u>Vote</u>
Jim DaSilva	Nay
Ruben Mendoza	Aye
Kenneth Hutchings	Aye
Pamela Tyler	Nay
Jeff Dal Cerro	Aye

Dave Merchen, Community Development Director advised the audience that this is an initial hearing on the rezoning. The process is not complete. There will be another hearing on the rezoning only on February 3, 2016 at the City Council. There will be a notice in the paper.

ADMINISTRATIVE REPORTS

Christopher Boyle, Planning Manager:

- Welcomed returning Chairperson Hutchings and new Vice Chairperson DaSilva.
- Asked the Commission to advise Staff by end of the week if they were interested in attending the Planning Commission conference, so that hotel reservations, etc. could be made. He encouraged everyone to attend.
- The Captain Mart appeal has been scheduled to the 04/06/16 City Council. This will allow Staff to complete an ordinance amendment that will better reflect the seven (7) member council as opposed to the five (5) member council verbiage which is currently in the ordinance. Commissioner Dal Cerro requests that the Commission vet the report that will be submitted to the City Council on this item. Mr. Boyle stated that he would bring it to the next Planning Commission meeting.
- Advised the Commission that Kira Noguera, Assistant Planner had accepted a position at the City of Fresno as a Planner III and this was her last meeting. Ms. Noguera was congratulated on her new position.

COMMISSIONER REPORTS: None

ADJOURNMENT: Meeting adjourned at 8:06 pm.



 Planning Commission Chairperson



 Zelda León, Recording Secretary