

**CITY OF MADERA PLANNING COMMISSION
REGULAR MEETING
May 10, 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 Jim DaSilva (Vice Chairperson)
Commissioner Ruben Mendoza
Commissioner Jeff Dal Cerro
Commissioner Bruce Norton
Commissioner Robert Gran Jr.
Commissioner Pamela Tyler

ABSENT:

STAFF: Dave Merchen, Community Development Director
Christopher Boyle, Planning Manager
Robert Holt, Assistant Planner
Keith Helmuth, City Engineer
Jose Aguilar, Deputy City Engineer
Brent Richardson, City Attorney
Brandi Garcia, Recording Secretary

PLEDGE: Commissioner DaSilva led the Pledge of Allegiance.

PUBLIC COMMENT: None

MINUTES: April 12, 2016

Motion made by Commissioner Norton and seconded by Commissioner DaSilva to approve the April 12, 2016 minutes.

Two abstentions; Commissioner Gran and Commissioner Tyler.

CONSENT ITEMS:

NON-PUBLIC HEARING ITEMS:

1. Review of Madera Athletic Club

A review of the performance of Conditional Use Permits 1963-23, 1989-30 and 1991-13 which cumulatively allow for the athletic fitness club located at 1803 Sunset Avenue, and determination as to the necessity of scheduling a public hearing to determine whether revocation is appropriate.

The order of the items was modified and this item was moved to the front.

Commissioner DalCerro refused himself for this item due to family relations with the applicant.

Christopher Boyle, Planning Manager summarized the report and talked about the last minute letter that was received from the applicant's attorney requesting a 30 day extension.

Commissioner Gran asked when we first contacted Thrive and attempted to work with them.

Mr. Boyle stated that he had written a letter on March 8th, however this had been an open case with the Code Enforcement division.

Commissioner Gran said, so he has had since March 8th to retain council.

Mr. Boyle stated that was correct.

Commissioner Gran stated he doesn't think he's ready to move the item and would like to open it up to let people voice their concerns.

Mr. Richardson said that would be fine if we wanted input.

Commissioner DaSilva asked when Code Enforcement was out there last, 10, 15, 20 years ago?

Mr. Boyle replied that it was his understanding that he knows that at least since last October, but it is his sense that there has been dialog with the neighborhood for an extended period of time.

Commissioner Gran asked Mr. Boyle how long they have known about the shaded areas that are in non-compliance.

Mr. Boyle said that he spoke with the applicant in October about it being difficult for him to be in compliance with the conditions from 1963. The applicant did not see the matrix that was included in the staff report until it was released last Thursday.

Commissioner Gran asked, 'But, he's known for a while that he has been in non-compliance.'

Mr. Boyle confirmed yes, and that is why the applicant submitted for an amendment to the existing use permit so that staff could create conditions of approval that would be appropriate. However, there is not a complete application to process so we are moving forward with this process.

Commissioner Gran, asked, 'So, they didn't fill out a complete application?'

Mr. Boyle said he received an application and an operational statement but no floor plan, site plan or anything that could be used to assess the potential measures that might bring the site into compliance if he doesn't have anything to use.

Commissioner Gran asked if they were notified about this.

Mr. Boyle stated, yes.

Commissioner Hutchings stated this is not a formal public hearing item but he would like to invite those who would wish to speak on this item to come up to the podium and share their testimony.

Cynthia Hurrenkamp – 1812 Venturi Ave, Madera was there to represent several neighbors in the neighborhood. Their goal is to provide additional context on the item. They are disappointed that their neighborhood's dirty laundry was on display for everyone. The homeowners have given up due to not being able to work with Mr. Montoya. The city was approached and in November Mr. Montoya was approached by the City but no changes were made. In January there were a few signs asking that the neighbors be treated with respect but there was no enforcement. In February Andy Medellin stepped in but was not able to work with Mr. Montoya in getting results. The parking lot lights do not work during business hours and it is dark. They have a neighborhood watch program that will be starting May 26, 2016. The police department is also providing extra patrol to help with the vehicle break-ins. The neighborhood is eager to move forward.

James Chandler – Member of the Sunset Avenue Church of Christ. Also lives in the neighborhood. He was in the past a legal representative of the church. They were, in the past, and again recently approached about leasing the parking lot or renting it to the Athletic Club. They stated they were not going to do it. The church was required to have adequate parking for itself and they had to bar and block off the parking belonging to them. They have recently had to put notices on cars letting them know that they are not parking in Athletic Club parking. If the church gives up its parking then where will its members park?

Tom Frasier – 701 Orchard Ave., himself and a few others in the neighborhood are inundated with the amount of success of the club now. They have tried to meet with past owners of the club including Mr. Montoya a few years ago at Larry Hall's home regarding the unacceptable disturbances that were being created by the club. The Zumba, dancing, music, etc. He has counted on some nights 300 cars circling the neighborhood, looking for parking. The club offers classes that run at all hours. Dozens of people from 5:00 or before and until 11:00 in the evening. The club has outgrown its site. In the 50's it was on the edge of town and it was ok. It is now an island in a residential zone. The club owner has done little about the problems. There's drag racing that goes on, break in's in the parking lot that filter out into the neighborhood and drug deals.

Commissioner Hutchings thanked Mr. Frasier and asked if there was anyone else that would like to address the Commission.

Christopher Montoya stepped to the podium. He said they did not come to Madera to do harm. They have shown their investment in the City through multiple areas. They do not like to have any harm to any of the community, the hard part for him is that they are successful and it has put them in a bad position. How do they fix it? They have put multiple offers on multiple properties but Madera does not have a lot of large retail space. He's just a Health Club guy, not a real estate guy or an investor. It took him a while to get to somebody because he had to get a referral to get someone to guide him through this. He has never had a problem like this so he doesn't have anything to fall back on.

He is asking for time because he can't just shut the doors and lay off 43 employees. He understands it sounds easy to just shut the doors but he doesn't feel that's the correct answer. He said he did have to redo the landscaping and make the building look better when he took over.

Commissioner DaSilva said he has had plenty of time, since October. With that much time, he would have had the place looking good. He asked Mr. Montoya how many memberships he has.

Mr. Montoya said he has about 3000 members.

Commissioner DaSilva asked, 'At \$10.00 a pop.'

Mr. Montoya said he can cut the memberships down but if it doesn't pay the bills...

Commissioner Gran asked if the memberships were exclusive to that gym or if they could go to other locations.

Mr. Montoya said they could go to any of the locations.

Commissioner Gran said, so you could buy a membership by Food 4 Less and go to the Sunset location.

Mr. Montoya said yes.

Commissioner DaSilva asked if they were all open at the same time, 5-11.

Mr. Montoya stated that the Cleveland Ave. is open 24 hours Monday through Thursday.

Commissioner Tyler asked if he could cut back the hours on Sunset to give the neighbors some reprieve. The traffic is all day long, even while parents are trying to pick up their kids from school.

Mr. Montoya said he's trying to figure out a way that makes sense to do the transition.

Commissioner Tyler asked if the Zumba could be cut down to certain days.

Mr. Montoya said they have moved some of the Zumba classes to the John Wells Youth Center and the Pan Am Center. Members and public can go to those, they are free. They do Boot Camp in the park. They have been trying to move things out. He's ok with saying he's not smart enough to figure things out.

Commissioner Hutchings reminded everyone that this was not a public hearing item.

Commissioner Mendoza asked when Mr. Montoya obtained the property.

Mr. Montoya said he purchased the property in December 2009.

Commissioner Mendoza asked what the membership was then.

Mr. Montoya stated he doesn't know because the prior owner didn't have everything in the books. A lot of things weren't put together.

Commissioner Hutchings thanked Mr. Montoya and asked if there was anyone else that would like to address the Commission at this time.

There were no others wishing to do so.

Commissioner Hutchings returned the item to the Commission for further processing.

Commissioner Gran said he doesn't have a problem giving the 60 days but he would want it to be a revocation hearing.

Mr. Boyle said that is what we are wanting.

Commissioner Gran they are trying to help with the integrity of the neighborhood and have them and the business live hand in hand. It appears that Mr. Montoya has legal Council that will be helping to guide him and he hopes that when they come back to the Commission they have a nice tidy package that the neighbors are happy with and that's workable.

Commissioner Mendoza said that there needs to be some kind of agreement so that all parties can come to an agreement.

Commissioner Hutchings said that they were going to amend Motion 1 to say July 12th, 2016 in lieu of June 14th.

Commissioner Gran made a move to accept Motion 1 to schedule a public hearing to consider revocation of Conditional Use Permits 1963-23, 1989-30 and 1991-13 at the July 12, 2016 Planning Commission regularly scheduled meeting. The motion was seconded by Commissioner DaSilva.

There were 6 in favor and one recusal by Commissioner DalCerro.

PUBLIC HEARING ITEMS

1. CUP 2012-02 MOD & SPR 2016-04 - Dollar General

A noticed public hearing to consider modification of an existing conditional use permit and site plan review to allow for the sale of distilled spirits where only the sale of beer and wine is currently allowed as a component of an existing grocery store located at the southwest corner of Gary Lane and South Madera Avenue (1200 S. Madera Avenue) in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation. (APN: 012-320-005)

Mr. Boyle, Planning Manager, presented the item.

Commissioner Gran asked how long it took for Dollar General to come into compliance.

Mr. Boyle stated that they were in compliance within 30 days. He met with their compliance manager at the 30 day mark. However, the 3 packs of alcohol were pulled from the shelves the next day.

Commissioner Mendoza said he was concerned with some of the conclusions. He doesn't feel the MCOE is ok with this. He feels they may continue to be in opposition of this but maybe didn't have time to get a letter out. He is also concerned with what our basis of hopefulness is. Why should we think they are going to continue to maintain the premises? It seems that now they are maintaining the premises because they want something from us. Once they get that something why should we conclude that they are going to represent themselves in a fashion that makes them a good neighbor?

Commissioner Gran said they can put in a 6 month review just like they have done with the recycling companies.

Commissioner Hutchings invited the applicant to step forward and address the Commission.

Steve Rawlings stepped forward and stated he is the consultant for all the Dollar General stores. They do agree with all the conditions of approval. He introduced Bob Perez the local store manager, Jim Bryant the district manager, and Eric Boyles the Sr. Manager for facilities and compliance. Dollar General operates about 12,500 stores in the United States, however the stores are relatively new in California. It is a smaller store that gives you a lot of options at a very competitive price. Part of the offering is a small area of distilled spirits at some of the locations.

Commissioner Hutchings asked Mr. Rawlings to state his address please.

Mr. Rawlings gave his address of 26023 Jefferson Ave. Ste. D in Murrieta Ca

Erick Boyles stepped to the podium and stated that the condition of the landscaping is not what they like to see take place. This was not the only store with the landscaping issue. They have recognized the issue and are doing what they can to address it. They are making the exterior a priority. They have put a lot of effort into the landscaping and he doesn't think we are going to see those issues again in the future.

Steve Rawlings stepped back to the podium. He noted that the distilled spirits are in a locking cabinet.

Commissioner Mendoza asked Mr. Perez (Store Manager) about possible care free employees leaving the cabinet unlocked because of inconvenience of locking and unlocking the cabinet over and over again.

Mr. Perez said the key would be in one location, behind the check stand. The employee would unlock the cabinet and get the alcohol then return the key. Not everyone would have a key.

Commissioner Mendoza said he understood but sometimes they may be going back and forth and then it's found being left unlocked. This would lead to non-compliance if the doors are left unlocked.

Mr. Perez said he understood and that he would make sure this didn't happen. They understand the consequences and how important it is that this is done correctly.

Steve Rawlings stepped up again and noted that the doors are self-locking. When they slide closed they automatically lock.

Commissioner DalCerro asked what percentage of the stores in the chain sell distilled spirits.

Steve Rawlings stated that about 100 plus stores across the country sell the distilled spirits, out of 12,500 stores. About 30 of those stores are in California.

Commissioner DalCerro asked what it was about this store that they wanted it to be one of the trend setters.

Mr. Rawlings said he didn't know the exact reason but it depends on the availability of a license and some of it is customer driven. The smaller stores such as the 7,500 square foot size typically never sell distilled spirits. It's usually the larger ones like the 12,000 square foot size. That is one of the criteria.

Commissioner DalCerro asked if it has anything to do with the demographic of the neighborhood.

Mr. Rawlings said there is always a response to customer demand and if the merchandising people felt like there was a benefit to offering the distilled spirits then that's what they did.

Commissioner DalCerro asked if it has to do with the perception that they would not get any opposition.

Mr. Rawlings said that he handles a lot of the use permits and they just send him over the information and say this is what would like to do. He screens them. No, it's difficult for them to predict if there will be opposition or not. So, this one is probably because of a customer demand and the size of the store.

Commissioner DalCerro asked Mr. Rawlings if he has stores in Clovis.

Mr. Rawlings said yes, there are stores in Fresno County and out in Clovis.

Commissioner DalCerro asked if the stores in Clovis sells distilled spirits.

Mr. Rawlings replied that yes, there is a Dollar General Market and it does sell distilled spirits.

Commissioner DalCerro asked if Mr. Perez has been the manager for the past year.

Mr. Rawlings replied, yes.

Commissioner DalCerro asked if Mr. Perez could respond to why there was trash in the outside.

Mr. Perez said he could explain the questions being asked. He wasn't clear in the beginning on his authority to spend money. He also said that you cannot control other people's behavior. People would throw their garbage on the ground and leave it. They would clean up in the morning. However, he has now established with Bob (Mr. Perez)

that they do it every two hours. It has nothing to do with this license, however that brought it to his attention that this needs to be addressed.

Commissioner Hutchings asked if there was anyone else that would like to address the Commission on this item. There were none.

The item was returned to the Commission.

Commissioner Norton made a move to accept Motion 1, it was seconded by Commissioner Mendoza.

Commissioner Gran asked if he could add a 6 month review.

Mr. Boyle stated that if we were to add a condition that would require a mandatory review then staff would recommend that we also apply a fee to cover staff's cost as it applies to that review.

Commissioner Gran asked Mr. Boyle if he had any idea what that fee would be.

Mr. Boyle stated it would be \$663.50.

Commissioner Norton confirmed that would be every 6 months.

Mr. Boyle said yes, if you're asking for a formal review then staff would bring it to you with staff reports and the required noticing.

Commissioner DaSilva asked if Code Enforcement would still go by there.

Mr. Boyle said staff could informally inspect the site from time to time and if conditions of approval are not in compliance we can bring it to you.

Commissioner Gran said he thinks that would be sufficient.

Commissioner Norton moved to accept Motion 1 as presented.

Commissioner Gran withdrew his request.

Commissioner Tyler seconded the motion.

Commissioner Hutchings stated it has been moved and seconded to approve Motion 1 as amended to approve Conditional Use Permit 2012-02 MOD & Site Plan Review 2016-04 based on and subject to the findings and existing conditions of approval.

5 Commissioners were in approval and two opposed

Mr. Richardson requested a poll.

Ruben Mendoza - yes
Robert Gran Jr. - yes
Bruce Norton - yes
Pamela Tyler - yes
Jim DaSilva - no

Jeff DalCerro no
Kenneth Hutchings yes

2. CUP 2016-03 & SPR 2016-09 - Liberty Baptist Church

A noticed public hearing to consider a conditional use permit and site plan review to allow for the establishment of a church to be located on the east side of South Gateway Drive (801 S. Gateway Dr.), south of its intersection with 12th Street, in the I (Industrial) Zone district with a C (Commercial) General Plan land use designation. (APN: 011-151-008)

Christopher Boyle, Planning Manager summarized the report.

Commissioner Hutchings asked if he was to assume that the other auto maintenance facilities would be storing any vehicles left over night or on the weekend, inside the building and not using outside parking areas.

Mr. Boyle stated that Frank's Auto has a specific disallowance for storing vehicles overnight. The other business, the smog shop, is a come and go business. The muffler use, is actually one of those invisible businesses in the community operating without a business license, which will be addressed shortly but we could not allow for storage of vehicles overnight.

Commissioner DaSilva asked about the other businesses.

Mr. Boyle stated that the other businesses are more of a Monday through Friday type of operation.

Commissioner Mendoza asked that if the smog shop started to open on weekends, would this be revisited.

Mr. Boyle stated that it would still operate within the parking constraints since the church can only have 30 people in it at one time. With 14 stalls available, the muffler shop would still have ample parking available.

Commissioner Hutchings thanked Mr. Boyle and asked the applicant to step forward.

Pastor David Rasnick stepped forward, 1032 Perkins Ave. He is in agreement but did have a question, under the streets #17. It asks for an irrevocable offer of dedication. As a tenant that may be something they are unable to give.

Mr. Boyle stated he has had meetings with Mr. Singh and he has an assurance that Mr. Singh will comply.

Mr. Rasnick thanked Mr. Boyle and Mr. Holt for helping him. For the last two years they have been meeting at the Madera County Farm Bureau. They are now, financially able to step out and take another step. It takes time to build things and this is a step. Having a smog shop behind you is probably no ideal. For the services, they have a Sunday morning service at 10:00, a service at 11:00 with an evening service at 5:00. On Wednesday they are looking to start a bible study that would start at 7:00 pm which should be plenty of time for the businesses to clear out. He has had conversation with Mr. Boyle regarding signs.

Commissioner Hutchings asked if anyone else would like to step forward and address the commission.

Commissioner Mendoza made a move to approve Motion 1. The move was seconded by Commissioner DalCerro. The motion was carried unanimously.

3. SPR 2016-22 & ZAP 2016-02 – California Custom Processing

A noticed public hearing to consider an application for site plan review to allow for the development of an approximately 85,000 square foot almond processing plant on 8.49 acres located on the north side of Aviation Drive, 275 feet east of the Condor Drive alignment in the I (Industrial) Zone District with an I (Industrial) General Plan land use designation. A Zoning Administrator Permit allowing for food products manufacturing in the I (Industrial) Zone District accompanies the site plan review application. A negative declaration will also be considered by the Planning Commission.

Christopher Boyle, Planning Manager presented the item.

Commissioner Norton asked about hours of operation being a concern in the Industrial Zone district.

Mr. Boyle said the hours would not be a problem.

Grant Willis, 322 W. San Carlos, Fresno, he is in agreement with all terms and conditions.

Commissioner Gran complimented him on the drawings and said it's nice to have a nicely prepared packet.

Commissioner Mendoza asked Mr. Willis what happens to the waste water or chemicals that are washed down.

Mr. Willis said they do not use any chemicals except those used for cleaning. MSDS information has been provided on those items. Everything is washed down the city sewer as usual.

Commissioner Hutchings asked if any others would like to speak on this issue. There were none and the item was returned to the Commission.

It was moved by Commissioner Gran and seconded by Commissioner Tyler to approve Motion 1a to adopt a negative declaration as consistent with the Environmental Quality Act.

The vote was carried unanimously.

Commissioner DaSilva made a move to approve Motion 1b to approve SPR 2016-22 & ZAP 2016-02. The move was seconded by Commissioner Norton.

The vote was carried unanimously.

Commissioners DaSilva and DalCerro recused themselves due to relationships with the property owner of the next item.

4. CUP 2011-03 MOD & SPR 2016-14 – Thrive Martial Arts Studio

A noticed public hearing to consider approval of a modification to an existing conditional use permit that allows for a martial arts studio in an existing 5,000 square foot lease space located on the northeast corner of Maple Street and South Pine Street (225 S. Pine Street, Ste. 106), in the I (Industrial) Zone District with a C (Commercial) General Plan land use designation. A site plan review will also be considered. (APN: 012-021-006)

Christopher Boyle, Planning Manager presented the item.

Commissioner Gran asked about the parking being on the right side previously and now it is on the left side. Which way was it going to be?

Mr. Boyle said that he doesn't think staff has a preference as long as it is in compliance. Either side of the parking field being striped would work.

Commissioner Hutchings asked if there were any more questions for Mr. Boyle. There were none so he invited the applicant to step forward.

Christopher Montoya, 1081 W. Stewart, Fresno he is in approval with all the conditions including the amendment for the hours of operation.

Commissioner Hutchings asked if there were any that would like to step forward and address the item.

Chris DaSilva of 3001 Forest Ln. in Madera stepped forward. His mother owns the property. He is the property manager and asked if he was supposed to receive a copy of the site plan review.

Mr. Boyle said that all parties listed on the application would have received a copy.

Mr. DaSilva stated that he went through site plan review about 5 years ago and spent several thousand dollars bringing the property into compliance. He was surprised that Mr. Boyle stated it had been several years.

Mr. Boyle said that he understands his concern but 5 years can mean a tremendous variation in ADA requirements and state mandates. The City per site plan review requirements would require this.

Commissioner Gran asked Mr. DaSilva if he was aware of item #15.

Mr. DaSilva asked what item #15 was.

Commissioner Gran explained that it was under the streets section; driveways along South Pine Street shall be reconstructed to the extent necessary to provide ADA accessibility along the entire street frontage.

Mr. DaSilva said he didn't understand that because Pecks Printery has the corner on Oak and Pine. There is a ramp there and we were required to redo the ramp on the

corner of Maple and Pine at considerable expense to bring it up to ADA compliance 5 years ago. Are we talking about another ramp somewhere on Pine Street? Even there's no corner 'til you get to Pecks Printery.

Keith Helmuth, the City Engineer, explained the requirement.

Mr. DaSilva asked for a picture to be drawn for him so he understands.

Commissioner Gran said that it has to do with the slope of the drive way.

Mr. Helmuth explained what needs to be done in order to reduce the slope of the drive way.

Mr. DaSilva said there was one more mention of a backflow device. He believes there is one already.

Mr. Helmuth stated there is one for domestic and landscaping but they need to be separate.

Mr. DaSilva verified this was a new requirement.

Mr. Helmuth said yes.

Mr. DaSilva said they did the improvements 5 years ago and nothing was said about that.

Mr. Helmuth let him know it is a standard requirement on all projects within the last 5 years.

Mr. DaSilva said thank you and left the podium.

Commissioner Hutchings asked for any others that would like to address the Commission to step forward. There were none.

The item was returned to the Commission for further action.

Commissioner Gran made a move to approve Motion 1 according to the conditions as stated by staff. Commissioner Norton seconded the motion. The vote was approved by all 5 of the present Commissioners. Two abstentions; Commissioner DaSilva and Commissioner DalCerro.

Commissioner DaSilva and Commissioner DalCerro returned.

5. CUP 2014-02 MOD & SPR 2016-07 – TEC Gymnastics Expansion

A noticed public hearing to consider a modification to an existing conditional use permit and site plan review which would allow for the expansion of a gymnastics facility. The project site is located at 528 Noble Street in an industrial park bound by Noble Street to the East, Pine Street to the west, Gill Avenue to the south and Maple Street to the north, in the I (Industrial) Zone District with an I (Industrial) General Plan land use designation. The existing conditional use permit allows for a 7,500 square foot gymnastics facility.

The applicant proposes to occupy an additional 5,000 square feet of lease area. (APN: 012-401-010)

Christopher Boyle, Planning Manager summarized the report.

Commissioner DaSilva asked if Mr. Berry is aware of all the improvements.

Mr. Boyle said yes, he has been in contact with Mr. Phillips who is in charge of Berry Holdings and they know the improvements need to be done in a timely manner.

Commissioner DaSilva asked what the timely fashion is.

Mr. Boyle said it would need to be done prior to occupancy.

Commissioner Hutchings asked about the advertisement on the slide that indicated parties for all occasions at the gymnastics facility. He was curious about food preparation and adequate parking.

Mr. Boyle said he would allow the applicant to speak about the operations.

Tammi Britton of 2605 Westgate Dr. in Madera stepped to the podium. She stated they are in approval of conditions and terms. Typically open up for birthday parties (only 5 in the last 16 months) and also sponsor a baseball, a soccer and a softball team so those people are free to come use the facility for the end of year party. It is also open to Camp-Fire, 4-H, etc. Those usually occur on the weekends.

Commissioner Norton verified that no food is prepared on site.

Mrs. Britton said only cakes are brought in for the parties.

Commissioner DaSilva asked if she had talked to Mr. Berry.

Mrs. Britton said she has only worked with Rudy Zuniga and she spoke to him that day. He told her they were working on it as they spoke.

Commissioner DaSilva verified she was not moving in until all the conditions were met.

Mr. Helmuth said Rudy was in the office today talking about the side walk improvements.

Mr. Boyle stated the improvements that were agreed upon prior must be made or it will schedule the applicable use permits for review before the Planning Commission. He has encouraged the property owner to get going as soon as possible.

Mr. Merchen said there is no limitation keeping them from doing the cut through and other improvements concurrently.

Mrs. Britton thanked the Commission and stepped from the podium.

Commissioner Hutchings asked if there was anyone else wishing to address the Commission. There were none. The item was returned to the Commission for further action.

Commissioner Norton made a move to accept Motion 1 to approve CUP 2014-02 MOD & SPR 2016-07 as conditioned; seconded by Commissioner DalCerro.

The vote was carried unanimously.

6. CUP 2014-05 MOD & SPR 2014-03 – Emma’s Carniceria & Taqueria

A noticed public hearing to consider a modification to an existing conditional use permit and site plan review that allows for a carniceria/taqueria at the southeast corner of South C Street and East 10th Street (601 S. C Street) in the CR (Restricted Commercial) Zone District with a C (Commercial) General Plan land use designation. (APN: 011-082-016) The modification would allow for on-site dining to occur where only take-out service had been permitted prior.

Christopher Boyle, Planning Manager summarized the report.

Commissioner Gran asked where they were going to put the bathroom.

Commissioner DaSilva asked if they own both properties, or just one.

Mr. Boyle replied that they only own the 1600 square foot parcel.

Commissioner Hutchings invited the applicant to step forward.

Paulino Silva of 1224 Owens St in Madera stepped to the podium.

Commissioner Gran asked if he agrees to all the terms and conditions as stated.

Mr. Silva’s daughter was there to translate and said there is a public restroom for customers to use. He just wants to know that with that restroom he can be approved to have the tables.

Mr. Boyle said that staff did not receive any formal site plans. With their approval it allows staff to move forward with the necessary plan submittals for on-site dining. Staff cannot confirm if the current restroom meets any ADA requirements. There may be certain improvements including expansion that would be required. Processing the application would allow the applicant to move forward after approval.

Commissioner DaSilva asked if the restroom was accessed by going through the kitchen.

Mr. Boyle said he doesn’t think that will satisfy an ADA path of travel to the restroom. There will have to be some kind of interior remodeling to satisfy the request.

Commissioner Hutchings wanted to confirm that Mr. Silva understands all 28 conditions of approval since there appears to be a language barrier.

Commissioner Gran said that they want him to understand that there may be a functioning bathroom there but it may not be a legal bathroom for public to use. He has to meet certain specs in order for it to pass. That’s where the remodeling comes in and is specified in the report.

Mrs. Silva stated Mr. Silva is clear on the items and is planning on doing some remodeling.

Commissioner Gran said he has to get approval through the Planning and Building departments before...

Mrs. Silva confirmed that he is aware of that.

Commissioner Gran said he just wanted to make sure before they say yes and then all of a sudden he's on the hook for it. He has to meet all 28 conditions before he has on site dining.

Commissioner DaSilva asked if on-site dining was occurring now.

Mr. Boyle said this application came about because there was on-site dining taking place.

Commissioner Mendoza asked if someone can go over each item with him to make sure he does understand.

Commissioner Gran suggested an extra 30 days to give him time to go over everything.

Mr. Boyle encouraged the Commission to make a decision. He didn't see the need for a continuance.

Commissioner DaSilva asked if the dining inside had been stopped.

Mr. Boyle said he didn't think it has.

Commissioner DaSilva asked when they were notified about the on-site dining.

Mr. Boyle said it had been 5-6 weeks prior during an inspection. The applicant was aware of the need for a restroom when the original entitlement was approved by the Planning Commission and opted to only have take-out. If the applicant doesn't wish to make the improvements then staff will move forward with the discontinuance of the activity.

Commissioner DaSilva asked if it was ADA approved.

Mr. Boyle stated there was ample parking to provide for the use and there is an ADA stall at the rear of the structure with a path of travel.

Commissioner Hutchings asked if there was anyone else wishing to speak on the item. There were none and the item was returned to the Commission for further action.

Commissioner Gran said he doesn't feel comfortable with Mr. Silva not understanding.

Commissioner Norton said then it just doesn't go forward. The reality is that if he is going to have in store dining then he makes the modifications. There's no in store dining until he acts on it.

Commissioner Norton moved to accept Motion1 to approve the modification of CUP 2014-05 and Site Plan Review 2016-11 based on and subject to the conditions of approval; seconded by Commissioner Gran.

The motion was carried unanimously.

7. CUP 2016-04 & SPR 2016-13 – Los Dos Amigos Restaurant

A noticed conditional use permit and site plan review to allow for the sale of beer and wine as a component of a new restaurant located on the south side of East Yosemite Avenue approximately 125 feet west of South C Street (226 E. Yosemite Avenue) in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. (APN: 008-142-076)

Christopher Boyle, Planning Manager presented the report.

Commissioner Hutchings asked about condition #10 under Engineering Dept. It is requiring an encroachment permit. Is it appropriate or does it need to be reworded?

Mr. Helmuth stated that Cal Trans has debated with the City before on who owns the right of way on Yosemite. However, the City would need to inspect the water meter and would need an encroachment permit for that.

Commissioner Hutchings asked the applicant to step forward.

Mr. Rojas, 18880 Cottonwood Dr. in Woodlake stepped forward and stated he is in approval of all the conditions.

Commissioner Hutchings asked if there was anyone else that would like to address the Commission on this item. There were none and the item was returned to the Commission for further action.

Commissioner Gran made a move to accept Motion 1 to approve Conditional Use Permit 2016-04 and Site Plan Review 2016-13; seconded by Commissioner DaSilva.

8. CUP 2016-05 & SPR 2016-16 – Mountain Mike's Pizza

A noticed public hearing to consider a conditional use permit and site plan review to allow for the sale of beer and wine as a component of a new pizza restaurant within a 2,775 square foot tenant space located within The Crossroads Shopping Center located at the southwest corner of East Yosemite Avenue and Tozer Street (1460 E. Yosemite Avenue, Ste. A) in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. (APN: 008-142-076)

Christopher Boyle, Planning Manager summarized the report.

Commissioner Hutchings invited the applicant to come forward.

Johnny Babasi of 1851 Trail Way, Turlock Ca stepped forward and stated he agrees to all terms and conditions.

Commissioner Hutchings asked if there was anyone else that would like to address the Commission. There were none and the item was returned to the Commission for further action.

Commissioner Mendoza stepped out for the next item due to his relationship with the school district.

9. CUP 2016-07 & SPR 2016-18 – Camarena Health School-Based Clinic

A noticed public hearing to consider a conditional use permit and site plan review to allow for the construction of a 3,873 square foot school-based Camarena Health Center clinic to be constructed on the Madera South High School campus located on the northwest corner of West Pecan Avenue and Stadium Road in the U (Unclassified) Zone District with a P&SP (Public and Semi Public) General Plan land use designation. (APN: 012-410-004) The clinic will be open to the general public as well as students, and non-school clients will come and go from the medical office located on the school campus.

Christopher Boyle, Planning Manager stepped forward and made a request to move the public hearing to June 14, 2016 in order to provide for additional opportunity to speak with the School District.

Commissioner DaSilva made a motion to continue CUP 2016-07 to the June 14, 2016; seconded by Commissioner DalCerro.

The motion was approved by all 6 Commissioners; Commissioner Mendoza not included.

10. CUP 2016-08 – Herbalife Fitness

A noticed public hearing to consider a conditional use permit to allow for an athletic fitness center component at an existing Herbalife lounge. The 900 square foot Herbalife lounge currently has seating for sixteen and serves Herbalife drinks and teas. The project site is located north of Riverside Drive on the east side of North D Street (711 N. D Street) in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. (AN: 004-011-007)

Christopher Boyle, Planning Manager presented the report.

Commissioner Gran made sure the tenant knows about #21 regarding inside activities.

Mr. Boyle stated the customer knows about all activities occurring from the interior.

Commissioner Hutchings asked if there were any other questions of Mr. Boyle.

The applicant was not present and there was nobody to speak on the item.

Motion made by Commissioner DaSilva and seconded by Commissioner Tyler accept Motion 1 to approve Conditional Use Permit 2016-08. The vote was carried unanimously.

ADMINISTRATIVE REPORTS

Dave Merchen, Community Development Director, reported that in July or August there may be the need for a special meeting. This would be scheduled on a Tuesday also but on the 3rd or 4th week of the month.

COMMISSIONER REPORTS

Commissioner Hutchings said the La Plaza mini mart at Gateway and Olive has a part on the driveway that has settled quite a bit. There's a 2" difference.

Also, he has noticed that at Granada and Deborah there is a cinder block wall on the southwest corner of the intersection that appears to have been struck in a traffic collision but was never fixed.

Commissioner DaSilva asked who is in charge of Code Enforcement.

Mr. Richardson said other than Jim Taubert it would be Viola Rodriguez.

ADJOURNMENT: Meeting adjourned at 8:49 pm.



Kenneth F. Hutchings
Planning Commission Chairperson



Brandi Garcia, Recording Secretary