

**CITY OF MADERA PLANNING COMMISSION  
REGULAR MEETING  
November 10, 2015**

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

**ROLL CALL**

**PRESENT:** Kenneth Hutchings (Chairperson)  
Ruben Mendoza (Vice Chairperson)  
Commissioner Robert Gran, Jr.  
Commissioner Bruce Norton  
Commissioner Pamela Tyler  
Commissioner Jim DaSilva

**ABSENT:** Commissioner Jeff Dal Cerro

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

**PLEDGE:** Commissioner Hutchings led the Pledge of Allegiance.

**PUBLIC COMMENT:** None

**MINUTES:** None

**CONSENT ITEMS:** None

**NON-PUBLIC HEARING ITEMS:** None

**PUBLIC HEARING ITEMS**

**1. CUP 2013-16– Auto Dock Revocation**

A noticed public hearing to consider revocation of Conditional Use Permit 2013-16, which allowed for the operation of an automotive repair shop. The project site is located 500 feet west of the southwest corner of the intersection of East Almond Avenue and Emily Way (460 East Almond Avenue) in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 012-240-019). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301 (Existing Facilities).

Kira Noguera, Assistant Planner summarized the report. The site is in compliance with the conditions of approval for Conditional Use Permit 2013-16. Staff recommends that revocation is not warranted as all conditions have been brought into compliance.

The item was opened for public comment.

Property Owner, Brent Breedlove of 38 East Loop, Madera, CA spoke in favor of the project. Mr. Breedlove was asked and responded that he will keep the property maintained in good condition.

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

Motion made by Commissioner DaSilva; seconded by Commissioner Gran to find that revocation of Conditional Use Permit 2013-16 is not warranted at this time for the following findings; 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 twelve months 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.

#### **2. CUP 2015-20 & SPR 2015-24 – Adept Training**

A noticed public hearing to consider a conditional use permit and site plan review to allow for the establishment of a fitness training facility. The project site is located on the south side of Almond Avenue, approximately 500 feet west of its intersection with Emily Way (460 East Almond Avenue) in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 012-240-019). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301 (Existing Facilities).

Kira Noguera, Assistant Planner summarized the report. The use is consistent with the purpose and intent of the Zoning Ordinance and can be made compatible with the surrounding uses. Staff recommends approval of the fitness facility.

Ms. Noguera was asked and responded that the site has been in operation without the appropriate permits and they are here to resolve that issue as there has been Code Enforcement action.

The item was opened for public comment.

Applicant, Wayne Dawrrough, business owner of Adept Training was asked and responded that he had read, reviewed and is in agreement with the conditions of approval.

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

Motion made by Commissioner Tyler; seconded by Commissioner Norton to approve Conditional Use Permit 2015-20 and Site Plan Review 2015-24, based on and subject to the findings and conditions of approval; motion was carried unanimously.

**3. CUP 2015-27 & SPR 2015-31 – Frank’s Auto Repair**

A noticed public hearing to consider a conditional use permit and site plan review to allow for an auto repair business to operate in an existing structure located on the east side of South Gateway Drive near its intersection with 12<sup>th</sup> Street in the I (Industrial) Zone District, with a C (Commercial) General Plan land use designation (APN: 011-151-008). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301 (Existing Facilities).

Kira Noguera, Assistant Planner summarized the report. The tenant suite has functioned as an auto repair shop for an extended period of time. The use is compatible with surrounding businesses. The site is a suitable location for an automotive repair shop. It is recommended that the conditional use permit and site plan review be approved as conditioned.

The item was opened for public comment.

Applicant, Maria Garcia of 801 S. Gateway Drive, Madera, CA spoke in favor of the project. Ms. Garcia stated that they have spoken with the owner and they will do everything necessary. Ms. Garcia was asked and responded that they had reviewed and are in agreement with the conditions of approval.

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

Motion made by Commissioner Norton; seconded by Commissioner Gran to approve Conditional Use Permit 2015-27 and Site Plan Review 2015-31, based on and subject to the findings and conditions of approval; motion was carried unanimously.

**4. CUP 2015-05 & CUP 2015-06 – DPF Filters Revocation**

A noticed 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). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301 (Existing Facilities).

Christopher Boyle, Planning Manager summarized the report. The site is not in compliance with the conditions of approval for Conditional Use Permits 2015-05 and 2015-06. It is recommended that the Planning Commission consider this information,

together with testimony provided during the public hearing, and make the appropriate findings and decision regarding the project.

The item was opened for public comment.

Applicant, Greg Moore, General Manager for DPF asked that they be given additional time to comply with the conditions of approval.

Commissioners DaSilva and Gran stated that they have been operating illegally without a business license for 18 months. They have also been operating while making no attempt to comply with the conditions of approval; some of which should have been completed 30 and/or 90 days after the Conditional Use Permit was approved.

George Harper of Future Investment, spoke on behalf of the property owner. Mr. Harper stated that they didn't become aware of the conditions of approval until they were notified of the revocation process. The property owner objects to Condition #25. Instead of paying \$100,000 deferral agreement in 90 days, they would propose that the trigger be the City's actual development with payback in 5-10 years.

Staff and the Commission discussed the deferral agreement, its trigger, etc. Dave Merchen, Community Development Director recommended that this item be continued in order to allow some time to get the deferral agreement and landscaping completed prior to the January Planning Commission meeting. There may be room for flexibility in the deferral agreement.

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

Commissioner Gran and Commissioner Norton are not opposed to granting a continuance and they want signed Conditions of Approval for this project.

Mr. Moore asked if he could re-address the Commission.

Public comment on this item was re-opened.

Applicant, Greg Moore of 9695 Heather Hurst Drive, Chowchilla, CA stated that they have started complying with the conditions and the problem has been that the property owner has an issue with Condition #25.

Christopher Boyle, Planning Manager advised the Commission that the applicant should not be making improvements that have not been approved. The conditions of approval state that Staff is required to review and approve an irrigation plan prior to landscaping.

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

Motion made by Commissioner Gran; seconded by Commissioner Norton to continue the review hearing of Conditional Use Permit 2015-05 and 2015-06 to the December 8, 2015 Planning Commission meeting; motion was carried unanimously.

**Chairperson Hutchings asked for a brief recess.**

**5. CUP 2014-21 – Universal Auto Revocation**

A noticed public hearing to consider revocation of a conditional use permit and site plan review which allowed for the intensification/expansion of a used auto sales operation located at the northwest corner of the intersection of Madera Avenue and South Gateway Drive, in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 010-213-001 & 002). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301 (Existing Facilities).

Christopher Boyle, Planning Manager summarized the report. The site is not in compliance with the conditions of approval for Conditional Use Permit 2014-21. It is recommended that the Planning Commission consider this information, together with testimony provided during the public hearing, and make the appropriate findings and decision regarding the project.

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 Gran; seconded by Commissioner Mendoza to revoke Conditional Use Permit 2014-21 effective immediately, based on and subject to the following findings; motion was carried unanimously.

Findings

- Conditions of approval, including Nos. 2, 11, 13, 17, 18, 21, and 28 through 45 adopted by the Planning Commission and agreed to by the applicant and property owner, have not been satisfied.
- As of this date, site improvements required to be completed within twelve months have not been completed.
- Based on observations of staff and the evidence from the whole of the record, the use has not operated in compliance with conditions of approval; and
- The continued operation of the use in violation of the conditions of approval may 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.

**6. GPA 2015-04 – General Plan Amendment of the 2016-2024 Housing Element**

A noticed public hearing to consider adoption of a resolution recommending to the City Council amendment of the 2016-2024 Housing Element of the Madera General Plan. 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 Housing Element was recently approved by the City and forwarded to the State Department of Housing and Community Development (HCD) for final approval. Within the HCD review, a clerical error was identified. Correction of the error requires that the City amend the approved document to provide consistency with the statutory requirements of state housing law. With adoption by the City, the 2016-2024 Housing Element will be resubmitted to the state Department of Housing and Community Development Department for formal approval.

Mr. Boyle advised the Commission that this item was brought to the Planning Commission in August and then approved at the City Council. Staff had an incorrect exhibit which was then forwarded to HDC who has given the City an opportunity to adopt the correct document.

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 Gran to adopt a resolution recommending to the City Council adopt a resolution approving General Plan Amendment 2015-04, approving the 2016-2024 Housing Element update as attached in Exhibit A.

### **ADMINISTRATIVE REPORTS**

Christopher Boyle, Planning Manager advised the Commission of the following:

- Velocity Recycling is not operating within their conditions of approval. The business owner stated to staff that they will be 100% compliant when the site is inspected sometime this week. The water had been turned off at the site and it has now been turned on.
- The smog shop on 4<sup>th</sup> Street and Gateway Drive that was associated with a revoked conditional use permit has relocated.
- There is a Planning Commission Academy conference in San Ramon on March 2 – March 4, 2016 if any commissioner is interested in attending. Staff will not have additional information until sometime in December.

**COMMISSIONER REPORTS:** None

**ADJOURNMENT:** Meeting adjourned at 7:36 pm.

  
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Planning Commission Chairperson

  
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Zelda León, Recording Secretary