

**REGULAR MEETING AGENDA  
CITY OF MADERA  
PLANNING COMMISSION**

**COUNCIL CHAMBERS - CITY HALL  
TUESDAY  
September 8, 2015  
6:00 pm**

**CALL TO ORDER**

**ROLL CALL**

Commissioner Kenneth Hutchings (Chairperson)  
Commissioner Ruben Mendoza (Vice Chairperson)  
Commissioner Robert Gran, Jr.  
Commissioner Bruce Norton  
Commissioner Pamela Tyler  
Commissioner Jim DaSilva  
Commissioner Jeff Dal Cerro

**INTRODUCTION OF STAFF**

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT**

The first fifteen 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 to identify themselves and state the subject of their comment. 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.

**MINUTES:** June 9, 2015, July 14, 2015 and August 11, 2015

**CONSENT ITEMS:** None

**NON-PUBLIC HEARING ITEMS:** None

**PUBLIC HEARING ITEMS**

**1. CUP 2015-25 & SPR 2015-21 – Rescue Mission Special Events Revisions and Refrigeration Unit Replacement**

A noticed public hearing to consider modification of a conditional use permit to allow for clarification of and revisions to the Rescue Mission use permit conditions of approval in order to address operational concerns and allow for special events, and site plan review to allow for the removal and replacement of a failing refrigeration unit. The site is located at the northwest corner of Elm Avenue and Clinton Street in the R2 (Residential) and PD-4500 (Planned Development) Zone District, with a MD (Medium Density) and LD (Low Density) General Plan land use designation (APN: multiple). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15303.

**2. CUP 2015-24 & SPR 2015-28 – Wal-Mart Temporary Outdoor Storage**

A noticed public hearing to consider a conditional use permit to allow for temporary placement of up to ten storage containers during the 2015 holiday sales season at the Wal-Mart located on the northeast corner of the intersection of North Schnoor Avenue and West Cleveland Avenue (1977 West Cleveland Avenue), in the C1 (Light Commercial) Zone District, with a C (Commercial) General Plan land use designation (APN: 013-160-014). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

**3. CUP 2010-01 MOD & SPR 2015-26 – Taqueria Mexico**

A noticed public hearing to consider modification of a conditional use permit allowing for the sale of beer and wine in conjunction with the operation of the Taqueria Mexico taqueria/carniceria located approximately 100 feet south of the southwest corner of the intersection of South Gateway Drive and West 6<sup>th</sup> Street (214 South Gateway Drive), in the C2 (Heavy Commercial) Zone District, with a C (Commercial) General Plan land use designation. The request is to allow for 24 hour operations (APN: 010-135-015). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

**4. CUP 2015-21 & SPR 2015-25 – Whole Body Bootcamp**

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 near the southeast corner of Pine Street and Maple Street in the I (Industrial) Zone District with an I (Industrial) General Plan land use designation. The tenant space is shared with PAC Studio (APN: 012-230-021, 022 & 079). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

**5. CUP 2013-16– Auto Dock (Consideration of 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).

**6. 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.

**7. DOU 2015-01 – Tobacco Shops, Vape Lounges, and Hookah Bar Uses**

A noticed public hearing to consider a determination of use for placement of tobacco shops, vape lounges and hookah bar uses within the zoning district use schedules of the Zoning Ordinance (Citywide). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15061(b)(3).

**ADMINISTRATIVE REPORTS**

**COMMISSIONER REPORTS**

**ADJOURNMENT:** The next regular meeting will be held on October 13, 2015.

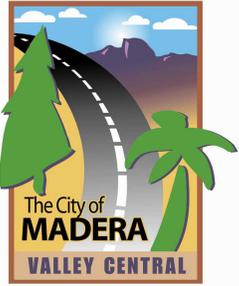
Any writing related to an agenda item for the open session of this meeting distributed to the Planning Commission less than 72 hours before this meeting is available for inspection at the City of Madera Planning Department, 205 W. 4th Street, Madera, CA 93637 during normal business hours.

In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation in the public meeting should be made at least seventy-two (72) hours before the meeting. Please call the Human Resources Office at (559) 661-5401. Those who are hearing impaired, may call 711 or 1-800-735-2929 for TTY Relay Services.

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.

Para asistencia en Español sobre este aviso, por favor llame al (559) 661-5430.



# CITY OF MADERA PLANNING COMMISSION

205 W. Fourth Street  
Madera CA 93637  
(559) 661-5430

## Staff Report: Rescue Mission Refrigeration Unit CUP 2015-25, SPR 2015-21 and Environmental Determination Item #1 – September 8, 2015

**PROPOSAL:** An application to consider modification of a conditional use permit to allow for clarification of and revisions to the Rescue Mission use permit conditions of approval in order to address operational concerns and allow for special events, and site plan review to allow for the removal and replacement of a failing refrigeration unit.

<b>APPLICANT:</b>	Madera Rescue Mission	<b>OWNER:</b>	Madera Rescue Mission
<b>ADDRESS:</b>	332 Elm Avenue	<b>APN:</b>	008-062-033, 006 & 007
<b>APPLICATION:</b>	CUP 2015-25 & SPR 2015-21	<b>CEQA:</b>	Categorical Exemption

**LOCATION:** The property is located at the northwest corner of Elm Avenue and Clinton Street.

**STREET ACCESS:** The site has access to Elm Avenue and Clinton Street.

**PARCEL SIZE:** Approximately 2.1-acres total

**GENERAL PLAN DESIGNATION:** MD (Medium Density)

**ZONING DISTRICT:** R2 (Medium Density)

**SITE CHARACTERISTICS:** The project site includes multiple structures that cumulatively form the Madera Rescue Mission. There is predominantly single-family residential development of varying densities surrounding the project site.

**ENVIRONMENTAL REVIEW:** The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15303, (New Construction or Conversion of Small Structures).

**SUMMARY:** The use is consistent with the purpose and intent of the Zoning Ordinance and can be made compatible with the surrounding uses. There is sufficient space to allow for the replacement of the refrigeration unit. Provisions guiding special events have been incorporated into the use permit's conditions of approval to address operational concerns.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.4.0102 Site Plan Review Applicability  
MMC § 10-3.505 R; Conditional Uses; Commission Approval  
MMC § 10-3.1301 Use Permits

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

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

## **PRIOR ACTION**

The existing Rescue Mission facilities have been approved by the Planning Commission via:

Conditional Use Permit 1988-01  
Conditional Use Permit 1990-20  
Conditional Use Permit 1991-11  
Conditional Use Permit 1999-22  
Conditional Use Permit 2002-07  
Conditional Use Permit 2002-07 MOD  
Conditional Use Permit 2004-24  
Conditional Use Permit 2005-17  
Conditional Use Permit 2005-28  
Conditional Use Permit 2007-15

These entitlements have allowed for several expansions of the Madera Rescue Mission.

Conditional Use Permit 2002-07 approved the conversion of a 995 square foot single story residence to an office, placement of a 600 square foot storage container, and the construction of a 4,000 square foot steel warehouse.

Conditional Use Permit 2004-24 approved a 3,960 square foot addition to the existing Madera Rescue Mission, including expansion of both the kitchen and dormitory facilities.

Conditional Use Permit 2005-17 allowed for the development of four short-term family units with garages.

Conditional Use Permit 2005-28 and 2007-15 allowed for the construction of the women's emergency shelter.

Precise Plan 2005-14 was approved in support of Conditional Use Permit 2005-17.

Conditional Use Permit 2002-07 MOD approved the construction of a freestanding open-sided shade structure for outdoor weight training.

Most recently, the Planning Commission completed a review of the use permit allowing for the Rescue Mission on April 14, 2015.

## **ANALYSIS**

### Background

The City's General Plan indicates that land designated as MD (Medium Density) is appropriate for residential development. The City's Zoning Ordinance also allows for a variety of residential uses in the R2 (Medium Density) Zone District, including rehabilitation facilities subject to the approval of a conditional use permit by the Planning Commission. The Rescue Mission has been in operation for a number of years, and is considered an established use in the neighborhood.

The Rescue Mission is permitted to operate primarily as temporary housing for homeless individuals. Services offered include the provision of food and clothing, chapel services, meal service, and temporary housing including a place to shower. The Mission also added a 12 month in-patient recovery program at some point during the last few years. Special events held on site currently include holiday meals, giveaways and fundraisers.

The structural and operational changes currently requested on the Rescue Mission campus require a new application for modification of the existing use permit. The installation of improvements is memorialized within the associated site plan review. A change to or expansion of a use requires the conditional use permit be modified to reflect the current operations.

### Refrigeration Replacement

The Madera Rescue Mission wishes to remove an existing cold box and replace it with a new sea train refrigeration container. The new refrigeration unit will be a more attractive addition to the site, and match an existing freezer unit already in place. The existing cold box is failing and has leaked for many years causing the dirt underneath to uplift. Staff recommends an existing concrete slab be demolished and new foundation installed such that the new refrigeration unit can be placed level with the existing freezer unit.

### Parking

Parking stall requirements are never clearly delineated as part of the various use permit entitlements, instead only requiring that parking be provided at all times in conformance with ordinance or with the approved site plan. Ordinance does not clearly call out a parking standard specific to the rescue mission/rehabilitation center use. In assembling the various site plan approvals, it appears that the site, via various building approvals is required to provide the following parking:

Rescue Mission .....	14 stalls
Mission Expansion ...	no additional stalls
Men's Shelter .....	7 additional stalls were provided
Office .....	3 stalls
Women's Shelter .....	15 stalls
Family Shelter .....	<u>9 (including four covered)</u>
	48 stalls

Currently, there are 39 parking stalls available for use on the site. Some of the required stalls were retired as a result of allowances for the placement of a storage container, refrigeration units and various structural expansions within the evolution of the Rescue Mission campus. With the removal of the failing refrigeration unit, the area currently used for the unit will be converted to parking in order to provide additional required parking on the site.

The four covered stalls developed as garages for the Family Shelter are currently being used to store personal property of individuals staying at the Mission. These garages should be made available to serve as required parking to residents of the Rescue Mission.

### Screening

As demand for services has increased, the Rescue Mission has gone through periods of extensive growth where, because of those growth pressures, structures such as a metal storage structure, freezer units and a 600 square foot storage container have been approved for placement on the site. As a condition of approval, those structures have been required to be screened from visibility from outside of the shelter property. The new refrigeration unit shall be painted to match the existing freezer unit on site, and be placed in such a way as to look cohesive from outside the property. Existing screening should be maintained in order to continue to provide for compliance with the use's conditions of approval.

### Special Events

The Rescue Mission holds special events from time to time, many of which include outdoor activities. Concerns have been raised as to the nature and extent of certain special events and their related impacts on surrounding properties. In order to best access those impacts, it is required that special outdoor events hosted by the Rescue Mission secure a temporary use permit at least 14 days prior to the event. The temporary use permit will allow conditions of approval to be applied to each specific event sufficient to ensure compatibility with surrounding properties. Staff will measure compliance with the conditions of approval.

Certain outdoor events have evolved into regular activities at the Rescue Mission property. Of particular issue has been the weekly or monthly food giveaway events that have assisted the Madera County Food Bank in distributing food at remote sites. These events have caused off-site issues and impacted traffic on both Clinton Street and Elm Avenue. It is recommended that these events occur no more than once a week and only during specific hours so as to mitigate their impact upon surrounding properties. Staff does not recommend that a special event permit be required for these routine giveaways, as long they conform to the noted requirements.

### Existing Entitlements and Conditions of Approval

As part of this review, staff has done extensive research to understand the entitlement history of the Rescue Mission. Over the years, many use permits have been issued and modified. The day to day operations and services provided by the Mission have changed over time. Staff has worked to assemble a complete set of conditions of approval that incorporate the applicable requirements from past entitlements as well new requirements that address the current proposal. The recommended conditions are not meant to replace past conditions, but instead are provided as a comprehensive set of conditions which the Rescue Mission can utilize as a reference.

As a result of the historical research regarding previously issued entitlements, it has come to the attention of staff that a condition of approval for Conditional Use Permit 2005-17 and Conditional Use Permit 2007-15 was never completed. In both cases, the Rescue Mission was required to merge parcel numbers 008-062-006 and 008-062-007 into one parcel in order to not create a condition where a structure was constructed over a property line. As a result, the garages serving the family care units are constructed atop property lines. Staff recommends that the parcel merge be completed within six months of this approval in order to satisfy this condition.

## **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

**Strategy 136** encourages the City to “Promote transitional housing to ensure the homeless have safe shelter.” To that end, **Action 136.1** states “Expand and enhance the Rescue Mission programs.”

## SUMMARY OF RECOMMENDATIONS

The Rescue Mission has evolved on its present campus for over a quarter of a century. During that time, it has experienced periods of expansion that have intensified both the structural characteristics of the campus as well as the services provided therein. At the same time, the surrounding area has developed (and redeveloped) into an established residential neighborhood.

The Rescue Mission today has reached a threshold on the property where the site's capacity to accommodate further structural expansion and/or programmatic enhancement is very nearly exhausted. To expand services equates to adversely impacting the surrounding neighborhood, a condition that is contrary to the fundamental prerequisite that a use permit must be made compatible with its surroundings so as to not be detrimental or injurious to the neighborhood or the general welfare of the City.

The physical and operational changes requested as part of the current proposal were reviewed with an understanding of the existing site limitations. Staff's observation is that the replacement of the refrigeration unit and the recognition of special event activities do not represent substantive increases to intensity of on-site activities. Rather, the applications provide an opportunity to formalize existing activities and facilities and bring them under defined conditions of approval. The recommended conditions will also result in a modest improvement to the existing site conditions, including adding parking and replacing the failing refrigeration unit that has become an eyesore. From this perspective, the information presented in this report supports conditional approval of the use permit modification and site plan review request.

## PLANNING COMMISSION ACTION

The Planning Commission will be acting on the use permit and site plan review, determining to either:

- approve the applications with or without conditions
- continue the hearing, or
- deny the applications

Motion 1: Move to approve Conditional Use Permit 2015-25 and Site Plan Review 2015-21, based on and subject to the following findings and conditions of approval:

### Findings

- This project is categorically exempt under Section 15303, New Construction or Conversion of Small Structures, of the California Environmental Quality Act (CEQA) since the proposed building is less than 2500 square feet, does not involve the use of significant amounts of hazardous substances, all public services and facilities are available, and the surrounding area is not environmentally sensitive.
- The development of the Rescue Mission campus is consistent with the purposes of the MD (Medium Density) General Plan designation and the R2 (Medium Density Residential) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- As conditioned, there is adequate parking and site features to allow for the proposed replacement of the refrigeration unit.

- As conditioned, the placement of the refrigeration unit will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare 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.

## **CONDITIONS OF APPROVAL**

### **General Conditions**

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty days of the date of approval for this use permit.
2. Site Plan Review 2015-21 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code or take the required action to extend the approval before expiration date. (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval)
3. The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
4. The applicant's failure to utilize this 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.
5. Conditional Use Permit 2015-25 will expire and be rendered null and void if the use is discontinued for a twelve month period unless a written request for extension has been submitted to and approved by the Planning Commission.
6. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.
7. The building plans submitted for any building permit applications shall reflect changes required by the herein listed conditions of approval. Any deviation from the approved plan or any condition contained herein shall require, at a minimum, prior written request by the applicant and approval by the Planning Manager.
8. Any proposed future modifications to the site, including but not limited to building exteriors, parking/loading areas, fence/walls, new buildings or landscaping shall require an amendment to this site plan review.

9. It shall be the responsibility of the property owner and management to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to establishment of the use.

### **Building Department**

10. Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection and shall apply to proposed and future development.

### **Fire Department**

11. A building permit is required for the proposed work. All work shall comply with codes in effect at the time of permit issuance.
12. Portable fire extinguishers are required. A minimum of one 2A10BC-rated fire extinguisher is required for each 3,000 square feet of floor area or fraction thereof. Fire extinguishers may be mounted on the exterior of cold boxes within the 75 feet of travel distance requirement.
13. Placement of the box and any potential negative affect to Fire Department operational access to the site, shall be determined and mitigated as necessary at time of building permit plan check.

### **Police Department**

14. Activities on the site shall not negatively impact the surrounding neighborhood. Activities shall not create traffic which reduces the level of service on surrounding roads and intersections. The judgement of a City of Madera Police Officer shall be deemed conclusive as to whether an event or activity is causing a nuisance.

### **Engineering Department**

15. Nuisance on-site lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
16. Existing water service connections shall be upgraded to current City standards including water meters located within city right-of-way and backflow prevention device located within private property. As an alternative, the applicant can make an application for and enter into a deferral agreement for deferral of installation of the required improvements.
17. Parcels 008-062-006 and 008-062-007 shall be merged into one parcel in a manner approved by the City Engineer.

### **Planning Department**

#### Site Data

- Men's Shelter: 12,546 square feet
- Women and Children's Shelter: 6,688 square feet
- Women's Emergency Shelter; 8,008 square feet
- Family Shelter: four single family units and four garages
- Office: 995 square feet
- 1,500 square foot storage and maintenance building
- 600 square foot storage container

- 4,000 square foot steel warehouse
- Freezer & Refrigeration Units: two seartrain containers
- Parking Provided: 48 spaces

### Permitted Activities

- Operation of the Rescue Mission, including:
  - Serving of meals
  - Worship services
  - Overnight accommodations
  - Shower services
  - Counselling
- In-house Men's Substance Abuse Recovery Program
- In-house Women's Substance Abuse Recovery Program
- Four-Unit Family Short-Term Emergency Housing

### New Refrigeration Unit

18. The new refrigeration unit shall be placed level with the existing freezer on site. The two units shall be placed at the same grade so as to closely match the new unit to the existing unit. This necessitates the demolition of the existing concrete slab and replacement of the slab so as to satisfy this condition.
19. The new refrigeration unit shall be painted to match the existing refrigeration unit in a color closely matching the other structures on the Rescue Mission campus.
20. The removal of the failing walk-in cold box shall provide additional space. This space shall be repurposed to serve as vehicular parking spaces. These new parking spaces shall be dimensioned and striped consistent with City standards.

### Special Events/Operational Conditions

21. Food distribution/giveaways shall not require the approval of a temporary use permit. Food distribution/giveaway events shall occur no more than once a week and shall be limited to between the hours of 9:30 am to 11:30 am or 1:30 pm to 3:30 pm so as not to impact the neighborhood or create unsafe conditions for pedestrians and vehicles.
22. During food giveaways, Rescue Mission staff shall be on hand to direct parking and ensure the giveaway is completed in an orderly and timely manner.
23. As a regular part of preparing for the serving of meals, Rescue Mission personnel shall open the gated entrance into the mission's outdoor waiting area at least thirty (30) minutes prior to the mission doors being opened in order to provide an off-street waiting area for patrons to queue in advance of meals being served.
24. The two primary parking fields, with entries from Elm Avenue and Clinton Street respectively, shall be clear of obstructions and available to serve visitors to the site during all peak periods. The two primary parking lots shall be open during all peak visitation periods, such as during evening meal periods, food giveaways and special events.
25. Special indoor/outdoor events hosted by the Rescue Mission, such as the Christmas holiday toy giveaway event shall secure a temporary use permit at least two weeks (fourteen days) prior to the event. The temporary use permit shall apply conditions of

approval sufficient to ensure compatibility with surrounding properties. Examples of outdoor special events include Christmas toy giveaways, holiday dinners, and fundraising events.

### Parking/Circulation

26. On-site parking shall be provided at all times in conformance with the Municipal Code. All required parking shall be permanently maintained with all parking spaces as shown on the submitted site plan. Any modifications in the approved parking layout shall require approval by the Planning Commission.
27. Locations on the shelter campus that could be developed to provide replacement parking shall not be utilized for alternative development proposals.
28. Future development proposals shall incorporate/include methods to improve vehicular circulation onto, off of and through the Rescue Mission property, ultimately providing a circuitous drive from Elm Avenue to Clinton Street.

### General Conditions

29. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
30. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster and refuse containers owned by the property owner.
31. Outdoor storage of goods or materials shall not be allowed. There shall be no outside storage of furniture, clothing, packing cases, or other debris. Abandoned cars are not permitted on-site or in the public right-of-way adjacent to the property. The use permit does not authorize the operation of a used car lot or auto repair or wrecking yard.
32. Outdoor storage structures shall be screened from public view by landscaping, solid fence, or wall.
33. Activities that create noise audible beyond the property lines shall be restricted to hours between 7:00 am and 7:00 pm.
34. Loitering along all property frontages shall be monitored and strongly discouraged by the Rescue Mission staff.
35. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
36. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the City. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation with drought tolerant plants.
37. All buildings and storage structures on the property shall be maintained with complementary paint colors compatible with the Rescue Mission complex and each other.
38. Any proposed future modifications to the site, including but not limited to building exteriors,

parking/loading areas, fences, walls, new building, or landscaping shall require an amendment to this site plan review.

39. Any proposal to implement new programs or services wherein additional on-site residents are a component of the proposed program/service shall require the approval an amendment of the conditional use permit by the Planning Commission.
40. The applicant shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause for the City to pursue revocation of this permit.
41. All signage shall be in compliance with the Madera Municipal Code at all times.
42. All conditions applicable to approval of:

Conditional Use Permit 1988-01

Conditional Use Permit 1990-20

Conditional Use Permit 1991-11

Conditional Use Permit 1999-22

Conditional Use Permit 2002-07

Conditional Use Permit 2002-07 MOD

Conditional Use Permit 2004-24

Conditional Use Permit 2005-17

Conditional Use Permit 2005-28

Conditional Use Permit 2007-15

Precise Plan 2005-14 and subsequent modifications shall remain effective and are not revised in any way by this approval except as modified herein.

(OR)

Motion 2: Move to continue the application for Conditional Use Permit 2015-25 and Site Plan Review 2015-21 to the October 13, 2015 Planning Commission meeting for the following reasons: (specify)

(OR)

Motion 3: Move to deny the application for Conditional Use Permit 2015-25 and Site Plan Review 2015-21 based on the following findings: (specify)

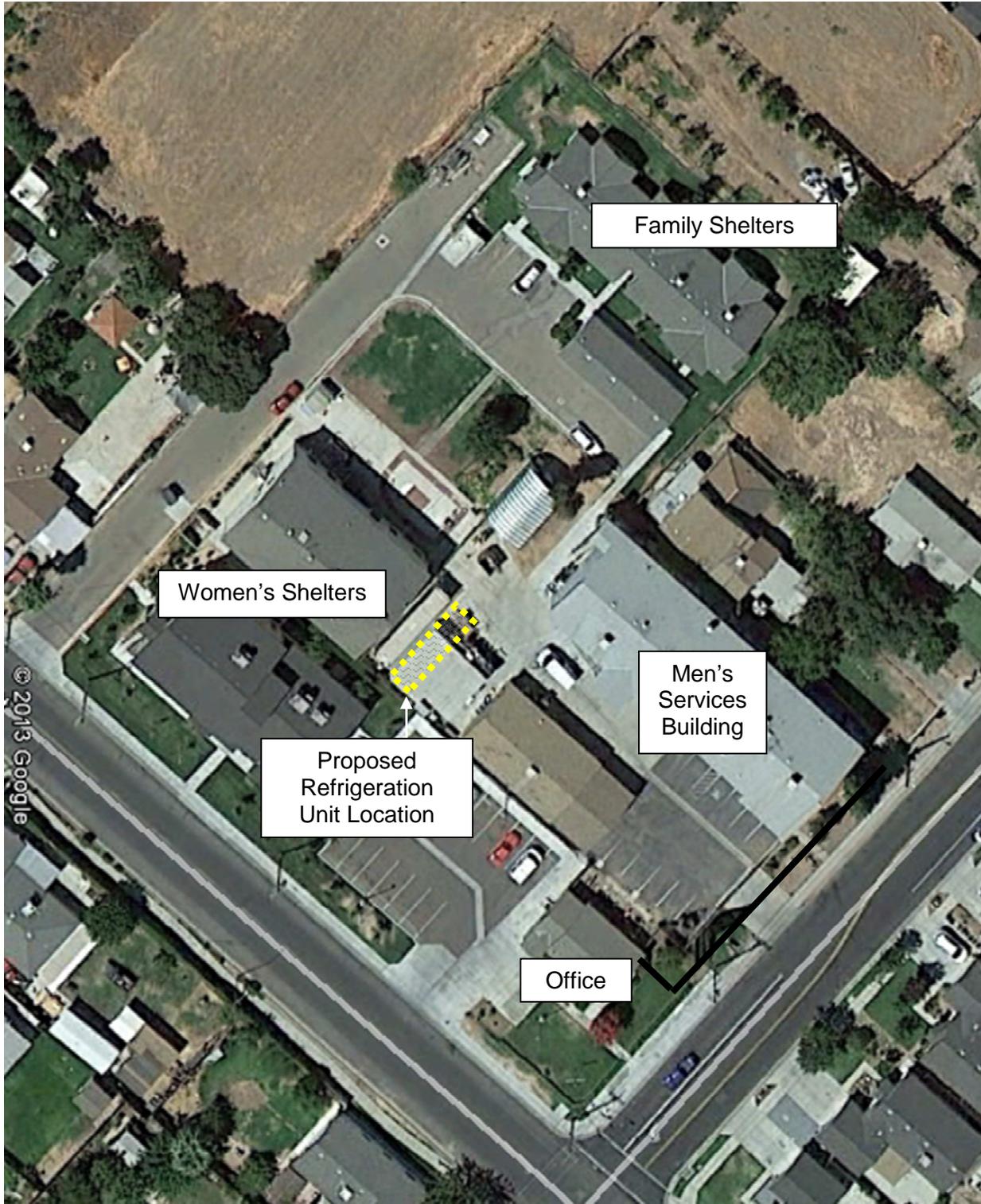
## **ATTACHMENTS**

Aerial Photo

Photos

## Aerial Photo

The aerial imagery shows the entire Madera Rescue Mission Campus. Individual components are identified, including the proposed location of the refrigeration unit.



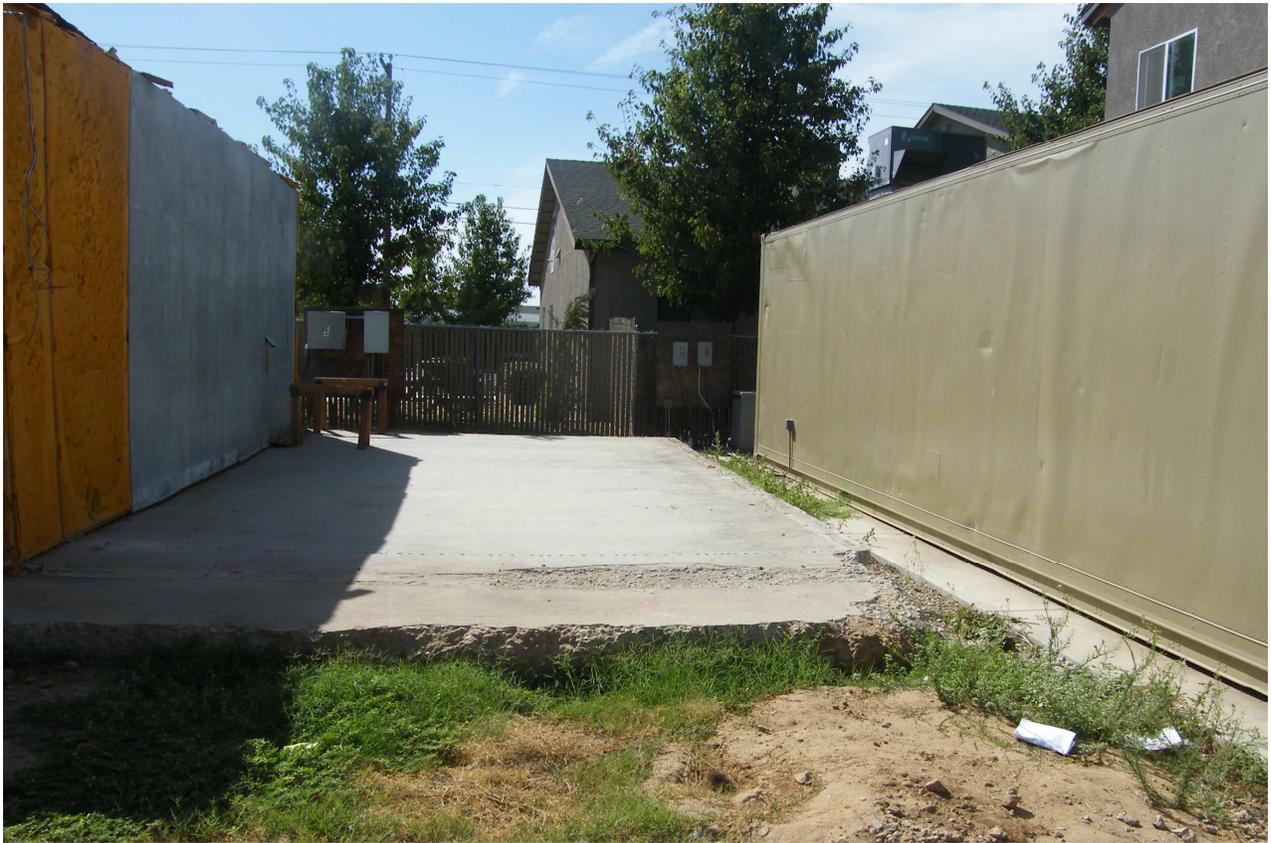
## Photos



Existing view of the cold box and freezer from public right of way.



Existing cold box.



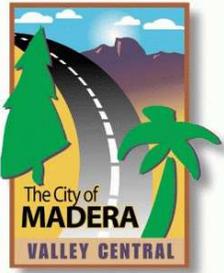
Location for new refrigeration unit.



Proposed refrigeration unit will match existing freezer.



Raised concrete slab to be demolished and graded to be level with freezer on right.



**CITY OF MADERA  
PLANNING COMMISSION**

205 W. Fourth Street  
Madera CA 93637  
(559) 661-5430

**Staff Report: CUP 2015-24 & SPR 2015-28  
Wal-Mart Temporary Outdoor Storage  
Item #2– September 8, 2015**

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**PROPOSAL:** Consideration of a request for a conditional use permit to allow for temporary placement of up to ten storage containers during the 2015 holiday sales season.

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<b>APPLICANT:</b>	Denise Price, Store Manager	<b>OWNER:</b>	Wal-Mart Realty Company
<b>ADDRESS:</b>	1977 West Cleveland Avenue	<b>APN:</b>	013-160-014
<b>APPLICATIONS:</b>	CUP 2015-24 & SPR 2015-28	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The site is located in the Madera Marketplace shopping center, situated on the northeast corner of the intersection of North Schnoor Avenue and West Cleveland Avenue.

**STREET ACCESS:** Access to the project site is provided via North Schnoor Avenue and West Cleveland Avenue.

**PARCEL SIZE:** The Wal-Mart store is located on a 12.3-acre parcel, which is a portion of the overall shopping center site.

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C1 (Light Commercial)

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**SITE CHARACTERISTICS:** The Madera Marketplace shopping center is substantially surrounded by developed commercial/retail properties, with the fairgrounds development to the south and the John Deere equipment dealer to the east.

**ENVIRONMENTAL REVIEW:** This project is categorically exempt under §15301(a) (Existing Facilities) of CEQA Guidelines.

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**SUMMARY & RECOMMENDATION:** The placement of ten storage containers for usage during the holiday sales season has occurred in the past. Because of the design of the shopping center site, the temporary use can be made compatible with surrounding commercial development. It is recommended that the conditional use permit be approved as conditioned.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.505, R; Conditional Uses; Commission Approval  
MMC § 10-3.1202 Parking Regulations  
MMC § 10-3.1301, et seq. Use Permit Procedures

The General Plan designates the project site as C (Commercial) property. The project site is located in the C1 (Light Commercial) Zone District. The C1 (Commercial) Zone District allows for “temporary outdoor display of merchandise and sales activities” with the approval of a zoning administrator permit. Original entitlements allowing for the development of the Wal-Mart property require a use permit for the placement of any outdoor storage and sales activities beyond the fenced outdoor sales area on the northern side of the Wal-Mart store structure.

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

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

## **PRIOR ACTION**

Since development of the Madera Marketplace site, numerous use permits and zoning administrator permits have been approved on behalf of Wal-Mart to allow outdoor display and sale of merchandise, and/or outdoor storage of merchandise. Temporary placement of shipping containers for merchandise storage has been considered by the Planning Commission via the conditional use permit process.

## **ANALYSIS**

### Nature of Request

The applicant is requesting an allowance for the placement of up to ten (10) shipping containers for the primary purpose of storing miscellaneous layaway merchandise during the holiday season sales period. Other seasonal merchandise could also be stored within up to four (4) of the shipping containers as needed. The applicant would like to place the storage containers along the eastern fringe of the Wal-Mart commercial campus in existing parking stalls. The containers would be placed by no earlier than September 14, 2015 and would be entirely removed by January 15, 2016.

In conjunction with outdoor activities in any commercial zone, issues such as traffic congestion and pedestrian safety, loitering, noise, trash, litter, vector control, visual blight, and site maintenance are concerns that generally need to be considered. While conditions of approval may be imposed to address these concerns, implementation and monitoring of compliance with those conditions of approval would be a necessity on the part of the applicant and on the part of

Staff. The primary concerns within this application relate to public safety, visual blight and land use compatibility.

### Storage Containers

The placement of ten storage units behind the store would reduce visibility while simultaneously increasing the amount of pedestrian activities in the area. An increase in the potential for traffic accidents is possible. It is recommended that traffic signage be installed and pedestrian controls implemented per the direction of the City Engineer so as to adequately provide for public safety of motorists, pedestrians and employees in the vicinity of the temporary storage containers. It is also recommended that the area in and around the storage containers be kept free of trash, debris, fixtures and other associated materials that could cause distraction for motorists maneuvering through the areas in proximity to the temporary storage containers.

The placement of up to ten storage containers would temporarily remove up to thirty-one (31) parking stalls from availability for use by customers to the site. The loss of these stalls should not present a significant problem, because the Wal-Mart store was developed with excess parking to allow for expansion of the store at a later date.

Other retail stores may view this type of use as allowing a business an unfair competitive edge. The proposed use permit would allow the use of 3,200 square feet of floor area for storage of merchandise, without normal compliance with typical land use requirements. This type of temporary warehousing system is not something allowed with other retail stores, as storage of merchandise typically occurs in an approved warehouse with deliveries made as demands warrant. A reliance on temporary storage by Wal-Mart could provide a substantial reduction in the required size of their distribution center, lowered expenses and an advantage over other retail outlets. Other retailers could also make application for a conditional use permit if a similar need was evident.

### **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

Though approval of a temporary placement of shipping containers are not specifically addressed in the vision or action plans, the overall project does indirectly support Action 115.1 to “encourage viable economic development” and also Good Jobs and Economic Opportunity which focuses in part on creating “a broad spectrum of business opportunities”.

### **SUMMARY OF RECOMMENDATIONS**

There is no compelling reason to deny the request for temporary placement of shipping containers for storage of seasonal layaway merchandise. Conditions of approval are recommended in order to ensure compatibility with surrounding uses. It is recommended that the conditional use permit be approved as conditioned.

### **PLANNING COMMISSION ACTION**

The Planning Commission will be acting on the Use Permit and minor Site Plan Review to allow for temporary placement of up to ten storage containers during the 2015 holiday sales season, determining to either:

- approve the applications with or without conditions
- continue the hearing, or
- deny the applications

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission's action.

Motion 1: Move to approve the requested Conditional Use Permit 2015-24 and Site Plan Review 2015-28 based on and subject to the findings and conditions of approval as listed below.

### Findings

- The temporary placement of shipping containers for seasonal storage is consistent with the purposes of the C (Commercial) General Plan land use designation and the C1 (Light Commercial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- There is adequate parking and site features to allow for the proposed outdoor storage activities.
- As conditioned, the proposed outdoor storage activities would be compatible with surrounding properties, because its operation would not negatively impact adjoining businesses within the Madera Marketplace shopping center and adjacent properties.
- As conditioned, the establishment, maintenance or operation of the proposed outdoor storage activities would 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.

### **CONDITIONS OF APPROVAL**

#### **General Conditions**

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty (30) days of the date of approval for this use permit.
2. Any deviation from the approved plan or any condition contained herein shall require prior written request by the applicant and approval by the Planning Manager.
3. The use permit is valid for the current request(s) only. Any subsequent request for the temporary placement of shipping containers for outdoor storage shall require an application for amendment of this use permit.
4. The applicant's failure to utilize this use permit within one year following the date of this approval shall render the conditional use permit null and void unless an application for amendment has been submitted to and approved by the Planning Commission.
5. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff

may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.

#### Temporary Placement of Shipping Containers

6. Placement of up to ten shipping containers shall be allowed as follows:
  - Six (6) shipping containers for layaway merchandise.
  - Four (4) shipping containers for miscellaneous high volume merchandise.
7. The placement of the outdoor shipping containers shall be consistent with the approved site plan filed with the Conditional Use Permit application and as reviewed by the Planning Department, and attached hereto as an exhibit.
8. The outdoor shipping containers shall be placed on site no earlier than September 14, 2015, and shall be entirely removed from the site by January 15, 2016.
9. The number of containers on site shall not exceed ten (8'x8'x40') containers at any time.
10. Traffic signage shall be installed and pedestrian controls implemented per the direction of the City Engineer so as to adequately provide for public safety of motorists, pedestrians and employees in the vicinity of the temporary storage containers at all times.
11. The area in and around the storage containers shall be kept free of trash, debris, fixtures, and other associated materials that could cause distraction for motorists maneuvering through the areas in proximity to the temporary storage containers.
12. The use of the shipping containers shall be specifically limited to only those items approved for storage in the containers. No electronics, chemicals, flammables, foods or fixtures shall be stored in the shipping containers.
13. Loitering shall be prohibited in proximity of the trailers and in adjacent, and nearby areas both public and private. A prominent, permanent sign or signs stating "No loitering" shall be posted in a place(s) that is clearly visible to customers.
14. No advertising copy shall be posted on or about the temporary shipping containers.
15. Vehicle driveways and pedestrian access shall remain open at all time. Egress or ingress to the parking lot or store entrances shall not be blocked at any time.
16. All containers shall be a minimum of 10 feet from all fire hydrants and 20 feet from the building. A 10 foot clearance shall be maintained from any combustible storage (trash containers or trash compactor).
17. The on-site manager and property owner shall be responsible for ensuring that security is provided for the business at all times, and that customers and persons other than the employees do not loiter on or near the shipping containers, on the property or near the business on public or private property at any time.

18. The on-site manager shall keep the property clear of all trash, rubbish and debris at all times, and dumping of refuse shall be restricted to the dumpster and trash compactor area owned and operated by the applicant.
19. Vandalism and graffiti shall be corrected per the Madera Municipal Code.

Fire Department

20. Fire access lanes must be maintained at all times. Placement of containers shall not obstruct fire access lanes at any time.
21. Placement of containers shall not obstruct access to fire hydrants.
22. An inspection is required at the time of installation of the containers for Fire Department approval.

(OR)

Motion 2: Move to continue the request for approval of Conditional Use Permit 2015-24 and Site Plan Review 2015-28 to October 13, 2015, for the following reasons: (specify)

(OR)

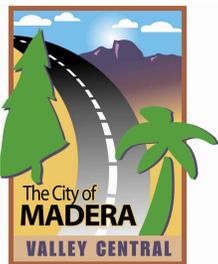
Motion 3: Move to deny the request for Conditional Use Permit 2015-24 and Site Plan Review 2015-28 based on the following findings: (specify)

**ATTACHMENTS**

Aerial Photo

**Aerial Photo**





# CITY OF MADERA PLANNING COMMISSION

205 W. Fourth Street  
Madera CA 93637  
(559) 661-5430

## Staff Report: Taqueria Mexico CUP 2010-01 MOD, SPR 2015-26 & Categorical Exemption Item #3 – September 8, 2015

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**PROPOSAL:** An application to amend Conditional Use Permit 2010-01 to allow for 24 hours per day operations at the existing Taqueria Mexico carniceria, taqueria, and market.

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<b>APPLICANT:</b>	Pedro Falcon	<b>OWNER:</b>	Martha Falcon
<b>ADDRESS:</b>	214 South Gateway Drive	<b>APN:</b>	010-135-015
<b>APPLICATION:</b>	CUP 2010-01 MOD & SPR 2015-26	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The property is located on the west side of South Gateway Drive, approximately 200 feet south of the intersection South Gateway Drive and 6th Street.

**STREET ACCESS:** The site has access to South Gateway Drive.

**PARCEL SIZE:** 15,000 square feet

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C2 (Heavy Commercial)

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**SITE CHARACTERISTICS:** The current on-site structure was built in 2010 and is being used as a carniceria, taqueria, and market.

**ENVIRONMENTAL REVIEW:** The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15301, (Existing Facilities).

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**SUMMARY & RECOMMENDATION:** There is no compelling reason to disallow the hours of operation to be open 24 hours per day. Staff recommends approval subject to conditions of approval which assure compatibility with surrounding uses.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.902 Heavy Commercial Zone

MMC § 10-3.1301 Use Permits

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

Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

## **PRIOR ACTION**

The site was developed consistent with Site Plan Review 2009-19, which allowed for the development of a 4,698 square foot carniceria, taqueria and market on the 15,000 square foot property. Conditional Use Permit 2010-01, allowed for the sale of alcoholic beverages.

## **ANALYSIS**

### Operations

Per Condition #15 of Conditional Use Permit 2010-01, the current hours of operation for Taqueria Mexico are between 6:00 am and 10:00 pm daily. The applicant wishes to change the business hours to allow for 24-hour daily operations.

### Analysis

The City's General Plan indicates that land designated as C (Commercial) is appropriate for a broad range of commercial uses. The City's Zoning Ordinance allows for a carniceria, taqueria, and market use in the C2 (Heavy Commercial) Zone District, except that the proposed alcohol sales are allowed only with the approval of a conditional use permit. Conditional Use Permit 2010-01 allows for on-site consumption only, as part of the operation of the taqueria component of the business.

Modification of the use permit to allow for 24-hour operations appear to be a reasonable request. The Gateway Drive/State Route 145 commercial corridor sees traffic at all hours of the day and night. Other businesses along the corridor are open 24-hours to capitalize on their location. To deny the request for 24-hour operation for Taqueria Mexico would present an unfair disadvantage upon the business and would retard the potential success of the business.

With the exception of three properties west of the project site, all properties in proximity of the project site are developed with commercial uses. The properties to the west are existing nonconforming "grandfathered" residential uses located on commercially zoned lands. Since the Taqueria Mexico property does not provide vehicular access to the adjoining alley, the proposed 24-hour business operations would not substantially impact the residential uses located nearby. All additional traffic generated by the expansion of operations would still access the Taqueria Mexico site from the Gateway Drive business corridor.

No additional lighting is proposed as a consequence of 24-hour sales and no additional lighting is allowed as a component of the modification of the use permit. Light and glare from the site will remain largely unchanged.

The site, as currently developed, does have problems with vehicular ingress and egress. Only one entrance/exit is available to patrons. Future access to the adjoining property to the north required within Site Plan Review 2009-19 will remedy the issue. Although staff reached out to the adjoining property owner as a component of the processing of this application, no vehicular cross access is available at this time. Circulation is not exacerbated by the allowance for 24-hours a day operations.

This proposed amendment to the conditional use permit was reviewed by various City Departments. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report. The Police Department did not have any comments or concerns relative to the expanded hours of operation. Conditions of approval specific to hours of operation have been changed and incorporated into this staff report in the event that the Planning Commission moves to approve the CUP amendment request.

### **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

Though approval of a business operating 24 hours daily is not specifically addressed in the vision or action plans, the overall project does indirectly support **Action 115.2** – *As a component of the General Plan Update, increase retail outlets and promote Shop Madera ...*

### **SUMMARY OF RECOMMENDATIONS**

The information presented in this report supports conditional approval of the amendment to the use permit request.

### **PLANNING COMMISSION ACTION**

The Planning Commission will be acting on the use permit and site plan review, determining to either:

- approve the applications with or without conditions
- continue the hearing, or
- deny the applications

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission's action.

Motion 1: Move to approve Conditional Use Permit 2010-01 MOD and Site Plan Review 2015-26 based on and subject to the following findings and conditions of approval:

#### Findings

- The allowance for 24-hour a day operations will not substantially impact surrounding properties in proximity to the project site.
- The allowance for 24-hour a day operations is consistent with the purposes of the C (Commercial) General Plan designation and the C-2 (Heavy Commercial) Zone District which provide for the use.

- There is adequate parking and site features for the proposed operations which would not be adversely impacted by the proposed allowance for 24-hour a day operations.
- The proposed allowance for 24-hour a day operations as conditioned 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.

## **CONDITIONS OF APPROVAL**

### **General Conditions**

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty days of the date of approval for this use permit.
2. The applicant's failure to utilize this 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 in advance of the one-year expiration date.
3. This conditional use permit will expire and be rendered null and void if the use is discontinued for a six-month period.
4. The use permit may be made null and void without any additional public notice or hearing at any time by the owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
5. Site Plan Review 2015-26 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code or required action is taken to extend the approval before expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).
6. The applicant shall comply with all federal, state and local laws. Material violation of any of those laws concerning the use may be cause for revocation of this permit.
7. The sale of alcoholic beverages is conditioned upon obtaining/maintaining an appropriate permit from the Department of Alcoholic Beverage Control. The applicant, its operators and successors shall comply with all applicable city, state and federal requirements and standards.
8. The use shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval or poses any unforeseen negative impacts on the site or the surrounding area, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to determine whether to revoke the permit or modify the conditions of approval.

## **Building Department**

9. Site development shall be consistent with the approved site plan and floor plan. The uses of all rooms and activity areas shall be identified on plans submitted for issuance of building permits.
10. Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection and shall apply to proposed and future development.

## **Planning Department**

11. Vandalism and graffiti shall be corrected within 24 hours of notification.
12. No outdoor displays or storage of goods shall be allowed.
13. No outdoor dining or outdoor consumption of alcoholic beverages shall be allowed.
14. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; dumping of refuse shall be restricted to the dumpster and refuse containers owned by the property owner.
15. The applicant shall operate in a manner that does not generate noise, odor, light or vibration that adversely affects any adjacent properties.
16. The business shall be allowed to operate 24-hours a day, seven days per week.

## **Police Department**

15. The sale and consumption of alcoholic beverages shall be restricted to on-site only. There shall be no off-sale privileges whatsoever.

(OR)

Motion 2: Move to continue the request for approval of Conditional Use Permit 2010-01 MOD and Site Plan Review 2015-26 to October 13, 2015, for the following reasons: (specify)

(OR)

Motion 3: Move to deny the application for Conditional Use Permit CUP 2010-01 MOD and Site Plan Review 2015-26 based on and subject to the following findings (specify):

## **ATTACHMENTS**

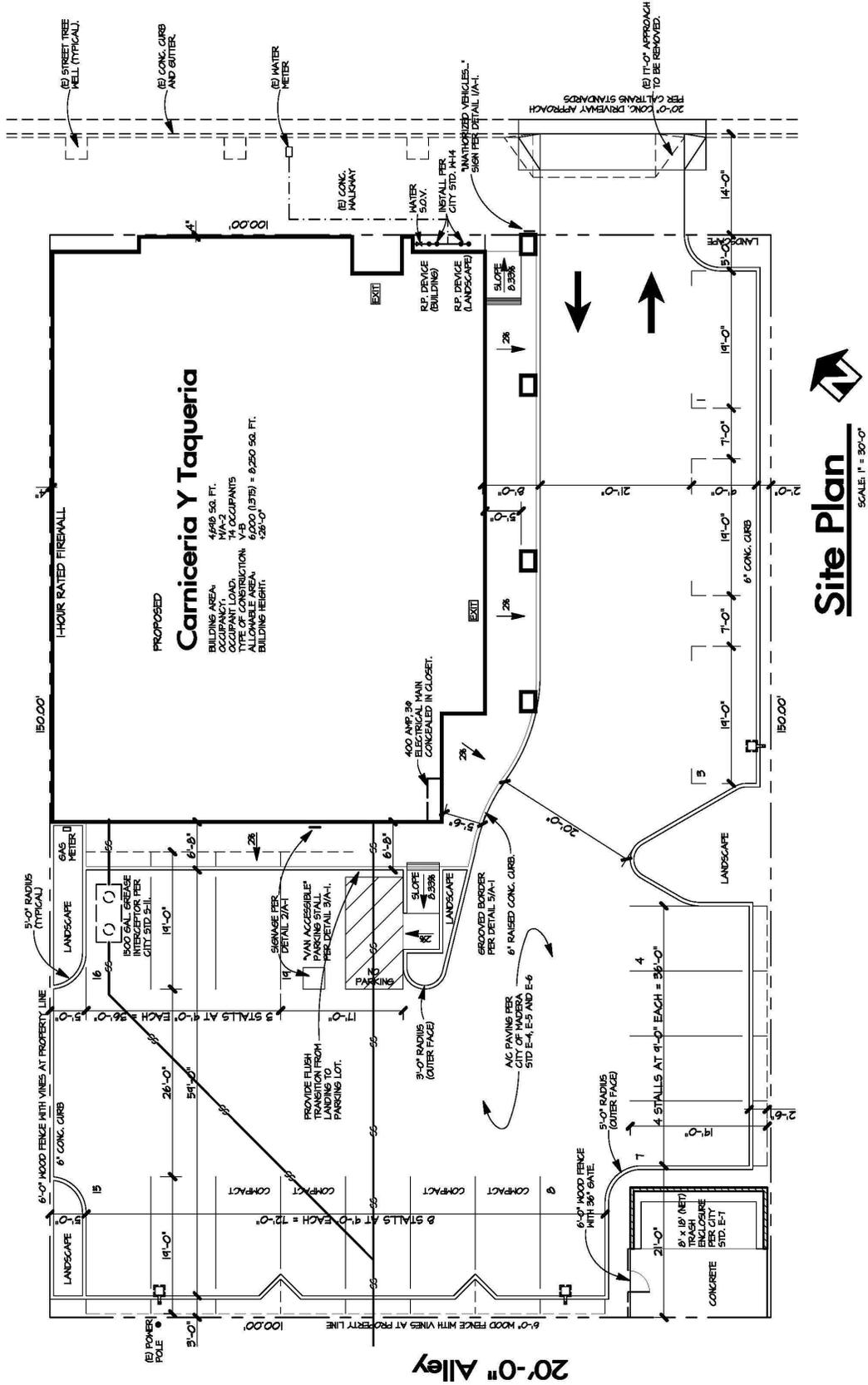
Aerial Photo  
Site Plan  
Floor Plan  
Elevations

Aerial Photo



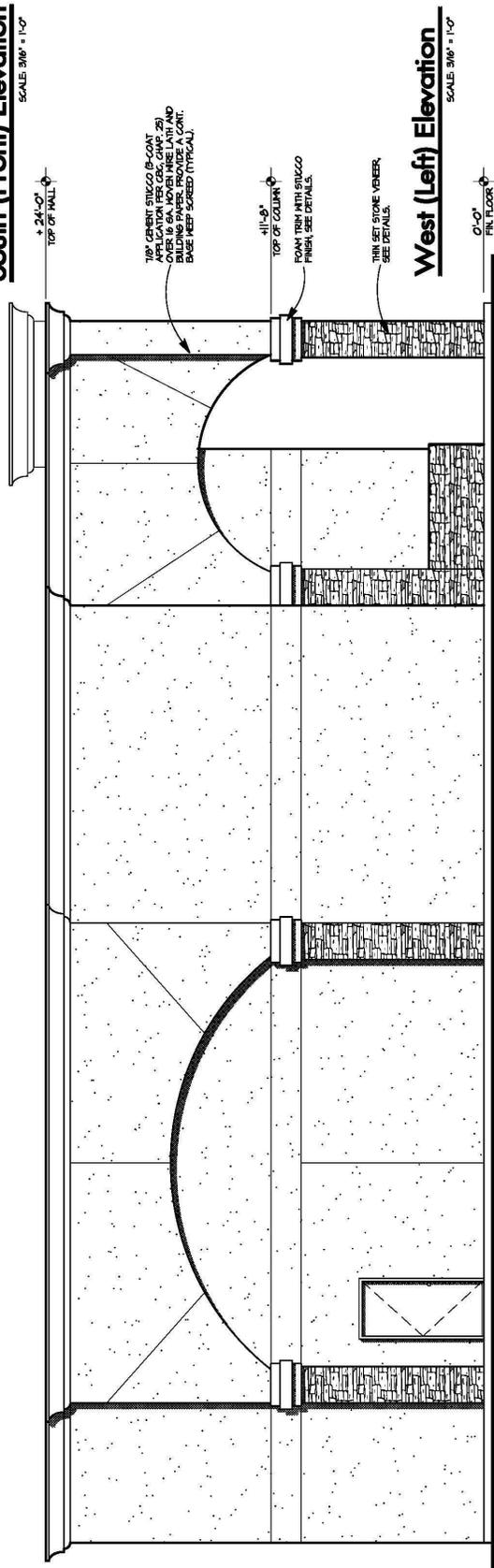
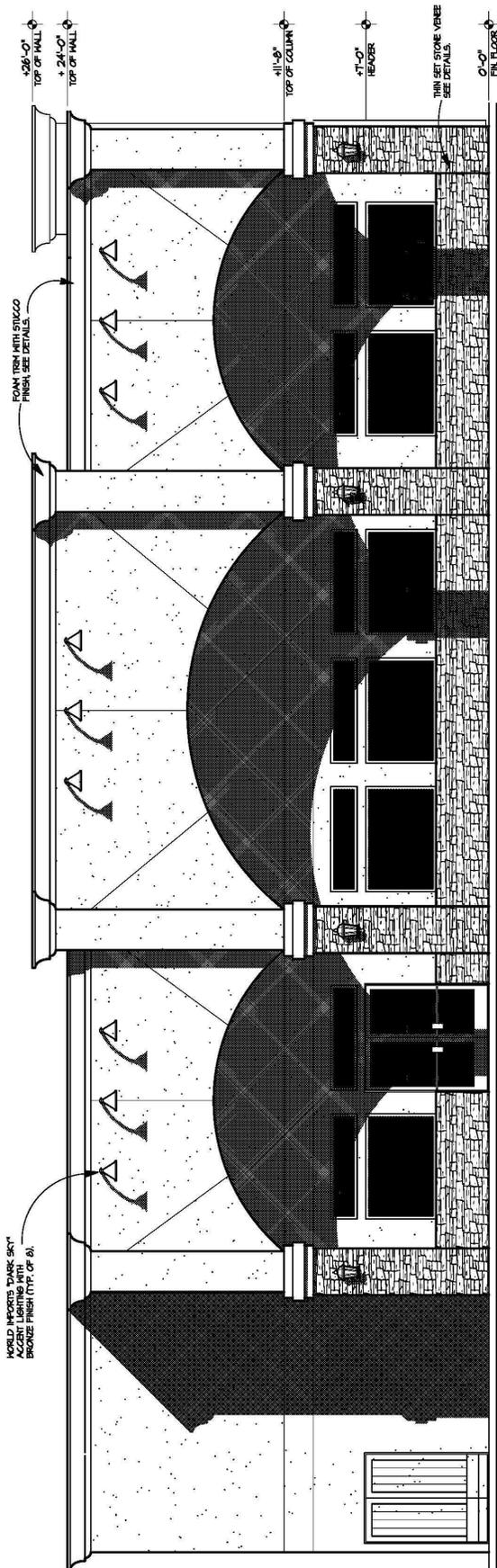
# Site Plan

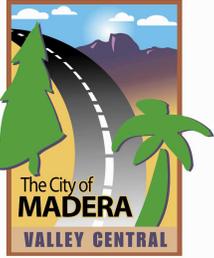
## Gateway Drive





# Elevations





**CITY OF MADERA  
PLANNING COMMISSION**

205 W. Fourth Street  
Madera CA 93637  
(559) 661-5430

**Staff Report: Whole Body Bootcamp  
CUP 2015-21, SPR 2015-25 & Categorical Exemption  
Item #4 – September 8, 2015**

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**PROPOSAL:** An application for a conditional use permit and site plan review to allow for the establishment of a training fitness facility.

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<b>APPLICANT:</b>	Debbie Coate	<b>OWNER:</b>	David Berry
<b>ADDRESS:</b>	311 South Pine Street	<b>APN:</b>	012-230-021 & 022
<b>APPLICATION:</b>	CUP 2015-21 & SPR 2015-25	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The site is located on a parcel on the southeast corner of Pine and Maple Streets.

**STREET ACCESS:** Access to the parcel is from both Pine and Maple Streets.

**PARCEL SIZE:** Half of a 5,000 square foot lease space of a 22,500 square foot building

**GENERAL PLAN DESIGNATION:** I (Industrial)

**ZONING DISTRICT:** I (Industrial)

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**SITE CHARACTERISTICS:** The use proposes to locate in a portion of an existing industrial building in an industrial park. The tenant suite is approved as a performing arts studio. Other tenants in the building include warehousing activities, Barnes Welding, and Bloom Garden Supply.

**ENVIRONMENTAL REVIEW:** This project is categorically exempt under §15301 (Existing Facilities) of CEQA Guidelines.

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**SUMMARY & RECOMMENDATION:** The industrial park has been utilized more and more by commercial uses over time. The tenant suite is approved as a performing arts studio. The site is a suitable location for a fitness facility. It is recommended that the conditional use permit and site plan review be approved as conditioned.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.802, I (Industrial) Zone  
MMC § 10-3.1202, Parking Regulations  
MMC § 10-3.1301, et seq., Use Permit Procedures

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

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

## **PRIOR ACTION**

Conditional Use Permit 2009-19 was approved December, 2009 to allow for a performing arts studio (Performing Arts Club) within an existing 5,000 square foot tenant space.

## **ANALYSIS**

### Background

The proposed use would utilize approximately half of a 5,000 square foot tenant space of an existing industrial building. The tenant space is currently occupied by the PAC Dance Studio (PAC). The proposed use, Whole Body Bootcamp, would operate in half of the space, and PAC would continue to utilize the other half. The businesses would be located within a building originally constructed to serve as an industrial warehouse. Over time, the use of the building has converted from the original vision for the property into the present condition where multiple tenant spaces serve in varying capacities, including offices, warehousing, retail, and the PAC Studio. Issues discussed as part of this analysis include operational concerns, parking requirements and site improvements.

### Operations

The Whole Body Bootcamp fitness facility would occupy approximately 2,500 square feet of the 5,000 square foot tenant space. The space would accommodate many training areas including an exercise mat and weight training area. The applicant proposes to operate the business from 5:00 am to 7:30 pm. The proposed use is compatible with other businesses currently occupying the building as the fitness facility is analogous to the PAC Studio use.

### Parking

The 311 South Pine Street is served by a total of 65 parking stalls. Parking ordinance requires that parking be provided based on number of students (at one stall per three students) and employees (at one stall per two employees). As proposed, fourteen (14) stalls are required to serve the Whole Body Bootcamp use. The PAC Studio was approved with nineteen (19)

available parking stalls dedicated to its use. The Whole Body Bootcamp plans to offer fitness training classes early in the morning and later in the evening when PAC participants are not in classes, therefore, shared parking between the businesses will be sufficient. With no less than 65 parking stalls available to serve the project site overall, there is adequate parking to serve the use as proposed.

Suite 106	Advanced Automotive	15 stalls required
Suite 105	Storage	2 stalls
Suite 104	PAC Studio/Whole Body Bootcamp	19 stalls
Suite 102	Bloom Garden Supply	15 stalls
Suite 101	Barnes Welding	<u>10 stalls</u>
	Total	61 stalls required 65 stalls available

Site Improvements

The site plan review required as a component of the use permit request identified frontage improvements that have also been required as conditions of approval for the Barnes Welding Supply use permit (Conditional Use Permit 2014-10 June, 2014) and Bloom Garden Supply (Conditional Use Permit 2014-28 December, 2014). These improvements are required to be completed by the property owner, in recognition of the conversion of the property to a more commercial-mixed use site. Other frontage improvements have been required in conjunction with TEC Gymnastics (Conditional Use Permit 2014-02) and New Harvest Church (Conditional Use Permit 2014-10), further affirming the transition of the Span Industrial Park to non-industrial tenancies.

Performing Arts Club Conditional Use Permit

The PAC Dance Studio was approved by the Planning Commission on December 8, 2009. In order to prevent any incompatible use from being established within 150 feet of the studio, a condition of approval was incorporated into Conditional Use Permit 2009-19 which required that a finding be made that future proposed uses would not conflict with the PAC Studio due to noise, vibration, odor or parking. A finding has been added to indicate that the Whole Body Bootcamp business will not conflict with the PAC Studio use.

This proposed conditional use permit was reviewed by various City Departments. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report.

**CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

The first of the four core vision statements in the Vision Plan is “a well-planned city”. The Commission, by considering how this development connects to other uses in this commercial/industrial area is actively implementing this key concept of the Vision Plan.

**Goal HS-2** states “A healthy and fit population with access to healthcare, healthful food, and places to be active and exercise.”

**SUMMARY OF RECOMMENDATIONS**

The information presented in this report supports conditional approval of the use permit and site plan review request.

## **PLANNING COMMISSION ACTION**

The Planning Commission will be acting on the Use Permit and minor Site Plan Review to allow for the establishment of a fitness facility, determining to either:

- approve the applications with or without conditions
- continue the hearing, or
- deny the applications

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission's action.

Motion 1: Move to approve Conditional Use Permit 2015-21 and Site Plan Review 2015-25, based on and subject to the findings and conditions of approval:

### Findings

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) since there will be no expansion of the existing structure.
- The establishment of a fitness facility is consistent with the purposes of the I (Industrial) General Plan land use designation and the I (Industrial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- There is adequate parking and site features to allow for the proposed use.
- As conditioned, the development of a fitness facility will be compatible with surrounding properties.
- As conditioned, the establishment of a fitness facility will not pose any significant impact to the performing arts studio permitted by Conditional Use Permit 2009-19.
- As conditioned, the establishment, maintenance or operation of the use will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare 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.

## **CONDITIONS OF APPROVAL**

### **General Conditions**

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty (30) days of the date of approval for this use permit.
2. Site Plan Review 2015-25 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code or required action is

taken to extend the approval before expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).

3. The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
4. The applicant's failure to utilize this 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.
5. Conditional Use Permit 2015-21 will expire and be rendered null and void if the use is discontinued for a twelve month period unless a written request for extension has been submitted to and approved by the Planning Commission.
6. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.
7. The site or building plans submitted for any building permit applications shall reflect changes required by the herein listed conditions of approval. Any deviation from the approved plan or any condition contained herein shall require, at a minimum, prior written request by the applicant and approval by the Planning Manager.
8. Any proposed future modifications to the site, including but not limited to building exteriors, parking/loading areas, fence/walls, new buildings or landscaping shall require an amendment to this site plan review.
9. It shall be the responsibility of the property owner and management to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to establishment of the use.
10. The applicant shall acknowledge that other businesses may locate in the immediate vicinity, as allowed in an industrial zone, which may generate significant noise, odor or vibration that would not be considered complimentary to the fitness facility.

### **Building Department**

11. Site development shall be consistent with the approved site plan and floor plan. The uses of all rooms and activity areas shall be identified on any plans submitted for issuance of building permits. Applicant must demonstrate the number of restrooms provided meets code or add additional restrooms as required.

## **Engineering Department**

### General

12. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
13. The improvement plans for the project shall include the most recent version of the City's General Notes.

### Water

14. Existing water service connection must be to current City standards including Automatic Meter Read water meter located within city right-of-way and a backflow prevention device, located within private property.

### Sewer

15. Existing sewer connection shall be upgraded to meet current City standards.

### Street

16. The developer shall construct an ADA path of travel across the existing driveway approach on Pine Street. Path of travel shall meet current City and ADA standards.
17. Existing handicap ramp at the corner of Pine Street and Maple Street shall be upgraded to meet current City and ADA standards.
18. The developer shall construct a sidewalk on Maple Street along the entire project frontage per City and ADA standards.

## **Fire Department**

19. Access between the spaces is mandatory since each must use the adjoining space for its secondary means of egress.
20. Panic hardware is required on egress doors.
21. Building permits are required for any proposed construction.
22. The proposed floor mats must meet the smoke generation and flame spread requirements of the California Building Code and California Fire Code for assembly occupancies.
23. The Occupant Load must be clearly posted and visible from the entry door.
24. Emergency lighting is required.

## Planning Department

25. This use permit allows for the establishment of a fitness facility in approximately half of a 5,000 square foot tenant suite. Alteration to the approved site plan may require amendment of the Conditional Use Permit and/or Site Plan Review.
26. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
27. No outdoor activities shall be allowed. Outdoor storage of goods and/or materials shall not be allowed.
28. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
29. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster/refuse containers owned by the property owner.
30. The applicant shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause for revocation of this permit.
31. The business may be open from as early as 5:00 am in the morning to as late as 8:00 pm at night, seven days a week.
32. The hosting of special events and competitions is not allowed for by this use permit. At no time shall the occupancy of the space exceed the occupancy load as determined by the Fire Official.
33. On-site parking shall be provided at all times in conformance with the Municipal Code. All required parking shall be permanently maintained with all parking spaces as shown on the submitted site plan. Any modifications in the approved parking layout shall require approval by the Planning Commission.
34. All signage shall be in compliance with the Madera Sign Ordinance. All signage is required to have an approved Sign Permit issued by the Planning Department per MMC §10-6.

(OR)

Motion 2: Move to continue the application for Conditional Use Permit 2015-21 and Site Plan Review 2015-25 to the October 13, 2015 Planning Commission meeting.

(OR)

Motion 3: Move to deny the application for Conditional Use Permit 2015-21 and Site Plan Review 2015-25, based on the following findings: (specify)

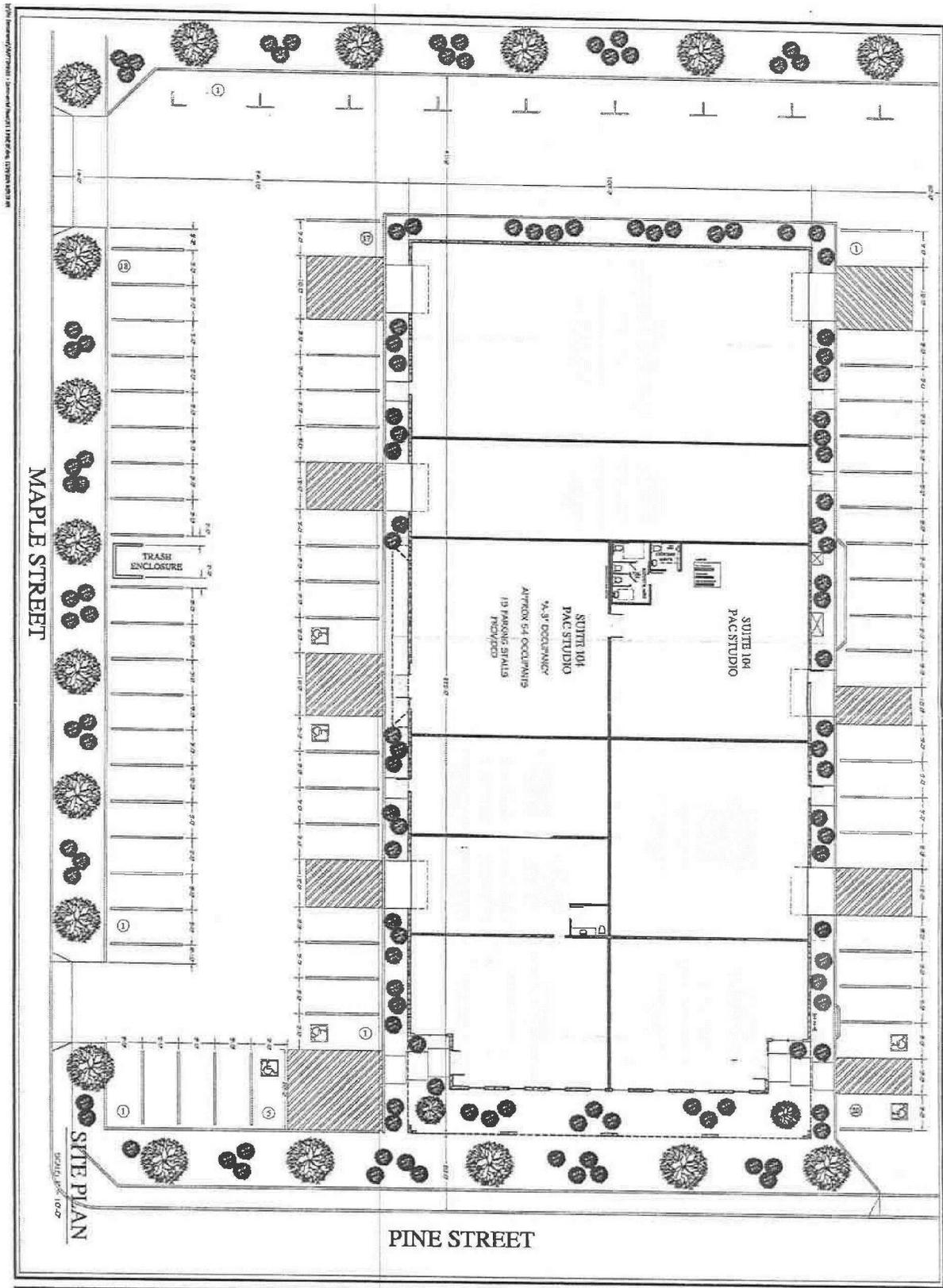
## ATTACHMENTS

Aerial Photo  
Site Plan  
Floor Plan

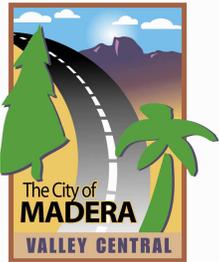
Aerial



# Site Plan







# CITY OF MADERA PLANNING COMMISSION

205 W. Fourth Street  
Madera CA 93637  
(559) 661-5430

## Staff Report: Auto Dock – Revocation Hearing CUP 2013-16 & SPR 2013-18 Item #5 – September 8, 2015

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**PROPOSAL:** Consideration of revocation of Conditional Use Permit 2013-16, allowing for the establishment of an automobile repair shop.

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<b>APPLICANT:</b>	Mariela Mendez	<b>OWNER:</b>	Brent Breedlove
<b>ADDRESS:</b>	460 E. Almond Avenue	<b>APN:</b>	012-240-019
<b>APPLICATION:</b>	CUP 2013-16 & SPR 2013-18	<b>CEQA:</b>	Categorical Exemption

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**LOCATION:** The property is located approximately 500 feet west of the southwest corner of the intersection of East Almond Avenue and Emily Way.

**STREET ACCESS:** The site has access to East Almond Avenue.

**PARCEL SIZE:** 0.63-acre

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C2 (Heavy Commercial)

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**SITE CHARACTERISTICS:** The site is a fully developed heavy commercial/light industrial property. The property includes a 6,000 square foot metal-sided structure that includes the offices of Primerica Financial Services. The Auto Dock utilizes the remaining shop and office space in the structure. Office uses are located to the north and east along East Almond Avenue and Emily Way. A mini-storage facility is located south of the project site. Vacant land is immediately west of the project site.

**ENVIRONMENTAL REVIEW:** The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15301, (Existing Facilities).

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**SUMMARY:** The site is not in compliance with the conditions of approval for Conditional Use Permit 2013-16. 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. If the Commission finds that the use is not in compliance with the conditions of approval, revocation is recommended.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.405 Uses  
MMC § 10-3.901 Heavy Commercial Zones  
MMC § 10-3.1301 Use Permits  
MMC § 10-3.1311 Termination and Revocation

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

All use permits which have been granted may be revoked by the Planning Commission after a hearing as set forth below in the event the user of such permit, or his or its successor in interest to the real property in favor of which the permit was granted, breaches or fails to abide by any of the conditions designated in such permit.

## **PRIOR ACTION**

The project site, including a portion of the structure and the entire storage yard, had been used for an extended period of time as the business address for the Breedlove family's fireplace installation and maintenance business. Primerica Financial Services has been the tenant in the remainder of the structure.

Conditional Use Permit 2013-16 and Site Plan Review 2013-18, allowing for the establishment of an automobile repair shop, was approved by the Planning Commission on September 10, 2013, subject to thirty-nine (39) conditions of approval.

## **ANALYSIS**

### Background

The use permit granted use of the property for automotive repair. Site corrections discussed during the original entitlement included delineation of parking and the disposition of a significant amount of miscellaneous materials being stored outdoors and in non-permitted storage buildings. The conditions of approval adopted by the Planning Commission and agreed to by the property owner and applicant were intended to ensure the logical conversion of the site to commercial activities, including compatibility with surrounding uses, and compliance with City and ADA standards.

### Findings of Review

Attached is a matrix of the conditions of approval for CUP 2013-16. These conditions were evaluated by staff for compliance. Shaded conditions of approval are currently not in compliance. Of the thirty-nine conditions of approval, seventeen need attention in order to be in compliance with the conditions of approval. Compliance with twenty-two of thirty-nine conditions equates a 56 percent compliance rate.

Significant progress has not been made towards meeting the conditions aimed at resolving issues discussed during the entitlement process. The parking field required by Conditions #29 & 30 has not been established.

- 30. Of the required eighteen parking stalls, twelve parking stalls shall be developed in the former storage yard area of the property. Those stalls may be gated to secure the site during non-business hours. Wheel stops may be utilized.**

Although some materials have been removed from areas of the storage yard, and four (4) parking stalls have been developed, the number of parking stalls required by the uses approved on the site are not provided.

Conditions #22, 24, 32, 33, and 37 were adopted to address the outdoor storage of materials and vehicles and reduce the visual impacts of the site on surrounding properties. None of those conditions have been met. Most notably, Condition #32 which speaks to the outdoor storage of miscellaneous materials and non-permitted structures has not been addressed.

- 32. All miscellaneous materials currently stored on the project site shall be removed to an alternative off-site location in a manner consistent with the Madera Municipal Code, and to the satisfaction of the Planning Director and Fire Marshall. As an alternative, the property owner may make application for building permits for existing non-permitted improvements along the south property line and, if those structures are approved by the Building Department through the permit process, they may be utilized for secure and enclosed storage of existing materials per the approval of the Planning Director and Fire Marshall. If the structures do not receive approval from the Building Department, non-permitted components shall be removed from the project site in advance of occupancy by the Auto Dock business.**

The non-permitted structures have not been removed, nor has an application for building permit been made. In direct opposition to the conditions of approval though, the applicant has continued to improve the illegal structures without a building permit. There is still a significant amount of miscellaneous materials being stored outdoors and in the non-permitted structures.

In addition, the required trash enclosure has not been constructed, the fence has not been repaired, and the landscaping has not been updated or maintained. Significant work would be required in order to bring the Auto Dock business into compliance with the conditions of approval.

## **RECOMMENDATION**

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. Staff's determination, based on its review of the facts, is that revocation is warranted because of failure to comply with the findings and conditions of approval for CUP 2013-16.

## **PLANNING COMMISSION ACTION**

The Commission would be taking action regarding Conditional Use Permit CUP 2013-16, determining to either:

- revoke the use permit
- continue the hearing, or
- find that revocation of the use permit is not warranted at this time

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission's action.

If the Planning Commission elects to revoke Conditional Use Permit CUP 2013-16, it should do so by motion which includes the following findings:

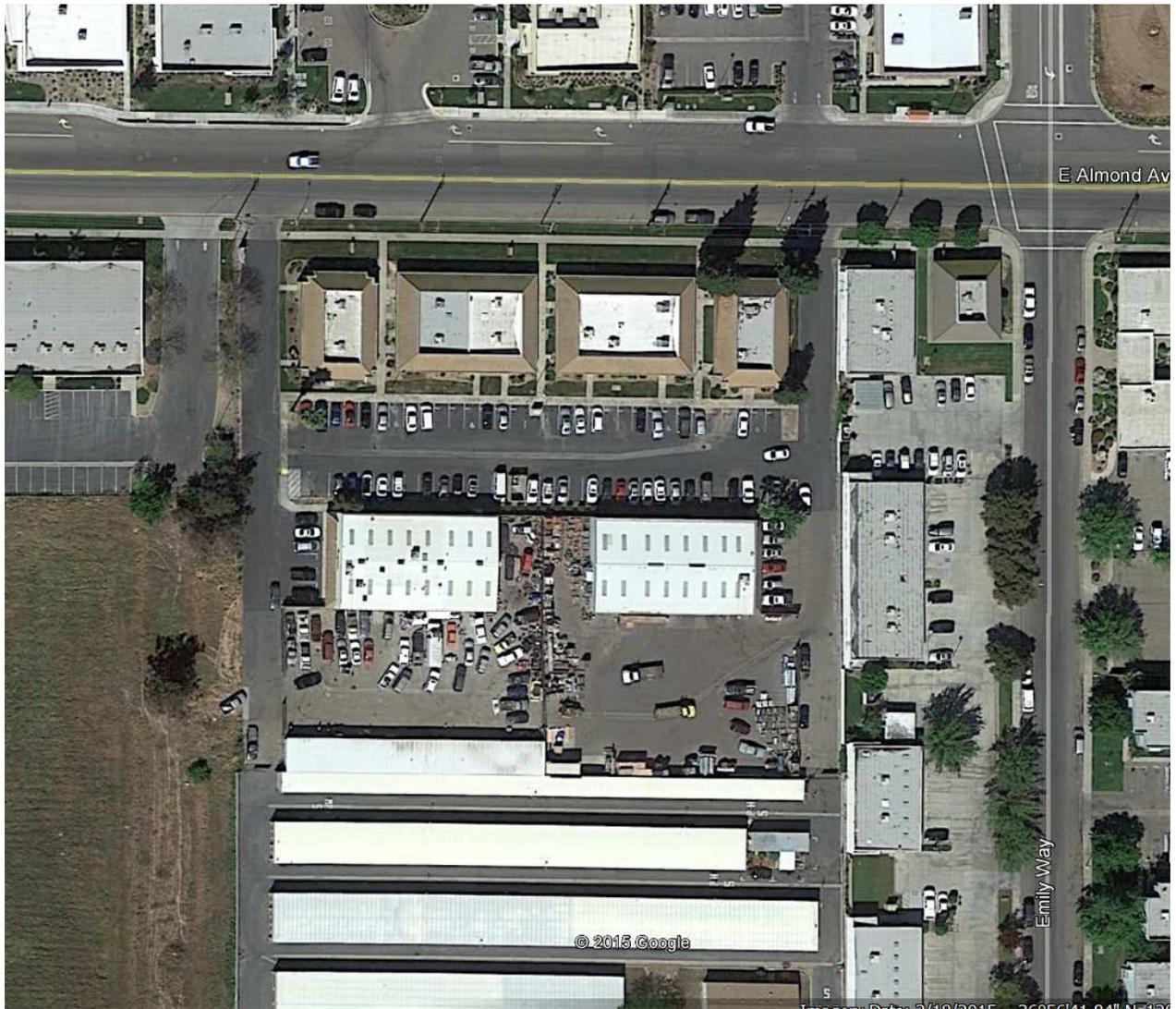
#### Findings

- Conditions of approval, including Nos. 2, 7, 10, 22, 24, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37 and 38 adopted by the Planning Commission and agreed to by the applicant and property owner, have not been satisfied.
- 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.

#### **ATTACHMENTS**

Aerial Photo  
CUP 2013-16 Conditions of Approval Compliance Matrix  
Site Photos

Aerial Photo



## CUP 2013-16 Conditions of Approval Compliance Matrix

<b><u>CONDITIONS OF APPROVAL</u></b>		
<b>General Conditions</b>		
1.	Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant and property owner signatures upon an Acknowledgement and Acceptance of Conditions within thirty days of the date of approval for this use permit.	In compliance.
2.	Site Plan Review 2013-18 will expire one year from date of issuance, unless you take positive action on the project as provided in the Municipal Code or take the required action to extend the approval before expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).	Not in compliance.
3.	Conditional Use Permit 2013-16 will expire and be rendered null and void if the use is discontinued for a twelve month period unless a written request for extension has been submitted to and approved by the Planning Commission.	Procedural condition.
4.	The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.	Procedural condition.
5.	The applicant's failure to utilize this 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.	Procedural condition.
6.	This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.	Procedural condition.
7.	The site or building plans submitted for any building permit applications shall reflect changes required by the herein listed conditions of approval. Any deviation from the approved plan or any condition contained herein shall require, at a minimum, prior written request by the applicant and approval by the Planning Director.	Not in compliance. Plans have not been submitted.
8.	Any proposed future modifications to the site, including but not limited to building exteriors, parking/loading areas, fence/walls, new buildings or landscaping shall require an amendment to this site plan review.	Procedural condition.

9.	It shall be the responsibility of the property owner and management to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to establishment of the use.	In compliance.
<b>Building Department</b>		
10.	Site development shall be consistent with the approved site plan and floor plan. The uses of all rooms and activity areas shall be identified on any plans submitted for issuance of building permits.	Not in compliance. No approved site plan and no plan submittals.
11.	Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage and confirmed at final inspection.	In compliance.
<b>Fire Department</b>		
12.	One 2A10BC-rated portable fire extinguisher is required for each 3000 sq ft of enclosed building or fraction thereof. The maximum travel distance to reach a portable fire extinguisher shall not exceed 75 feet.	In compliance.
13.	Proper plans must be submitted to the City of Madera Building Department for alteration of the building interior and/or building exterior. As presently depicted, the means of egress is not acceptable. There is a roll-up door over what appears to be the primary entry to the Auto Dock business.	In compliance.
14.	A complete analysis of the building is required for compliance. Both separation for adjacent occupancies (fire resistive construction) and/or fire sprinklers may be required. Specific requirements cannot be determined until a complete analysis is provided.	In compliance.
15.	The exact nature of the Auto Dock business must be provided in order to accurately complete the analysis of the building consistent with Condition #14.	In compliance.
16.	The placement of the nearest fire hydrant must be provided. The project must provide adequate fire flow. However, as indicated in Condition #14 above, there is insufficient information provided for a proper determination.	In compliance.
17.	A key box is required for rapid entry by emergency services. If exterior gates or other obstructions will hamper firefighting operations, additional requirements may apply.	In compliance.
<b>Engineering Department</b>		
18.	Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.	In compliance.
19.	The improvement plans for the project shall include the most recent version of the City's General Notes.	In compliance.
20.	Existing water service connections shall be upgraded to meet current City standards including Automatic Read water meters located within City right-of-way and shall	In compliance.

	read in cubic feet and backflow prevention device located within private property.	
<b>Planning Department</b>		
21.	Vandalism and graffiti shall be corrected per the Madera Municipal Code.	In compliance.
22.	No outdoor display of merchandise and/or outdoor storage of goods and materials shall be allowed.	Not in compliance.
23.	The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.	In compliance.
24.	The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster and refuse containers owned by the property owner.	Not in compliance.
25.	The applicant shall comply with all federal, state and local laws. Violation of any applicable laws concerning the use may be cause for revocation of this permit.	In compliance.
26.	The automobile repair shop may be open from as early as 6:00 a.m. until as late as 8:00 p.m. Vehicles may not be dropped off after hours, unless they are placed inside of the fenced and gated storage area at the time of drop off.	Not in compliance.
27.	The project shall be developed in accordance with the applicant's operational statement and site plan as submitted with the application for the Conditional Use Permit. A revised site plan reflecting the required improvements identified herein shall be provided in advance of any required improvements, and all improvements shall be installed and operational prior to occupancy of the building by the Auto Dock.	Not in compliance.
28.	<p>Site Data</p> <ul style="list-style-type: none"> <li>• Approved Use of proposed space: Auto Dock Automobile Repair Shop Primerica Financial Services</li> <li>• Minimum Parking Requirements 9 for Auto Dock <u>9 for Primerica Financial Services</u> 18 parking stalls required</li> <li>• Parking Provided ..... 6 stalls</li> <li>• ADA Parking Provided ..... None</li> <li>• ADA Parking Required ..... 1 stall</li> </ul>	Not in compliance.
29.	A total of eighteen parking stalls shall be developed in order to satisfy the parking requirements of the site. One parking stall must be developed as an Americans with Disabilities Act (ADA) compliant parking stall.	Not in compliance.
30.	Of the required eighteen parking stalls, twelve parking stalls shall be developed in the former storage yard area of the property. Those stalls may be gated to secure the site during non-business hours. Wheel stops may be utilized.	Not in compliance.

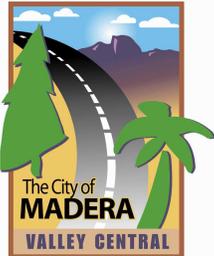
31.	ADA access shall be constructed and all required access must be in place and approved prior to occupancy of the site by Auto Dock. One ADA-compliant handicap parking stall and the required pedestrian path of travel to the structure and to the City right-of-way shall be provided to serve the site.	In compliance.
32.	All miscellaneous materials currently stored on the project site shall be removed to an alternative off-site location in a manner consistent with the Madera Municipal Code, and to the satisfaction of the Planning Director and Fire Marshall. As an alternative, the property owner may make application for building permits for existing non-permitted improvements along the south property line and, if those structures are approved by the Building Department through the permit process, they may be utilized for secure and enclosed storage of existing materials per the approval of the Planning Director and Fire Marshall. If the structures do not receive approval from the Building Department, non-permitted components shall be removed from the project site in advance of occupancy by the Auto Dock business.	Not in compliance.
33.	All vehicles currently stored on the site which are not a part of the business operations considered in Conditional Use Permit 2013-16 and Site Plan Review 2013-18 shall be removed prior to occupancy by the Auto Dock business.	Not in compliance.
34.	Outdoor overnight storage of vehicle shall be allowed as a component of the Auto Dock business. Overnight storage shall only occur within the gated storage yard, but no vehicles held overnight shall be stored in required parking stalls or required vehicular or pedestrian paths of travel.	Not in compliance.
35.	A landscaping and irrigation plan be submitted to and approved by the Planning Department and all improvements installed in advance of Auto Dock occupancy on the site. The landscape and irrigation plan shall include provisions for the removal of dead landscaping and the installation of replacement plantings and irrigation as necessary to provide properly maintained landscaping throughout per the approval of the Planning Director.	Not in compliance.
36.	The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the City. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, mowing lawns consistent with industry standards, and replacing dead or unhealthy vegetation.	Not in compliance.

37.	A trash enclosure shall be constructed within the fenced storage area to serve the site. The trash enclosure shall be designed to accommodate a refuse bin and a recyclables bin.	Not in compliance.
38.	The slatted chain-link fence shall be repaired or replaced as necessary. Ordinance requires that all fences be properly maintained so as to not create a hazard, public nuisance or blight in the surrounding neighborhood. Barbed wire shall be permitted as a component of the fence. Razor wire will not be permitted.	Not in compliance.
39.	All signage shall be in compliance with the Madera Municipal Code at all times.	In compliance.

## Site Photos







<p><b>CITY OF MADERA</b></p> <p><b>PLANNING COMMISSION</b></p>	<p>205 W. Fourth Street Madera CA 93637 (559) 661-5430</p>
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**Staff Report: Adept Training**  
**CUP 2015-20, SPR 2015-24 & Categorical Exemption**  
**Item #6 – September 8, 2015**

**PROPOSAL:** An application for a conditional use permit and site plan review to allow for the establishment of a fitness training facility.

<b>APPLICANT:</b>	Waye W. Dawrrough	<b>OWNER:</b>	Brent Breedlove
<b>ADDRESS:</b>	460 East Almond Avenue	<b>APN:</b>	012-240-019
<b>APPLICATION:</b>	CUP 2015-20 & SPR 2015-24	<b>CEQA:</b>	Categorical Exemption

**LOCATION:** The property is located approximately 500 feet west of the southwest corner of the intersection of East Almond Avenue and Emily Way.

**STREET ACCESS:** The site has access to East Almond Avenue.

**PARCEL SIZE:** 0.63 acre

**GENERAL PLAN DESIGNATION:** C (Commercial)

**ZONING DISTRICT:** C2 (Heavy Commercial)

**SITE CHARACTERISTICS:** The site is a fully developed heavy commercial/light industrial property. The property includes a 6,000 square foot metal-sided structure. The multi-tenant structure includes the offices of Primerica Financial Services and Auto Dock. Office uses are located to the north and east along East Almond Avenue and Emily Way. A mini-storage facility is located south of the project site. Vacant land is immediately west of the project site.

**ENVIRONMENTAL REVIEW:** This project is categorically exempt under §15301 (Existing Facilities) of CEQA Guidelines.

**SUMMARY & RECOMMENDATION:** 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.

## **APPLICABLE CODES AND PROCEDURES**

MMC § 10-3.803 Heavy Commercial Zones  
MMC § 10-3.1202, Parking Regulations  
MMC § 10-3.1301, et seq., Use Permit Procedures

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

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

## **PRIOR ACTION**

Conditional Use Permit 2013-16 and Site Plan Review 2013-18, Auto Dock, was approved September, 2013 to allow for an automotive repair business to locate in a portion of the structure and the storage yard.

## **ANALYSIS**

### Background

The project site had been used for an extended period of time as the business address for the Breedlove family's fireplace installation and maintenance business. Primerica Financial Services has been the tenant in the remainder of the structure. In 2013, Auto Dock was approved as an automotive repair shop in a portion of the structure and the outdoor storage yard. The applicant has rented a large office space (formerly a conference room) within the building for his fitness training business. The business was established without the proper permits. A citizen complaint brought the business to the attention of the City and an application has now been made. Issues discussed as part of this analysis include operational concerns, parking requirements, and site improvements.

### Operations

The proposed use, Adept Training, would utilize a 1,100 square foot office space within an existing structure to provide wellness and fitness consultations, post therapy functional strength training classes, and personal training. Exercise equipment such as weights, resistance bands, and mats will be utilized by the business. The applicant proposes to operate varying times between the hours of 5:00 am and 9:00 pm.

### Parking

A total of seven parking stalls, including one ADA compliant stall currently serve the project site. These stalls are advantageously located on the west side of the structure to serve the Primerica

tenant space. Adept Training will be utilizing 1,100 square feet of office space once used by Primerica.

Parking ordinance requires that one stall be provided for each 300 square feet of office space. Approximately 1,500 square feet of the structure will remain dedicated to office use, requiring five (5) parking stalls. The new fitness use will require three (3) parking stalls based on a proposal to offer classes to up to 7 students (at one stall per three students) and one employee (at one stall per two employees). As a condition of approval to Conditional Use Permit 2013-16 Auto Dock, 12 parking stalls were required to be developed within the former storage yard area of the property. As of August 26, 2015, those parking stalls have not been developed. Staff recommends a condition of approval for the fitness use that adequate onsite parking be developed to serve the approved businesses.

### Site Improvements

In addition to the aforementioned requirements for parking, the current conditions on the site require attention.

Miscellaneous building materials litter the storage yard on the project site. These current conditions make installation of required parking stalls impossible. It is recommended that all miscellaneous materials currently stored on the project site be removed to an alternative off-site location within 90 days. As an alternative, the property owner may make application for building permits for existing non-permitted improvements along the south property line and, if those structures are approved by the Building Department through the permit process, they may be utilized for secure and enclosed storage of existing materials per the approval of the Fire Marshall. If the structures do not receive approval from the Building Department, it is recommended that they be removed from the project site.

All vehicles currently stored on the site should be removed within 90 days. No permit for vehicular storage is in place on the project site. Outdoor overnight storage of vehicle should be allowed only as a component of the Auto Dock use permit conditions of approval (CUP 2013-16).

ADA access must be maintained and all required access must be in place at all times.

Landscaping and irrigation on the project site has been allowed to languish. Some landscaping has been removed and stumps have been left in place. It is recommended that a landscaping and irrigation plan be submitted to and approved by the Planning Department within 30 days and improvements be completed within 90 days.

There are currently limited facilities on the site for refuse containers. It is recommended that a trash enclosure be constructed within the fenced storage area to serve the site. The trash enclosure should be designed to accommodate a refuse bin and a recyclables bin.

The slatted chain-link fence is in need of repair and should be repaired, removed, or replaced as necessary. Ordinance requires that all fences be properly maintained so as to not create a hazard, public nuisance or blight in the surrounding neighborhood. Barbed wire, which is currently installed, should continue to be permitted as a component of the fence if the applicant elects to retain and repair the fence.

This proposed conditional use permit was reviewed by various City Departments and outside agencies. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report.

## **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

The proposed business will offer residents a place to exercise. Madera 2025 **Goal HS-2** states “A healthy and fit population with access to healthcare, healthful food, and places to be active and exercise.”

## **SUMMARY OF RECOMMENDATIONS**

The information presented in this report supports conditional approval of the use permit and site plan review request.

## **PLANNING COMMISSION ACTION**

The Planning Commission will be acting on the Use Permit and minor Site Plan Review to allow for the establishment of a fitness facility, determining to either:

- approve the applications with or without conditions
- continue the hearing, or
- deny the applications

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission’s action.

Motion 1: Move to approve Conditional Use Permit 2015-20 and Site Plan Review 2015-24, based on and subject to the findings and conditions of approval:

### Findings

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) since there will be no expansion of the existing structure.
- The establishment of a fitness facility is consistent with the purposes of the C (Commercial) General Plan designation and the C2 (Heavy Commercial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- As conditioned, there is adequate parking and site features to allow for the proposed uses.
- As conditioned, the development will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare 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.

## **CONDITIONS OF APPROVAL**

### **General Conditions**

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty (30) days of the date of approval for this use permit.
2. Site Plan Review 2015-24 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code or required action is taken to extend the approval before expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).
3. The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
4. The applicant's failure to utilize this 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.
5. Conditional Use Permit 2015-20 will expire and be rendered null and void if the use is discontinued for a twelve month period unless a written request for extension has been submitted to and approved by the Planning Commission.
6. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.
7. The site or building plans submitted for any building permit applications shall reflect changes required by the herein listed conditions of approval. Any deviation from the approved plan or any condition contained herein shall require, at a minimum, prior written request by the applicant and approval by the Planning Manager.
8. Any proposed future modifications to the site, including but not limited to building exteriors, parking/loading areas, fence/walls, new buildings or landscaping shall require an amendment to this site plan review.
9. It shall be the responsibility of the property owner and management to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to establishment of the use.

## **Building Department**

10. Site development shall be consistent with the approved site plan and floor plan. The uses of all rooms and activity areas shall be identified on any plans submitted for issuance of building permits.
11. Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection and shall apply to proposed and future development.
12. Additional items identified as not complying with current codes and ordinances which require correction or attention may be identified. Any item not in conformance with current codes and ordinances must be corrected.

## **Engineering Department**

### General

13. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
14. The developer shall pay all required fees for completion of project. Fees due may include but shall not be limited to the following: plan review, encroachment permit processing and improvement inspection fees.

### Water

15. Existing water service connection must be to current City standards including Automatic Meter Read water meter located within city right-of-way and a backflow prevention device, located within private property.

## **Fire Department**

16. A building permit may be required for change in occupancy classification. Complete plans identifying compliance with all applicable codes are required. More information is required in order to make a determination.
17. Portable fire extinguishers are required. A minimum of one 2A10BC rated fire extinguisher is required for each 3,000 square feet of floor area or fraction thereof.
18. The door hardware for the required means of egress must open from the inside without the use of a key or any special knowledge or effort. Panic hardware is required if the calculated occupant load reaches 50. Two exits will also be required if the calculated occupant load reaches 50.
19. A key must be provided for the existing key box. The key must be labeled with the suite number for identification.

## Planning Department

20. This use permit allows for the establishment of a fitness facility in approximately 1,100 square feet of an existing office space.
21. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
22. No outdoor activities shall be allowed. Outdoor storage of goods and/or materials shall not be allowed.
23. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
24. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster/refuse containers owned by the property owner.
25. The applicant shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause for revocation of this permit.
26. The business may be open from as early as 5:00 am in the morning to as late as 9:00 pm at night, seven days a week.
27. The hosting of special events and competitions is not allowed for by this use permit. At no time shall the occupancy of the space exceed the occupancy load as determined by the Fire Official.
28. As required by Conditional Use Permit 2013-16 and Site Plan Review 2013-18, a total of eighteen parking stalls shall be provided in order to satisfy the parking requirements of the site, 12 of which shall be inside the former storage yard area of the property.
29. On-site parking shall be provided at all times in conformance with the Municipal Code. All required parking shall be permanently maintained.
30. All miscellaneous materials currently stored on the project site shall be removed to an alternative off-site location in a manner consistent with the Madera Municipal Code, and to the satisfaction of the Planning Manager and Fire Marshall within 90 days of this approval. As an alternative, the property owner may make application for building permits for existing non-permitted improvements along the south property line and, if those structures are approved by the Building Department through the permit process, they may be utilized for secure and enclosed storage of existing materials per the approval of the Planning Manager and Fire Marshall. If the structures do not receive approval from the Building Department, non-permitted components shall be removed from the project site.
31. All vehicles currently stored on the site which are not allowed for as part of the business operations considered in Conditional Use Permit 2013-16 and Site Plan Review 2013-18 shall be removed within 90 days of this approval.

32. A landscaping and irrigation plan be submitted to and approved by the Planning Department within 30 days and improvements be completed within 90 days of this approval. The landscape and irrigation plan shall include provisions for the removal of dead landscaping and the installation of replacement plantings and irrigation as necessary to provide properly maintained landscaping throughout per the approval of the Planning Manager.
33. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the City. This includes, but is not limited to, ensuring properly operating irrigation equipment at all times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation.
34. A trash enclosure shall be constructed to serve the site within 90 days of this approval. The trash enclosure shall be designed to accommodate a refuse bin and a recyclables bin. The location of the trash enclosure shall be approved by the Planning Manager.
35. The slatted chain-link fence shall be repaired or replaced as necessary. Ordinance requires that all fences be properly maintained so as to not create a hazard, public nuisance or blight in the surrounding neighborhood. Barbed wire shall be permitted as a component of the fence. Razor wire will not be permitted. As an alternative, the fence may be removed.
36. A revised site plan reflective of the conditions of approval herein shall be submitted within thirty days of approval. The submittal shall be consistent with the conditions of approval per the approval of the Planning Manager.
37. All signage shall be in compliance with the Madera Sign Ordinance. All signage is required to have an approved Sign Permit issued by the Planning Department per MMC §10-6.

(OR)

Motion 2: Move to continue the application for Conditional Use Permit 2015-20 and Site Plan Review 2015-24 to the October 13, 2015 Planning Commission meeting.

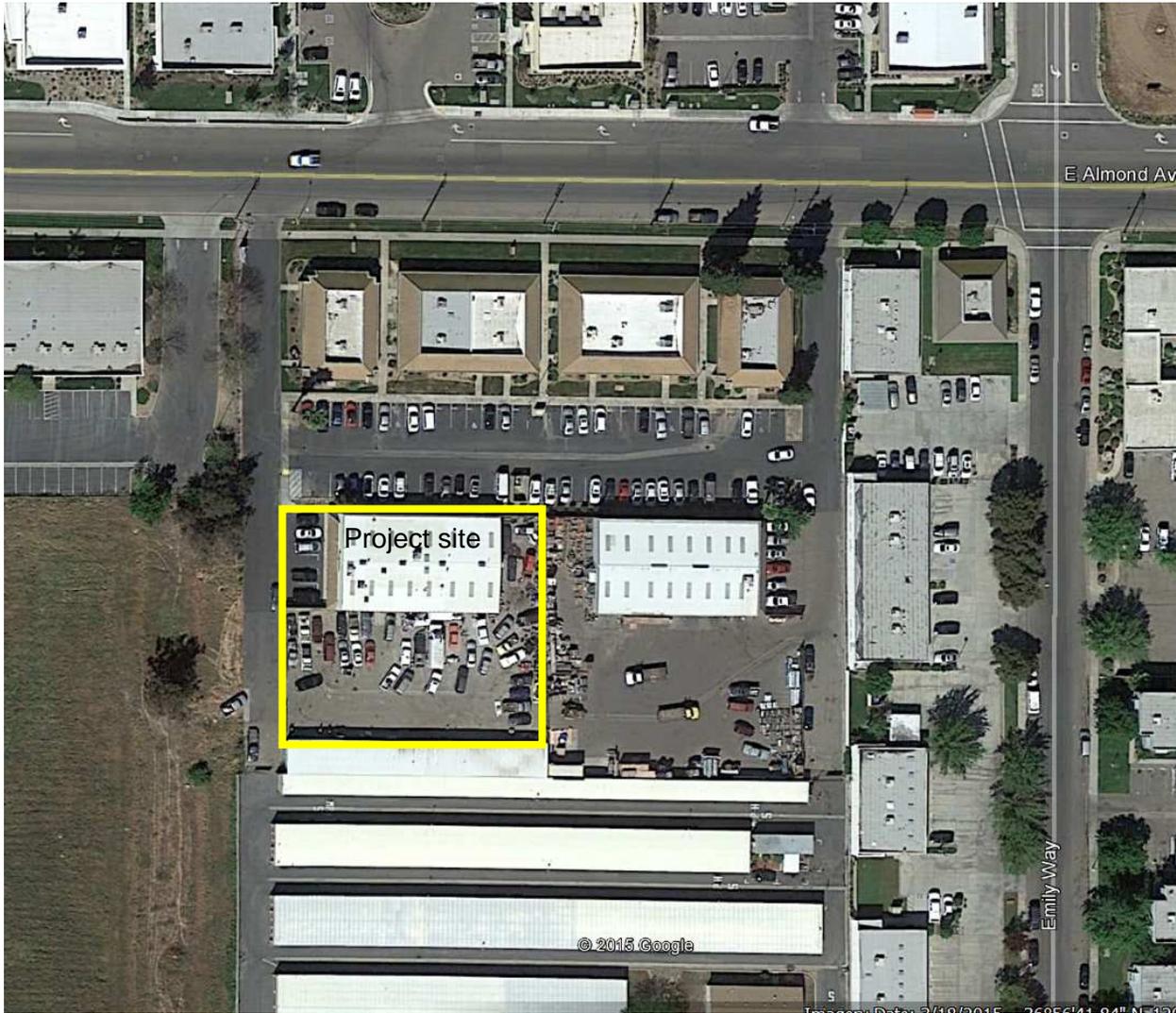
(OR)

Motion 3: Move to deny the application for Conditional Use Permit 2015-20 and Site Plan Review 2015-24, based on the following findings: (specify)

#### **ATTACHMENTS**

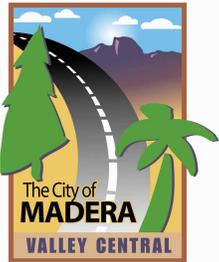
Aerial Photo  
Photos of Use

Aerial



## Photos





**CITY OF MADERA  
PLANNING COMMISSION**

205 W. Fourth Street  
Madera CA 93637  
(559) 661-5430

**Staff Report: DOU 2015-01 and Environmental Determination  
Item #7 – September 8, 2015**

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**PROPOSAL:** The Planning Department requests that the Planning Commission make a determination of use in order to allow for the establishment of a tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses in commercial and industrial zone districts.

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<b>APPLICANT:</b>	City	<b>OWNER:</b>	N/A
<b>ADDRESS:</b>	Citywide	<b>APN:</b>	Citywide
<b>APPLICATION:</b>	DOU 2015-01	<b>CEQA:</b>	Categorically Exempt

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**LOCATION:** Citywide.

**STREET ACCESS:** N/A

**PARCEL SIZE:** N/A

**GENERAL PLAN DESIGNATION:** Multiple

**ZONING DISTRICT:** Multiple

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**SITE CHARACTERISTICS:** Citywide.

**ENVIRONMENTAL REVIEW:** The proposed determination of use is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15061(b)(3). 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 on the environment, the activity is not subject to CEQA.

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**SUMMARY:** The characteristics of a tobacco shop have changed dramatically in recent years, and increasing interest in establishing new variants of tobacco stores have been observed. Recent inquiries for direction in the establishment of vape lounges and hookah bars have been received by staff. Staff seeks a determination of use from the Planning Commission in order to best direct prospective smoke shop operators and be best able to allow for the use in advance of the completion of the Zoning Ordinance update.

## **APPLICABLE CODES AND PROCEDURES**

MMC§ 10-3.802(C)(20), C1 Zones, Uses Permitted

MMC§ 10-3.902(C)(14), C2 Zones, Uses Permitted

MMC§ 10-3.1002(C)(20), I Zones, Uses Permitted

**PRIOR ACTION:** None

## **ANALYSIS**

A determination of use is necessary whenever the use schedule of the Zoning Ordinance does not provide either an exact identification within the schedule of a proposed use as permitted or a similar identification sufficient to allow for a proposed use based on close similarities and/or compatibility with uses that are specifically identified within the schedule. An example of use exactly identified within the C1 Zone District as a permitted use would be a “Drug Store”. An example of a use that is allowed because of similarity to permitted uses would be a “pay day loans store”, since both a “Bank” and “Offices, Business or Professional” are permitted uses.

Under consideration is a staff-initiated request for determination of use to allow for tobacco stores, smoke shops, vape lounges, hookah bars in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts subject to the approval of a conditional use permit by the Planning Commission. There have been numerous inquiries as to the ability to establish varying types of tobacco stores. In response to these inquiries to establish hookah bars, vape lounges and smokes shops, staff is compelled to seek Planning Commission direction as to how to best direct the prospective business owner.

In the past, a tobacco store typically sold tobacco products, including single packs and cartons of cigarettes, pipe tobacco and pipes, lighters and lighter accessories, and other sundries associated with the enjoyment of tobacco. Moreover, tobacco stores were permitted retail uses under a general observation that, since a drug store or department store might also sell these products, then a tobacco store should also be considered a permitted use in commercial zones, just as drug stores and departments stores are permitted.

Today, the tobacco store has evolved into something much more complex than the tobacco stores of the past. Tobacco stores sell not just tobacco and tobacco sundries, but a myriad of other types of merchandise not typical of past merchandise mixes. With the rise in the acceptance of marijuana, tobacco stores now also carry a wide range of pipes, “bongs” and other merchandise specific to the consumption of marijuana and the marijuana culture in general. More recently, tobacco stores have begun to market “vaping” and hookah products (flavored charcoal) as an additional component of their merchandise mix, and there is a growing tendency to provide “lounge” areas for customers to either sample these new products and/or assemble and commune with other customers.

These “lounge” components introduce an assembly activity that further separates the contemporary tobacco store from the historic norm. Parking is impacted by the extended stay of customers who in the past would only need to briefly patronize the store in order to purchase tobacco products but now might enjoy an extended stay, congregating with other customers.

The changing nature of tobacco shops cumulatively changes the relationship of the tobacco shop to other uses in proximity of the business and the general surrounding overall. The “new” tobacco shop may not be a compatible use in all locations. The business requires analysis in each individual case as to the compatibility of the proposed business location with surrounding uses. Moreover, the exact nature of the business, its niche in the “new” tobacco store

marketplace, and whether assembly activities is included as a component of the business requires staff review and an opportunity for public participation.

Whereas the “old” model of the tobacco store was permitted by right, the “new” tobacco store possesses characteristics very different and in contrast to historic practices. Staff, therefore, requests the Planning Commission make a determination of use requiring that tobacco stores, smoke shops, vape lounges and hookah bars be allowed in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts, subject to the approval of a conditional use permit on a case by case basis. The current ordinance allows that other uses that are, in the opinion of the Commission, similar in nature be allowed pursuant to securing a conditional use permit in these zones.

Formal placement of the tobacco store uses within the zoning ordinance use schedules will be included as a component of the upcoming zoning ordinance update.

## **SUMMARY AND RECOMMENDATION**

It is recommended that the Planning Commission make a determination that tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses be allowed in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts subject to the approval of a conditional use permit on a case by case basis.

## **PLANNING COMMISSION ACTION**

The Planning Commission will be acting on the request to determine that tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses be allowed in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts subject to the approval of a conditional use permit.

- approve the applications with or without conditions
- continue the hearing, or
- deny the applications

Any action by the Commission approving or denying the application is subject to appeal to the City Council within 15 calendar days of the Commission’s action.

Motion 1: Move to approve the staff request to determine that tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses be allowed in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts subject to the approval of a conditional use permit, based on and subject to the following findings:

### Findings

- Tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses possess operational characteristics that merit the review of the Planning Commission on a case by case basis.
- The Planning Commission hereby determines that tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses shall be allowed in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts subject to the approval of a conditional use permit by the Planning Commission on a case by case basis.

- The Planning Commission hereby determines that the allowance for tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts, subject to the approval of a conditional use permit by the Planning Commission, provides consistency with the Zoning Ordinance.
- The determination that tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses shall be allowed in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts subject to the approval of a conditional use permit by the Planning Commission is consistent with the Madera General Plan principles, goals and policies.

(OR)

Motion 2: Move to continue the request for approval of Determination of Use 2015-01 to October 13, 2015, for the following reasons: (specify)

(OR)

Motion 3: Move to deny the request to determine that tobacco stores, smoke shops, vape lounges, hookah bars and similar businesses be allowed in the C1 (Light Commercial), C2 (Heavy Commercial) and I (Industrial) Zone Districts subject to the approval of a conditional use permit, based on and subject to the following findings: (specify):

**ATTACHMENTS:** None