CALL TO ORDER

ROLL CALL

Commissioner Kenneth Hutchings (Chairperson)
Commissioner Robert Gran, Jr. (Vice Chairperson)
Commissioner Jim DaSilva
Commissioner Bruce Norton
Commissioner Pamela Tyler
Commissioner Israel Cortes
Commissioner Richard Broadhead

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: March 14, 2017

CONSENT ITEMS:

NON-PUBLIC HEARING ITEMS

NONE

PUBLIC HEARING ITEMS

1. VAR 2017-01 – dd’s Discounts Sign Variance
   A noticed public hearing to consider a variance from the City’s Sign Ordinance to allow for 285 square feet of on-building signage where only 225 square feet of on-building signage is allowed, located at the northeast corner of the intersection of Country Club Drive and West Sherwood Way (1311 Country Club Drive) in the C1
2. **CUP 2017-03 and SPR 2017-04 – Fitness Evolution**
   A noticed public hearing to consider a conditional use permit and site plan review to allow for an athletic fitness center in an approximate 2,900 square foot tenant suite in the Hallmark Town Center, located on the southwest corner of the intersection of West Cleveland Avenue and North Schnoor Avenue (2340 and 2342 West Cleveland Avenue) in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. APN: 003-210-025

3. **PPL 2017-01 – Mesa Pointe Precise Plan**
   A noticed public hearing to consider a precise plan to allow for the development of five (5) new proposed home plans ranging in size from between 1,311 to 2,586 square feet on sixty-five (65) residential lots generally located southwest of the intersection of East Olive Avenue and South Knox Street in the PD-3000 (Planned Development) Zone District with an MD (Medium Density) General Plan land use designation. The Precise Plan will also provide for supporting development standards for the project. APN: Multiple

4. **CUP 2016-20 – Teran Residence Revocation**
   A noticed public hearing to consider revocation of Conditional Use Permit 2016-20, which allows for a residential use on a commercially zoned property located at the southwest corner of North C Street and East 5th Street (126 North C Street) in the C1 (Light Commercial) Zone District with a C (commercial) General Plan land use designation. APN: 007-111-001

**NON-PUBLIC HEARING ITEMS**

NONE

**ADMINISTRATIVE REPORTS**

1. Updates on current projects.

**COMMISSIONER REPORTS**

**ADJOURNMENT:** The next regular meeting will be held on May 9, 2017.
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. If you need special assistance to participate in a City meeting or other services offered by this City, please contact the Planning Department office at (559) 661-5430. Those who are hearing impaired, may call 711 or 1-800-735-2929 for TTY Relay Services. Any and all persons interested in this matter may provide comments.

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

Pursuant to Section 65009 of the Government Code of the State of California, notice is hereby given that if any of the foregoing projects or matters is challenged in Court, such challenge may be limited to only those issues raised at the public hearing, or in written correspondence delivered to the Planning Commission at or prior to the public hearing.

All Planning Commission actions may be appealed to the City Council. The time in which an applicant may appeal a Planning Commission action varies from 10 to 30 days depending on the type of project. The appeal period begins the day after the Planning Commission public hearing. There is NO EXTENSION for an appeal period.

If you have any questions or comments regarding this hearing notice, you may call the Planning Department at (559) 661-5430. Si usted tiene preguntas, comentarios o necesita ayuda con interpretación, favor de llamar el Departamento de Planeamiento por lo menos 72 horas antes de esta junta (559) 661-5430.
PROPOSAL: An application for a variance from the commercial sign standards of the Madera Municipal Code to allow for 281 square feet of on-building signage where only 225 square feet of on-building signage is allowed.

APPLICANT: United Sign Systems
OWNER: Edward Jong

ADDRESS: 1311 Country Club Drive
APN: 003-210-025

APPLICATIONS: VAR 2017-01
CEQA: Categorically Exempt

LOCATION: The property is located at the northeast corner of Country Club Drive and West Sherwood Way.

STREET ACCESS: The site has access to West Sherwood Way and Country Club Drive.

PARCEL SIZE: Approximately 6.24 acres

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C1 (Light Commercial)

SITE CHARACTERISTICS: The site is located in the commercial shopping center that was once utilized by the former K-Mart, Big Lots and Mervyns. Low-density residential and vacant properties are located to the north, the Arborpoint Apartments to the east, the Country Club Village shopping center to the south, and the Madera Auto Center to the west.

ENVIRONMENTAL REVIEW: The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15311 (Accessory Structures), which specifically exempts "on-premise signs."

SUMMARY: dd’s Discounts proposes the addition of a sixty-one (61) square foot on-building cabinet sign that increases the total on-building signage to beyond the maximum allowed by the City’s Sign Regulations. Approval of a variance from the Sign Regulations of the Madera Municipal Code is required by the Planning Commission. Findings necessary to support the variance request cannot be made.
APPLICABLE CODES AND PROCEDURES

MMC § 10-3.1401 Variances
MMC § 10-6.01 Sign Regulations – Purpose and Intent
MMC § 10-6.19 Minor Adjustments and Variances

The sign ordinance can have an obvious impact on the character, quality, and economic health of the City of Madera. As a prominent part of the scenery, signs may attract the viewing public, help set the visual tone of the community, and affect the safety of vehicular and pedestrian traffic. Application of the sign ordinance prevents the degradation of the visual quality of the City which can result from the proliferation of excessive amounts of signage, poorly designed signage, inappropriately located signage, and/or signage maintained in a hazardous or unsightly fashion.

A sign variance may be granted by the Planning Commission where practical difficulties, unnecessary hardships, or results that are inconsistent with the general purposes of the Zoning Ordinance may result from the strict and literal application of any of the provisions of the ordinance. If the Commission cannot make the appropriate findings, the variance request should be denied. Conditions may be attached to the approval of the variance 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.

PRIOR ACTION

Since its development in 1977, the former K-Mart structure has utilized multiple conditional use permits for outdoor sales between 1989 and 2000. No other discretionary action has been entitled on this property. A Master Sign Program was approved as part of the development of the K-Mart shopping center. The Master Sign Program includes additional signage for the majority of the tenants in the shopping center, except that it excludes K-Mart and Mervyn’s, and their successors, from its regulations.

ANALYSIS

Background

dd's Discounts is a successor to K-Mart, which excludes them from the shopping center’s Master Sign Program. Since dd's Discounts is excluded from the Master Sign Program, they are required to be consistent with the City’s sign ordinance. The sign ordinance describes a major tenant as “A tenant in a business center leasing a large portion of the leasable space in such center. The minimum size of a major tenant shall be 10,000 square feet.” The dd's Discounts gross floor area equates to approximately 28,800 square feet, which satisfies the requirement as a major tenant. The following table explains the maximum allowable on-building signage for a major tenant in a commercial zone district:

<table>
<thead>
<tr>
<th>Building Entrance Setback from Property Line</th>
<th>Allowable Sign Area Formula</th>
<th>Major Tenants Max. Allowable Sign Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than or equal to 150 feet to the nearest street property line</td>
<td>One Sq. Ft. per each linear foot of occupancy frontage</td>
<td>150 Sq. Ft.</td>
</tr>
<tr>
<td>More than 150 feet to the nearest street property line</td>
<td>One and one-half Sq. Ft. per each linear foot of occupancy frontage</td>
<td>200 Sq. Ft.</td>
</tr>
</tbody>
</table>
It should also be noted that when a building frontage faces a street frontage without a public entrance, additional on-building signage is allowed at one-half (1/2) square feet per each linear foot of occupancy frontage with a maximum of twenty-five (25) square feet.

dd’s Discounts proposed 220 square feet of on-building signage as part of their original sign permit in 2011. The building entrance is approximately seventy (70’) feet from the West Sherwood Way right-of-way and approximately 475 feet from the Country Club Drive right-of-way. Literal interpretation of the code would require a maximum allowable on-building signage of 175 square feet because West Sherwood Way is the nearest street property line to the building entrance. Staff viewed Country Club Drive as the primary street frontage for the shopping center because it is a corridor for commercial uses, whereas West Sherwood Way primarily serves residential uses. Staff’s liberal interpretation of the code allowed for an additional fifty (50) square feet for dd’s Discounts’ on-building signage, with a total maximum allowable of 225 square feet of on-building signage.

Proposed Signage
dd’s Discounts proposes to erect a new sixty-one (61) square foot on-building cabinet sign, which identifies products being sold in the store. This would equate to a total of 281 square feet of on-building signage where 225 square feet is allowed for. It should be noted that there are currently two (2) unpermitted signs that represent 54 square feet of additional (but unpermitted) on-building signage. This would equate to a total of 335 square feet of on-building signage. Staff recommends the unpermitted signs be removed from the structure.

Justification Letter
The applicant’s justification letter entails multiple criteria for justifying more than the maximum allowable on-building sign face area per the City’s Sign Ordinance. The criteria includes locational issues within the shopping center, neighboring businesses having grandfathered signs with larger on-building signage and disproportionate signage on their building fascia.

There are a few erroneous statements within the justification letter that should be addressed. The justification letter describes the total on-building signage, which includes the proposed cabinet sign, as 217 square feet. This calculation does not include the two small entrance plaques on the front of the structure, the channel letter sign on the south side of the structure and the unpermitted signage. The justification letter also describes the structure at 700 feet from the Country Club Drive right-of-way. Staff’s analysis from the original K-Mart site plan shows the structure is approximately 475 feet from the Country Club Drive right-of-way.

The justification letter also states, “The physical presence established by a larger sign is critical in the ultimate success of the store... If we were to incorporate the dd’s Discounts and the department listings cabinet sign into a 120 sq. ft. design, the elements would be so diminished that they would not be effective in their purpose of being legible from the street.” Staff believes that dd’s Discounts could benefit from better freestanding signage along the Country Club Drive right-of-way rather than additional on-building signage nearly 500 feet from that primary street.

Freestanding Signage
Currently, dd’s Discounts has one (1) freestanding multi-tenant cabinet sign that equates to a total of approximately fifty-six (56) square feet in sign face area and fourteen (14’) feet tall. The freestanding sign is shared by three tenants and each tenant has approximately 18 square feet of sign face area. This freestanding sign is located between two other freestanding cabinet signs serving individual tenants within the shopping center. The O’Reilly’s Auto Parts and Fallas each have an approximate 103
square foot cabinet sign at approximately twenty (20’) feet in height, and the Carl’s Jr. has a sixty-seven (67) square foot cabinet sign at fourteen (14’) feet tall. With only one-third of the potential signage they could have, dd’s Discounts suffers from a lack of freestanding signage rather than a lack of on-building signage. An enhancement to the freestanding signage for the tenants at the east end of the shopping center could help the stores with their ultimate future success.

Variance Applicability
MMC § 10-6.19 allows the Planning Director to grant minor adjustments to signage at their discretion, which allows up to a twenty-five (25%) percent increase to the maximum allowable signage for a business. The maximum allowable on-building signage area for this business is 225 square feet. With a minor adjustment, the maximum allowable on-building signage area would increase to 281 square feet. All proposed on-building signage equates to a total of 281 square feet.

Although the proposed on-building signage is equal to the maximum allowed with a minor adjustment, staff’s liberal interpretation of the code gave dd’s Discounts a tremendous increase in signage in lieu of requiring a sign variance. The approval of a variance from the Sign Regulations by the Planning Commission is appropriate in light of the fact that a conservative application of code would provide much less signage than currently permitted.

Variance Necessity
There are two (2) findings that need to be made in order to be able to grant a variance. The ordinance states those findings as follows:

1. Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this chapter may result from the strict and literal application of any of the provisions of this chapter, a variance may be granted as provided in this subchapter.

2. Variances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning regulations deprives such property of privileges enjoyed by other property in the vicinity under identical zoning classifications. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

Justification for Variance
Various obstructions make the on-building signage for dd’s Discounts difficult to see from Country Club Drive. The location of the dd’s Discounts within the shopping center is approximately 475 feet from the Country Club Drive right-of-way. Two (2) freestanding structures (O’Reilly’s Auto Parts and Carl’s Jr.) anchor the north and south corners of the shopping center, eliminating some of dd’s Discounts visibility from the street. Trees and other landscaping throughout the shopping center provide narrow sightlines for drivers to view the dd’s Discounts location.

While these obstacles provide a practical difficulty due to the location and surroundings of the dd’s Discounts structure, allowing additional on-building cabinet sign does not remedy the visibility issue or provide a viable solution when seeking additional attention to the business. The applicant’s justification letter discusses the need to identify their products, in the form of departments, to potential customers.
While this may be a valid need, the justification for variance to allow larger signage has not been adequately met. As noted earlier in the report, a more viable solution would be found in additional freestanding signage along the Country Club Drive right-of-way. Staff therefore recommends denial of the variance, as required findings for support cannot be made.

RECOMMENDATION

The information presented in this report supports denial of the variance. It is recommended that the Planning Commission consider the information in this report, together with testimony provided during the public hearing, and deny Variance 2017-01 subject to the findings outlined in this report.

PLANNING COMMISSION ACTION:

The Planning Commission will be acting on the request for Variance 2017-01, determining to either:

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

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

Motion 1: Move to deny the application for Variance 2017-01 based on the following findings:

Findings:

- This project is categorically exempt under Section 15311 (Accessory Structures) of the California Environmental Quality Act (CEQA) which specifically exempts on-premises signs.
- As conditioned, the cabinet sign will not be compatible with the surrounding properties because additional signage will negatively impact adjoining commercial uses.
- Because there is no special circumstances, practical difficulty, unnecessary hardship, or result inconsistent with the general purposes of this chapter that results from the strict and literal application of any of the provisions of this chapter, a variance to allow for additional on-building signage is not warranted.
- Although the site suffers from visual obstructions from the primary street (Country Club Drive) including deep depth (450 feet) from the primary street, two (2) freestanding structures and landscaping that provide narrow sightlines for drivers traveling on Country Club Drive, those hardships are not remedied by an allowance for 61 square feet of additional signage.
- As conditioned, the establishment, maintenance or operation of additional on-building cabinet signage will 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, and will be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City overall.

(OR)

Motion 2: Move to continue the public hearing for Variance 2017-01 to the May 9, 2017 Planning Commission hearing, to allow the following information to be provided or for the following reason(s): (specify)
(OR)

Motion 3: Move to approve the application for Variance 2017-01 based on and subject to the following findings (specify):

ATTACHMENTS
Aerial Photo
Applicant Justification Letter
Proposed Signage Exhibit
Applicant Justification Letter

DD’s Discounts
Country Club Center
1311 Country Club Center
Madera, CA

Justification for Variance

Background:
Ross Stores, Inc., parent company of DD's Discounts, currently operates 246 stores in the State of California. These stores have proven to be an asset to the Cities and the communities they serve. Opening the new DD's Discounts store at Country Club Center is evidence of Ross' intent to partner with the City of Madera, but they find that they need to expressly identify their product line to the multi-cultural community they serve. Therefore, DD's Discounts is applying for a variance for a larger area of their storefront sign than prescribed by the City's sign ordinance in order to accommodate an additional sign cabinet identifying their products. (The sign configuration shown has been Trademarked.)

The DD's Discounts store at Country Club Center will occupy 22,000 sq. ft. in the former Big Lots’ space. In September 2011, the City of Madera issued a permit for a 72" hi "dd's" and a 36" hi "Discounts" on the storefront and a 48" hi "dd's" and a 24" hi "Discounts" on the south side wall (Permit #02110950).

1. Special physical characteristics of the property that cause the requested improvement to not meet zoning codes.
   DD’s storefront is a over 700 feet from the Country Club Drive right-of-way. There are two (2) freestanding pad buildings along the frontage that obstruct a clear view of the store. The physical presence established by a larger sign is critical in the ultimate success of the store.

   In taking the prior Big Lots store, DD’s inherited a rather large storefront sign fascia. When the 120 sq. ft. sign is positioned on this large background, it looks disproportionately small and diminishes DD’s significant presence at the shopping center. We feel that the addition of the cabinet sign listing the departments will help customers further identify with the product offered while filling an obvious void on the storefront.

   If we were to incorporate the “dd’s Discounts” and the department listings cabinet sign into a 120 sq. ft. design the elements would be so diminished that they would not be effective in their purpose of being legible from the street.

   (Continued on page 2)
2. Other neighboring properties that have the same type of improvement that we are requesting.
   Other large tenants in Madera’s commercial zones have large signs where the permits were granted under more generous prior regulations, or through administrative remedy.

3. Special characteristics of the site that limits the ability to comply with code requirements.
   With this variance request, DD’s Discounts is seeking to remedy the perception the smaller sign promulgates while identifying their product to a diverse community. The addition of the proposed 2'-6" x 30'-0" wide cabinet sign will add 75 sq. ft. of sign area, making the total sign area of the storefront sign 217.0 sq. ft. While exceeding the provisions of the sign ordinance, the proposed signage looks balanced and proportionate to the existing "dd's Discounts" sign letters and to the storefront.

We feel that the purposes of the Madera Municipal Code would be advanced by the requested deviations from the Zoning Ordinance requirements and the benefits of such a deviation will substantially outweigh the detriment due to ineffective identification, visibility and traffic safety.
Proposed Signage Exhibit

Existing Non-Permitted Signage

Proposed Signage (61 sf cabinet)
PROPOSAL: An application for a conditional use permit and site plan review to allow for the establishment of an athletic fitness club in an approximate 2,900 square foot tenant suite within the Hallmark Town Center.

APPLICANT:  Sanjiv Chopra

OWNER:  HPC Hallmark Investors

ADDRESS:  2340 & 2342 West Cleveland Avenue

APN:  006-390-016

APPLICATION:  CUP 2017-03 & SPR 2017-04

CEQA:  Categorical Exemption

LOCATION:  The project site is located at the southwest corner of West Cleveland Avenue and North Schnoor Avenue.

STREET ACCESS:  The site has access to West Cleveland Avenue, North Schnoor Avenue and Stephanie Lane.

PARCEL SIZE:  One parcel encompassing approximately 7.93 acres.

GENERAL PLAN DESIGNATION:  C (Commercial)

ZONING DISTRICT:  C1 (Light Commercial)

SITE CHARACTERISTICS:  The project site is located within the Hallmark Town Center, which includes primary businesses such as Food 4 Less, Taco Bell, China Kitchen and Fitness Evolution. An office complex is located to the north, vacant and residential uses to the west and south, and McDonald’s, Office Depot and the North Point shopping center to the east.

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

SUMMARY:  Fitness Evolution proposes to add an athletic fitness club space in an approximately 2,900 square foot tenant space. The proposed space is separate from their current 10,000 square foot tenant space within the Hallmark Town Center. There is adequate parking to serve the use and minor improvements to the site, including upgrades to the water meter and ADA ramp, guide the site to the current City standard.
APPLICABLE CODES AND PROCEDURES

MMC § 10-3.801 Light Commercial Zones
MMC § 10-3.4.0102 Site Plan Review Applicability
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.

The City’s General Plan indicates that land designated as C (Commercial) is appropriate for development of commercial activities. The City’s Zoning Ordinance also allows for a variety of retail uses in the C2 (Heavy Commercial) Zone District, including the operation of an athletic fitness club, subject to the approval of a conditional use permit by the Planning Commission.

PRIOR ACTION

Site Plan Review 1990-06 guided the development of the Hallmark Town Center. Since its development, various use permits have been approved for drive-thru lanes, alcohol sales, a laundromat, a shaved ice stand and an athletic fitness club.

ANALYSIS

Background
In September of 2016, Fitness Evolution submitted tenant improvement plans to combine two suites encompassing approximately 2,900 square feet of gross floor area in Hallmark Town Center to accommodate the fitness club operations, separate from their current tenant suite. Staff informed the business of the requirement for a new Conditional Use Permit (CUP) and Site Plan Review (SPR) to allow for the athletic fitness use. As an alternative, staff advised Fitness Evolution of amending their existing use permit (Conditional Use Permit 1997-04) to include this new athletic fitness use as a component of the other existing business. Fitness Evolution began using the new tenant spaces for group exercise activities without making physical improvements, and informed staff that they would be submitting a new CUP and SPR. Since September of 2016, staff has collaborated with Fitness Evolution in obtaining the required submittals while the athletic fitness use has been in operation. It should be noted that if either athletic fitness business closes, the other could still operate.

Operations
Fitness Evolution proposes to establish an athletic fitness club in two (2) tenant suites encompassing approximately 2,900 square feet within the Hallmark Town Center. The applicant proposes to demolish the wall and turn both suites into one (1) suite. This athletic fitness club is physically separate from their existing athletic fitness club at the southeast corner of the shopping center. The applicant’s business model would include group exercise classes, like Zumba. It should be noted that although the operational statement describes the use as “personal training,”
it would not include one on one training, rather group classes and exercises. The anticipated maximum number of visitors per day would be fifty (50). The hours of operation for the business would be as follows:

- Monday – Thursday: 5:00 a.m. – 11:00 p.m.
- Friday: 5:00 a.m. – 9:00 p.m.
- Saturday – Sunday: 7:00 a.m. – 7:00 p.m.

**Parking**

City parking standards for an athletic fitness club requires a ratio of one stall per each 200 square feet of gross floor area, or a ratio of one stall per each three (3) members and one stall per each two (2) employees, whichever is greater. This would translate into a total of approximately fifteen (15) required parking stalls. The shopping center has a total of 435 on-site parking stalls, with an additional ten (10) handicap accessible stalls. The parking requirements for all uses on the site are listed in the table below:

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Use</th>
<th>Parking Ratio</th>
<th>Area/No. of Seats</th>
<th>Parking Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitness Evolution</td>
<td>Fitness Club</td>
<td>1:200</td>
<td>10,000 sf</td>
<td>50 stalls</td>
</tr>
<tr>
<td>Little Caesars</td>
<td>Retail Food</td>
<td>1:250</td>
<td>1,265 sf</td>
<td>5 stalls</td>
</tr>
<tr>
<td>Fitness Evolution</td>
<td>Fitness Club</td>
<td>1:200</td>
<td>2,900 sf</td>
<td>5 stalls</td>
</tr>
<tr>
<td>Traditions of India</td>
<td>Retail</td>
<td>1:300</td>
<td>1,400 sf</td>
<td>5 stalls</td>
</tr>
<tr>
<td>Supercuts</td>
<td>Retail</td>
<td>1:300</td>
<td>1,426 sf</td>
<td>5 stalls</td>
</tr>
<tr>
<td>Don Roberto Jewelers</td>
<td>Retail</td>
<td>1:300</td>
<td>3,340 sf</td>
<td>11 stalls</td>
</tr>
<tr>
<td>Food 4 Less</td>
<td>Retail Food</td>
<td>1:250</td>
<td>40,320 sf</td>
<td>161 stalls</td>
</tr>
<tr>
<td>Furniture Town</td>
<td>Retail Bulky Merchandise</td>
<td>1:400</td>
<td>3,850 sf</td>
<td>10 stalls</td>
</tr>
<tr>
<td>Fashion Outlet</td>
<td>Retail</td>
<td>1:300</td>
<td>5,150 sf</td>
<td>17 stalls</td>
</tr>
<tr>
<td>West Coast Beauty</td>
<td>Retail</td>
<td>1:300</td>
<td>2,240 sf</td>
<td>7 stalls</td>
</tr>
<tr>
<td>Vacant</td>
<td>Retail</td>
<td>1:300</td>
<td>2,100 sf</td>
<td>7 stalls</td>
</tr>
<tr>
<td>Liquor Plus</td>
<td>Retail Food</td>
<td>1:250</td>
<td>2,115 sf</td>
<td>8 stalls</td>
</tr>
<tr>
<td>Las Tres-B Beauty Salon</td>
<td>Retail</td>
<td>1:300</td>
<td>705 sf</td>
<td>2 stalls</td>
</tr>
<tr>
<td>Metro PCS</td>
<td>Retail</td>
<td>1:300</td>
<td>940 sf</td>
<td>3 stalls</td>
</tr>
<tr>
<td>China Kitchen</td>
<td>Restaurant</td>
<td>1:3 seats</td>
<td>30 seats</td>
<td>10 stalls</td>
</tr>
<tr>
<td>Cost-U-Less</td>
<td>Retail</td>
<td>1:300</td>
<td>1,551 sf</td>
<td>5 stalls</td>
</tr>
<tr>
<td>Deli Delicious</td>
<td>Restaurant</td>
<td>1:3 seats</td>
<td>24 seats</td>
<td>8 stalls</td>
</tr>
</tbody>
</table>

Total Required Parking Stalls: 319 stalls
Total Provided Parking Stalls: 435 stalls

With 319 parking stalls required in the shopping center, there is an adequate number of parking stalls to serve the use.

**Site Improvements**

Conditions of approval require ADA compliance with non-compliant ramps and upgrades to the existing water meter. The interior improvements include removing the existing wall between the two suites. Restroom improvements may also be triggered in order to comply with the plumbing code, based on the proposed occupancy and occupant load.

The proposed conditional use permit and site plan review were 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

Though approval of an allowance for an athletic fitness club 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 …”

RECOMMENDATION

The information presented in this report supports approval of the conditional use permit request. It is recommended that the Planning Commission consider the information in this report, as well as testimony in the public hearing, and approve Conditional Use Permit 2017-03 and Site Plan Review 2017-04 subject to the findings and conditions of approval outlined in this report.

PLANNING COMMISSION ACTION

The Planning Commission will be acting on the use permit and site plan review.

Motion 1: Move to approve Conditional Use Permit 2017-03 and Site Plan Review 2017-04, based on and subject to the following findings and conditions of approval:

Findings

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

- A dance studio is consistent with the purposes of the C (Commercial) General Plan designation and the C1 (Light Commercial) Zone District which provide for the use, subject to the issuance of a conditional use permit.

- As proposed, there is adequate parking and site features to allow for the proposed athletic fitness club.

- As conditioned, the development will be compatible with surrounding properties.

- As conditioned, the establishment, maintenance or operation of the athletic fitness club 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.
3. Conditional Use Permit 2017-03 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. Conditional Use Permit 2017-03 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.

5. Site Plan Review 2017-04 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. Conditional Use Permit 2017-03 and Site Plan Review 2017-04 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 Site Plan Review 2017-04.

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. Building permits are required for any tenant improvements. 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 the permit stage and confirmed at final inspection.

12. Provide restrooms that comply with the requirements of Chapter 4 of the California Plumbing Code based on square footage of the occupant space and occupant load.

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 the required fees for completion of the project. Fees due may include, but shall not be limited to, the following: encroachment permit processing and improvement inspection fees.

15. Improvements within the City right-of-way require an encroachment permit from the Engineering Department.

**Streets**

16. The developer shall reconstruct/upgrade the existing handicap access ramps located at the north of the southernmost driveway approach on the North Schnoor Avenue project parcel to current ADA standards. If the applicant believes that a hardship waiver is applicable based on the cost of this improvement in relation to overall project costs, a request for waiver may be submitted for consideration and an ultimate determination by the City.

**Water**

17. Existing water service connection(s) that feeds the project suite shall be upgraded to include an Automatic Meter Reading (AMR) water meter per City standards.

**Fire Department**

18. Two (2) legal means of egress are required and must be maintained if the occupant load exceeds 49.

19. Panic hardware is required if the occupant load exceeds 49.

20. Exit signs and emergency lighting are required and must be maintained if the occupant load exceeds 49.

21. Interior improvements shall require a building permit.

22. A key box is required. If a key box has already been provided, then a new key compatible with the new locks is required.

23. One 2A10BC-rated fire extinguisher is required. The fire extinguisher shall be mounted in a visible and accessible location.

**Planning Department**

**General**

24. Vandalism and graffiti shall be corrected per the Madera Municipal Code.

25. The applicant shall operate in a manner that does not generate noise, odor, blight or vibration that adversely affects any adjacent properties.

26. 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. Outdoor storage of goods or materials shall not be allowed.

27. The applicant shall comply with all federal, state and local laws. Material violation of any of those laws concerning the use will be cause for revocation of Conditional Use Permit 2016-16.
28. The project shall be developed in accordance with the conditions of approval of the use permit.

**Operations**

29. Conditional Use Permit 2017-03 allows for the establishment of an athletic fitness club in an approximate 3,150 square foot tenant suite within the Hallmark Town Center.

30. Hours of operation shall be from as early as 8:00 a.m. until as late as 11:00 p.m., seven (7) days a week.

31. Changes or expansions in the use shall require amendment of Conditional Use Permit 2017-03.

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. No outdoor activities are permitted as a component of the business.

**Landscaping**

34. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping. 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 plantings.

**Signage**

35. 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 2017-03 and Site Plan Review 2017-04 to the May 9, 2016 Planning Commission hearing for the following reasons: (specify)

**OR**

**Motion 3:** Move to deny the application for Conditional Use Permit 2017-03 and Site Plan Review 2017-04, based on and subject to the following findings: (specify)

**ATTACHMENTS**

Aerial Photo
Site Plan
Floor Plan
Mesa Pointe Precise Plan

PPL 2017-01

Item #3 – April 11, 2017

Staff Recommends this item be continued to the May 9th, 2017 Planning Commission meeting.
Staff Report:  Teran Residence Revocation
CUP 2016-20
Item #4 – April 11, 2017

PROPOSAL:  A noticed public hearing to consider revocation of Conditional Use Permit 2016-20 allowing for a residential use on a commercially zoned property.

APPLICANT:  Israel Teran  
OWNER:  Israel Teran
ADDRESS:  126 North C Street  
APN:  007-111-001
APPLICATIONS:  CUP 2016-20  
CEQA:  Categorical Exemption

LOCATION:  The property is located at the southwest corner of North C Street and East 5th Street.

STREET ACCESS:  The site has access to North C Street.

PARCEL SIZE:  Approximately 14,678 square feet in area.

GENERAL PLAN DESIGNATION:  C (Commercial)

ZONING DISTRICT:  C1 (Light Commercial)

SITE CHARACTERISTICS:  The other properties at the intersection of North C Street and East 5th Street consist of two (2) vacant lots and one (1) church.  There is a various mix of retail and office uses south and west of the site, including a Chase Bank, Union Bank and the former Serrano’s Furniture store.  There are various densities of residential development north and east of the site.

ENVIRONMENTAL REVIEW:  The current review of the use permits and site plan review has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) guidelines, Section 15306, (Information Collection).

SUMMARY:  The site is not in compliance with the conditions of approval for Conditional Use Permits 2016-20 and Site Plan Review 2016-36.  Outreach to assist the applicant in attaining compliance has been unsuccessful.  No substantive change in compliance has been observed since the review of the use and compliance remains at 36 percent.
APPLICABLE CODES AND PROCEDURES

MMC §10-3.1002, Industrial Zones, Uses Permitted
MMC § 10-3.1301 Use Permits

PRIOR ACTION

The use permit and site plan review were conditionally approved by the Planning Commission on September 13, 2016. A review of the use was completed on March 14, wherein the Planning Commission scheduled the use permit for public hearing to consider possible revocation.

ANALYSIS

History
Conditional Use Permit 2016-20 and Site Plan Review 2016-36 were submitted with the intent of resolving code enforcement citations active on the project site while providing the property owner specific allowances as to how he might utilize the property.

The property was originally developed as a single family residential property. Being located less than one block away from East Yosemite Avenue (the historic commercial main street of the City), the site was at some point in the past rezoned into the C1 (Light Commercial) Zone District in expectation of the expansion of the downtown commercial area.

In 2011, the residence was converted into a commercial business without completing a required site plan review. Although staff did extensive outreach to the property owner, no corrective steps were taken and the site continued to function as a commercial property for the next five years. A site plan review was required at time of conversion in order to logically convert the residential property into commercial usage. Compliance with parking regulations, Americans with Disabilities Act (ADA) compliance, signage and other commercial development standards would have been addressed as components of the site plan review. Despite multiple efforts to assist the property owner with conversion of the property to commercial uses, no site plan review was ever processed. The conversion of the property to a commercial use did however extinguish the existing nonconforming “grandfathered” status of the residence.

Ultimately, in 2016, in order to resolve compliance issues and remove the burden of completing required commercial improvements, the applicant requested to again utilize the commercial property as a residence. The establishment of a residential use in the C1 (Light Commercial) Zone District required that a conditional use permit first be secured from the Planning Commission. The applicant submitted application for the use permit, which was conditionally approved by the Planning Commission on September 16, 2016.

In advance of the use permit submittal, staff provided alternatives to the property owner which would have allowed the use of the property for commercial purposes only, for residential purposes only, or as a mixed-use property where the home could have been used as a residence and a commercial business. The applicant ultimately chose to process the use permit for only a residential home. The degree of improvements necessary to return the property to residential use was considered to be minimal in comparison to improvements necessary to convert the house to commercial use.

Since approval of the use permit, the conditions of approval designed to facilitate the use of the property as a residential home have not been addressed in any meaningful fashion. No general inspection by the Building Official for compliance with residential codes has been completed, fencing has not been resolved, signage issues and minor improvements to the public right-of-way have not been completed. In sharp contrast to the stated purpose of the application for use
permit, the applicant has instead continued the use of the property as a commercial property, with neon signs in the front windows and the front of the structure being converted into a professional office. The applicant and his family also live within the structure.

Findings of Review
Attached please find a matrix of the conditions of approval for Conditional Use Permit 2016-20 and Site Plan Review 2016-36. These conditions were evaluated by staff for compliance on multiple occasions, the last inspection occurring on April 4, 2017. Shaded conditions of approval are currently not in compliance. Of the twenty-two (22) conditions of approval, thirteen (13) need attention in order to be in compliance with the conditions of approval. Compliance with nine (9) of twenty-two (22) conditions equates a forty-one (41%) percent compliance rate.

Although the last inspection identified no visible commercial activities occurring at that time, no substantive progress has been made towards meeting the conditions of approval which would allow the residential use in the commercial zone. Even fundamental conditions such as completing an inspection by the Building Official remain unsatisfied, cumulatively leading to this recommendation to revoke the use permit.

SUMMARY OF RECOMMENDATIONS

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 revocation of Conditional Use Permit 2016-20.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permits 2016-20, determining to either:

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

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

Motion 1: Move to revoke Conditional Use Permit 2016-20 effective immediately, based on and subject to the following findings.

Findings

- Conditions of approval for Conditional Use Permit 2016-20, Nos. 4, 7, 8, 10 through 15, 17, 18, 20 and 22, adopted by the Planning Commission, are not in compliance.

- 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.
(OR)

Motion 2: Move to find that the revocation of Conditional Use Permit 2016-20 is not warranted at this time for the following reasons (Specify):

ATTACHMENTS

Aerial Map
Zoning Map
Conditions of Approval Compliance Matrix
Site Photos
## Conditions of Approval Compliance Matrix

<table>
<thead>
<tr>
<th>Condition</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>Received.</td>
</tr>
<tr>
<td>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.</td>
<td>Procedural.</td>
</tr>
<tr>
<td>3. Conditional Use Permit 2016-20 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.</td>
<td>Procedural.</td>
</tr>
<tr>
<td>4. Conditional Use Permit 2016-20 and Site Plan Review 2016-36 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, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to revoke the permit or modify the conditions of approval.</td>
<td>Not in compliance. Inspections completed.</td>
</tr>
<tr>
<td>5. Site Plan Review 2016-36 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code and a request to extend the approval is received before the expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).</td>
<td>Procedural.</td>
</tr>
<tr>
<td>6. 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 Site Plan Review 2016-36.</td>
<td>Procedural.</td>
</tr>
<tr>
<td>7. 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.</td>
<td>No inspection scheduled.</td>
</tr>
<tr>
<td>8. A building permit is required for any changes to the original floor plan and/or any proposed changes to the current floor plan. The applicant shall apply for a general inspection building permit for the structure on or before September 20, 2016, and shall complete the inspection on or before October 1, 2016. Any correction(s) identified by the Building Official shall be completed per the direction of the Building Official on or before January 1, 2017.</td>
<td>No general inspection ever scheduled.</td>
</tr>
<tr>
<td>9. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.</td>
<td>In compliance.</td>
</tr>
<tr>
<td>10. The developer shall pay all required fees for completion of the project. Fees due may include, but shall not be limited to, the following: encroachment permit processing and improvement inspection fees.</td>
<td>No action by applicant.</td>
</tr>
<tr>
<td>11. Improvements within the City right-of-way shall require an Encroachment Permit from the Engineering Division.</td>
<td>No encroachment permit requested.</td>
</tr>
<tr>
<td></td>
<td>Requirement</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>12.</td>
<td>The developer shall reconstruct/upgrade the existing handicap access ramp located at the southwest corner of North C Street and East 5th Street to current ADA standards. If the applicant believes that a hardship waiver is applicable for this condition based on the cost of these improvements in relation to overall project costs, a request for waiver may be submitted for consideration and an ultimate determination by the City.</td>
</tr>
<tr>
<td>13.</td>
<td>The developer shall replace approximately six lineal feet (6’) of substandard curb along the North C Street frontage.</td>
</tr>
<tr>
<td>14.</td>
<td>The developer shall repair the 4’ x 5’ block of damaged sidewalk along East 5th Street and the 5’ x 8’ block of damaged sidewalk along South C Street per City standards.</td>
</tr>
<tr>
<td>15.</td>
<td>Existing sewer service connection shall be upgraded to current City standards including cleanout, if not already installed.</td>
</tr>
<tr>
<td>16.</td>
<td>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/or refuse containers owned by the property owner.</td>
</tr>
<tr>
<td>17.</td>
<td>The applicant shall remove any and all commercial materials from the property. The property shall not be used to store any materials not associated with the utilization of the property for residential purposes.</td>
</tr>
<tr>
<td>18.</td>
<td>The applicant shall comply with all federal, state and local laws. Material violation of any of those laws concerning the use will be cause for revocation of this permit.</td>
</tr>
<tr>
<td>19.</td>
<td>Conditional Use Permit 2016-20 allows for a single-family residential use on a C1 (Light Commercial) Zone District property. Only activities typical of a single family residential home shall occur on the property.</td>
</tr>
<tr>
<td>20.</td>
<td>The fence between the rear of the property and the front line of the main building shall be reduced to be no taller than six feet (6’) in height. The fence shall also be relocated to inside of property line wherever the fence encroaches into the public right-of-way. Any fence proposed to be constructed between the front of the property and the front line of the main building shall be no taller than three feet (3’) in height.</td>
</tr>
<tr>
<td>21.</td>
<td>The property owner shall maintain all landscaping in a healthy and well-manicured appearance. This includes, but is not limited to; ensuring irrigation equipment is properly operating at all times, trimming and pruning trees and shrubs and replacing dead or unhealthy vegetation with drought tolerant plantings.</td>
</tr>
<tr>
<td>22.</td>
<td>All commercial signage (or signage indicating any business activity on or off the property) shall be removed from the property. No signage, either permanent or temporary, shall be erected on the property.</td>
</tr>
</tbody>
</table>