

**CITY OF MADERA PLANNING COMMISSION
REGULAR MEETING
January 13, 2015**

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

ROLL CALL

PRESENT: Commissioner Shirley Driggs (Vice Chairperson)
Commissioner Kenneth Hutchings
Commissioner Ruben Mendoza
Commissioner Bruce Norton
Commissioner Pamela Tyler
Commissioner Jim DaSilva

ABSENT: Commissioner Robert Gran, Jr. (Chairperson)

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

PLEDGE: Commissioner Driggs led the Pledge of Allegiance.

PUBLIC COMMENT: None

ANNOUNCEMENT

Items distributed after delivery of meeting packets are available at the back of the room.

NON-PUBLIC HEARING ITEMS

NP1. Election of Chairperson and Vice-Chairperson for 2015

The Commission opened nominations for Chairperson.
Commissioner Norton nominated Commissioner Hutchings for Chairperson;
Commissioner Mendoza seconded the motion; motion was carried unanimously.

The Commission opened nominations for Vice-Chairperson.
Commissioner Norton nominated Commissioner Mendoza for Vice-Chairperson;
Commissioner Hutchings seconded the motion; motion was carried unanimously.

Chairperson Hutchings proceeded with the meeting.

APPROVAL OF MINUTES

Motion made by Commissioner Driggs; seconded by Commissioner Norton to approve the Minutes December 9, 2014; motion was carried unanimously.

CONSENT ITEMS

C1. SPR 2009-21 EXT2 & Multiple CUP Extensions – Foxglove Shopping Center

A request for extension of an approved site plan review and various conditional use permits in support of the development of a retail shopping center. The project site is located on the southeast corner of Schnoor Avenue and Foxglove Way in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation. (APN: 013-160-005 & 013-160-16)

Brent Richardson, City Attorney was asked and responded that there was no need for a presentation on consent items.

Motion made by Commissioner Driggs; seconded by Commissioner DaSilva to approve the requested Time Extension to February 12, 2016, for Site Plan Review 2009-21 and Conditional Use Permits 2013-04, 05, 06 and 07, subject to the original conditions of approval; motion was carried unanimously.

PUBLIC HEARING ITEMS

1. CUP 2014-25 & SPR 2014-38 - Verizon Rooftop Wireless Facility

A noticed public hearing to consider a request for conditional use permit and site plan review to allow for the installation of a rooftop cellular wireless telecommunications facility to be located on the roof of the existing Quality Inn located at 317 North G Street in the C2 (Heavy Commercial) Zone District, with a C (Commercial) General Plan land use designation (APN: 006-095-010). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

Christopher Boyle, Planning Manager advised the Commission that staff requests that the item be continued.

Motion made by Commissioner Driggs; seconded by Commissioner Norton to continue the public hearing for Conditional Use Permit 2014-25 and Site Plan Review 2014-38 to the February 10, 2015 Planning Commission hearing; motion was carried unanimously.

2. PPL 2014-01 MOD – Capistrano 16 Precise Plan Modification

A noticed public hearing to consider a request for modification of Precise Plan 2014-01 allowing for a change in the approved home plans and amendment of certain development standards applicable to the 103-lot Capistrano 16 subdivision generally located north of Almond Avenue and east of Westberry Boulevard in the PD-4500 (Planned Development) Zone District with an LD (Low Density) General Plan land use designation (APN: 009-600-006). The proposed modification is consistent with development anticipated in the Negative Declaration. No additional environmental review is required in conjunction with the modification.

Christopher Boyle, Planning Manager summarized the report. The proposed modification of Precise Plan 2014-01, as conditioned, provides compatibility between existing land uses, the Zoning Ordinance and the Madera General Plan. Staff recommends conditional approval of the modification.

The item was opened for public comment.

Applicant, Mitch Covington, PO Box 3376, Pinedale, CA was asked and stated that he is in agreement with the findings and conditions of approval which do not include his request

that the Planning Manager be allowed to add or subtract home models from the precise plan.

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

Motion made by Commissioner Norton; seconded by Commissioner Mendoza to approve Precise Plan 2014-01 MOD to allow for the modification of the precise plan for Capistrano XVI based on and subject to the findings and conditions of approval; motion was carried unanimously.

3. PPL 2002-04 MOD3 – Cottonwood Estates II, Phase 4 & Phase 5 Precise Plan Modification

A noticed public hearing to consider a request for modification of Precise Plan 2002-04 allowing for the addition of two new home plans, 1,700 and 2,023 square foot each, for construction in the Cottonwood II subdivision. Five (5) other models were approved as part of Precise Plan 2002-04 MOD2, ranging in size from 2,199 to 2,849 square feet. The Cottonwood Estates subdivision is located west of North Granada Drive and south of West Cleveland Avenue in the PD-8000 and PD-6000 (Planned Development) Zone District with an LD (Low Density) General Plan land use designation (APN: Multiple). The proposed modification is consistent with development anticipated in the Negative Declaration. No additional environmental review is required in conjunction with the modification.

Commissioner DaSilva recused himself from this item as Lee's Concrete pours foundations for Crown Homes. Commissioner DaSilva left the room.

Christopher Boyle, Planning Manager summarized the report. The proposed new home floor plans and elevations are comparable to the originally approved models and, as conditioned, are consistent with the goals and policies of the General Plan. Approval of the modification to the precise plan is recommended.

The item was opened for public comment.

Applicant, Joseph Crown, 4337 W. Nolan Street, Suite #110 spoke in favor of this project. Designer, Ubaldo Garcia, 156 Asilomar Drive, Madera, CA spoke in favor of this project.

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

Motion made by Commissioner Driggs; seconded by Commissioner Norton to approve Precise Plan 2002-04 MOD3 to allow for the modification of the precise plan for Cottonwood Estates II to include the addition of two new floor plans and elevations, based on and subject to the findings and amended conditions of approval; motion was carried unanimously.

New Condition

A ten (10') foot rear yard setback may be allowed when site constraints warrant, per the discretion of the Community Development Director.

Commissioner DaSilva was asked back into the room.

4. Emily Way Apartments

- **Consideration of Adoption of a Negative Declaration**
- **REZ 2014-01 & PPL 2014-02**

A noticed public hearing to consider a request to rezone 2.39-acres from the PD-3000 (Planned Development) Zone District to the PD-1500 (Planned Development) Zone District to allow for the development of a fifty-four (54) unit multifamily apartment complex with associated infrastructure. The apartment complex would include 18 one-bedroom, 18 two-bedroom, and 18 three-bedroom units distributed within three structures. All construction would be three stories high. The project site is located in the HD (High Density) General Plan land use designation (APN: 012-253-002).

Christopher Boyle, Planning Manager summarized the report. Staff recommends adoption of a Resolution recommending to the City Council adoption of a Negative Declaration, adoption of an ordinance rezoning the property and adoption of a precise plan for the project site.

The item was opened for public comment.

Project Architect, Gary Rogers of 425 S. Madera Avenue, Madera, CA spoke in favor of the project. Mr. Rogers stated that they are in agreement with all the conditions of approval except for Conditions #64 and #70. Mr. Rogers would like the conditions to reflect that the word "remove" be changed to adjust or adapt.

Mr. Boyle stated that the conditions could be prefixed as:
"Except as allowed for by the City Engineer and/or Fire Marshall,"

Keith Helmuth, City Engineer agreed with the proposed verbiage.

Mr. Rogers was asked and responded that he was comfortable with the prefix phrase.

Applicant, Ben Penfield of McClure Enterprises, 3317 M Street, Merced, CA spoke in favor of the project.

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

Motion 1 made by Commissioner Driggs; seconded by Commissioner Norton to adopt the Negative Declaration with the following finding; motion was carried unanimously.

Finding

An initial study and negative declaration have been prepared pursuant to the California Environmental Quality Act that determines that there is no substantial evidence that the project will have a significant effect on the environment, and that the document reflects the independent judgment of the Planning Commission of the City of Madera after considering all of the information in the entire record before it, and is hereby adopted in accordance with the California Environmental Quality Act.

(AND)

Motion 2 made by Commissioner Driggs; seconded by Commissioner Tyler to adopt a Resolution recommending to the City Council approval of Rezone 2014-01 and Precise Plan 2014-02 for the subject property, based on and subject to the findings, amended

conditions of approval and amendment to Item #2 of the Resolution; motion was carried unanimously.

Amendments

Resolution Item #2: Based upon.....and is hereby recommended for adoption.....

Change to: Based upon.....and has hereby been adopted.....

Condition #64: Add the following phrase to the beginning of the condition:

"Except as allowed for by the City Engineer and/or Fire Marshall,"

Condition #70: Add the following phrase to the beginning of the condition:

"Except as allowed for by the City Engineer and/or Fire Marshall,"

5. CUP 2002-07 MOD - Review of Rescue Mission Use Permit

A noticed public hearing for review of the conditional use permit (CUP 2002-07 MOD) allowing for the operation of the Madera Rescue Mission 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. The approximately two acre complex includes a Men's Shelter, a Women's Shelter, several storage and accessory structures, and an office. The review will assess compliance with the conditions of approval governing the use permit (APNs: 008-062-006, 007 & 033). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15303.

Christopher Boyle, Planning Manager summarized the report. The review is required per the conditions of approval for CUP 2002-07 MOD. The information contained herein demonstrates that the Madera Rescue Mission is operating in non-compliance with the conditions of approval. Staff recommends a 90 day review period for corrective steps to be taken by the Rescue Mission to achieve full conformance.

Commissioner DaSilva asked Staff who responded that a 4-way stop has not been considered at that site. A Warrant Study to check for safety issue such as number of accidents, etc would be required before a 4-way stop could be installed. Warranted or unwarranted, a 4-way stop could lead to accidents that didn't exist before.

Commissioner Norton asked Staff if the wrought iron fence would have to be removed in 90 days. Staff responded that any activities that occur on the property (in that it is a use permit) are guided by the Conditions of Approval of the Use Permit, including the wrought iron fence. The fence could be allowed for in its present location per the Use Permit, because you could never put a fence in that location in an R2 Zone. The fence would need to be re-constructed in a location that acknowledges the requirements of the Engineering Department for a 25 foot corner cutoff, so that visibility at the intersection is not compromised by the fence.

Commissioner DaSilva indicated that the fence now has a corner cutoff. He believes it has been set back 25 feet. Mr. Boyle stated that if it has been set back, the City Engineer could inspect the fence to see if it satisfies the required 25 foot cutoff which would be in keeping of what staff would have approved had staff been allowed to provide for comments in advance of its installation.

Commissioner Norton asked if everything on the list needed to be done and completed in the 90 days in order to continue with their operating permit or at least a good attempt at getting it done. Mr. Boyle stated that what they would like to see is full conformance within

those 90 days; what happens after that is at the discretion of the Planning Commission. Staff would like to come back to the Planning Commission in 90 days and show that there is full conformance and improved compatibility with the neighborhood, so that staff is not fielding complaints like they've been doing in recent months. After 90 days, they will re-review the use and the Planning Commission could request additional reviews or alter the conditions for more alternatives.

Commissioner Mendoza stated that there seem to be many traffic violations according to the pictures provided in the staff report. Staff was asked and responded that no one has proposed making a 1-way street from Clinton Street to Hwy 145. Making any street a 1-way street would require a more expansive study.

Mr. Boyle acknowledged that there are traffic concerns at that intersection which are compounded by a red curb not maintained.

Commissioner DaSilva commented and asked staff to confirm that the Rescue Mission was given one (1) year to take care of the conditions and they still have 15 items in non-compliance and now would be given another 90 days to do those 15 items. Mr. Boyle confirmed that was the recommendation. Commissioner DaSilva reiterated that they had a year to complete their conditions, but haven't completed them one (1) year. Mr. Boyle responded that was correct.

The item was opened for public comment.

Mike Unger, Rescue Mission Executive Director signaled an audience member to step forward first.

Mariselda Leon of Madera, CA stated that she is not necessarily opposed to the Mission at this site, but is opposed and has many concerns as to how the Mission operates their extra activities and some of their daily operations. Ms. Leon stated that she has included a letter and many pictures. She does not go out of her way to get these pictures. These are pictures that she takes as she is driving by the site. She drives by this site at least four (4) times a day. The pictures show what she deals with during events or certain times of the day. Most of her concerns are safety related, traffic concerns or due to noise. Ms. Leon asked the Commission if they had any questions, additional information or needed any pictures explained. Ms. Leon indicated that the first pictures dealing with traffic issues were taken within a week after the Rescue Mission was first approved a year ago.

Commissioner Norton stated that the pictures of contractors wasn't anything the Mission could control. Ms. Leon stated that they were the Mission's contractors.

Commissioner Norton asked if the pictures show people using the facility or was it a contractor who was parked there for a day and was gone and was never a problem again. Ms. Leon stated that all of the pictures of contractors are on different occasions.

Commissioner Norton stated that it was a one-time thing, the work is done and complete and the contractors are gone and if he went by the site today, it would be very unlikely that anyone would be parked in the wrong direction on the street. Ms. Leon stated that was untrue. It would not be the contractor, because he is not there anymore.

Commissioner Norton asked if it was it normal traffic, people using the facility or just the contractors who parked the wrong direction. Ms. Leon stated that in the pictures where it says it's the contractor, then it is just the contractor.

Commissioner Norton stated that he was talking about the two pictures where there is a vehicle parked the wrong direction on the street on the curb. Ms. Leon responded that in those pictures, it was contractors, but it isn't always just contractors.

Commissioner Norton asked how often traffic is parked that way. Ms. Leon answered, "at least once a week".

Commissioner Norton asked, "but if they are not contractors they are just....". Ms. Leon stated that they are people at the Mission; they are waiting with their friends, they're dropping people off, they're picking people up.

Commissioner Norton asked, "and they are parked up on the curb?" Ms. Leon answered that they are on the curb, in front of the red curb or in the driveway approach blocking the sidewalk.

Ms. Leon stated that one of the pictures shows a green van from out of town from a church that was invited or they knew about that they didn't let into, or didn't offer or didn't know to get into their parking area, so they parked in the wrong direction.

Commissioner Norton asked if Ms. Leon was talking about a silver van as that picture shows the van parked in the right direction.

Ms. Leon apologized and responded that it was parked in the right direction, but in front of the red zone.

Commissioner DaSilva asked and Ms. Leon responded that the front parking gate was locked when it should be opened.

Ms. Leon ended her testimony by suggesting that if the use was granted any amount of time to comply, that additional reviews be scheduled whether they complied or not as compliance now is different than compliance in November or December.

Mike Unger of 129 River Point, Madera, CA spoke in favor of this project. Mr. Unger stated that due to the newness of his position, he did not understand completely during the meeting a year ago and just signed [conditions of approval].

Mr. Unger indicates that many items referenced have already been corrected such as the wrought iron fence. Mr. Unger indicated that he had asked Mr. Basila, General Contractor to explain himself.

- Many of the things they've done were to get people off the street.
- The gate is now being opened at 5:00 pm.
- They have planted shrubbery to hide the coolers.
- They are in the process of painting the current freezer/cooler.
- They only have five employees. He is a pastor not an administrator of these items. It has been brought to his attention and he plans on making every effort to correct all circumstances as noted.
- He does not know how far back the red curb goes (if there is a red curb, as it's difficult to see).
- He does not know that he was ever advised that he had to paint the curb.
- He was a policeman for several years and he knows that he has very little control of where people choose to park or drive.

- They have two (2) major events a year.
 - He has been advised that he is out of compliance in reference to receiving approval of these events.
 - The first event is a Christmas Toy event where they give out 1,000 toys and feed 1,000 people in less than hour (4) hours.
 - One would expect a great deal of traffic at those times.
 - He makes no excuse for that nor asks for apology.
 - During the Christmas event, there were bus crews selling items in the red curb.
 - They had people in vests directing traffic to Rancho San Miguel, so they could park over there.
 - He is aware of the implication of having an event of that size.
 - He recognized that they are undermanned to manage the event even with 50-60 volunteers.
 - The second event is an Ad-Hoc Event (fundraiser) and he now knows that he needs prior approval for these events.
- The reason they wanted and felt the need to put the fence is they have low risk offenders finishing their sentences with them [under strict supervision].
- The church van spoken about earlier was not invited to the site, but they could have arrived to spend the night. If that was the case, they would have been instructed to park in the side parking lot.
- They have nearly nil parking in the red curb zone. When he knows about it, he tells them to leave.
- He thought it had been determined that the front gate would remain closed and they would implement parking in the side parking lot.

Commissioner Driggs asked why the gate was closed. Mr. Unger stated:

- He adopted having the gate closed.
- People hit the walls, etc.
- Security
- It is utilized only during events or when they know a larger sized group is arriving.
- They spent a considerable amount of time to control it.
- People used to make many U-turns in there.
- There may have been incidents, injuries and/or potential injuries.

Commissioner Driggs stated that by locking those individuals out, they are putting those individuals in the street. Mr. Unger stated that by leaving that gate closed those people walk into the enclosed area, because they don't have vehicles.

Commissioner Driggs asked if he is comfortable that he can meet these compliance issues. Mr. Unger stated that he is still reticent in saying yes only because they have no timeline on how long it would take to destruct, meet with Mr. Boyle and get a sign plan in place. If there could be an adjustment to that timeline then he would have no problem to get things done.

Mr. Unger stated that he is probably going against Mr. Boyle's recommendation, but he is not going against Mr. Basila's recommendation. Mr. Basila had indicated to him that putting in water meters was not part of the original plan. He has had lengthy discussions with individuals named "David" who stated that they would be wise for them to wait for the City install them at the City's cost. They don't have funds. He doesn't know how long it would take to install water meters. He couldn't say yes. A Master Sign Plan would also take time putting together. As for the rest of the stuff, he doesn't see a problem in getting

it done in 90 days. A year ago he would have said yes. Now he would say that he hopes so. There are only six people trying to get a job done. They may be able to hire someone who can be an operations manager for the facility.

Mariselda Leon of Madera, CA gave additional testimony. Ms. Leon stated that she just wanted to bring to the Commission's attention that Mr. Unger said they provided services for 1,000 people in less than four hours. When asked, Ms. Leon stated they [neighborhood] is not notified of the event, but even if they were notified, that is the kind of traffic she has to deal with. Ms. Leon also stated that she noticed the fence corner cutoff, but that it doesn't seem to be the required 25 feet.

Mike Unger stated that he believes the cutoff was extended to 25 feet, but he is not sure. He stated that they had more control of where people park, but for an \$8 toy, people would park across your lawn. They made every effort to direct traffic during their Christmas event. These cars may not have happened during the Christmas event; it may have been during another event. They only have one other event that would generate that kind of traffic and that is the motorcycle event and they fit in the parking area. They have auxiliary luncheons where most of these ladies are over 50+ years old and they park where they think it is safe. He believes there should be more police presence. He called them on three occasions in December and only had one response.

Commissioner Norton asked and Mr. Unger responded that he would be happy to notice and take fliers to the neighbors about these events and mentioning how many people are expected.

Mr. Unger stated that part of his permit, that he was not aware of, is that he had to apply for events of this nature to even occur in a timely manner prior to the event. He has not met with staff to discuss those dates yet. He is interested in complying and will happen from this point forward.

Commissioner Norton stated that the Mission has run out of space. Mr. Unger agreed.

Mr. Unger stated that he would do all that he can to take away this lady's [Ms. Leon] issues.

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

Motion made by Commissioner Norton; seconded by Commissioner Tyler to review Conditional Use Permit 2002-07 MOD at the April 14, 2015 Planning Commission hearing, allowing a ninety (90) day period for corrective steps to be taken by the Rescue Mission sufficient to achieve full conformance with Conditional Use Permit 2002-07 MOD; motion was carried unanimously.

Chairperson Hutchings announced that Ms. Leon would now resume her seat with staff.

NON-PUBLIC HEARING ITEMS: None

ADMINISTRATIVE REPORTS: None

COMMISSIONER REPORTS

Commissioner Hutchings stated that there is a vacant lot on the southwest corner of Cleveland Avenue and Stephanie Lane with no improvements where shrubbery catches trash. He commented that it would benefit pedestrians and improve aesthetics to install the sidewalk along Cleveland Avenue. He would appreciate it if it could be considered by City staff.

Commissioner DaSilva stated that on the northeast corner of Howard Road and Rotan Avenue there is a dirt section without a sidewalk. Commissioner DaSilva asked if there was any consideration to put in a sidewalk at that site.

Brent Richardson, City Attorney advised the Commission that only unilateral information should be given during Commissioner Reports. If an item is not on the agenda, there should not be comments back and forth for discussion as it may be a violation of the Brown Act. The Commissioners are always able to speak to staff outside of the meeting and items can be put on the agenda if they fall within the scope of the Planning Commission.

ADJOURNMENT: Meeting adjourned at 7:54 pm.



Planning Commission Chairperson



Zelda León, Recording Secretary