

**CITY OF MADERA PLANNING COMMISSION
REGULAR MEETING
August 11, 2015**

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

ROLL CALL

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

ABSENT: None

ANNOUNCEMENT

Chairperson Hutchings welcomed Commissioner Dal Cerro to his first meeting.

STAFF: David 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 Tyler led the Pledge of Allegiance.

PUBLIC COMMENT: None

MINUTES: None

CONSENT ITEMS: None

NON-PUBLIC HEARING ITEMS

NP1. CUP 2013-16 & SPR 2013-18 – Auto Dock

A review of the performance of Conditional Use Permit 2013-16 and Site Plan Review 2013-18, a conditional use permit and site plan review allowing for the establishment of an automobile repair shop.

Christopher Boyle, Planning Manager summarized the report. The site is not in compliance with the conditions of approval for Conditional Use Permit 2013-16. Staff recommends that the conditional use permit be scheduled for a public hearing to determine whether revocation is appropriate.

Motion made by Commissioner Gran; seconded by Commissioner Norton to schedule a public hearing to consider revocation of Conditional Use Permit 2013-16 at the

September 8, 2015 Planning Commission regularly scheduled meeting, based on the findings; motion was approved unanimously.

Findings

- Staff has observed non-compliance with the conditions of approval, warranting review of CUP 2009-14, as approved by the Planning Commission on December 8, 2009.

PUBLIC HEARING ITEMS

1. GPA 2015-01 – City of Madera 2016-2024 Housing Element

A noticed public hearing to consider adoption of a resolution recommending to the City Council adoption of the 2016-2024 Housing Element of the Madera General Plan. An Addendum to the 2009 General Plan Environmental Impact Report has also been prepared pursuant to CEQA Guidelines Section 15162 and 15164.

Christopher Boyle, Planning Manager summarized the report. The proposed amendment, updating the Housing Element of the General Plan meets the statutory requirements of state housing law. With adoption by the City, the 2016-2024 Housing Element will be forwarded to the state Department of Housing and Community Development Department for formal approval.

The item was opened for public comment.

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

Motion made by Commissioner Norton; seconded by Commissioner Mendoza to adopt a resolution recommending that the City Council adopt a resolution approving General Plan Amendment 2015-01, approving the 2016-2024 Housing Element update as attached in Exhibit A; motion was approved by Commissioners Mendoza, Gran, Norton, Tyler, DaSilva and Hutchings. Commissioner Dal Cerro abstained from the vote.

2. CUP 2011-18 MOD & SPR 2015-22 – Super Auto Smog

A noticed public hearing to consider modification of a conditional use permit and site plan review to allow for the establishment of an automotive repair shop where a transmission repair facility was originally permitted. The project site is located on the west side of the intersection of North E Street and 5th Street (128 North E Street), in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 007-074-005). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

Christopher Boyle, Planning Manager summarized the report. The establishment of an automobile repair shop where a transmission shop was once entitled is consistent with the purpose and intent of the Zoning Ordinance and is compatible with the surrounding uses. It is recommended that the conditional use permit be approved as conditioned.

The item was opened for public comment.

Applicant, Hector Mejia was asked and responded that he had reviewed and is in agreement with the conditions of approval.

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

Motion made by Commissioner Tyler; seconded by Commissioner Gran to approve the requested Conditional Use Permit 2011-18 MOD and Site Plan Review 2015-22, based on and subject to the findings and conditions of approval; motion was approved unanimously.

3. CUP 2002-07 MOD2 & SPR 2015-21 – Rescue Mission Refrigeration Unit (Staff requests that this item be continued to September 8, 2015)

A noticed public hearing to consider modification of a conditional use permit and site plan review to allow for the removal of a cold box and the placement of a refrigeration unit at the Madera Rescue Mission. The Rescue Mission 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. The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15303.

Christopher Boyle, Planning Manager advised the Commission that due to a wording issue on the notice, Staff was requesting that this item be continued to the September 8, 2015 regularly scheduled Planning Commission meeting.

Brent Richardson, City Attorney advised the Commission that since the item had to be re-noticed, no motion to a specific date was needed.

4. CUP 2009-14 – BJ's Liquor/Stereo Express (Consideration of Revocation)

A noticed public hearing to consider revocation of Conditional Use Permit 2009-21, which allowed for the operation of an automotive repair/car stereo installation use in an existing building at BJ's Gas and Liquor on the southeast corner of the intersection of the North Gateway Drive and East 4th Street (225 North Gateway Drive) in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation (APN: 007-072-001). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

Christopher Boyle, Planning Manager summarized the report. The site is not in compliance with the conditions of approval for Conditional Use Permit 2009-14. It is recommended that the Planning Commission consider this information, together with testimony provided during the public hearing, and make the appropriate findings and decision regarding the project.

The item was opened for public comment.

Kuldip Bagri, Owner/Operator of BJ's Liquor, spoke in favor of his site.

Awen Bagri, Business Owner's son, spoke in favor of the site.

Joel Sandoval, Owner/Operator of Valley Smog & Repair, spoke in favor of the site.

Discussion ensued as follows:

- Mr. Bagri is unable to meet all requirements.
- The 4th Street widening project, along with the insertion of a center divider caused his business to lose a big percentage of his business as 4th Street was shut down for almost a year.
- The center divider blocks two of his three entrances.

- Mr. Bagri requests an additional five years to complete the conditions of approval.
- Conditions which had a deadline before the 4th Street construction commenced were not done as he planned on doing all the improvements at the same time.
- When asked if he would have been able to meet all the requirements if not for the 4th Street project, Mr. Bagri responded, "maybe".
- There is a sag in the new roof. Is it safe to have people inside the building? The roof was re-braced.
- Awen Bagri was responding on his father's behalf and was asked why the color pallet or HVAC screen had not been done as those items had a 120 day date of completion from initial approval and were of minimal cost. Mr. A. Bagri stated that he didn't know. He then asked that if they got those two things done, would they be in compliance. The Commission stated that they would not be in compliance.
- When asked if all the conditions of approval could be completed if given another two years, the Commission was told they didn't know. Mr. K. Bagri again asked for an additional five years to comply.
- Mr. A. Bagri stated that when the City put in the center divider, the City sent all there business to Harry's.
- Mr. A Bagri stated that they were not notified of the 4th Street construction or median. Commissioner Gran stated that he had been on the Planning Commission for a long time and the 4th Street construction was noticed and a hearing held and no one from BJ's attended and voiced their concerns. Commissioner DaSilva stated that there had been plenty of notice.
- Several of the Commissioners mentioned that there are 16 major conditions not in compliance. Some of those are safety items.
- Even though the 4th Street project may have lasted a year, some of the conditions are minimal and they could have/should have been done, but were not done.
- Mr. K Singh stated that Christopher Boyle, Planning Manager told him that if the economy was bad, then he could have another five years.
- Christopher Boyle, Planning Manager was asked and responded that Mr. Singh's statement was not true as that is not his decision to make.
- This revocation is for the smog shop. The liquor store stays the same. The parking issues are resolved when the smog shop goes away.
- Mr. Boyle was asked and responded that something else could apply at that site in the future and revocations can be appeals to the City Council.
- Joel Sandoval, Valley Smog & Repair, stated that this business is his sole income for a family of five. He requests one year before he has to vacate the premises, so that he has time to re-locate.
- Mr. Sandoval indicates that the A/C (Air Condition) component of his business is pretty much the same thing as a smog business.
- Mr. Boyle stated that the business owner for Valley Smog & Repair had been advised about the site's non-compliance in advance of his purchase.
- Mr. Sandoval was asked and responded that he cannot speak for Mr. Singh and he doesn't know if one year would be enough time for Mr. Singh to come into compliance.
- Mr. Sandoval stated that he hasn't moved forward with acquiring a sign permit as he may have to move off the site.
- Mr. Boyle advised the Commission that if they weren't prepared to revoke the use, they could continue the item for 90 days to review, however, it has been six

years since the original approval and except for the roof, improvements have not been made.

- Commissioner Dal Cerro stated that five years is a long time and is concerned that allowing for more time may not fix the problem. Some conditions are modest and a choice was made not to do them.
- Brent Richardson, City Attorney, indicated that the revocation could be made effective 30 days from today.
- Mr. Sandoval was advised to speak to Mr. Boyle about available sites in town.

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

Motion made by Commissioner Gran; seconded by Commissioner DaSilva to revoke Conditional Use Permit CUP 2009-14 effective December 31, 2015; the existing business may stay in operation until December 31, 2015 and no other businesses will open or operate on said premises before or after, based on and subject to the following findings; motion was approved unanimously.

Findings

- Conditions of approval, including Nos. 2, 10, 11, 13, 15, 16, 17, 18, 19, 21, 22, 23, 24, and 35 adopted by the Planning Commission and agreed to by the applicant and property owner, have not been satisfied.
- As of this date, site improvements required to be completed within five (5) years have not been completed.
- Based on observations of staff and the evidence from the whole of the record, the use has not operated in compliance with conditions of approval; and
- The continued operation of the use in violation of the conditions of approval may be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city, and;
- The above findings are supported by evidence presented at the public hearing, by field observations by multiple City departments, and in staff reports during the processing and review of this entitlement; which is made a part of this record by this reference.

ADMINISTRATIVE REPORTS

COMMISSIONER REPORTS: None

ADJOURNMENT: Meeting adjourned at 7:27 pm.



Kenneth F. Hutchings
Planning Commission Chairperson



Zelda León, Recording Secretary