

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

**COUNCIL CHAMBERS - CITY HALL
TUESDAY
February 9, 2016
6:00 pm**

CALL TO ORDER

ROLL CALL

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

INTRODUCTION OF STAFF

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

The first fifteen minutes of the meeting are reserved for members of the public to address the Commission on items which are within the subject matter jurisdiction of the Commission. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Chairperson has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Commission is prohibited by law from taking any action on matters discussed that are not on the Agenda and no adverse conclusions should be drawn if the Commission does not respond to public comment at this time.

MINUTES September 8, 2015
October 13, 2015
November 10, 2015
January 12, 2016

CONSENT ITEMS

C1. SPR 2009-21 EXT3 & 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)

PUBLIC HEARING ITEMS

**1. CUP 2015-32 & SPR 2015-37 - Iglesia Pentecostes Espiritu Santo y Fuego
(Continued from January 12, 2016)**

A continued public hearing to consider a conditional use permit and site plan review to allow for the establishment of a church in a commercial development located at the southeast corner of West Olive Avenue and Martin Street (200 West Olive Avenue) in the C1 (Light Commercial) Zone District, with a C (Commercial) General Plan land use designation. (APN: 012-053-017) The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

2. GPA 2016-02 & REZ 2016-02 - MUSD General Plan Amendment and Prezoning

A noticed public hearing to consider a General Plan amendment and prezoning of approximately 18.96 acres of land located at the northwest corner of Tozer Street (Road 28) and South A Street. The property is proposed to be prezoned into the PF (Public Facility) Zone District. The General Plan amendment would change the General Plan land use designation from the MD (Medium Density) land use designation to the P&SP

(Public and Semi-Public) land use designation. The Planning Commission, acting as a responsible agency, will consider a Mitigated Negative Declaration prepared for the Madera Unified School District in support of the proposed construction of an elementary school (APN: 035-221-001).

3. CUP 2015-33 & SPR 2015-38 – Marantha Outdoor Dining

A noticed public hearing to consider a conditional use permit and site plan review to allow for the renovation of an existing restaurant property to include the addition of an outdoor dining area. The project site is located on the northwest corner of South Gateway Drive and 11th Street (624 S. Gateway Drive) in the I (Industrial) Zone District with a C (Commercial) General Plan land use designation (APN 011-072-011). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

4. CUP 2015-35 & SPR 2015-40 – Glory of Zion Church

A noticed public hearing to consider a conditional use permit and site plan review to allow for the establishment of a church in a professional office complex located on the south side of East Almond Avenue between South Madera Avenue and Emily Way (360 E. Almond Avenue) in the C2 (Heavy Commercial) Zone District, with an O (Office) General Plan land use designation (APN 012-240-001). The Planning Commission will consider a Categorical Exemption for the project pursuant to CEQA Section 15301.

5. OTA 2016-01 – Ordinance Amending Madera Municipal Code Relating to Appeals of Planning Commission Decisions

A noticed public hearing to consider adoption of a resolution recommending to the City Council adoption of an ordinance amending the Madera Municipal Code to provide for revision of the process to appeal the decisions of the Planning Commission to the City Council. The proposed ordinance is exempt under Section 15061(b)(3) of the California Environmental Quality Act "CEQA".

NON-PUBLIC HEARING ITEMS: None

ADMINISTRATIVE REPORTS

COMMISSIONER REPORTS

ADJOURNMENT: The next regular meeting will be held on March 8, 2016.

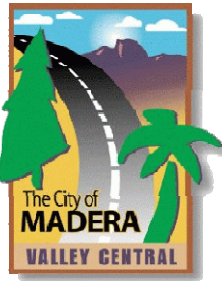
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation 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.



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Foxglove Shopping Center Extension
SPR 2009-21 EXT3 & Multiple CUP Extensions
Item #C1 – February 9, 2016**

PROPOSAL: 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.

APPLICANT:	Shaw/Feland Partnership	OWNER:	Same
ADDRESS:	None	APN:	013-160-005 & 013-160-016
APPLICATIONS:	SPR 2009-21 & CUP 2013-04, 05, 06 & 07	CEQA:	Environmental Impact Report

LOCATION: The project site is located on the southeast corner of Schnoor Avenue and Foxglove Way.

STREET ACCESS: Foxglove Way and Schnoor Avenue

PARCEL SIZE: 19.51 acres

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C2 (Commercial)

SITE CHARACTERISTICS: The subject property is approximately 20 acres in size. The Home Depot Shopping Center and Sonic Drive-thru restaurant are located north of the site. Madera Market Place is located to the south. Schnoor Avenue fronts the property to the west. An MID canal and State Route 99 are located directly east of the site. The project site contains unimproved disturbed land.

ENVIRONMENTAL REVIEW: An environmental impact report, mitigation monitoring and reporting program, statement of overriding considerations, and related findings for all project components were completed in conjunction with the proposal. The retail shopping center was approved and the environmental impact report was certified by the Planning Commission on February 12, 2013.

SUMMARY & RECOMMENDATION: The shopping center remains compatible with surrounding commercial properties and is designed to be a positive attribute to the area. The information presented in this report supports conditional approval of the requested one-year time extension. No amendments to the original conditions of approval are recommended. It is recommended that a one-year time extension for the site plan review and conditional use permits be approved by the Planning Commission.

APPLICABLE CODES AND PROCEDURES

MMC §10-3.4.0114 Lapse of Site Plan Approval

MMC §10-3.1311 Termination and Revocation

California Public Resources Code Section 21000 et. seq., California Environmental Quality Act.

The Commission, in considering the time extension request, may approve, deny or conditionally approve a time extension. If the time extension is denied, the applicant may re-file the site plan review and conditional use permit requests for further consideration by the Planning Commission. The applicant has made a written request for a one-year extension to February 12, 2016 consistent with the Planning Commission's prior approval of the project.

PRIOR ACTION

The site plan review and conditional use permit entitlements were approved by the Planning Commission on February 12, 2013. Extensions have been granted by the Planning Commission on March 11, 2014 and January 13, 2015.

ANALYSIS

The project proposes to develop a retail shopping center with up to 191,500 square feet of tenant space on approximately twenty acres of land. A primary anchor space would contain approximately 84,000 square feet gross floor area. Several smaller anchors, shops and freestanding pads would fill out the total square footage. Site Plan Review 2009-21 establishes site plan, building design, and construction requirements for the proposed shopping center. Multiple conditional use permits memorialize uses such as outdoor seating, a drive-thru window, and alcohol sales in conjunction with restaurants and retail stores.

The project site was historically used for agricultural purposes. Recent activity has been limited to annual weed control and the project site remains vacant and unimproved.

The applicant requested an extension to the site plan review and use permits in a written communication dated December 28, 2015. At present, the project is not prepared to move forward since there is not sufficient interest from tenants to justify commencing construction. As there have not been substantive changes in the City's Zoning Ordinance over the past year, a new application for the same project would likely generate similar conditions, hence, a time extension rather than a re-filing is appropriate.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of an extension to the previously approved site plan review is not specifically addressed in the vision or action plans, the overall project does indirectly support Action 115.1 to "encourage viable economic development".

SUMMARY OF RECOMMENDATIONS

The information presented in this report supports approval of a one-year extension of the site plan review and conditional use permits as conditioned. It is recommended that the Commission consider this information and make a motion to approve the application extension, subject to the recommended conditions.

PLANNING COMMISSION ACTION

The Commission will be taking action regarding the time extension for Site Plan Review 2009-21 and Conditional Use Permits 2013-04, 05, 06 and 07.

Motion 1: Move to approve the requested Time Extension to February 12, 2017, for Site Plan Review 2009-21 and Conditional Use Permits 2013-04, 05, 06 and 07, subject to the original conditions of approval as listed.

Findings

A. Site Plan Review Findings

- The use, as defined by the master site plan, is consistent with the Madera General Plan and the Zoning Ordinance designation on the site, as amended by the proposal.
- The master site plan is consistent with established legislative policies relating to traffic safety, street improvements and environmental quality.
- All buildings and site features proposed are addressed under the environmental impact report (EIR) and mitigation monitoring and reporting program (MMRP) for project adopted on February 12, 2013.

B. Conditional Use Permit Findings

- The proposals to add a drive thru window, outdoor seating, and alcohol sales are ancillary uses to the retail shopping center are consistent with the purposes of the C (Commercial) General Plan designation and the C-2 (Heavy Commercial) Zone District, which provides for these uses subject to the issuance of a conditional use permit.
- There is adequate parking and site area to accommodate the participants of the existing and proposed uses, including stacking distances required for the drive-thru window.
- Because the site has been designed for the development of an integrated shopping center to accommodate a variety of retail and restaurant uses, the conditional uses proposed, as conditioned, will not be detrimental to the health, safety, peace, comfort, morals or general welfare of the neighborhood or the City, and will be compatible with the surrounding area and the City in general.

CONDITIONS OF APPROVAL

A. Site Plan Review Conditions

General Conditions

1. The project approval is conditioned upon acceptance of these conditions contained herein within 30 calendar days, as evidenced by the applicant's signature on a required acknowledgment form.
2. The applicant's or owner's failure to utilize this site plan review within one year following the date of this approval shall render the site plan review null and void unless a written request for extension has been submitted to and approved by the Planning Commission.

3. The approval of this site plan review authorizes the development of the improvements as specified in the site plan, subject to the revisions and clarifications required in these conditions of approval below. All standard permits and approvals required for the improvements, including, but not limited to building permits, grading permits, and construction permits, shall be obtained prior to commencing construction. Modifications to actual building/unit sizes may be authorized by the Community Development Director prior to the issuance of building permits. Such changes may not substantively change the nature of the site plan or building elevations, and may not increase the overall square footage allowances for the development as specified in the environmental impact report for the project.
4. Any changes to the site plan required after, or because of, the preparation of grading plans, final on and off-site utility plans, or other changes made by the developer will require the approval of the Community Development Director. Substantive changes to the site plan, as determined by the Community Development Director, may require the completion of an amended site plan review process.
5. The development of the shopping center shall be subject to compliance with, and implementation of, the mitigation measures identified in the mitigation monitoring and reporting program approved as part of the Foxglove Shopping Center Final Environmental Impact Report.

Engineering Department

6. Engineering plans for off-site improvements and for on-site public improvements shall comply with Section 27 of the City of Madera Standard Plans and Specifications and approved addenda, and shall be submitted to the City Engineer for review and approval, prior to issuance of building permits. Engineering plans shall be wet stamped by a licensed civil engineer and shall be accompanied by a final site plan showing existing and/or re-established lot corner monuments, including a bearing and distance for each boundary line. Plans shall show dedication of all land by easements or other mechanism which may be acceptable to the City for all public streets, sanitary sewer mains (on and off site), water mains (on and off site), storm drains lines (on and off site) and detention basins.
7. Construction work within the City rights-of-way shall not begin prior to obtaining an encroachment permit from the Engineering Division in accordance with Section VI, Madera Municipal Code. All encroachment permits shall be obtained prior to the commencement of construction within the public rights of way.
8. Excavated or graded material shall be sufficiently watered to prevent excessive amounts of air borne dust. Watering should occur at least twice a day with complete coverage, preferably in the late morning and after work as directed by City Engineer.
9. Material transported offsite should be securely covered to prevent excessive amounts of dust.
10. Streets adjacent to the project may be required to be swept and silt removed manually or mechanically at least once a day as required by the City Engineer. Water hosing will not be allowed as a clean up method.

Grading and Drainage

11. Under the direction of a licensed architect or civil engineer, a site grading and drainage plan shall be prepared. No lot fill, rough grading or rough plumbing shall commence until plans are approved. Grading plan should include cut and fill quantities, along with a City Engineer approval signature line. This plan shall demonstrate that storm water drainage will be adequately handled. This plan shall be approved by the City Engineer prior to the issuance of any building permits. Storm drainage runoff engineering calculations shall be submitted for compliance with City standards.
12. As part of a master grading plan, the applicant shall provide detailed drainage calculations to demonstrate to the satisfaction of the City Engineer that existing storm drain basin (Basin 43550) located southwest of the intersection of Foxglove Way and Schnoor Avenue is sufficiently sized to accommodate both the commercial development and the Fairgrounds related storm water runoff. Calculations shall be submitted for basin capacity and sizing of onsite main.
13. The site shall be graded to provide drainage to approved storm drainage facilities. Fill in excess of 8-inches requires compaction tests when supporting structures. Geotechnical and soil testing reports shall be submitted prior to issuance of building permits in compliance with state requirements.
14. Grading certification by developer's soils and civil engineers upon completion of each building pad shall be provided by letter or as built plans prior to temporary or final occupancy.

Streets and Drives

15. The development shall implement any and all traffic mitigation measures specified in the Final Environmental Impact Report and Mitigation Monitoring and Reporting Program prepared for the Foxglove Shopping Center project. All measures requiring physical improvements shall be incorporated into civil improvement plans required pursuant to Condition #6.
16. Proposed entrances on N. Schnoor Avenue shall be a minimum of 24 feet wide, shall be street type entrances with minimum face of curb radius of 15 feet and shall include the construction of standard handicap ramps with ADA accessible path from ramp to ramp. Proposed driveways shall be spaced in accordance with the results of the traffic study prepared for this project.
17. A median island shall be constructed on Foxglove Way that extends from N. Schnoor Avenue to a minimum of 50 feet east of the first driveway on the north side of Foxglove Way.
18. Project driveways on Foxglove Way should be aligned with those on the north side of the street. If this is not feasible due to overall project design constraints, reasonable measures shall be implemented to minimize vehicular conflicts.
19. Free and unimpeded access shall be maintained from this development to the Marketplace shopping center located to the south.
20. All public utilities shall be undergrounded, except transformers, which may be mounted on pads.
21. Prior to the issuance of a grading permit, developer shall dedicate an additional 8 feet to an existing 7 foot Public Utility Easement (PUE) to complete a 15-foot PUE along N. Schnoor Avenue.

22. Prior to the issuance of the grading permit, developer shall record a reciprocal ingress/egress, utility and parking easement acceptable to the City of Madera across the entire center that is applicable to all existing and/or future parcels. The easement shall provide the mutual right to cross access and parking for all future uses. With such easements in place, compliance with City parking standards for each building will be based on total number of spaces available at the Center.
23. Prior to issuance of a grading permit, developer shall cause the existing 60 foot wide easement for access and utilities to be shifted westward to avoid the proposed structures being constructed within the easement.
24. Developer shall reimburse its fair share cost to the City for previously constructed infrastructure in and on Foxglove Way to the extent such infrastructure is utilized by the project. Developer shall not be responsible for reimbursement of cost for those improvements removed due to the project's reconstruction of Foxglove Way or improvements otherwise not incorporated into the project. Determination of fair share costs will be calculated in conjunction with submittal and review of civil plans for off-site improvements.
25. Additional detailed review will be conducted by City when more detailed off-site street plans, and on/off site utility plans are submitted to the City; additional requirements may be specified based on this subsequent review. This will include, but not limited to, further refinement to street plan for Foxglove Way alignment from Schnoor Avenue through transition to private drive alignment on project site.

Sewer

26. Sewer service connection shall be constructed to current city standards.
27. Sewer connections larger than 4 inches shall require construction of a manhole.
28. Existing septic tanks, if found, shall be removed, permitted, and inspected by City of Madera Building Department.
29. Prior to the issuance of encroachment permits to construct utility connections, developer shall reimburse its fair share cost to the city for previously constructed sewer main in North Schnoor Avenue. Total reimbursement due by Developer to the City is \$12,293.00.

Water

30. Water service connection(s) shall be constructed to current City standards including water meter(s) located within City right-of-way and shall read in cubic feet. A backflow prevention device shall be located within private property.
31. A separate water meter and backflow prevention device will be required for landscape consumption.
32. Existing wells, if any, shall be abandoned as directed and permitted by City of Madera for compliance with state standards.
33. Prior to the issuance of encroachment permits to construct utility connections, Developer shall reimburse its fair share cost to the City for previously constructed water main in North Schnoor Avenue. Total reimbursement due by Developer to the City is \$7,822.00.

34. Additional detailed review of the water system requirements will be conducted by City when more detailed off-site street plans, and on/off site utility plans are submitted to the City; additional requirements may be specified based on this subsequent review.

Planning Department

Site Plan and Building Design - General

35. This site plan approval authorizes the development of an integrated shopping center with a cohesive parking and circulation system and consistent design criteria. All buildings, regardless of tenant, shall be designed and constructed in a manner consistent with the City's Design and Development Guidelines for Commercial Development and the master design guidelines prepared for the project.
36. Consistent with the above described guidelines, consideration will be given to all tenants to be allowed to retain important elements of their corporate identity and architectural details which support their branding and themed experience. While buildings and related site features shall incorporate a standard color palette, architectural features, roof types, and materials, etc., they may feature such aforementioned corporate elements and architectural details as well as variations to the color palette. Final elevations for all buildings/units are subject to the approval of the Community Development Director prior to the issuance of building permits.
37. The landscape and irrigation plan submitted for the project shall be in compliance with the State Department of Water Resources Model Water Efficient Landscape Ordinance.
38. Prior to the issuance of the first building permit, a final landscaping plan for the shopping center shall be submitted which encompasses the following revisions and clarifications:
 - a. A phasing plan for all site landscaping shall be submitted for approval.
 - b. All Landscaping areas shall have a minimum of 75% vegetative ground cover.
 - c. Indicate species, size and spacing of shrubs where used. Clear distinction between landscaping symbols should be provided.
 - d. Clearly designate what is ground cover and what is turf.
 - e. Landscape islands with shade trees separating facing parking stalls shall be a minimum of 5'x18' (at outside of curb). Where used, tree wells shall be a minimum of 5' in length and minimum of 5' in width (at outside of curb).
 - f. Raised planters, free standing planters (pots, containers), and tree wells in walking surfaces (with grates) shall be incorporated along storefronts which abut parking spaces.
 - g. Root barriers shall be provided for all trees which are planted 5' or less from curb, gutter and walkways.
 - h. Along the rear of the site, adjacent to the existing MID canal, it is recommended that efforts be made to create a more functional screen of this area for views from SR99. This can be accomplished in a variety of ways, including through the addition of berms or solid fencing, by planting additional evergreen trees, or combination thereof.

- i. All landscaping shall be developed with permanent irrigation systems and shall be controlled with an irrigation control system approved by the Parks and Community Services Director. Trees wells should provide for deep watering versus surfacing watering.
 - j. All unpaved areas within public right-of-way along the street frontages shall be landscaped and maintained by the developer/property owner. Landscaping shall continuous from the curb-face, around the sidewalks, and up to the pavement in the parking area. Detailed landscape and irrigation plans shall be submitted and approved by the Parks and Community Services Director prior to issuance of any building permits. Street trees shall be placed at as specified in the approved landscaping plan. No temporary or permanent occupancy of any buildings shall be approved until the landscaping has been installed as per the landscaping phasing plan, and approved by the Parks and Community Services Director.
 - k. Any fencing, landscaping and irrigation within the public right-of way shall not be installed until the Parks and Community Services Director approves the plans. Any deviation shall require prior written request by the developer and approval by the Parks and Community Services Director. Removal or modification shall be at developer's expense. Landscaping water meter (if applicable) shall be connected after a back flow device.
 - l. The property owner shall maintain all landscaping in a healthy and well manicured appearance to achieve and maintain the landscaping design approved as part of the project's landscape and irrigation plan(s). This includes, but is not limit to, ensuring properly operating irrigation equipment at all times, trimming and pruning trees and shrubs, mowing lawns consistent with industry standards, replacing dead or unhealthy vegetation, etc.
 - m. Landscaping inspection fees for this project shall be paid in accordance with the fee schedule adopted by the Resolution of the City Council, no later than the issuance of building permits for the first building.
39. The location of all exterior transformers and similar utility/service equipment within the parking and circulation areas, common areas, and landscaped areas shall be shown on building plans; above ground features shall be screened with a combination of landscaping, berms, architecturally treated walls, etc. to the satisfaction of the Community Development Director.
40. All building-related electrical and utility service panels and equipment shall be enclosed in mechanical rooms or screened from public views with architectural features or landscaping.
41. Roof access ladders shall be located inside the buildings, or be located within an enclosure matching the adjacent architectural features.
42. Submit for review and approval a lighting plan and information (tear sheets) on fixtures. This should be accomplished in conjunction the requirements of the mitigation measures required for the project.
43. Outdoor lighting fixtures shall be directed downward and shielded away from adjacent properties, unless accent lighting is specifically authorized by the City. Any nuisance lighting conditions which are found to exist after commencement of operation shall be corrected by the owner to a configuration is acceptable to City at owner's expense, within (30) days of notification by the City.

44. A plan for internal pedestrian crossings shall be submitted for review and administrative approval by the Community Development Director which indicates the type and design of pavement markers (e.g., stamped concrete, pavers) pursuant to the provisions of the Master Design Guidelines. The use of painted lines in lieu of alternative pavement types to delineate pedestrian connections should be used only where alternative pavement is limited by ADA access requirements.
45. To the extent feasible, pedestrian connections/sidewalks shall be meandered with landscape strips to avoid along long, continuous paved edges. Meander may be accomplished with a curvilinear or angular pattern.
46. The placement and design of bollards or planters adjacent to store fronts shall be shown on the building plans for all buildings. Any such features shall be consistent with the overall architectural style for the center. Bollards shall have decorative features rather than simple solid pipes or posts, and may vary by design.
47. Submit for review and administrative approval by the Community Development Director, a plan and detail for refuse storage areas. Where any side is exposed to public view, landscape screening (and berming, where possible) shall be incorporated, or the enclosure shall be surfaced with an architectural treatment compatible with adjacent building.
48. Provide details and locations for cart storage areas in conjunction with each building permit application. Storage areas shall be buffered with landscaping or architectural features. The only signage allowed will be a basic symbol.
49. Vandalism and graffiti shall be corrected at the owner's expense within 72 hours of notification.

Site Plan and Building Design – Specific Modifications

50. Light sconces or other architectural embellishments should be included along building frontages to break up wall mass. Wainscoting and/or banding treatment are recommended at columns and entryways.
51. Major A – The building shall be modified in accordance with the provisions of the City's Design and Development Guidelines. A stucco finish shall be applied to the front exterior elevation, currently presented as a painted CMU block finish. This would bring the lines and exterior finish of the building closer to the conceptual elevations of other buildings in the shopping center.
52. Shops A1 and A2 – The buildings shall be modified in accordance with the provisions of the City's Design and Development Guidelines. Landscape features such as tree wells and/or planter beds shall be included at the rear of buildings where currently none are indicated. The use of awnings or other structures placed over rear service doors should be considered.
53. Buildings B & C – The buildings shall be modified in accordance with the provisions of the City's Design and Development Guidelines. Along the southeasterly elevation of Building C (side of building) the project shall include planters and/or tree wells along the curb face where parking spaces abut building. Architectural features shall be included to break up the wall massing of this side of the building, such as vertical landscaping, trellis structures, or combination thereof. The use of awnings or other structures placed over rear service doors should be considered.

54. Pads D, E & F – The rear (northwesterly elevation) of the building proposed for Pad F shall be modified consistent with the General Plan and the Design and Development Guidelines to take into consideration public views from Foxglove Way. A “four-sided building” shall be designed for Pad F and the utility equipment shall be screened by landscaping or by incorporating the mechanical areas into the architectural design of the building. Utility equipment for buildings proposed for Pads D & E should be located at the rear of buildings (southerly elevations), out of public views.
55. Pad G – Pharmacy Use - The building shall be modified to incorporate a smooth textured finish to soften the CMU construction, using colors from the center’s primary color palette. Along the northwesterly elevation of Building C (frontage of building facing Foxglove Way) the project shall include planters and/or tree wells along the curb face where parking spaces abut building. The screening enclosure for the trash compactor and trash bins must carry the same architectural treatments as the adjoining walls.
56. A design for the transit site shall be submitted for review and approval of the Community Development Director. The design should:
 - Encourage the use of transit services by providing a positive appealing space.
 - Be located in an area inclusive of the general activities.
 - Be a well landscaped attractive setting.
 - Provide separation from the traffic.
 - Provide a shade and rain shelter that is architecturally consistent with the area,
 - Include provisions for seating, trash receptacles and a screened area for depositing carts.

Master Sign Plan

57. A master sign plan shall be developed to demonstrate unified sign styles within the center and to establish allowances for individual sign permits when they are proposed. The plan shall cover building signage, monument signage, or other freestanding signage including any proposed “directional monument”. The master sign plan shall be submitted by the applicant and reviewed and approved by the Planning Department prior to issuance of building permits.
58. All freestanding directional, monument and/or pylon type signs shall be designed to be consistent with the architecture and color schemes of the commercial center. Presentation of multiple tenant names and or symbols shall be done in a manner that provides a uniform consistent presentation. Consistency may be achieved in several ways including but not limited to uniform background colors, alignment of lettering, consistency in font sizes or types. The intent is not to prevent unique tenant identification, but to present corporate images/logos and signage in a thematically coordinated manner rather than in an uncoordinated, dissimilar fashion.

FIRE REQUIREMENTS

59. Fire Department connections should be located in posted fire lanes 40 feet from the structure protected. Where multiple FDC’s are located together, each shall be clearly identified as to the building it serves.
60. Portable fire extinguishers must be provided. A minimum of at least one, 2A10BC-rated portable fire extinguisher is required for each 3,000 square feet of area or fraction thereof.

The fire extinguishers must be mounted in visible and accessible locations with 75 feet of travel distance of all portions of each building.

61. Fire sprinklers are required in most buildings. The exact use and occupancy of the smaller structures will determine if fire sprinklers are required.
62. Exit signs and emergency lighting are required in buildings with two or more required exits.
63. Fire lanes need to be provided and clearly identified on the Site Plan including the method of posting. NOTE: The drive access along the north side of the project does not appear to provide proper turning movements for fire apparatus. This may require a slight redesign in building placement or parking layout.
64. The addresses for each building must be visible from the street and the method and placement must be shown on the front elevation of the plans.
65. A fire alarm system for supervision of the fire sprinkler system is required. An evacuation alarm may be required based upon the requirements of CFC Chapter 9 and CBC Chapter 9.
66. When commercial cooking systems are proposed, a fire suppression system will be required.
67. The specific use of the "Patio Areas" will need to be identified during the plan review phase.
68. There does not appear to be an adequate accessible path of travel at the rear of Building B and possibly not at Building A either. This shall be addressed prior to submittal for building permits.
69. The proposal shows interconnectivity with the rear of the Marketplace Shopping Center. The fire access lanes need to be identified for review. Careful attention should be given regarding maintenance of the fire lanes.
70. Note this project will be subject to the City of Madera's new "Shell Building Policy" if such buildings are proposed as is common with this type of development.
71. Cross-access agreements are required for the multiple properties that comprise this site. The access to the existing Home Depot site will be affect and this must be clarified.
72. All onsite underground fire mains and above ground fire protection systems (such as fire hydrants) must be tested and operational prior to the delivery of combustible construction materials to the site.

Building Plans, Permits, Processes

73. Existing property corners shall be found or installed and noted on site plan, along with the distance from the property lines to the face of curb and street centerline. New property corners shall require record of survey prior to any site construction or issuance of building permits.
74. For each building to be constructed, provide a minimum of 2 sets of the following plans to the Building Division for the initial plan check. The size of plans shall be at least 36" x 24". A complete set of plans shall be prepared by and bearing the stamp and signature of an

individual licensed to practice architecture, including the following required drawings drawn to an appropriate scale:

- a. Site plan bearing City approval or a plan incorporating all site related conditions
- b. Grading plan prepared by an individual licensed to practice land surveying, civil engineering or architecture
- c. Floor plan
- d. Site utilities plan showing on-site sanitary sewer, water, storm sewer, water meters, back flow prevention devices, roof drains, etc., and the connections to off-site utilities
- e. All exterior elevations
- f. Engineering plans and calculations
- g. Foundation plan
- h. Ceiling framing plan
- i. Roof framing plan
- j. Electrical plan
- k. Plumbing plan
- l. Mechanical plan
- m. Sections and details
- n. Disabled access compliance drawings
- o. Energy compliance drawings and documentation
- p. Landscape plan
- q. Landscape irrigation plan

75. The site plan submitted with the each building permit application shall include all modifications and clarifications required by these conditions of approval, as applicable to the building proposed for construction. Information required on the plan shall include, but not be limited to: water and sewer service, water meter and sewer cleanout, backflow preventer location and type, existing fire hydrants within (100) feet and street lights within (100) feet, traffic striping and signing, and any other existing or proposed improvements.
76. The plans submitted for building permits shall show compliance with the herein listed conditions of approval and shall comply with the uniform building codes, along with federal and state laws, local resolutions and ordinances. Site development shall be consistent with the approved site plan, floor plan and elevations. Any deviations shall require prior written request and approval from the Community Development Director. The site plan and all plans submitted for building permit purposes shall be at a scale large enough to allow all dimensions and distances to be legible.
77. Site and buildings must meet federal and state disability access regulations. Each first floor unit must meet accessibility requirements from public spaces and parking lots to each unit. In addition, inside each unit all rooms must meet accessibility and be adaptable for future compliance to disabled access regulations.

San Joaquin Valley Air Pollution Control District

78. The SJVAPCD has commented that the project is subject to District Rule 9510 (Indirect Source Review). District Rule 9510 states that a project proponent shall submit an Air Impact Assessment (AIA) prior to final discretionary approval. It is recommended that the project applicant consult with the SJVAPCD regarding District Rule 9510, as well as any other applicable District Rules and Regulations prior to submittal for building permits.

Caltrans

79. The project applicant shall enter into fair share agreement with Caltrans to address off-site improvements as identified in the Draft EIR and MMRP prepared for the Foxglove Shopping Center.
80. The applicant shall make all required traffic improvements as identified in the Draft EIR and MMRP prepared for the Foxglove Shopping Center.

Madera Irrigation District

81. The applicant shall coordinate with Madera Irrigation District regarding the location and configuration of required fencing along canal alignment.

B. Conditional Use Permit Conditions

General

1. Conditioned upon acceptance of the conditions of approval contained herein within thirty (30) days, as evidenced by the Applicant's dated signatures on the required acknowledgment.
2. An applicant's failure to utilize any 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 for the specified permit.

Outdoor Seating (CUP 2013-04)

3. The defined outdoor seating areas for the site shall be limited to use in conjunction with food and beverage service, and may be defined and separated from the parking area by a planter or low fence. The seating areas shall not interfere with required path of travel required for the center.

Drive-thru Use (CUP 2013-05)

4. A drive-thru window is proposed for the drug store use. There shall be adequate area to accommodate the drive-thru window and sufficient vehicle stacking area in both drive-thru lanes. The drive-thru window shall be incorporated into the design of the building and not substantively detract from the overall architectural value of the building.

Alcohol Sales for On-Site Consumption (CUP 2013-06...)

5. Alcohol sales for on-site consumption of beer, wine and spirits, within the shopping center project shall be limited to sale and consumption within restaurant/cafe tenants where alcohol is an accessory component to food service. Alcohol sale for on-site consumption shall be limited to Shops A1 and A2, and also for Pads D, E and F.
6. A separate conditional use permit shall be assigned to each specific location. Each shall operate independent of the others and each shall require individual review for compliance and/or any requested extensions or modifications.
7. Specific locations approved for alcohol sales for on-site consumption shall have the following use permit numbers assigned:
 - Shop A1 - CUP 2013-06A1
 - Shop A2 - CUP 2013-06A2

- Pad D - CUP 2013-06D
 - Pad E - CUP 2013-06E
 - Pad F - CUP 2013-06F
8. The service and consumption of alcohol in the outdoor seating area for the five identified locations will require that a specific seating area be established, and defined with a fence and gate, and that alcohol not be taken from that area.
 9. ~~Hours of operation for the restaurant/café uses shall not be earlier than 8:00 a.m. or later than midnight.~~
 9. Sales of alcoholic beverages for on-site consumption shall not occur earlier than 8:00 a.m. or later than midnight.
 10. The applicant must, prior to commencing the use contemplated by this permit, provide evidence of a valid ABC license for the sale of alcoholic beverages for consumption on-site of the premises of the restaurant/café use.
 11. Music or obnoxious noise from the operation or business shall not be audible to persons in the public rights-of-way or on adjacent or nearby properties.
 12. Loitering shall be prohibited in, upon the premises and in adjacent, and nearby areas both public and private.
 13. An adult operator or employee 21 years of age or older shall be on site during all hours of operation.
 14. The limitation/restriction on the number and locations for alcohol sales for on-site consumption within the center, as part of this approval, shall not be construed as a prohibition from a future conditional use permit application being submitted to the City for consideration.

Alcohol Sales for Off-Site Consumption (CUP 2013-07...)

15. Alcohol sales for off-site consumption within the shopping center project shall be limited to Major A (Grocery Store use) and Pad G (Pharmacy use) locations.
16. A separate conditional use permit shall be assigned to each specific location. Each shall operate independent of each other and require individual review for compliance and/or any requested extensions or modifications.
17. Specific locations approved for alcohol sales for off-site consumption shall have the following use permit numbers assigned:
 - Major A (Grocery Store use) – CUP 2013-07A
 - Pad G (Pharmacy use) – CUP 2013-07G
18. ~~Sales of alcoholic beverages for off-site consumption shall not occur earlier than 8:00 a.m. or later than midnight.~~
19. The applicant must, prior to commencing the use contemplated by this permit, provide evidence of a valid ABC license for the sale of alcoholic beverages for consumption off the premises of the store.

20. Loitering shall be prohibited in, upon the premises and in adjacent, and nearby areas both public and private.
21. An adult operator or employee 21 years of age or older shall be on site during all hours of operation.
22. The limitation/restriction on the number and locations for alcohol sales for off-site consumption within the center, as part of this approval, shall not be construed as a prohibition from a future conditional use permit application being submitted to the City for consideration.

(OR)

Motion 2: Move to continue the requested time extension for Site Plan Review 2009-21 and Conditional Use Permits 2013-04, 05, 06 and 07 to a date specified, for the following reasons or in order for the following information to be provided: (specify)

(OR)

Motion 3: Move to deny the requested time extension for Site Plan Review 2009-21 and Conditional Use Permits 2013-04, 05, 06 and 07: (specify)

ATTACHMENTS

Extension Request Letter

LAW OFFICES OF
DEWAYNE ZINKIN
5 RIVER PARK PLACE WEST, SUITE 203
FRESNO, CALIFORNIA 93720
Telephone: (559) 224-8100
Facsimile: (559) 224-8111

DEWAYNE ZINKIN
ATTORNEY AT LAW

RICHARD L. FAIRBANK
ASSOCIATE

December 28, 2015

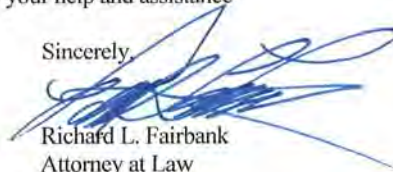
Mr. Chris Boyle
Planning Manager
City of Madera
205 West Fourth Street
Madera, CA 93637

Re: Foxglove and Schnoor - Site Plan Review – 2009-21

Chris,

The purpose of this letter is to request a one year extension for the Site Plan Review approval for SPR 2009-21 and all of the various conditional use permits that were granted and approved with it at the Planning Commission meeting on February 12, 2013. The use permits include, without limitation, conditional use permits for outdoor seating, a drive-thru window and alcohol sales. We are seeing some signs of recovery in the economy and increased interest from potential tenants and operators, and we are optimistic about commencing construction in 2016. We would like to request another one year extension from the City and I would appreciate it if you would please put that on the calendar of the City for action prior to the date of expiration. Please advise if I need to prepare any formal application and I will comply promptly. I have enclosed a check in the amount of \$1,158.00 for the extension filing fees. Thank you for your help and assistance

Sincerely,



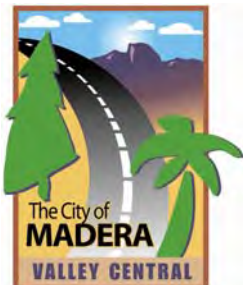
Richard L. Fairbank
Attorney at Law

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CITY OF MADERA
PLANNING DEPARTMENT

F:\Word\Madera Property\Development, Maintenance\City of Madera\20151228-RF to Chris Boyle re extension.doc

2015 JAN 04 10:00 AM



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Iglesia Pentecostes Espiritu Santo y Fuego
CUP 2015-32, SPR 2015-37 & Environmental Determination
Item #1 – February 9, 2016**

PROPOSAL: An application for a conditional use permit and site plan review to allow for the establishment of a church.

APPLICANT:	Juan C. Bedolla	OWNER:	Khalid B. Chaudhry
ADDRESS:	200 W. Olive Avenue, Ste AA	APN:	012-053-017
APPLICATION:	CUP 2015-32 & SPR 2015-37	CEQA:	Categorical Exemption

LOCATION: The property is located on the southeast corner of West Olive Avenue and Martin Street.

STREET ACCESS: The site has access to West Olive Avenue and Martin Street.

PARCEL SIZE: 0.73-acre commercial center, of which the church suite is a part thereof

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C1 (Light Commercial)

SITE CHARACTERISTICS: The 0.73-acre commercial center encompasses one fully developed parcel. Iglesia Pentecostes Espiritu Santo y Fuego is located in one of the commercial suites on the parcel, with parking provided on-site as a component of the center overall. There is commercial development along the West Olive Avenue commercial corridor. Residential development is found to the south of the project site.

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

SUMMARY: The use is consistent with the purpose and intent of the Zoning Ordinance. There is sufficient parking to accommodate the church. Staff recommends conditional approval of the use permit and site plan review.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.802 Light Commercial Zone
MMC § 10-3.405 Uses
MMC § 10-3.1202 Parking Regulations
MMC § 10-3.1301 Use Permits
MMC § 10-3.4.0102 Site Plan Review Applicability

A church may be allowed in any zone subject to the approval of a conditional use permit by the Planning Commission. 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 permit should be denied.

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

PRIOR ACTION

Various land use entitlements have been granted by the Planning Commission on the project site over time. The last approved entitlements were Conditional Use Permit 2005-21, which allowed for the establishment of the existing Renteria Martial Arts, and Conditional Use Permit 2015-02, which allowed for beer and wine sales in conjunction with the operation of Pho Dera restaurant. At its regular meeting on January 12, 2016, the Planning Commission continued this request for conditional use permit and site plan review to the February 9, 2016 public hearing to allow the applicant and property owner to confirm agreement with the conditions of approval.

ANALYSIS

Background

Churches are allowed in any zone in the City with the approval of a use permit. The commercial site is occupied by varying commercial uses including a restaurant, a martial arts studio, a tax service, and retail uses. The church has operated for more than one year without the required permits. City staff notified the applicant of the requirement for a use permit and site plan review, and shortly thereafter this application was filed.

Operations

Iglesia Pentecostes Espiritu Santo y Fuego (church) is located in an approximately 1,400 square foot tenant suite located within a 10,080 square foot commercial complex. The floorplan includes an assembly room/sanctuary with seating and a raised platform. Four smaller rooms serve as an office, a breakroom, and two restrooms. Services are currently held on Sundays as well as evening assemblies on Tuesdays and Thursdays. Typical church activities are compatible with commercial uses. Church activities will be confined to the interior of the tenant suite.

This use permit does allow for up to three special event or fundraising activities a year. A temporary use permit must be applied for at least three weeks prior to the event/activity, so that staff can determine compatibility of proposed activities with surrounding uses.

The applicant understands the physical restrictions of the property and the cap of a maximum of forty parishioners in attendance at any one time. The applicant is aware that, if the church body grows to such a number that the conditions of approval cannot be satisfied, a new location will have to be sought and a new conditional use permit secured for the new property. In that churches typically grow with time, the applicant understands that this site will likely function as a starting point for the church, with a larger venue potentially required in the future.

Parking

The commercial complex was developed with 40 parking spaces serving 10,080 square feet of floor area. These accommodations equate to a parking ratio of one stall per each 252 square feet of lease area. Uses typical of this type of commercial development require one parking stall per each 300 square feet of floor area.

CURRENT TENANT	GROSS FLOOR AREA	DAYTIME REQUIREMENTS	NIGHT/SUNDAY REQUIREMENTS
ABC Pho Dera	2,280	20	20
Beauty Parlor	960	3	-
ACDC Battery	1,040	3	-
Martial Arts Studio	3,720	-	10
Liberty Tax	680	2	-
Iglesia Pentecostes	1,400	-	10
TOTAL	10,080	28	40

The City of Madera parking ordinance allows parking stalls to serve as “joint use” stalls in some cases. In the case of a church, up to 100% of required parking can be supplied by uses primarily considered to be daytime uses such as offices or retail shops. On this site, the parking requirements of the beauty parlor, battery store, and tax service can be considered daytime uses. The martial arts studio and proposed church are considered Sunday/night time uses, and the restaurant can be expected to draw customers both during the day and night time hours. The parking requirements of the site are shown in the table above. The church requires the provision of 10 parking stalls based on a ratio of one parking stall for every four (4) seats provided in the sanctuary. As there are 40 stalls provided and no more than 40 stalls are required at any one time, there is adequate parking on site to serve the use.

Site Improvements

Recommended site improvements include improvements that were also required by Conditional Use Permit 2015-02 Pho Dera ABC that have not been satisfied. These conditions of approval originally included requirements for an updated water meter and sewer clean out. Engineering Department inspections confirmed that these improvements are already in place. The handicap access ramp at the corner of West Olive Avenue and Martin Street does need to be reconstructed in order to satisfy current City and ADA standards. Although also made the responsibility of the church, Pho Dera and the property owner are in agreement with completing this condition of approval no later than June 1, 2016. The Pho Dera applicant and property owner have been advised that failure to comply with the agreed upon condition of approval could lead to revocation of their use permit for the sale of beer and wine.

The project site currently does not have a trash enclosure and dumpsters are left in public view. A trash enclosure to serve the site is required as a condition of approval. The enclosure should be located along the alley to the rear of the structure and designated to serve all of the tenants

on the site. This improvement has also been conditioned to be completed by June 1, 2016, as agreed upon by the property owner.

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

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of a church is not specifically addressed in the vision or action plans, the overall project does indirectly support Strategy 336 which encourages cooperation and continued collaboration with the church community.

SUMMARY OF RECOMMENDATIONS

The information presented in this report supports conditional approval of Conditional Use Permit 2015-32 and Site Plan Review 2015-37.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permit 2015-32 and Site Plan Review 2015-37, determining to either:

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

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

Motion 1: Move to approve the requested Conditional Use Permit 2015-32 and Site Plan Review 2015-37 based on and subject to the findings and conditions of approval as listed.

Findings

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) since there will be negligible expansion of the existing use of the structure.
- The operation of a church is consistent with the purposes of the C1 (Light Commercial) Zone District which provides for the use, subject to the issuance of a conditional use permit.
- There is adequate parking on site to allow for the proposed church.
- As conditioned, the development will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city.

CONDITIONS OF APPROVAL

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty 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. The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
4. This conditional use permit will expire if the use is discontinued for a twelve-month period.
5. Site Plan Review 2015-37 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).
6. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.

Building Department

7. A building permit is required for all improvements. The tenant space must meet the requirements of the California Building Code, California Fire Code, and Americans with Disabilities Act within 90 days of this approval.
8. Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage and shall be confirmed at final inspection.

Fire Department

9. Portable fire extinguishers are required. One 2A10BC rated fire extinguisher for every 3,000 square feet or fraction thereof.
10. A key box is required if one does not already exist.
11. A complete egress analysis is required for the secondary means of egress which includes the accessible means of egress.

12. A building permit must be obtained for a change of occupancy unless it can be demonstrated that the last “approved” use of the space prior to this tenant was an assembly occupancy. A change in occupancy requires the space to comply with current requirements for the new occupancy. Plans prepared by a licensed architect would be required.
13. All interior wall finishes must comply with Chapter 8 of the California Building Code and all wall and ceiling coverings must comply with the California Fire Code for flame-spread and smoke generation.
14. Panic hardware is required at egress doors.
15. Emergency lighting is required.
16. The occupant load must be properly posted.

Engineering Department

17. Nuisance onsite lighting shall be redirected as requested by the City Engineer within 48 hours of notification.
18. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Department.
19. The improvement plans for the project shall include the most recent version of the City's General Notes.
20. The developer shall pay all required fees for completion of project. Fees due include, but shall not be limited to the following: encroachment permit processing and improvement inspection fees.

Streets

21. The existing handicap access ramp at the corner of West Olive Avenue and Martin Street shall be upgraded to meet current City and ADA standards by June 1, 2016.

Planning Department

22. This use permit allows for the establishment of a 1,400 square foot church. The site includes no less than 40 on-site parking stalls to serve the 10,080 square foot building. The church shall operate consistent with the approved floor plan, including a sanctuary with seating for no more than 40 people.
23. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
24. Up to three (3) special events and/or fundraising activities may be permitted each year with the approval of a Temporary Use Permit in each case. In no case shall any special event/fundraising activity cause a reduction in parking below the number of stalls required to serve the site. Special events shall only occur during daytime hours, when ample parking is available to serve the site.
25. No kitchen facilities shall be developed wherein Environmental Health Department approval would be required. Existing cooking facilities shall be removed.

26. No nursery facility shall be developed as a component of the lease space.
27. The applicant shall operate in a manner that does not generate significant noise, odor or vibration that adversely affects any adjacent properties.
28. The property owner, operator and manager shall keep the property clear of all trash, rubbish and debris at all times; and dumping of refuse shall be restricted to the dumpster/refuse containers belonging to the subject property.
29. The applicant shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause for revocation of this permit.
30. The church may be open from as early as 6:00 am in the morning to as late as 10:00 pm at night, seven days a week.
31. All required parking shall be permanently maintained with all parking spaces as shown on the required site plan submittal. Any modifications in the approved parking layout shall require approval by the Planning Manager.
32. Church staff and parishioners shall only utilize parking stalls provided onsite. The neighboring properties shall not be adversely impacted by church activities.
33. A trash enclosure to serve the entirety of the commercial site shall be constructed by June 1, 2016. The enclosure shall be located per the direction of the Public Works Department. The enclosure shall be painted in a color that matches the existing building.
34. All signage shall be in compliance with the Madera Sign Ordinance. All signage is required to have an approved Sign Permit issued by the Planning Department per MMC §10-6.

(OR)

Motion 2: Move to continue the request for approval of Conditional Use Permit 2015-32 and Site Plan Review 2015-37 to the March 8, 2016 Planning Commission meeting: (specify)

(OR)

Motion 3: Move to deny the request for Conditional Use Permit 2015-32 and Site Plan Review 2015-37 based on the following findings: (specify)

ATTACHMENTS

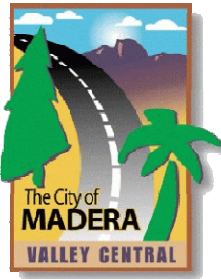
Aerial Photo
Site Photos

Aerial Photo



Site Photos





CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: MUSD General Plan Amendment & Rezoning
GPA 2016-02 & REZ 2016-02
Item #2 – February 9, 2016**

PROPOSAL: An application for General Plan Amendment and Rezoning of approximately 18.96 acres of land located at the northwest corner of Tozer Street (Road 28) and South A Street. The property is proposed to be rezoned into the PF (Public Facility) Zone District. The General Plan amendment would change the General Plan land use designation from the MD (Medium Density) land use designation to the P&SP (Public and Semi-Public) land use designation.

APPLICANT: Madera Unified School District **OWNER:** Madera Unified School District

ADDRESS: 14450 Road 28 (Tozer Street) **APN:** 035-221-001

APPLICATION: GPA 2016-02 & REZ 2016-02 **CEQA:** Mitigated Negative Declaration

LOCATION: The project site is located at the northwest corner of Tozer Street (Road 28) and South A Street.

STREET ACCESS: The project site abuts to the South A Street, Lilly Street, Sunrise Avenue and Tozer Street (Road 28) frontages.

PARCEL SIZE: Approximately 18.96 acres.

GENERAL PLAN DESIGNATION: MD (Medium Density)

ZONING DISTRICT: County

SITE CHARACTERISTICS: The project site is currently undeveloped. Residential development of varying densities is located to the north, south and west. Agricultural lands and a county facility are located to the east.

ENVIRONMENTAL REVIEW: An initial study and mitigated negative declaration have been prepared consistent with CEQA Guidelines. The Planning Commission, acting as a responsible agency, will consider a Mitigated Negative Declaration prepared for the Madera Unified School District in support of the proposed construction of an elementary school.

SUMMARY: The proposed General Plan Amendment and Rezoning provide consistency between the Zoning Ordinance and the Madera General Plan, providing for the eventual development of the site as a Madera Unified School District elementary school.

APPLICABLE CODES AND PROCEDURES

GC § 65358, General Plan Amendments
MMC § 10-3.1501-06 Amendments
MMC § 10-3.303 Annexation Policy

PRIOR ACTION: None

ANALYSIS

Background

The Madera Unified School District proposes to develop an elementary school on the project area under consideration for General Plan amendment and rezoning. In order to fully develop the property, the school district wishes to annex into the City in order to connect to City services. The proposed elementary school would be developed consistent with the development standards and the goals and policies of the General Plan. Rezoning is required to be completed in advance of formal application for annexation into the City.

General Plan Amendment

The General Plan currently designates the project site as MD (Medium Density). The MD designation provides for medium density residential development, including small-lot single family residential and lower density multifamily apartments. The applicant has requested a change in General Plan land use designation to the P&SP (Public and Semi-Public) land use designation. The P&SP land use designation would provide consistency between the proposed PF (Public Facility) Zone District and the expected development of an elementary school.

Rezoning

The project site is proposed to be rezoned into the PF (Public Facility) Zone District. The PF Zone District is designed to provide land for the development of offices and/or facilities owned and operated by city, county, state, or federal governmental agencies, and public school districts. Examples of development found in the PF (Public Facilities) Zone District include civic centers, fire and police stations, libraries and post offices, and schools. The PF Zone District is the correct zone for the development of the proposed elementary school.

Public Infrastructure

Public infrastructure and utilities required by Madera Municipal Code and the Madera General Plan will be constructed in support of the elementary school. Required infrastructure includes sewer, water, and storm drainage infrastructure consistent with the City's master plans. Street improvements include the widening of Tozer Street to complete the City's half-street cross section for an arterial street. The applicant should anticipate that the completion of all improvements will be required as a part of any agreement to obtain City water and sewer for the project.

CEQA

Although the anticipated development of the elementary school is not under consideration by the Planning Commission, the General Plan amendment and rezoning currently under review act as first steps in the eventual development of the site and are subject to compliance with the California Environmental Quality Act (CEQA). The school district, acting as the lead agency per CEQA, has prepared a mitigated negative declaration in support of the development of an elementary school on the project site. The City, acting as a responsible agency per CEQA, is required to consider the mitigated negative declaration when reaching a decision on the project. Staff has consulted with and provided comments to the Madera Unified School District (MUSD) and expects adoption of the mitigated negative declaration by the lead agency.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

The project supports one of the four core vision statements in the Vision Plan. “A Strong Community and Great Schools” highlights development of leadership, expansion of educational opportunities, support for the arts and recognition of the Madera’s unique culture. Rezoning and General Plan conformance in advance of the construction of an elementary school directly supports this core vision statement.

RECOMMENDATION

The proposed project provides compatibility between the General Plan and existing land uses, and establishes rezoning consistent with the General Plan. It is recommended that the Commission consider this information, together with testimony provided at the public hearing, and adopt a resolution recommending approval of the requested General Plan amendment and introduction of an ordinance rezoning the subject property.

PLANNING COMMISSION ACTION

The Commission will be acting on General Plan Amendment 2016-02 and Rezone 2016-02.

Motion 1: Move to adopt a resolution recommending to the City Council approval of the requested General Plan amendment and introduction of an ordinance rezoning the subject property, with the findings as stated below:

Findings

- The proposed General Plan Amendment will provide consistency between the General Plan and Zoning Ordinance.
- The proposed rezoning will zone affected properties in a manner consistent with the proposed land use.

(OR)

Motion 2: Move to continue the public hearing on General Plan Amendment 2016-02 and Rezone 2016-02 to the March 8, 2016 Planning Commission meeting.

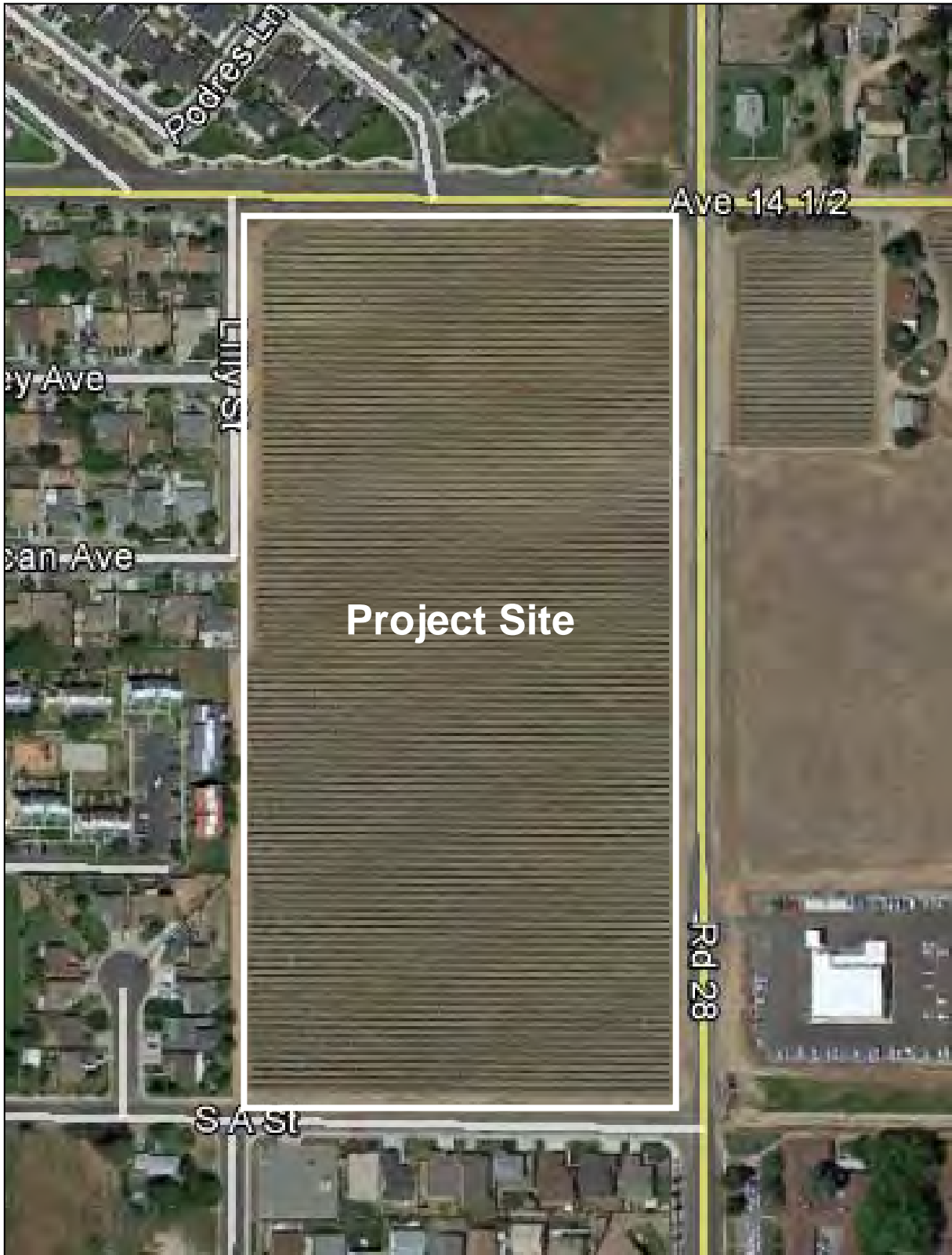
(OR)

Motion 3: Move to deny the application for General Plan Amendment 2016-02 and Rezone 2016-02, based on the following findings: (specify)

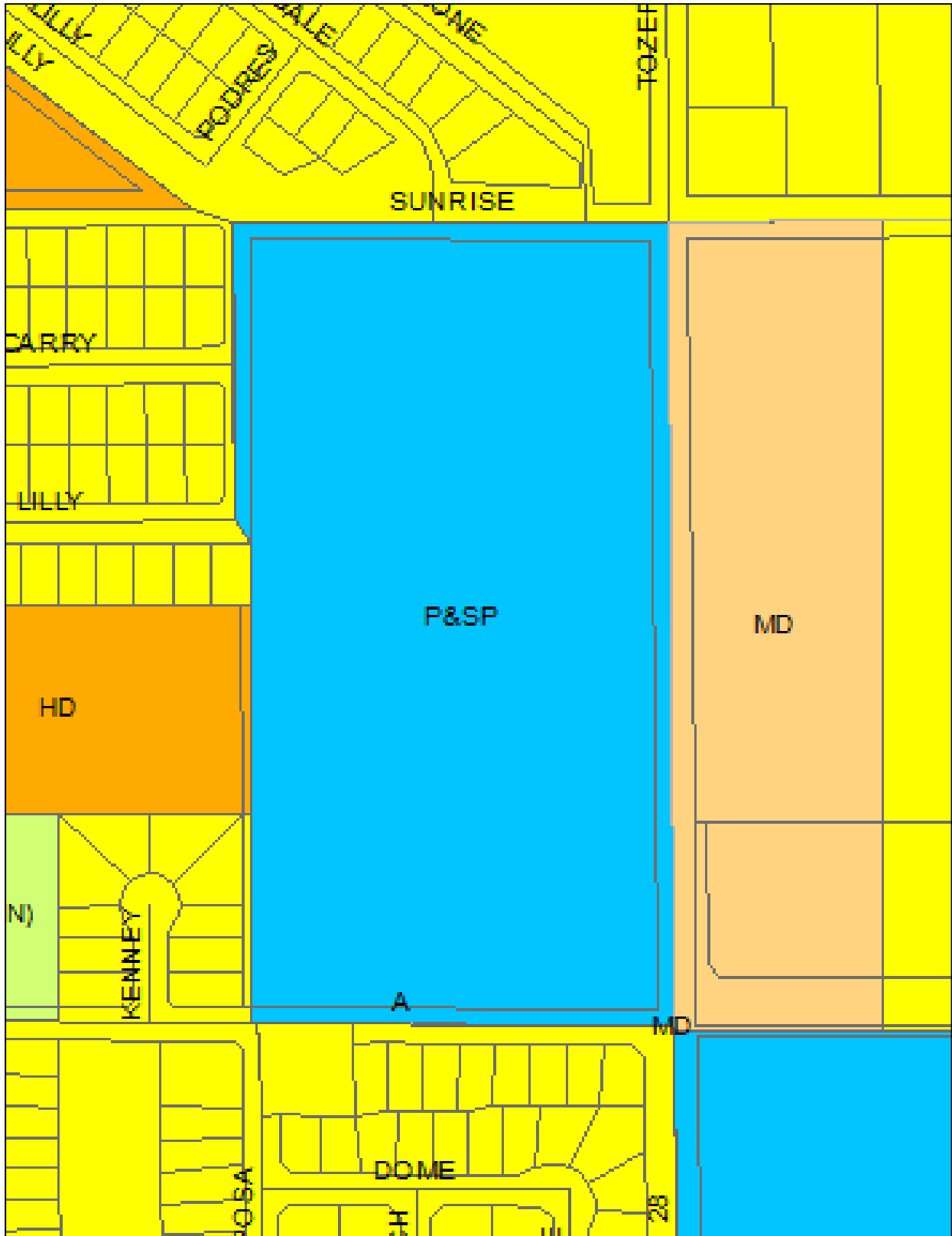
ATTACHMENTS

Aerial Image
Exhibit A – General Plan Amendment
Exhibit B – Rezoning Area
Resolution of Recommendation to the City Council
Draft Ordinance
Mitigated Negative Declaration

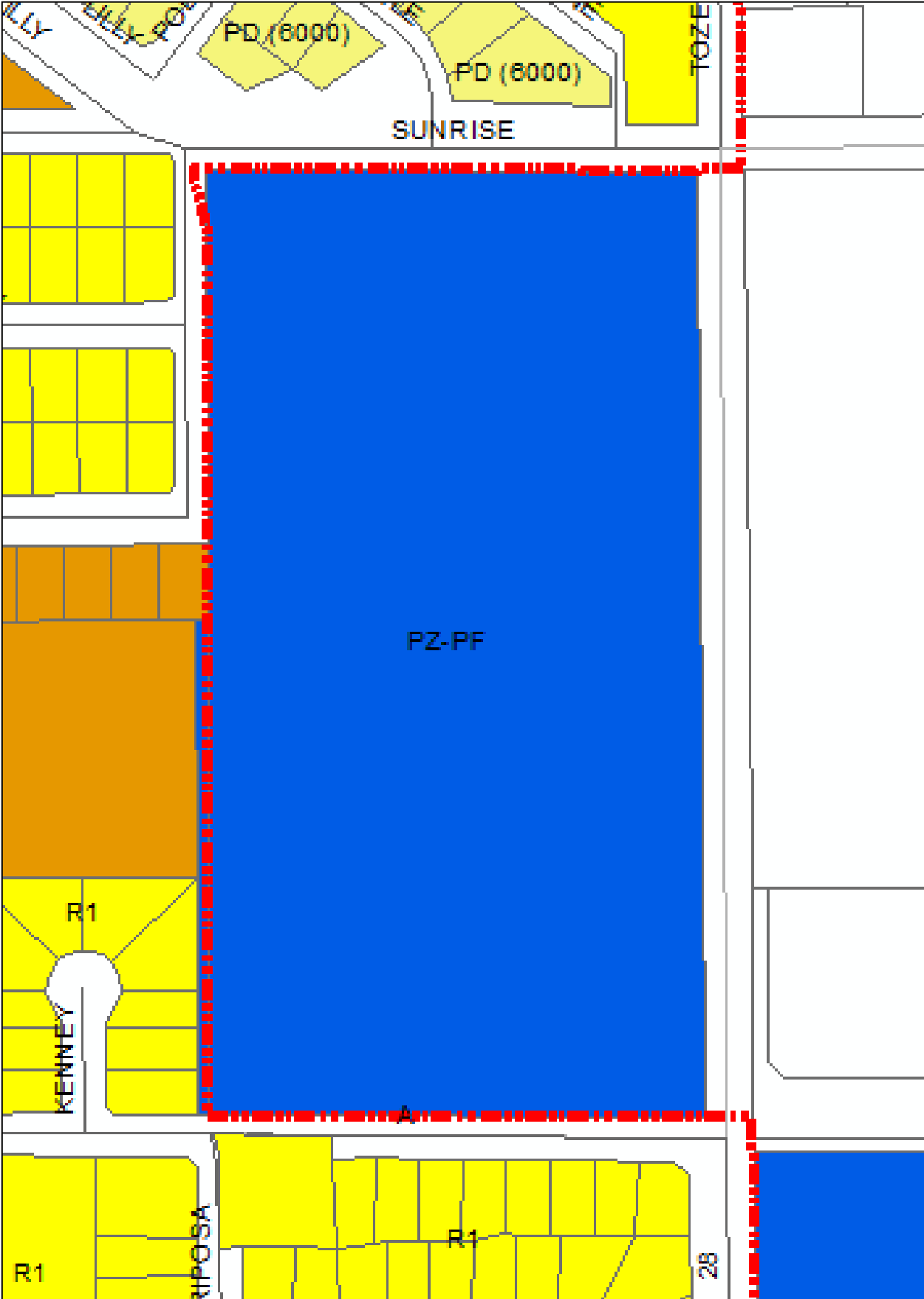
Aerial Photo



General Plan Map



Zoning Map



RESOLUTION NO. _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MADERA APPROVAL OF AN AMENDMENT OF THE GENERAL PLAN CHANGING THE LAND USE DESIGNATION OF APPROXIMATELY TWENTY ACRES FROM THE MD (MEDIUM DENSITY) TO P&SP (PUBLIC AND SEMI-PUBLIC) GENERAL PLAN LAND USE DESIGNATION AND THE PREZONING OF THE PROPERTY TO THE PF (PUBLIC FACILITY) ZONE DISTRICT

WHEREAS, State Law requires that local agencies adopt General Plans containing specific mandatory elements; and

WHEREAS, the City of Madera has adopted a Comprehensive General Plan Update and Environmental Impact Report, and the City of Madera is currently in compliance with State mandates relative to Elements of the General Plan; and

WHEREAS, State law also provides for periodic review, updates, and amendments of its various plans; and

WHEREAS, the planning area for the General Plan includes the City limits, the City's sphere of influence, and an area outside the sphere of influence; and

WHEREAS, the City has initiated an amendment to the Madera General Plan amending the land use designations for approximately twenty acres of property immediately adjacent to the City limits to ensure that the general plan designation is consistent with the anticipated utilization of the land as an elementary school; and

WHEREAS, the City has initiated a rezoning of the property to the PF (Public Facility) Zone District to provide consistency with the proposed General Plan land use designation and the proposed utilization of the land as an elementary school; and

WHEREAS, the rezoning of the subject property will allow the submittal of an annexation application for the approximately twenty acres to the Madera Local Agency Formation Commission; and

WHEREAS, the Planning Commission, acting as a responsible agency, has considered a mitigated negative declaration prepared by the lead agency, the Madera Unified School District, in compliance with the California Environmental Quality Act; and

WHEREAS, the City agrees that no subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city finds at a public hearing that a substantial change has occurred in circumstances that necessitates a departure from the pre-zoning in the application to the commission.

WHEREAS, public notice of this public hearing was given by mailed and published notice in accordance with the applicable State and Municipal Codes and standard practices; and

WHEREAS, the Planning Commission has completed its review of the staff report and documents submitted for the proposed project, evaluated the information and considered testimony received as a part of the public hearing process.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MADERA AS FOLLOWS:

1. The above recitals are true and correct.
2. The Planning Commission hereby recommends that the Madera General Plan land use map be amended as specified in attached Exhibit "A".
3. The proposed amendment to the Land Use Map is hereby found consistent with all elements of the Madera General Plan.
4. The proposed rezoning is hereby found to be consistent with all elements of the General Plan, including the land use map as amended by this application.
5. The Planning Commission hereby recommends the City Council adopt an ordinance rezoning property as specified within the attached Exhibit "B".
6. This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 9th day of February, 2016, by the following vote:

AYES:

NOES:

ABSTENTIONS:

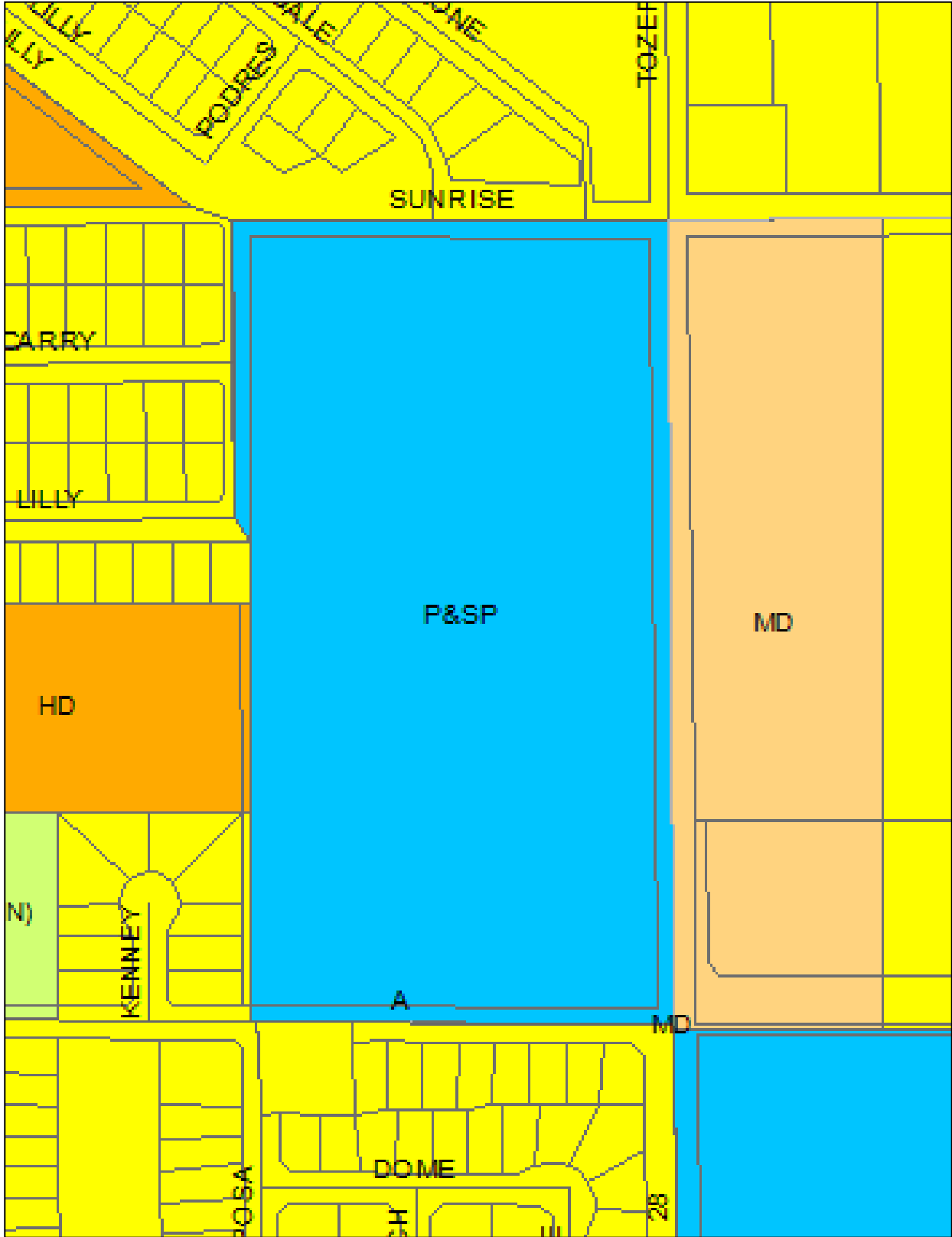
ABSENT:

Kenneth Hutchings
Planning Commission Chairperson

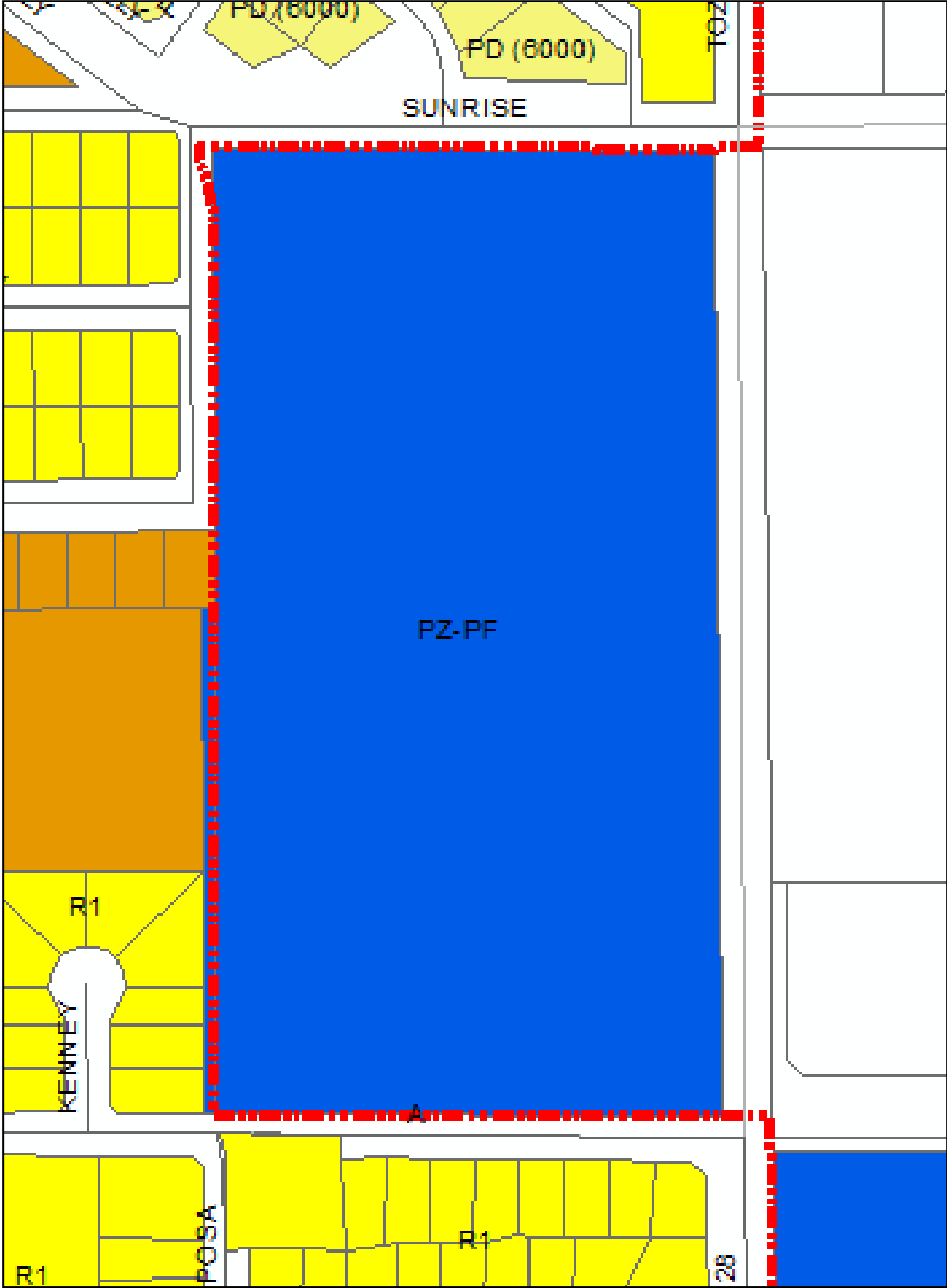
Attest:

Christopher F. Boyle
Planning Manager

PLANNING COMMISSION RESOLUTION NO. _____
EXHIBIT 'A'



PLANNING COMMISSION RESOLUTION NO. _____
EXHIBIT 'B'



DRAFT ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP PREZONING APPROXIMATELY TWENTY ACRES LOCATED AT THE SOUTHWEST CORNER OF TOZER STREET AND SUNRISE AVENUE TO THE PF (PUBLIC FACILITY) ZONE DISTRICT AS IDENTIFIED WITHIN EXHIBIT "A"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADERA AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Madera and this Council have held public hearings upon the prezoning of this property and have determined that the proposed prezoning is consistent with the General Plan as amended and subsequent development will be in conformance with all standards and regulations of the Municipal Code.

SECTION 2. The City of Madera Zoning Map as provided for in Chapter 3 of Title 10 of the Madera Municipal Code is hereby amended as illustrated in the hereto attached Exhibit "A" which indicates the segment of the City of Madera Zoning Map to be amended. Unless the adoption of this amendment to the Zoning Map is lawfully stayed, thirty-one (31) days after adoption of this amendment, the Planning Director and City Clerk shall cause these revisions to be made to the City of Madera Zoning Map which shall also indicate the date of adoption of this revision and be signed by the Planning Director and City Clerk.

SECTION 3. Based upon the testimony and information presented at the hearing, the adoption of the proposed prezoning is in the best interest of the City of Madera, and the Council hereby approves the prezoning based on the following findings:

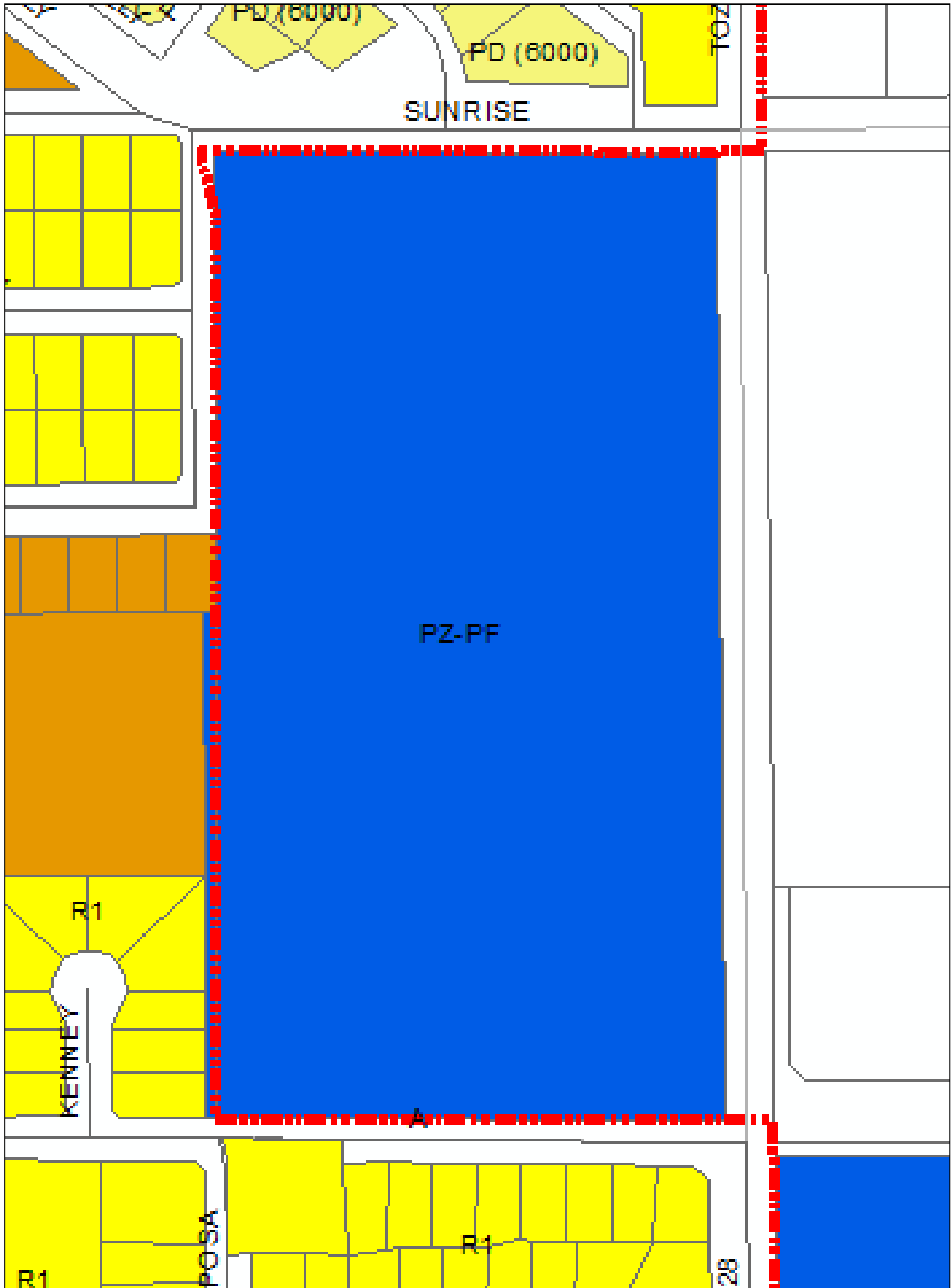
FINDINGS:

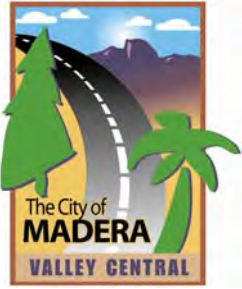
1. THE PROPOSED PREZONE WILL PROVIDE THE REQUIRED CONSISTENCY BETWEEN THE GENERAL PLAN AND ZONING ORDINANCE.
2. THE PREZONE IS NOT EXPECTED TO BE DETRIMENTAL TO THE HEALTH, SAFETY, PEACE, COMFORT OR GENERAL WELFARE OF THE NEIGHBORHOOD OR THE CITY.
3. THE CITY AGREES THAT NO SUBSEQUENT CHANGE MAY BE MADE TO THE GENERAL PLAN FOR THE ANNEXED TERRITORY OR ZONING THAT IS NOT IN CONFORMANCE TO THE PREZONING DESIGNATIONS FOR A PERIOD OF TWO YEARS AFTER THE COMPLETION OF THE ANNEXATION, UNLESS THE LEGISLATIVE BODY FOR THE CITY FINDS AT A PUBLIC HEARING THAT A SUBSTANTIAL CHANGE HAS OCCURRED IN CIRCUMSTANCES THAT NECESSITATES A DEPARTURE FROM THE PREZONING IN THE APPLICATION TO THE COMMISSION.

SECTION 4. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *

DRAFT ORDINANCE - EXHIBIT A





CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Maranatha Outdoor Dining
CUP 2015-33, SPR 2015-38 & Environmental Determination
Item #3 – February 9, 2016**

PROPOSAL: An application for a conditional use permit and site plan review to allow for outdoor dining at an existing restaurant.

APPLICANT:	Bulmaro Barrera Vazquez	OWNER:	Bulmaro Barrera Vazquez
ADDRESS:	624 South Gateway Drive	APN:	011-072-011
APPLICATION:	CUP 2015-33 & SPR 2015-38	CEQA:	Categorical Exemption

LOCATION: This project site is located on the northwest corner of South Gateway Drive and 11th Street.

STREET ACCESS: The site has access to South Gateway Drive and 11th Street.

PARCEL SIZE: Approximately 15,000 square feet

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: I (Industrial)

SITE CHARACTERISTICS: The property is a commercial site that has served as a restaurant for an extended period of time. Commercial and industrial development is located in both directions along the Gateway Drive business corridor. Residential homes are located on the other side of the alley behind the restaurant and two homes (on commercially zoned land) are located directly north of the site.

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

SUMMARY: The Maranatha restaurant relocated onto this substandard property approximately two years ago. Completion of site plan review was made a requirement of allowing the use to be established on this substandard property. Site plan review conditions of approval bring the property into compliance with development code and the General Plan. A conditional use permit is requested to allow for outdoor dining.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.1001 Industrial Zones
MMC § 10-3.4.0101 Site Plan Review
MMC § 10-3.1202 Parking Regulations
MMC § 10-3.1301 Use Permits
MMC § 10-3.416 Outdoor Retail Sales

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

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

PRIOR ACTION



The earliest information available on the subject property is a 1984 photograph where the property operated as Tommie's Drive-In. No record of the initial development of the site is on file and no site plan review has ever been performed on the property. Prior to the Maranatha restaurant occupying the property, the site had been vacant and for sale for an extended period of time. The outdoor dining area had been illegally enclosed and the site had unresolved enforcement violations.

The owners of Maranatha restaurant came to the City July of 2014. Their then-current location was being converted into a Jack in the Box and they were facing eviction without having found a new location. In good faith, the Maranatha owners quickly completed a minor site plan review so as to understand the nature of the prevalent issues at the 624 South Gateway Drive property. Because the site plan was completed without the benefit of revised exhibits sufficient to address those issues, the requirement of a future site plan was used so as to allow the restaurant to establish itself while devising a revised site plan that would ultimately reconcile the existing condition of the property. In that the restaurant has added a request for outdoor dining, a conditional use permit is also required.

ANALYSIS

Background

The City's General Plan indicates that land designated as C (Commercial) is appropriate for development of commercial uses. The commercial building where the restaurant is located has been utilized as a restaurant for an extended period of time and is generally compatible with surrounding uses. The City's Zoning Ordinance also allows for retail uses including restaurants in the C2 Zone District, except that the proposed outdoor dining is allowed only with the approval of a conditional use permit. Issues discussed as part of this analysis include operational concerns, parking, and site improvements.

Conditions of approval within this site plan review are meant to resolve non-permitted construction on the property, provide for commercial development reflective of commercial design standards and the General Plan, and memorialize improvements to the project frontages to Gateway Drive and 11th Street.

Operations

The applicant wishes to provide for outdoor seating as part of their existing restaurant business. An outdoor dining area with seating for twelve patrons is proposed. The outdoor dining area is located directly in front of the restaurant, surrounded by landscape planters and a decorative wrought iron with stone pilaster fence. The planters and fencing provide an attractive outdoor element to the site while providing a degree of separation from the street. Cumulatively, the landscaping and fence treatment provides conformance with General Plan principles of human scale design and gathering places while working toward visually "drawing" the existing structure closer to the street and ensuring that the "commercial development presents an attractive 'face' to the street."

Parking

Restaurants are required to provide one (1) parking stall per each three (3) fixed seats and an additional stall for each fifty square feet of dining area available for non-fixed seating. The revised site design provides twenty-one parking stalls sufficient parking to allow for sixty-three (63) fixed seats. The site plan proposes forty-eight (48) interior seats and twelve (12) outside seats for a total of sixty (60) seats. As proposed, adequate parking is available on site to serve the restaurant.

Architecture

No significant exterior changes are proposed for the structure itself at this time, but improvements to the structure are not being ignored. Building permits to bring the structure to current code standards are required as a condition of approval. This requirement includes building permits for improvements that were completed prior to the Maranatha ownership purchasing the structure. The current dining room, having once been an outdoor seating area, was enclosed without building permits. Restrooms are dated and substandard. Also, the structure will be made Americans with Disabilities Act (ADA) compliant, including provision of pedestrian and vehicular ingress and egress to and from the structure and the site.

Site Plan

Although the structure will not see substantial alterations beyond what is noted above, the site itself will be completely refreshed. The site will have an entirely new parking field constructed. The parking field will incorporate General Plan policies that require parking lots to be located behind or on the side of buildings to reduce their visual impact and require them to be separated into smaller units with landscaping. A trash enclosure has been incorporated into site design as well.



Landscaping

Landscaping is required as a component of site plan review and the redesign of the property. It is recommended that a landscape and irrigation plan be submitted as a component of required building permits for the review and approval of the Planning Department. The landscape and irrigation plan should be consistent with the State of California's Model Water Efficient Landscape Ordinance. Shade trees in the parking field should be a component of the landscape and irrigation plan.

Access

The proposed improvements occur over two adjacent parcels. It is recommended that a lot merger be completed, or sufficient cross-access easements be recorded so as to assure that the properties function as one now and into the future.

Food Truck Commissary

The Maranatha restaurant will also serve as a commissary for up to two mobile food trucks. Two additional parking stalls are provided for the storage of the trucks when not in the field. These parking stalls will be designated for the parking of the food trucks only.

Off-site Improvements

There are significant improvements required along both the project frontage to South Gateway Drive and 11th Street. As part of this project, both frontages will be improved to current City standards including new curb, gutter and sidewalk. Along South Gateway Drive, a ten (10') foot offer of dedication is required in order to provide for the future improvement of Gateway Drive to an arterial street standard.

Consistency with General Plan

In 2009, after an extensive visioning process and public comment, the City adopted an updated General Plan which "represents the product of years of efforts on the part of residents and businesses in the community working to maintain and improve Madera's quality of life and implement the community's shared vision for the future." As a component of the new General Plan, individual project proposals "must be consistent with the goals and policies in this General Plan." Some of these goals and policies that are mandated in the Community Design element of the General Plan are:

- Goals:**
- CD-1** High quality urban design throughout Madera.
 - CD-4** Attractive streetscapes in all areas of Madera.

- CD-11** Design commercial development to enhance the pedestrian environment.
- Policies:** **CD-3** Madera will strive to continuously improve the architectural quality of public and private projects. Developers proposing to rely on the use of “standard designs” or “corporate architecture” will be required to improve their designs as necessary to meet the City’s overall standards for quality.
- CD-4** Site layout and building design shall take into consideration Madera’s warm, dry climate, by including trees, landscaping and architectural elements to provide shade.
- CD-15** Except where site conditions make it infeasible, new commercial development shall be designed to front or have a presence along all street frontages. The intent of this policy is to enhance the pedestrian scale of new development, and minimize the presence of parking, circulation, and loading areas as the primary visual features of development.
- CD-22** Commercial developments should have public open space areas such as plazas, courtyards, expanded walkways, or other areas suitable for small gatherings. The facilities should be sized proportionate to the scale of the development.
- CD-47** Commercial projects shall be designed to minimize the intrusion of parked vehicles on the streetscape. Parking areas, driveways, and drive-through lanes should not be located between buildings and the sidewalk.
- CD-48** Buildings and building entrances shall be oriented to the pedestrian environment.
- CD-49** Buildings shall include human-scale details such as windows facing the street, awnings, and architectural features that create a visually interesting pedestrian environment.
- CD-50** Parking lots shall be landscaped, including shade trees, to create an attractive pedestrian environment and reduce the impact of heat islands.
- CD-51** Safe and well-defined pedestrian connections from buildings to parking areas, from buildings to the adjoining street(s), and among buildings on the same site shall be provided. Pedestrian connections between commercial development and surrounding residential neighborhoods shall also be provided. Enhanced paving materials or other techniques shall be used to identify pedestrian connections.
- CD-53** Unarticulated, boxy structures shall be broken up by creating horizontal emphasis through the use of trim, varying surfaces, awnings, eaves, or other ornamentation, and by using a combination of complementary colors.
- CD-55** Loading facilities for uses requiring delivery from large trucks shall be screened from public view and located away from residential uses.
- CD-57** Where possible, parking lots shall be located behind or on the side of buildings to reduce their visual impact.
- CD-58** Parking lots shall be screened and separated into smaller units with landscaping or low walls.

These and other goals and policies are the standards that all new development in the city is measured by. Combined, they implement the principles of the Community Design element of the General Plan. Conditional Use Permit 2015-33 and Site Plan Review 2015-38 provide overall conformance with the General Plan.

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

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of outdoor sales 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 conditional approval of Conditional Use Permit 2015-33 and Site Plan Review 2015-38.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permit 2015-33 and Site Plan Review 2015-38, determining to either:

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

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

Motion 1: Move to approve the requested Conditional Use Permit 2015-33 and Site Plan Review 2015-38 based on and subject to the findings and conditions of approval as listed below.

Findings

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) since there will be negligible expansion of the existing use of the structure.
- Outdoor dining is consistent with the purposes of the C (Commercial) General Plan designation and the I (Industrial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- There is adequate parking on site to serve the use.
- As conditioned, the development will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city.

CONDITIONS OF APPROVAL

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant’s signature upon an Acknowledgement and Acceptance of Conditions within thirty days of the date of approval for this use permit.

2. Conditional Use Permit 2015-33 allows for outdoor dining as a component of the operation of a restaurant, consistent with the stated conditions of approval.
3. 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.
4. The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.
5. This conditional use permit will expire if the use is discontinued for a twelve-month period.
6. Site Plan Review 2015-38 will expire one year from date of issuance, unless positive action is taken on the project as provided in the Municipal Code or take the required action to extend the approval before expiration date (Municipal Code Section 10-3.4.0114, Lapse of Site Plan Approval).
7. Any proposed future modifications to the site, including but not limited to building exteriors, paint color changes, parking/loading areas, fence/walls, new buildings or landscaping shall require an amendment to this site plan review.
8. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.

Building Department

9. Building permits are required for all construction, including the non-permitted addition already in place. The uses of all rooms and activity areas shall be identified on any plans submitted for issuance of building permits. Plans must be wet stamped by a licensed architect or civil engineer. Destruction testing may be required for verification of construction compliance.
10. Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection and shall apply to proposed and future development.

Fire Department

11. Portable fire extinguishers are required in accordance with the California Fire Code.
12. The kitchen hood fire extinguishing system must be serviced. If modifications are performed, a permit is required.
13. The dining room must be posted with a maximum occupant load of forty-nine (49) or the egress system must be upgraded to conform to current codes.

Engineering Department

General

14. Nuisance onsite lighting shall be redirected as requested by City Engineer within 48 hours of notification.
15. Civil Plans sealed by a licensed engineer shall be submitted to the Engineering Department per plan submittal procedure.
16. Improvements within the City right-of-way require an Encroachment Permit from the Engineering Department.
17. The improvement plans for the project shall include the most recent version of the City's General Notes.

Street

18. Existing driveway approaches on Gateway Drive shall be removed and replaced with a single street type opening driveway approach and curb and gutter where required. Driveway approach shall be constructed per city standards with handicap access ramps with a minimum face of curb radius of 15 feet.
19. Sidewalk shall be constructed on Gateway Drive from its current termination point to the intersection of Gateway Drive and 11th Street. Sidewalk shall be constructed to current city and ADA standards.
20. Sidewalk shall be constructed on 11th Street along the entire project frontage. Sidewalk shall be constructed to current city and ADA standards.
21. Private improvements within existing right-of-way shall be relocated onto private property.
22. An Irrevocable Offer of Dedication shall be made to dedicate a ten (10) foot strip of land along the entire east side of the property to provide fifty (50) feet of right-of-way along Gateway Drive west of centerline.
23. The applicant shall submit civil improvement plans consistent with the requirements herein for review and approval by the Engineering Department on or before June 9, 2016. Work must be diligently pursued toward completion upon issuance of the required permits. Please consult with the Engineering Department for direction on minimum submittal requirements.

Water

24. Water service connection shall be constructed to current city standards including a water meter located within City right-of-way and a backflow prevention device located within private property.
25. A separate water meter and backflow prevention device will be required for landscape consumption.

Sewer

26. Sewer service connection shall be constructed to current city standards.

Planning Department

27. An application for building permits necessary to complete the herein approved requirements shall be submitted for plan check on or before June 9, 2016. Work must be diligently pursued toward completion upon issuance of building permits.

28. Site Data

- Building Area 2,000 square feet (800 square feet approved)
- Outdoor Dining Allowed with approval of CUP
- Fixed seating provided 48 seats interior (49 maximum)
12 seats outdoor dining area
- Minimum Parking Requirements 20 spaces
- Parking Provided 21 spaces

29. This conditional use permit allows for outdoor dining as a component of the operation of a restaurant, consistent with the approved conditions of approval.

30. Two mobile food trucks may be stored on-site. The trucks shall utilize the two additional parking stalls located in the northwest corner of the site. The parking stalls provided for the storage of the food trucks shall be signed/designated for the parking of the food trucks only.

31. The sale and/or consumption of alcoholic beverages, including beer and wine, is prohibited.

32. Vandalism and graffiti shall be corrected within 24 hours of notification.

33. 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.

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

35. The applicant shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause for revocation of this permit.

36. All parking and loading areas shall be marked and striped to City Standards: Perpendicular (90 degree) parking spaces shall measure a minimum of nine feet (9') wide by 19' deep (17' deep with 2' bumper overhang). No compact stalls shall be incorporated into the parking field. Minimum drive aisle/backing/maneuvering space is twenty-six (26') feet for primary drive aisles.

37. On-site parking shall be provided at all times in conformance with the Municipal Code. All required parking shall be permanently maintained with all parking spaces to be shown on plans submitted for building permits. Any modifications in the approved parking layout shall require approval by the Planning Commission.

Site Design

38. Construction activities approved as part of site plan review shall be consistent with the approved site plan, floor plan, and elevations as reviewed and approved by the Planning Commission. Any alteration shall require Planning Commission approval.
39. The applicant shall complete a lot merger for parcels 011-072-010 and 011, or record sufficient cross-access easements on both properties so as to assure that the properties function as one now and into the future.

Lighting Considerations

40. The specifications and types of exterior lighting fixtures to be installed on the site shall be submitted to and approved by the Planning Department prior to issuance of building permits. All exterior lighting shall be directed away from adjoining properties and not interfere with the driving safety of vehicular traffic. Exposed bulbs will not be permitted.

Signage

41. 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.

Landscaping

42. On-site and off-site landscaping and irrigation shall not be installed until plans are approved by the Planning Department, and the Parks and Community Services Department. Any deviation shall require prior written request and approval. Removal or modification shall be at developer's expense.
43. 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.
44. The park strip along the street frontage shall be landscaped and provided with an automatic irrigation system by the applicant. A minimum of one City approved street tree every 30 feet shall be provided, along with City approved root barriers. No trees shall be planted within five (5) feet of any fire hydrant.
45. A detailed landscape and irrigation plan shall be submitted to the Planning Department for review and approval as a component of building permit plan check submittals. The applicant shall demonstrate compliance with the State's Model Water Efficient Landscape Ordinance. The landscape and irrigation plan shall include:
 - Landscaped areas shall be developed along all street frontages and within parking fields.
 - Shade trees shall be planted throughout the parking lot, with a minimum of one tree per four parking spaces. This condition shall be partially satisfied by one shade tree being planted in each landscape peninsula within the parking field.
 - The landscape plan shall include a no-less-than two-foot high vertical landscaping screen wherever parking stalls face the public right-of-way to reduce headlight glare onto public streets.
 - Landscaped areas are to be provided with permanent automatic irrigation systems.

- A detailed planting list for landscaping, with the number, size and specie of all plantings shall be included as part of the approved plan.

Walls and Fences

46. A trash enclosure shall be constructed of masonry block consistent with City standards with a stucco finish and color to match the primary structure.
47. The fencing approved along the western property line (along the alley) shall be constructed of wood. No chain link fencing shall be incorporated into the site plan design.

(OR)

Motion 2: Move to continue the application for Conditional Use Permit 2015-33 and Site Plan Review 2015-38 to the March 8, 2016 Planning Commission meeting.

(OR)

Motion 3: Move to deny the request for Conditional Use Permit 2015-33 and Site Plan Review 2015-38 based on the following findings: (specify)

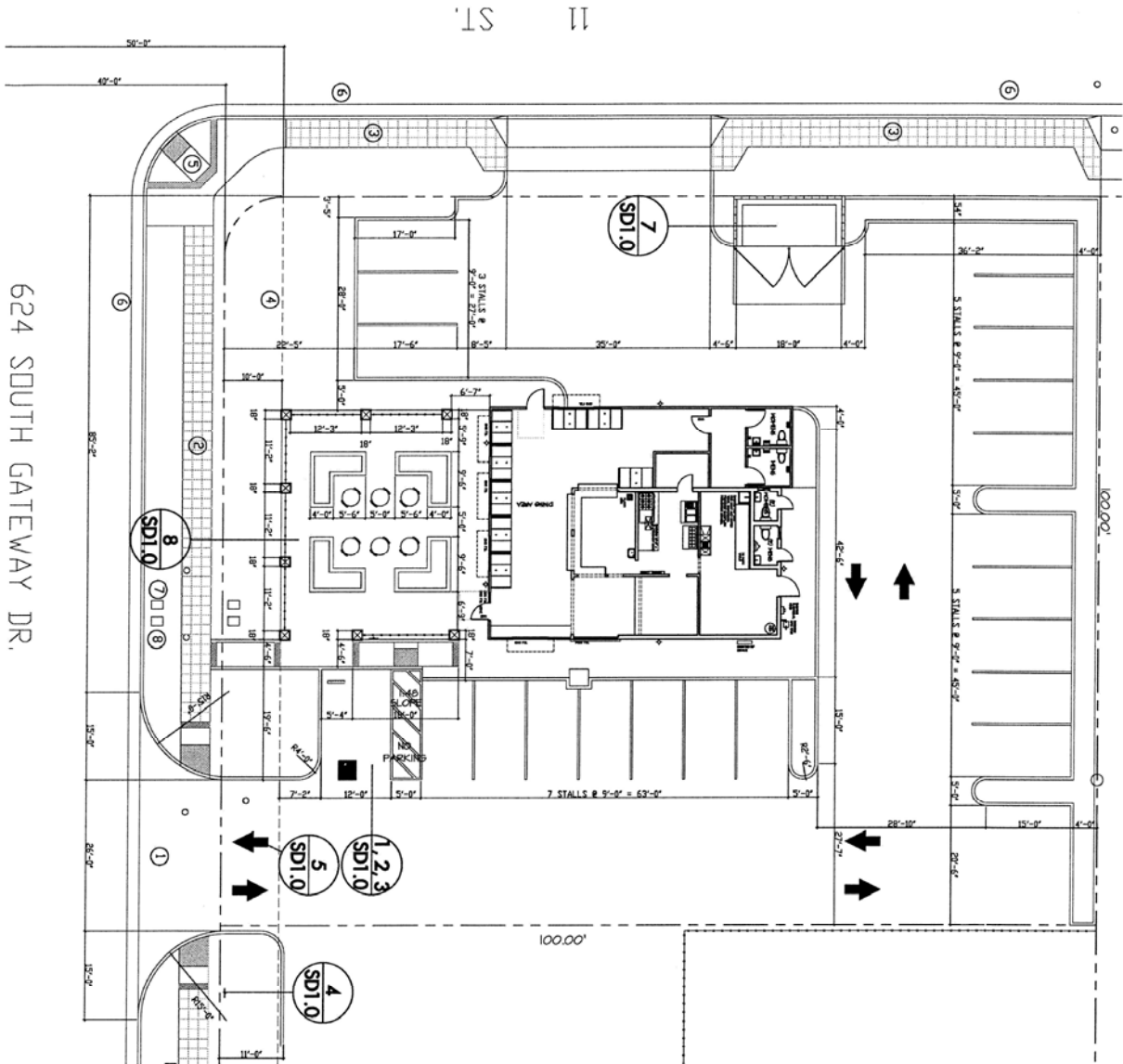
ATTACHMENTS

Aerial Photo
Site Plan
Floor Plan
Elevations

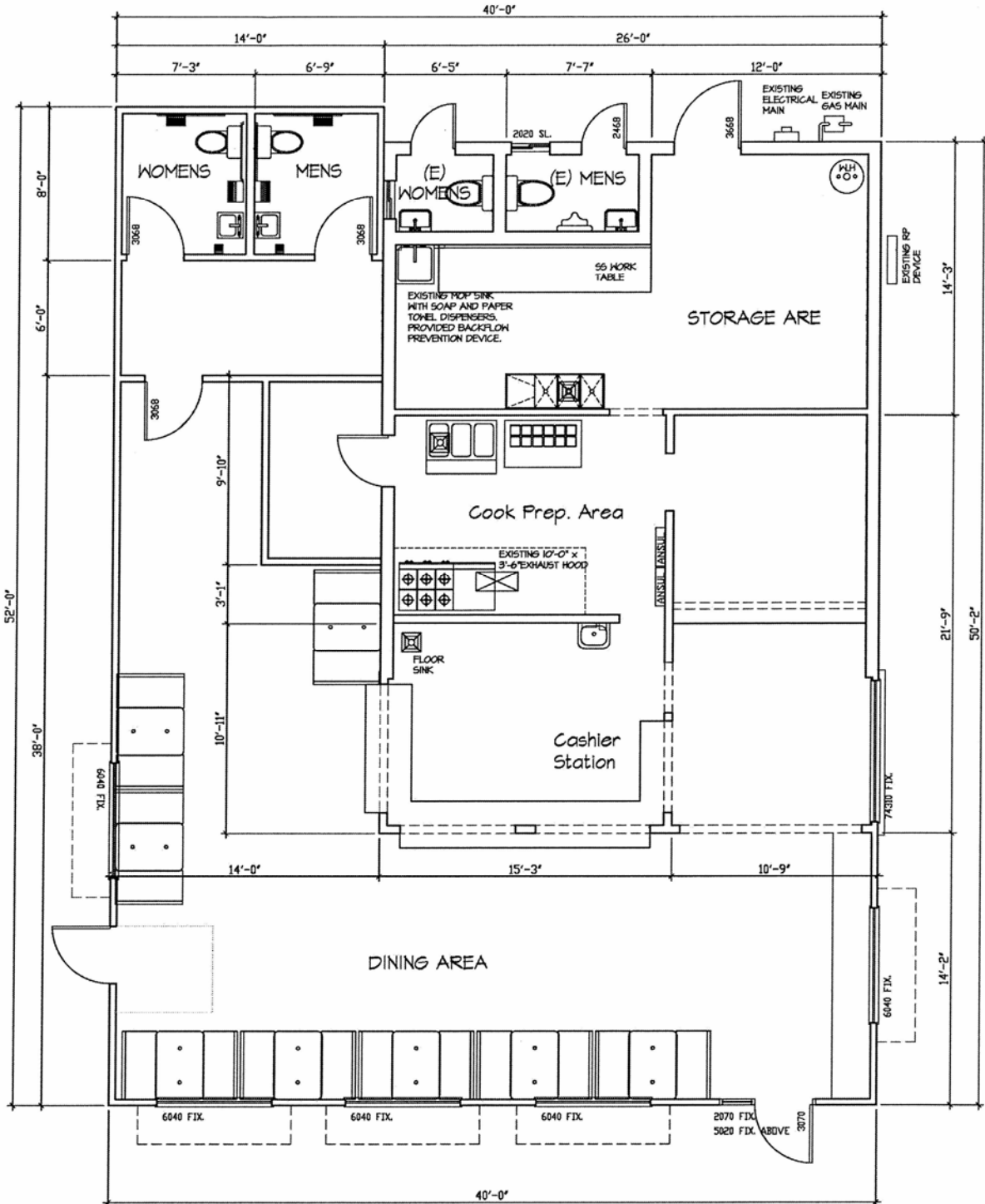
Aerial Photo



Site Plan



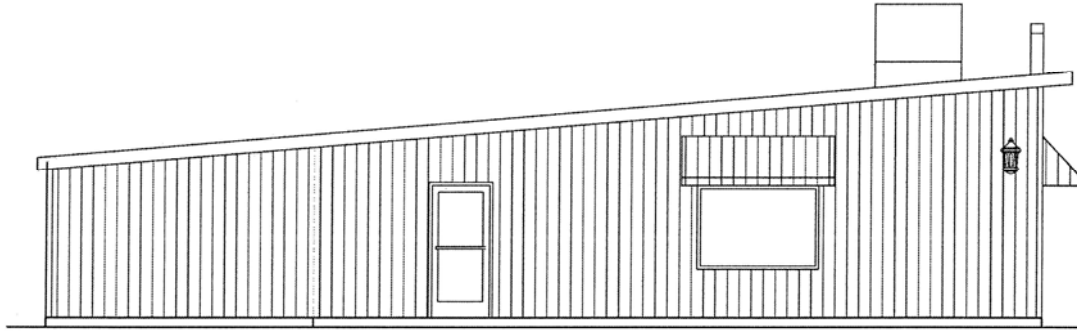
Floor Plan



Existing Floor Plan

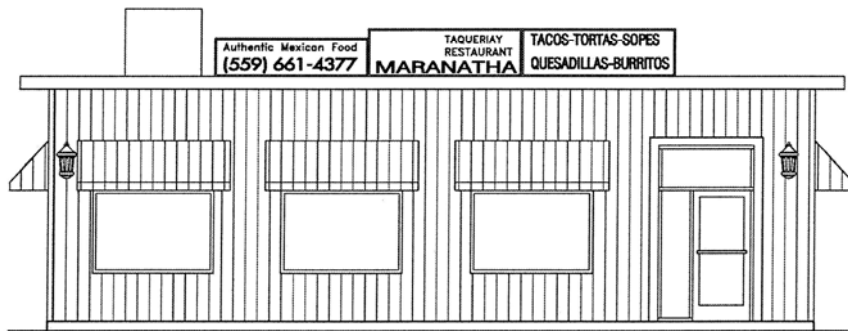
EXISTING 1,036 SQ. FT. SCALE: 1/4" = 1'-0"

Elevations



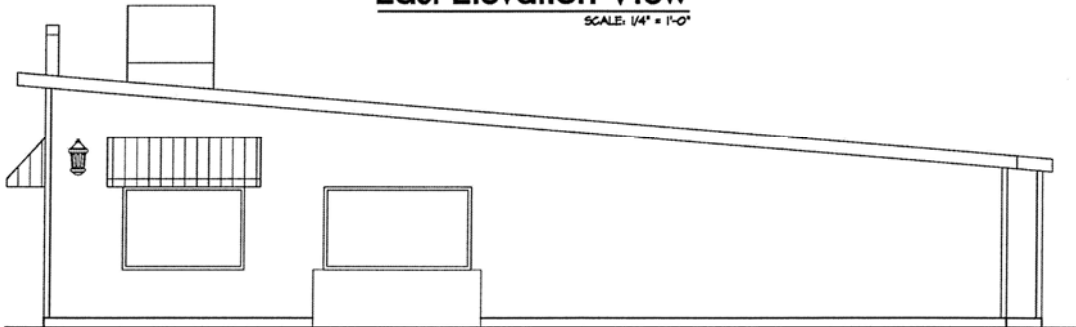
South Elevation View

SCALE: 1/4" = 1'-0"



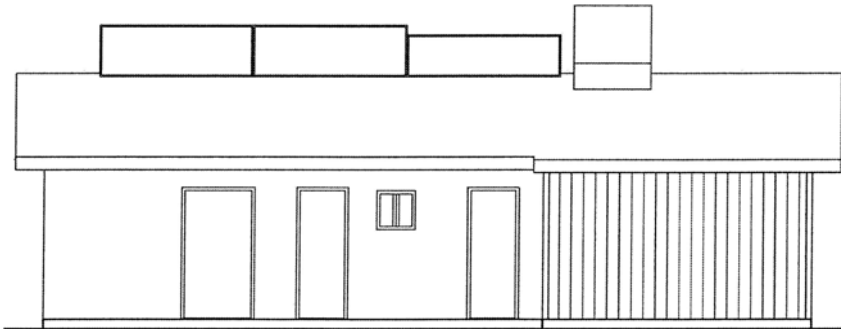
East Elevation View

SCALE: 1/4" = 1'-0"



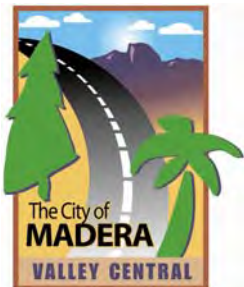
North Elevation View

SCALE: 1/4" = 1'-0"



West Elevation View

SCALE: 1/4" = 1'-0"



CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Glory of Zion
CUP 2015-35, SPR 2015-40 & Environmental Determination
Item #4 – February 9, 2016**

PROPOSAL: An application for a conditional use permit and site plan review to allow for the establishment of a church.

APPLICANT:	Joyce L. Lane	OWNER:	Mohammed Arian
ADDRESS:	360 East Almond Avenue	APN:	012-240-001
APPLICATION:	CUP 2015-35 & SPR 2015-40	CEQA:	Categorical Exemption

LOCATION: The property is located on the south side of East Almond Avenue between Madera Avenue and Emily Way.

STREET ACCESS: The site has access to Almond Avenue.

PARCEL SIZE: 4.85-acre parcel with a professional office complex, of which the church suite is a part thereof

GENERAL PLAN DESIGNATION: O (Office)

ZONING DISTRICT: C2 (Heavy Commercial)

SITE CHARACTERISTICS: The professional office complex encompasses approximately one quarter of the 4.85-acre parcel. Glory of Zion is located in one of the office suites on the parcel with parking provided on-site as a component of the center overall. The site is generally surrounded by professional office development located on along the East Almond Avenue commercial corridor. Residential development is found to the south of the project site.

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

SUMMARY: The church is an ancillary use in the office complex and will not adversely affect the character of the office complex or the activities therein. The office structure can accommodate the assembly activities of the church and there is ample on-site parking for the church.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.803 Heavy Commercial Zone
MMC § 10-3.405 Uses
MMC § 10-3.1202 Parking Regulations
MMC § 10-3.1301 Use Permits
MMC § 10-3.4.0102 Site Plan Review Applicability

A church may be allowed in any zone subject to the approval of a conditional use permit by the Planning Commission. 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 permit should be denied.

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

PRIOR ACTION

The project site was developed as a first phase of office development that was approved within Site Plan Review 1992-16, which allowed for a total of seven structures encompassing approximately 52,800 square feet of office space. Only the first phase, a total of 13,200 square feet within two structure, has been constructed.

ANALYSIS

Background

Churches are allowed in any zone in the City with the approval of a use permit. The office complex site is occupied by varying health care related office uses. The church has operated for some time without the required conditional use permit. City staff did issue a sign permit in 2011, but no use permit application was required at that time since there was an understanding that the Glory of Zion was not functioning as a church. Late in 2015, staff notified the applicant of the requirement for a use permit and site plan review, and shortly thereafter this application was filed.

Operations

The Glory of Zion church is located in an approximately 2,800 square foot tenant suite. The floorplan includes an assembly room/sanctuary with seating for approximately 75 people. The church tenant space also includes a pastor's office, a consultation room, a kitchen and a fellowship/meeting room. Men's and women's restrooms complete the church facilities. Services are currently held on Sundays during the day and Wednesday nights. Daytime bible study occurs during the week and a monthly training session occurs at night.

The church has demonstrated compatibility with the adjoining office uses. No conflict with an allowance for the church has been identified. Because of the evident compatibility in the office setting, this use permit proposes to allow for up to three special event or fundraising activities a year. A temporary use permit must be applied for at least three weeks prior to the event/activity so that staff can determine compatibility of proposed activities with surrounding uses.

Parking

The commercial complex is currently developed with fifty (50) parking spaces (including seven handicap stalls) serving 13,200 square feet of floor area. These accommodations equate to a parking ratio of one stall per each 264 square feet of lease area. Uses typical of an office development require one parking stall per each 300 square feet of floor area. The church requires the provision of nineteen (19) parking stalls based on a ratio of one parking stall for every four (4) seats provided in the sanctuary.

The City of Madera parking ordinance allows parking stalls to serve as “joint use” stalls in some cases. In the case of a church, up to 100% of required parking can be supplied by uses primarily considered to be daytime uses such as offices or retail shops. On this site, all of the parking requirements of the various office tenants can be considered daytime uses. Although the church does engage in some daytime activities, such as a bible study, the church does not meaningfully impact the office operations of the other tenants. Typically, no more than twenty (20) individuals could be expected to attend any daytime activity.

CURRENT USES	GROSS FLOOR AREA	DAYTIME REQUIREMENTS	NIGHT/SUNDAY REQUIREMENTS
Various Office Tenants	10,400	35	0
Glory of Zion Ministries	2,800	5	19
TOTAL	13,200	40	19

Considering all factors, there is ample parking on site to serve the use.

Site Improvements

The repurposing of the office so as to accommodate a church changes the building occupancy classification to an “A” Assembly type occupancy. Conditions of approval are focused upon improvements to the structure necessary to provide for the assembly occupancy. All other site infrastructure is improved to the current City standard.

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

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of a church is not specifically addressed in the vision or action plans, the overall project does indirectly support Strategy 336 which encourages cooperation and continued collaboration with the church community.

RECOMMENDATION

The office complex can easily accommodate a church within one of the tenant suites. The suite will need to make certain improvements necessary for the church, which changes the buildings occupancy classification to an assembly occupancy. With these improvements in place, staff recommends conditional approval of Conditional Use Permit 2015-35 and Site Plan Review 2015-40.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding Conditional Use Permit 2015-35 and Site Plan Review 2015-40, determining to either:

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

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

Motion 1: Move to approve the requested Conditional Use Permit 2015-35 and Site Plan Review 2015-40 based on and subject to the findings and conditions of approval as listed.

Findings

- This project is categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) since there will be negligible expansion of the existing use of the structure.
- The operation of a church is consistent with the purposes of the C (Commercial) General Plan designation and the C2 (Heavy Commercial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- There is adequate parking on site to allow for the proposed church.
- As conditioned, the development will be compatible with surrounding properties.
- As conditioned, the establishment, maintenance or operation of the use will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city.

CONDITIONS OF APPROVAL

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty days of the date of approval for this use permit.
2. Conditional Use Permit 2015-35 allows for the establishment of a church, consistent with the stated conditions of approval.
3. 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.
4. The use permit may be made null and void without any additional public notice or hearing at any time upon both the benefactors of the use permit and owners of the

property voluntarily submitting to the City a written request to permanently extinguish the conditional use permit.

5. This conditional use permit will expire if the use is discontinued for a twelve-month period.
6. Site Plan Review 2015-40 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).
7. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.

Building Department

8. A building permit is required for all improvements. The tenant space must meet the requirements of the California Building Code, California Fire Code, and Americans with Disabilities Act within 90 days of this approval.
9. Current State of California and federal handicap requirements shall apply to the entire site and all structures and parking thereon. Compliance shall be checked at permit stage, shall be confirmed at final inspection.

Fire Department

10. Portable fire extinguishers are required. One 2A10BC rated fire extinguisher for every 3,000 square feet or fraction thereof.
11. Two means of egress are required. Both must be accessible.
12. A building permit must be obtained for a change in occupancy to permit an assembly occupancy. The plans must be prepared by a licensed architect.
13. All finishes and wall coverings, draperies, fabrics, etc., must comply with the flame spread and smoke generation limitations of the California Building Code (CBC) and the California Fire Code (CFC).
14. Exit signage and emergency lighting are required. This includes emergency lighting at the exterior side of the exterior exit door landing.
15. Egress door hardware must be panic hardware except as specifically exempted in the code for the main entry. All egress doors must swing in the direction of egress travel.
16. The occupant load must be posted in accordance with the CBC/CFC.
17. Fire Sprinklers and a fire alarm system will be required if the occupant load exceeds the limits established in the CBC/CFC. Please note that the occupant load is determined in accordance with Chapter 10 of the CBC/CFC and is not based upon the tenants "anticipated use".

18. A key box is required if one does not already exist.

Planning Department

19. This use permit allows for the establishment of a church within an approximately 2,800 square foot office space. The site includes no less than fifty (50) on-site parking stalls to serve the 13,200 square foot office complex.
20. The church shall operate consistent with the approved floor plan and operational statement. Alterations to the approved floor plan and/or the approved operation statement shall require amendment of Conditional Use Permit 2015-35.
21. Vandalism and graffiti shall be corrected per the Madera Municipal Code.
22. Up to three (3) special events and/or fundraising activities may be permitted each year with the approval of a Temporary Use Permit in each case. In no case shall any special event/fundraising activity cause a reduction in parking below the number of stalls required to serve the site. Special events shall only occur during daytime hours, when ample parking is available to serve the site.
23. Kitchen facilities shall be maintained consistent with the requirements of the Madera County Environmental Health Department.
24. No nursery facility shall be developed as a component of the lease space without prior approval of the Building Official.
25. The applicant shall operate in a manner that does not generate significant noise, odor 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/refuse containers belonging to the subject property.
27. The applicant shall comply with all federal, state and local laws. Material violation of any applicable laws concerning the use will be cause for revocation of this permit.
28. All required parking shall be permanently maintained with all parking spaces as shown on the required site plan submittal. Any modifications in the approved parking layout shall require approval by the Planning Manager.
29. Church staff and parishioners shall only utilize parking stalls provided onsite. Neighboring properties shall not be adversely impacted by church activities.
30. 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 request for approval of Conditional Use Permit 2015-35 and Site Plan Review 2015-40 to the March 8, 2016 Planning Commission meeting: (specify)

(OR)

Motion 3: Move to deny the request for Conditional Use Permit 2015-35 and Site Plan Review 2015-40 based on the following findings: (specify)

ATTACHMENTS

Aerial Photo

Site Photos

Site Plan

Aerial Photo

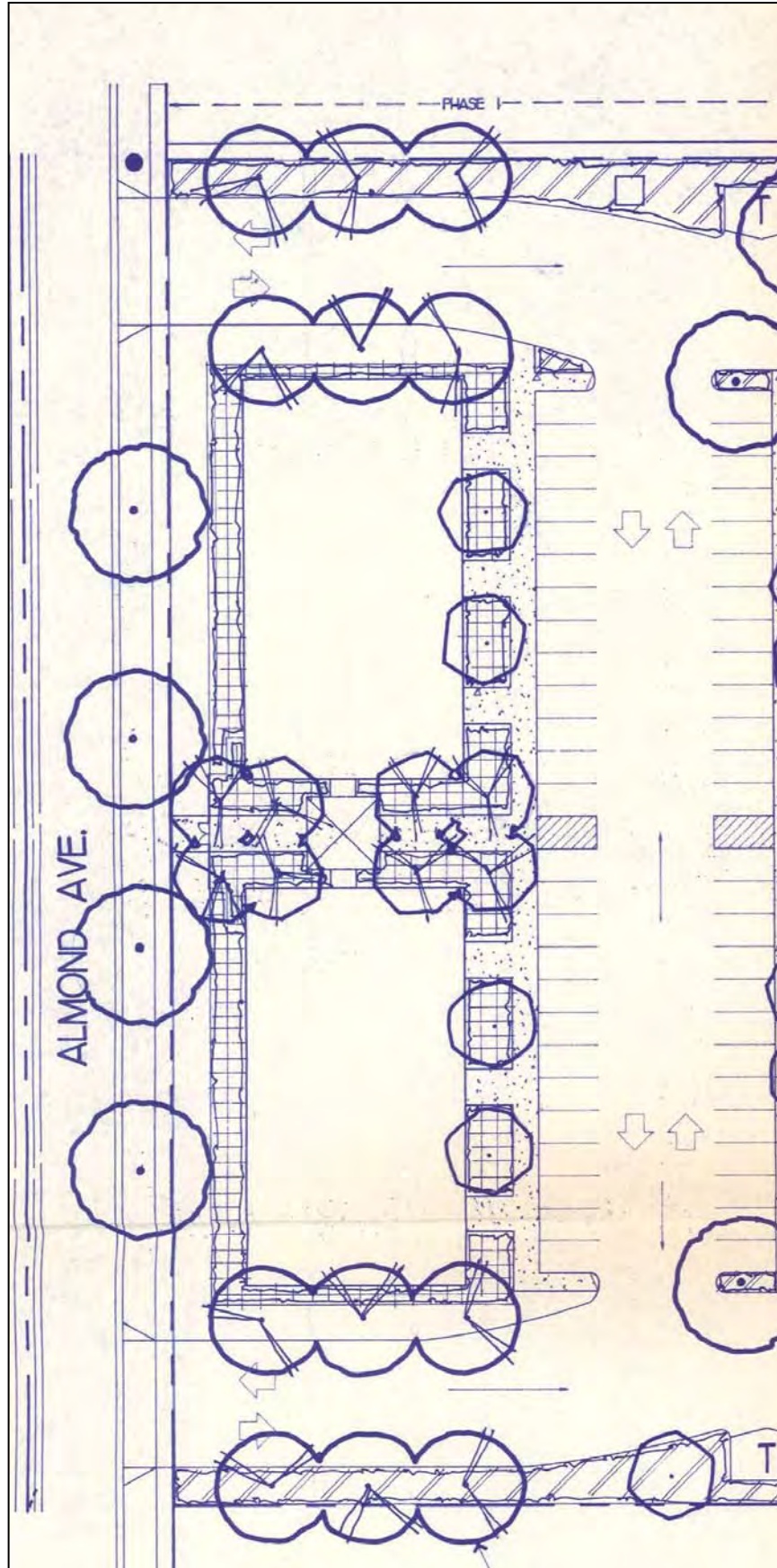


Site Photos





Site Plan





CITY OF MADERA
PLANNING COMMISSION

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

**Staff Report: Ordinance Text Amendment – OTA 2016-01
Item #5 – February 9, 2016**

PROPOSAL: Consideration of adoption of a resolution recommending to the City Council adoption of an ordinance amending Section 1310 of Chapter 10 of Title III of the Madera Municipal Code pertaining to action on appeal of Planning Commission decisions.

APPLICANT:	City of Madera	OWNER:	N/A
ADDRESS:	N/A	APN:	N/A
APPLICATIONS:	OTA 2016-01	CEQA:	Exempt

LOCATION: Citywide

STREET ACCESS: N/A

PARCEL SIZE: N/A

GENERAL PLAN DESIGNATION: N/A

ZONING DISTRICT: N/A

SITE CHARACTERISTICS: N/A

ENVIRONMENTAL REVIEW: The proposed ordinance is exempt under Section 15061(b)(3) of the California Environmental Quality Act “CEQA”. The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SUMMARY: The current Zoning Ordinance that addresses appeals to the City Council is reflective of a five-member Council. This ordinance amendment will correct the appeals process to accurately reflect the seven-member composition of the City Council.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.1310 Action on Appeals by Council

PRIOR ACTION

The ordinance in question was adopted in 1961. No amendment of the ordinance in question has ever occurred.

BACKGROUND

In 2012, the City Council transitioned from five members to seven members. The Council serves as the appeal body for Planning Commission actions.

ANALYSIS

Although the City Council currently is a seven-member board, Madera Municipal Code Section 10-3-1310 currently requires that “a fourth-fifths vote of the whole of the Council shall be required to grant, in whole or in part, any appealed application denied by the Planning Commission.” In order to more accurately reflect the 2012 transition from a five-member body to a seven-member body, a text amendment is appropriate.

The 1961 ordinance requires an 80% (4/5^{ths}) vote to grant an appeal of a Planning Commission decision. In assessing a corresponding percentage of a seven-member board, a 5/7^{ths} vote in favor equates to a 71% vote required to grant the appeal. A 6/7^{ths} vote equates to an 86% favorable vote necessary to grant an appeal.

It is recommended that any amendment not create a more egregious appeal standard. Thus, although the 86% (6/7) standard more closely aligns with the current 80% appeal standard, the 71% (5/7) standard is recommended so as to more closely align with the purpose and intent of the ordinance which is not necessarily to restrict Council reevaluation of a Planning Commission action, but instead to allow for fair reevaluation of Commission decisions when appealed to the City Council by an interested party.

Madera Municipal Code Section 10-3-1310 is, therefore, recommended to be amended to read that “a five-sevenths vote of the whole of the Council shall be required to grant, in whole or in part, any appealed application denied by the Planning Commission.”

RECOMMENDATION

The information presented in this report supports approval of an ordinance amending the current ordinance to address the seven-member composition of the City Council. It is recommended that the Planning Commission consider this information, together with testimony provided during the public hearing and make a decision regarding the ordinance amendment.

PLANNING COMMISSION ACTION

The Planning Commission will be acting on the ordinance amendment.

The Commission would be taking action regarding Ordinance Text Amendment 2016-01, determining to either:

- adopt a resolution recommending to the City Council adoption of the ordinance amendment,
- adopt a resolution recommending to the City Council adoption of the ordinance amendment subject to recommendations, or
- adopt a resolution recommending to the City Council denial of the ordinance amendment

Motion 1: Move to adopt a resolution recommending to the City Council of the City of Madera approval of Ordinance Text Amendment 2016-01, amending Section 1310 of Chapter 10 of Title III of the Madera Municipal Code pertaining to action on appeal of Planning Commission decisions, as proposed.

(OR)

Motion 2: Move to adopt a resolution recommending to the City Council of the City of Madera approval of Ordinance Text Amendment 2016-01, subject to the following recommendations:
(Insert revised ordinance text)

(OR)

Motion 3: Move to adopt a resolution recommending to the City Council denial of Ordinance Text Amendment 2016-01.

ATTACHMENTS

Planning Commission Resolution
Draft Ordinance

RESOLUTION NO. _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA AN ORDINANCE AMENDING SECTION 1310 OF CHAPTER 10
OF TITLE III OF THE MADERA MUNICIPAL CODE PERTAINING TO ACTION
ON APPEAL OF PLANNING COMMISSION DECISIONS

WHEREAS, the City of Madera has adopted the mandatory elements of the General Plan, as required by the State of California; and

WHEREAS, the City has adopted regulations and established policies toward the betterment of public welfare; and

WHEREAS, the City has adopted zoning regulations and established land use zones to further implement the General Plan; and

WHEREAS, State law also provides for periodic review, updates, and amendments of its various Plans and Codes; and

WHEREAS, the Planning Commission recommends to the City Council of the City of Madera adoption of an ordinance amending Section 1310 of Chapter 10 of Title III of the Madera Municipal Code pertaining to action on appeal of Planning Commission decisions; and

WHEREAS, the Madera Municipal Code authorizes the Planning Commission to initiate Code Amendments through adoption of a Resolution; and

WHEREAS, the Planning Commission has completed its final review and evaluated information contained in the Staff Report.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MADERA AS FOLLOWS:

1. The above recitals are true and correct.
2. The proposed ordinance is exempt under Section 15061(b)(3) of the California Environmental Quality Act.
3. It is recommended that the City Council of the City of Madera adopt an ordinance amending Section 1310 of Chapter 10 of Title III of the Madera Municipal Code pertaining to action on appeal of Planning Commission decisions as set forth in the attached Exhibit 'A'.

4. This resolution is effective immediately upon adoption.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 9th day of February 2016, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Kenneth Hutchings, Chairperson
City Planning Commission

Attest:

Christopher Boyle
Planning Manager

EXHIBIT 'A'

DRAFT ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, AMENDING SECTION 1310 OF CHAPTER 10 OF TITLE III OF THE MADERA MUNICIPAL CODE PERTAINING TO ACTION ON APPEAL OF PLANNING COMMISSION DECISIONS

THE CITY COUNCIL OF THE CITY OF MADERA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 1310 of Chapter 10 of Title III, of the Madera Municipal Code is hereby amended as follows:

§ 3-10.1310 ACTION ON APPEALS BY COUNCIL.

(A) The Council, at its next duly held meeting, shall set a date and time for a public hearing on the appeal and shall cause notice of such hearing to be posted in the vicinity of the property described in the application.

(B) The Commission shall submit to the Council a report setting forth the reasons for the action taken by the Commission, or a member of the Commission shall be present at such public hearing to represent the Commission.

(C) The Council shall render its decision within 60 days after the filing of such appeal.

(D) The Council may, by resolution, affirm, reverse, or modify, in whole or in part, any decision, determination, or requirement of the Commission but before granting any appealed petition which was denied by the Commission, or before changing any of the conditions imposed by the Commission in a use permit granted by the Commission, the Council shall make a written finding of fact setting forth wherein the Commission's findings were in error.

(E) A ~~four-fifths~~ [five-sevenths] vote of the whole of the Council shall be required to grant, in whole or in part, any appealed application denied by the Commission.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or void for any other reason.

SECTION 3. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA, AMENDING SECTION 1310 OF CHAPTER 10 OF TITLE III OF
THE MADERA MUNICIPAL CODE PERTAINING TO ACTION ON APPEAL OF
PLANNING COMMISSION DECISIONS

THE CITY COUNCIL OF THE CITY OF MADERA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 1310 of Chapter 10 of Title III, of the Madera Municipal Code is hereby amended as follows:

§ 3-10.1310 ACTION ON APPEALS BY COUNCIL.

(A) The Council, at its next duly held meeting, shall set a date and time for a public hearing on the appeal and shall cause notice of such hearing to be posted in the vicinity of the property described in the application.

(B) The Commission shall submit to the Council a report setting forth the reasons for the action taken by the Commission, or a member of the Commission shall be present at such public hearing to represent the Commission.

(C) The Council shall render its decision within 60 days after the filing of such appeal.

(D) The Council may, by resolution, affirm, reverse, or modify, in whole or in part, any decision, determination, or requirement of the Commission but before granting any appealed petition which was denied by the Commission, or before changing any of the conditions imposed by the Commission in a use permit granted by the Commission, the Council shall make a written finding of fact setting forth wherein the Commission's findings were in error.

(E) A ~~four-fifths~~ [five-sevenths] vote of the whole of the Council shall be required to grant, in whole or in part, any appealed application denied by the Commission.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or void for any other reason.

SECTION 3. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *