

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director
Prepared By: Joseph Fiss, Principal Planner

DATE: February 13, 2013 (CC Meeting of 2/20/2013)

SUBJECT: Consider Resolution for Conditional Use Permit No. 2012-03 to Allow an Outdoor Recreational Vehicle Storage Facility at 4875 Spring Road on the Application of Banny Anderson (for Moorpark RV and Storage)



SUMMARY

On April 17, 2012 Banny Anderson (for Moorpark RV and Storage) submitted an application requesting a Conditional Use Permit (CUP) to allow an outdoor recreational vehicle storage facility on a 6.81 acre site at 4875 Spring Road. The public hearing for this item was opened on September 19, 2012, and the agenda item was continued with the public hearing still open on September 19, 2012, October 17, 2012, December 5, 2012, and January 16, 2013. There were no speakers at any of these meetings.

BACKGROUND

The following is a chronology of permit activity for this use, based on City records.

- February 7, 1974 – The Ventura County Planning Division notified A-C Construction that the contractor's storage yard at 4875 Moorpark Road (now Spring Road) was established without a required County Development Plan Permit.
- February 11, 1974 – A-C Construction applied for Development Plan Permit No. DP-113 with the County of Ventura.
- October 2, 1974 – The Ventura County Planning Director approved DP-113 for a contractor's storage yard with a 1600 square-foot contractor's office building.
- December 18, 1979 – The County Board of Supervisors revised the Moorpark Community Plan, changing the land use designation of the site from Industrial to Medium Density Residential (3.1-5 Dwelling Units per acre). This made the existing land use and M-2 zoning inconsistent with the County General Plan.

- August 1, 1980 – A-C Construction applied for a modification to Development Plan Permit No. DP-113 in order to expand the existing 1,600 square-foot office by 2,184 square feet.
- August 19, 1980 – The County Planning Director denied the modification application based on the project's inconsistency with the County General Plan.
- October 9, 1980 – The County Board of Supervisors adopted a resolution of intention (No. 7995) to rezone the property from M-2 to R-1.
- November 20, 1980 – The County Planning Commission overturned the County Planning Director's August 19, 1980 denial of the modification application to expand the office.
- November 4, 1992 – The City of Moorpark adopted Ordinance No. 155, approving a Zoning Consistency Map for the City. The subject site is rezoned CPD (Commercial Planned Development)
- October 7, 1994 – The Community Development Director of the City of Moorpark issued Temporary Zoning Clearance No. 94-231 to allow recreational vehicle storage on the site. The permit was good for 18 months with the ability to extend the permit by 6 months. The permit was conditioned that if the applicant intends to provide recreational vehicle storage beyond the 18 month period, the applicant shall apply for a Zoning Ordinance Amendment to allow recreational vehicle storage in the CPD zone and a Planned Development Permit.
- November 28, 1994 – The Community Development Director of the City of Moorpark issued Zoning Clearance No. 94-267 to replace Zoning Clearance No. 94-231 for temporary RV storage on the property. This permit was good for 18 months and would terminate at the end of a 24-month period if the City does not approve a Zoning Ordinance Amendment and CPD permit in this time to allow this use.
- August 1, 1996 – An application was submitted to the Community Development Department for a Commercial Planned Development Permit for RV Storage.
- August 5, 1996 – An application was submitted to the Community Development Department for a Zoning Ordinance Amendment to allow continued recreational vehicle storage and mini-storage on the site.
- October 16, 1996 – The Moorpark City Council adopted Resolution No. 96-1237, which authorized the continuation of recreational vehicle storage on the site until 30 days after rendering a decision on the Zoning Ordinance Amendment application, not exceeding a maximum of one year from this date, unless subsequently extended by the City Council.
- March 5, 1997 – After holding a public hearing on the Zoning Ordinance Amendment application, the Moorpark City Council required the applicant to apply for a Conditional Use Permit for continuation of the RV storage and introduced Ordinance No. 225, which amended the provisions for nonconforming

uses in the Zoning Ordinance to allow for a change from a nonconforming use to a use that is similar with approval of a City Council-approved Conditional Permit pursuant to the requirements of Chapter 17.44, provided the changed use is considered to have no greater impact than the previously existing use, is similar to the nonconforming use and is not considered as an expansion of the existing use. Conditions may be imposed, including, but not limited to time limitations, as deemed necessary for the compatibility of such nonconforming use with adjacent properties.

- March 19, 1997 – The Moorpark City Council adopted Ordinance No. 225.
- May 27, 1998 – The applicant submitted a Conditional Use Permit Pre-Application, along with an \$860 review fee.
- July 21, 1998 – A comment letter from the Community Development Department is issued on the pre-application. Among other comments, this letter concludes by indicating that the RV Storage use requires a City Council-approved Conditional Use Permit.
- January 24, 2012 – At the request of Stephen Anderson, one of the owners, Community Development staff researched the permit status of this site and determined that back in 1998, the Conditional Use Permit application required for the use had never been submitted. Staff subsequently met with the attorney representing the owner to go over the history and application submittal requirements.
- April 17, 2012 – A Conditional Use Permit application was submitted by Banny Anderson for Moorpark RV and Storage.

DISCUSSION

Project Setting

Existing Site Conditions:

The site is generally flat and is mostly finished with a combination of asphalt and compacted gravel with the exception of a small front yard and a small amount of landscaping in the customer parking lot. Landscaping in the parking area is less than the 10 percent that would be required in a new development. There is one 3,250 square foot two-story administrative building and two attached shop buildings totaling 2,068 square feet on the eastern side of the site. The paved area is striped for designation of recreation vehicle storage areas. The property is surrounded by a block wall, with the exception of the western boundary, where a chain link fence exists. A small dump station exists in the office parking area west of the office building and east of the recreational vehicle storage area entrance. The site had been previously used for construction equipment storage, however, this use has ceased.

Previous Applications:

As mentioned above, on October 2, 1974 the Ventura County Planning Director approved DP-113 for a contractor's storage yard with a 1600 square-foot contractor's office building, and the Ventura County Planning Commission approved a 2,184 square-foot addition to this building on November 20, 1980. Although a Conditional Use Permit Pre-Application was submitted to the City on May 27, 1998, the applicant never filed a Conditional Use Permit application to entitle the existing use.

GENERAL PLAN/ZONING			
Direction	General Plan	Zoning	Land Use
Site	C-2 (General Commercial) And Floodway	CPD (Commercial Planned Development)	Recreational Vehicle and Equipment Storage
North	C-2 (General Commercial)	CPD (Commercial Planned Development)	Retail/Office
South	L (Low Density Residential)	RE (Rural Exclusive)	Single Family Dwelling
East	C-2 (General Commercial)	CPD (Commercial Planned Development)	Retail
West	VH (Very High Density Residential)	RPD (Residential Planned Development)	Unbuilt Residential Project (Canterbury Lane/Shea Homes)

General Plan and Zoning Consistency:

The purpose of the Commercial Planned Development (CPD) Zone is to encourage the development of coordinated, innovative and efficient commercial sites and to provide areas for a wide range of commercial retail and business uses, including stores, shops and offices supplying commodities or performing services for the surrounding community. Although there is an established need for recreational vehicle storage in Moorpark, it is not a permitted use in this zone. The last approved use of this site was for a contractor's storage yard and office. That is currently a nonconforming use with the site being rezoned from an industrial zone first to a zone for residential uses, then to a zone for commercial uses. The Zoning Ordinance allows for a City Council-approved Conditional Use Permit for a change from one nonconforming use to another nonconforming use when the changed use is considered to have no greater impact than the previously existing use, when it is similar to the previously existing use, and when it is not considered an expansion of the previously existing use. It is important to note

that if a Conditional Use Permit is approved, the use will still be considered a legal nonconforming use.

Proposed Project

Architecture:

The existing two-story administrative building is designed in an "Old California" residential style. The building is earth-toned with exterior stucco and a barrel tile roof. In 1975 the structure was converted from residential to a contractor's office use. One existing shop building is a non-descript metal building commonly used for storage and other light uses. The other shop building faces Spring Road and is built of frame and stucco material painted to match the administrative building.

Setbacks:

As mentioned above, the site has a block wall on the north, south, and east property lines and a chain link fence on the west property lines. Vehicles stored within the site are stored up to the walls/fence with no setback. This condition exists with the exception of the administrative building, which is set back approximately 25 feet from the Spring Road property line. The current front setback requirement for this property is 20 feet, and the existing wall and storage area is nonconforming, being within this setback south of the administrative building.

Circulation:

On-site circulation consists of two distinct areas. The first area is the customer parking lot. This area includes one driveway and two rows of parking for use while conducting business within the office area. The second area is the recreational vehicle storage area. This area is behind a gate and is accessed from the same driveway. The storage area is arranged so that vehicles can be parked "head-in", backed-in, or pulled through from one side of a space to the other. This is often preferential for large vehicles or those with trailers. This is a typical layout for recreational vehicle storage.

Parking:

There are 8 customer parking spaces on site in the parking lot adjacent to the administration building. Similar to a private mini-storage facility, these spaces are only used for conducting brief business related to the facility. A dump station that connects to the sewer system is provided adjacent to these parking spaces. The applicant has informed City staff that there has historically been one additional business that has sublet part of the administration building for office use. This tenant's use is unrelated to both the recreational vehicle storage use and the previous contractor's storage yard use. The parking calculation is the same as for the office use for the recreational vehicle storage yard and is included in the required parking calculation below.

Under the current code, a new recreational vehicle storage yard would require one parking space per 300 square feet of office plus one space for every 50 storage spaces. In this case, 17 parking spaces would be required $((3250 \text{ sq. ft.}/300) + (300 \text{ spaces}/50) = 17)$. Parking is discussed in the analysis section below.

Landscaping:

The front yard of administrative building is landscaped with a lawn and several trees. There are a few trees in the customer parking lot. The remainder of the site (the recreational vehicle storage area) is completely paved and is not landscaped. There is an unpaved strip of land between the perimeter wall and the sidewalk that is not landscaped. Landscaping is discussed further in the analysis section below.

Site Improvements and National Pollution Discharge Elimination Standards Requirements (NPDES):

Public Works staff has determined that no stormwater permit is required for the proposed use. A recommended condition of approval (Special Condition No. 10) would prohibit washing or maintenance of vehicles.

ANALYSIS

Issues

Staff analysis of the proposed project has identified the following areas for Planning Commission consideration in their recommendation to the City Council:

- Parking
- Perimeter Landscaping
- Razor/Barbed Wire
- Lighting
- Setbacks
- Duration of Conditional Use Permit

Parking:

The Municipal Code allows changes of use to a similar use, with the same or reduced parking requirements and type of permit allowed in the same zone, provided that current requirements for parking can be met. Where parking cannot meet the current requirement for the new use, as in this case, the required permit under this title must be obtained (in this case, a City Council approved Conditional Use Permit). In such cases, the parking requirements shall be determined to the satisfaction of the Planning Division (Community Development Director) and be specified by the permit. The parking specified under the permit shall not be considered conforming.

The Community Development Director has reviewed the operation of this facility and found that the 8 existing parking spaces are sufficient to meet the needs of the use. A condition of approval is recommended to prevent further leasing of space from the administration building for unrelated office uses. This would prevent the need for additional parking that is not available.

Perimeter Landscaping:

As mentioned above, there is an unpaved strip of land between the perimeter wall and the sidewalk that is not landscaped. Parkways, whether or not in the public right-of-way are required to be maintained by the adjacent property owner. In this case, although the area has been kept clear of weeds, and graffiti has been painted over, it would be appropriate for this area to be landscaped and irrigated. A recommended condition of approval (Special Condition No. 7) has been added to this effect. This landscaping could either be ground cover, or tall shrubs to screen the razor/barbed wire if it is allowed to remain as is discussed further in the section below.

Razor/Barbed Wire:

Currently, the fencing surrounding the entire storage area is topped with barbed wire strands and razor wire. This fencing had existed for many years, and it has been repaired and replaced recently. The Zoning Ordinance restricts the use of barbed wire strands, razor wire, and concertina wire (coiled razor or barbed wire) to industrial-zoned property not adjacent to or across the street from residentially zoned property and where it cannot be visible from a public street. It must have a minimum vertical clearance of six (6) feet above grade and must be maintained in a safe condition.

This site is currently zoned for commercial use, is partially adjacent to a vacant residentially-zoned property that is being graded for development, and is adjacent to two additional commercially-zoned parcels. The razor/barbed wire is visible from Spring Road. The applicant has indicated a need for this type of fencing for this use at this time as the property had a large number of break-ins before the fencing was recently repaired. Three conditions of approval are recommended regarding the razor and barbed wire. The first recommended condition of approval (Special Condition No. 7) requires either landscaping along Spring Road to screen the razor and barbed wire adjacent to the street, or replacement of this section of razor/barbed wire with a material that complies with the current Zoning Ordinance, such as wrought iron. To be effective, this would require plants on substantial size with appropriate spacing. The second recommended condition of approval (Special Condition No. 13) would require the removal of the razor and barbed wire adjacent to the residential property to the west when it is developed. The third recommended condition of approval (Special Condition No. 14) would require the removal of all razor and barbed wire at the end of the term of the CUP or when the use is vacated, whichever occurs first.

Lighting

The recreational vehicle storage yard currently has several pole-mounted lights that are aimed at an angle to provide for high-level security lighting on the site. This lighting does not conform to current standards, which requires decorative lights that are aimed downward. With the staff's recommendation to limit the duration of this permit, this lighting would be brought into conformity when the recreational vehicle storage use is removed from the site.

Setbacks

The wall for the storage yard at the Spring Road frontage is approximately 10 feet from the back of the sidewalk. While the site has not been surveyed, so the exact distance from the right-of-way is not known, the wall is clearly within the 20-foot required setback. The proposed limit on the term of this use would allow for this wall to be brought into compliance with current setbacks when the next use occupies the site.

Duration of Conditional Use Permit:

As shown in the timeline above, the use of this property for outdoor storage has existed since 1974. It has operated as a recreational vehicle storage use since 1994 and has been unpermitted since 1998. In order to amortize this use, it is appropriate to place a finite time limit on the permit. A five-year time limit (to February 20, 2018) would be sufficient time to allow the property owner to process an application and obtain permits for a new and conforming use, since the recreational vehicle storage business has already been operating for some 18 years. A condition of approval has been added to this effect.

Options

1. Denial of the Conditional Use Permit

If the City Council determines that the change of nonconforming use from contractor's storage yard to a nonconforming recreational vehicle storage yard does not meet the findings per Section 17.52.060(C)(2) of the Zoning Ordinance, which require the new use to have no greater impact than the previously existing use, be similar to the previously existing use, and not be considered an expansion of the previously existing use, or any of the proposed findings per Section 17.44 for a Conditional Use Permit outlined in the section below, with conditions of approval, the Conditional Use Permit should be denied. Under Section 17.52.060(A) of the Zoning Ordinance, uses not involving permanent structures shall be terminated not later than 3 years after such use becomes nonconforming. In this case, the recreational vehicle storage yard has been nonconforming (and unpermitted) for many years, while the office use on the property is a permitted use in the CPD zone. A minimum 6 month notice from the director would be required for the recreational vehicle storage use to be terminated if the CUP is denied. In the event that City Council is unable to make all of the findings for approval of the proposed continuation of the recreational vehicle storage yard use, an alternate resolution for denial of the CUP application is attached.

2. Impose Conditions on Recreational Vehicle Storage Yard to Ensure Compatibility with Adjacent Properties

Section 17.52.060(C)(2) allows for conditions of approval to be imposed on a change in nonconforming use, including but not limited to time limitations, as deemed necessary for the compatibility of such nonconforming use with adjacent properties. The conditions in the attached resolution to approve the use are recommended to accomplish this provision of the Zoning Ordinance related to the change from one nonconforming use to another nonconforming use. A term of 5 years with a provision to

allow for one 5-year extension is recommended with these conditions of approval to ensure that the nonconforming use is temporary.

3. Consider Additional Conditions of Approval

Other conditions that could be considered by the City Council that have not been included in the draft resolution for approval are:

- Removal of all razor/barbed wire as this is only permitted in the industrial zone
- Relocation of the wall along Spring Road, as it is currently in the 20-foot front setback, and landscaping of this area.
- Reconstruction of the wall and open fencing all around the property to be an 8-foot high decorative masonry wall as is required when outside storage is allowed.
- Upgrade of all on-site lighting to meet current lighting standards.
- Upgrade of on-site drainage to comply with most recent stormwater quality requirements.
- Provision of interior landscaping to meet current standards.
- Provision of additional parking to meet current standards.

These additional conditions have not been included in the recommendation as a term of 5 years with one possible 5-year extension is proposed. If the site would be used for recreational vehicle storage any longer than this, staff recommends that these conditions be added to address issues that are otherwise temporary in nature.

Conditional Use Permit Findings

1. The proposed continuation of the recreational vehicle storage use as conditioned is consistent with the provisions of the general plan, zoning ordinance, and any other applicable regulations in that the City Council has determined that this use will have no greater impact than the previous nonconforming contractor's storage yard use, is similar to the previous nonconforming contractor's storage yard use, is not considered as an expansion of the previous nonconforming contractor's storage yard use, and is conditioned to have a term of 5 years with one possible 5-year extension;
2. The proposed continuation of the recreational vehicle storage use as conditioned is compatible with both existing and permitted land uses in the surrounding area in that conditions of approval including landscaping and removal and/or screening of razor wire and barbed wire have been included to mitigate impacts on neighboring land uses;
3. The proposed continuation of the recreational vehicle storage use as conditioned is compatible with the scale, visual character, and design of surrounding properties in that there will be no changes to the site as a result of the application other than enhanced landscaping and removal and/or screening of razor wire and barbed wire, which would improve the compatibility of the proposed use with the scale, visual character, and design of surrounding properties;

4. The proposed continuation of the recreational vehicle storage use as conditioned would not be obnoxious or harmful, or impair the utility of neighboring property or uses in that conditions of approval have been included so that the barbed wire and razor wire will be removed when the adjacent residential property west of the project site is developed and the barbed wire and razor wire along the Spring Road frontage will either be removed or screened from view; and
5. The proposed continuation of the recreational vehicle storage use without any vesting right to the use beyond the termination date with conditions of approval including a maximum 5-year term with one possible 5-year extension, enhanced landscaping, and removal and/or screening of the barbed wire and razor wire with removal at the end of the use ensure that the use would not be detrimental to the public health, safety, convenience, or welfare.

PROCESSING TIME LIMITS

Time limits have been established for the processing of development projects under the Permit Streamlining Act (Government Code Title 7, Division 1, Chapter 4.5), the Subdivision Map Act (Government Code Title 7, Division 2), and the California Environmental Quality Act Statutes and Guidelines (Public Resources Code Division 13, and California Code of Regulations, Title 14, Chapter 3). Under the applicable provisions of these regulations, the following timelines have been established for action on this project:

Date Application Determined Complete: May 25, 2012

City Council Action Deadline: August 23, 2012

City Council Action Deadline with Extensions: February 20, 2013

The applicant has agreed to an extension of the processing time limits to February 20, 2013, as is allowed by State law.

ENVIRONMENTAL DETERMINATION

In accordance with the City's environmental review procedures adopted by resolution, the Community Development Director determines the level of review necessary for a project to comply with the California Environmental Quality Act (CEQA). Some projects may be exempt from review based upon a specific category listed in CEQA. Other projects may be exempt under a general rule that environmental review is not necessary where it can be determined that there would be no possibility of significant effect upon the environment. A project which does not qualify for an exemption requires the preparation of an Initial Study to assess the level of potential environmental impacts.

Based upon the results of an Initial Study, the Director may determine that a project will not have a significant effect upon the environment. In such a case, a Notice of Intent to Adopt a Negative Declaration or a Mitigated Negative Declaration is prepared. For many projects, a Negative Declaration or Mitigated Negative Declaration will prove to be

sufficient environmental documentation. If the Director determines that a project has the potential for significant adverse impacts and adequate mitigation cannot be readily identified, an Environmental Impact Report (EIR) is prepared.

The Director has reviewed this project and found it to be Categorically Exempt in accordance with Section 15301 (Class 1, Existing Facilities) of the California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

FISCAL IMPACT

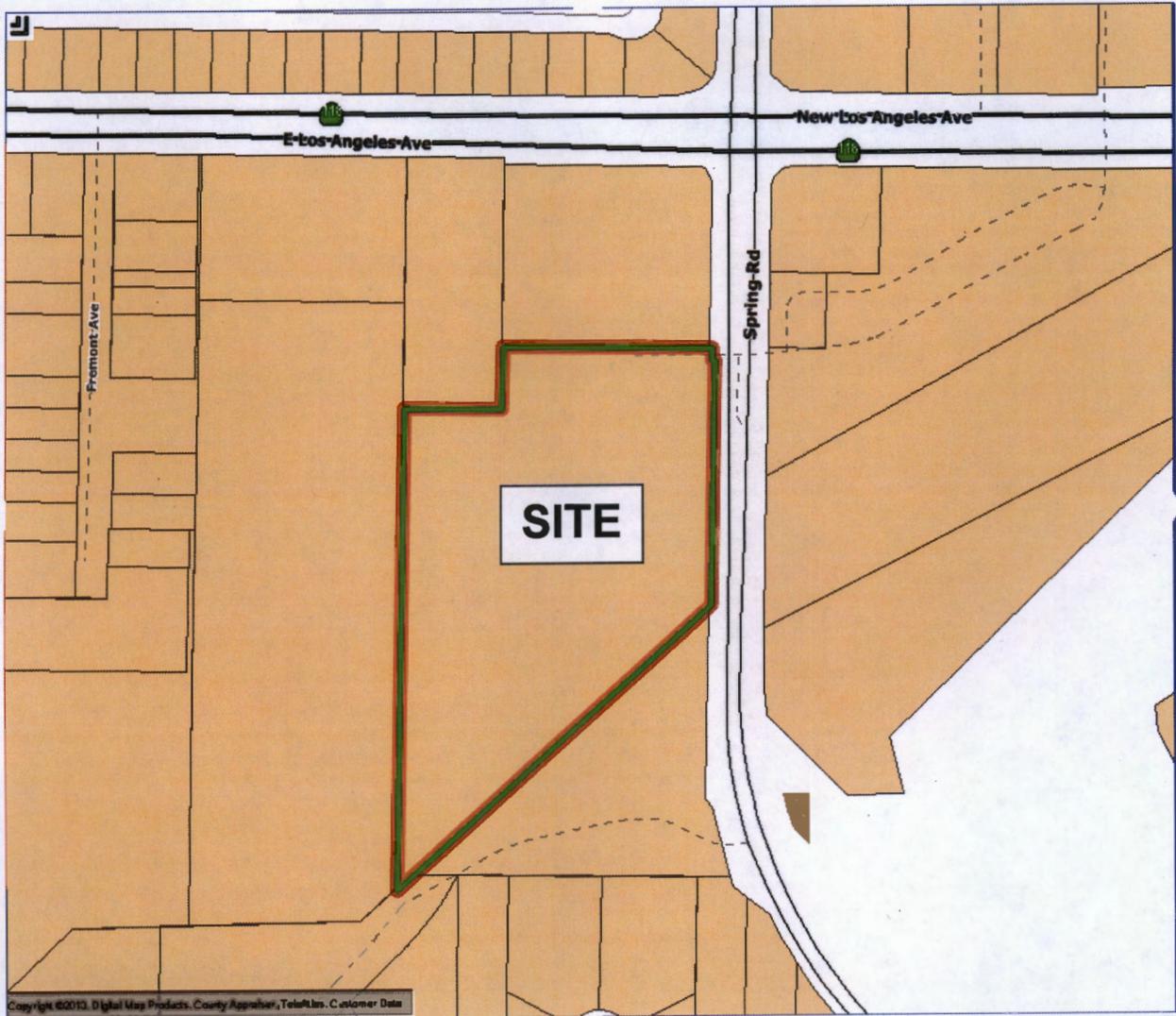
None.

STAFF RECOMMENDATION

1. Continue to accept public testimony and close the public hearing.
2. Adopt Resolution No. 2013-____, conditionally approving Conditional Use Permit No. 2012-03.

ATTACHMENTS:

1. Location Map
2. Aerial Photograph
3. Site Plan
4. Draft Resolution to Approve CUP with Conditions of Approval
5. Draft Resolution to Deny CUP



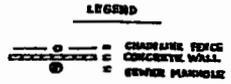
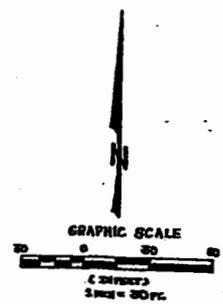
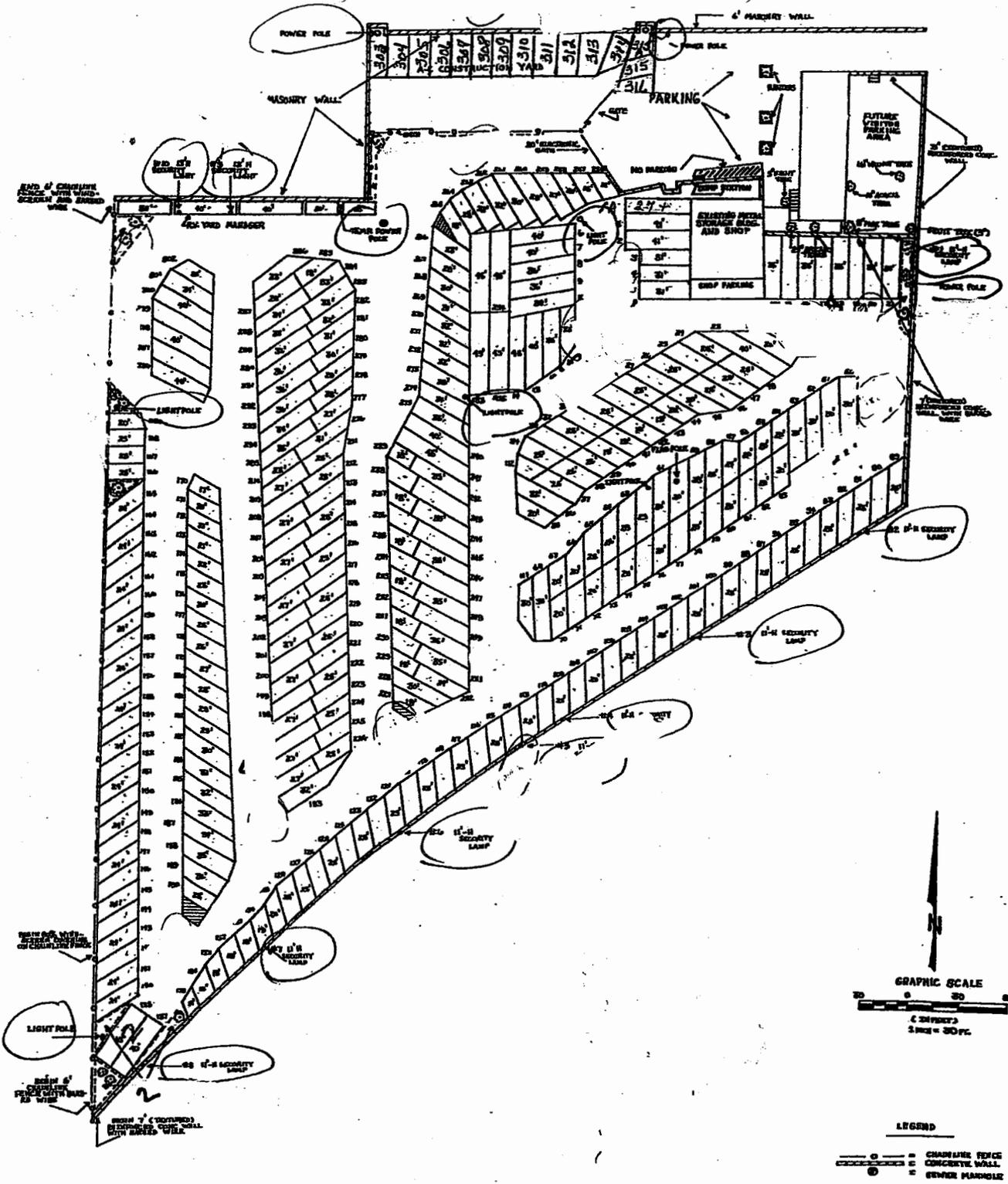
LOCATION MAP

CC ATTACHMENT NO. 1



AERIAL PHOTOGRAPH

CC ATTACHMENT NO. 2



MOORPARK R.V. AND STORAGE CO.
 4875 SPRING ROAD
 MOORPARK CA. 93021
 (805) 528-3246

CC ATTACHMENT 3

AS BUILT PLAN OF
 R.V. STORAGE SPACES
 AND LIGHTING

3/7

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 2012-03 TO ALLOW AN OUTDOOR RECREATIONAL VEHICLE STORAGE FACILITY AT 4875 SPRING ROAD, ON THE APPLICATION OF BANNY ANDERSON (FOR MOORPARK RV AND STORAGE)

WHEREAS, at a duly noticed public hearing held on September 19, 2012, October 17, 2012, December 5, 2012, January 16, 2013, and February 20, 2013, the City Council considered Conditional Use Permit (CUP) No. 2012-03 on the application of Banny Anderson (for Moorpark RV and Storage) to allow an outdoor recreational vehicle storage facility at 4875 Spring Road; and

WHEREAS, at its meetings of September 19, 2012, October 17, 2012, December 5, 2012, January 16, 2013, and February 20, 2013, the City Council considered the agenda report and any supplements thereto and written public comments; opened the public hearing and took and considered public testimony both for and against the proposal; closed the public hearing and reached a decision on this matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. ENVIRONMENTAL DOCUMENTATION: The Community Development Director has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under the Class 1 exemption under State CEQA Guidelines Section 15301 (existing facilities) because CUP No. 2012-03 and related approvals allows for the continuation of an existing recreational vehicle storage use of the property with no expansion or addition to the use or its operation on the property. In addition, there is no substantial evidence that the project will have a significant effect on the environment. The City Council has reviewed the Community Development Department's determination of exemption, and based on its own independent judgment, concurs in staff's determination of exemption.

SECTION 2. CHANGE OF NONCONFORMING USE FINDINGS: Based upon the information set forth in the staff report(s), accompanying studies, and oral and written public testimony, the City Council finds in accordance with City of Moorpark, Municipal Code Section 17.52.060(C)(2) that the existing recreational vehicle storage yard use, with no changes in proposed operations and with special and standard conditions of approval incorporated as shown in Exhibit A, would have no greater impact than the previous nonconforming contractor's storage yard, that it is similar in use to the contractor's storage yard, and it is not considered an expansion of the previous contractor's storage yard.

CC ATTACHMENT 4

SECTION 3. CONDITIONAL USE PERMIT FINDINGS: Based upon the information set forth in the staff report(s), accompanying studies, and oral and written public testimony, the City Council makes the following findings in accordance with City of Moorpark, Municipal Code Section 17.44.040:

1. The proposed continuation of the recreational vehicle storage use as conditioned is consistent with the provisions of the general plan, zoning ordinance, and any other applicable regulations in that the City Council has determined that this use will have no greater impact than the previous nonconforming contractor's storage yard use, is similar to the previous nonconforming contractor's storage yard use, is not considered as an expansion of the previous nonconforming contractor's storage yard use, and is conditioned to have a term of 5 years with one possible 5-year extension;
2. The proposed continuation of the recreational vehicle storage use as conditioned is compatible with both existing and permitted land uses in the surrounding area in that conditions of approval including landscaping and removal and/or screening of razor wire and barbed wire have been included to mitigate impacts on neighboring land uses;
3. The proposed continuation of the recreational vehicle storage use as conditioned is compatible with the scale, visual character, and design of surrounding properties in that there will be no changes to the site as a result of the application other than enhanced landscaping and removal and/or screening of razor wire and barbed wire, which would improve the compatibility of the proposed use with the scale, visual character, and design of surrounding properties;
4. The proposed continuation of the recreational vehicle storage use as conditioned would not be obnoxious or harmful, or impair the utility of neighboring property or uses in that conditions of approval have been included so that the barbed wire and razor wire will be removed when the adjacent residential property west of the project site is developed and the barbed wire and razor wire along the Spring Road frontage will either be removed or screened from view; and
5. The proposed continuation of the recreational vehicle storage use without any vesting right to the use beyond the termination date with conditions of approval including a maximum 5-year term with one possible 5-year extension, enhanced landscaping, and removal and/or screening of the barbed wire and razor wire with removal at the end of the use ensure that the use would not be detrimental to the public health, safety, convenience, or welfare.

SECTION 4. CITY COUNCIL APPROVAL: the City Council hereby approves Conditional Use Permit No. 2012-03 for a five (5) year period ending February 20, 2018, subject to the Standard and Special Conditions of Approval found in Exhibit A attached.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 20th day of February, 2013.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk

Exhibit A – Standard and Special Conditions of Approval

EXHIBIT A

**STANDARD AND SPECIAL CONDITIONS OF APPROVAL FOR
CONDITIONAL USE PERMIT (CUP) No. 2012-03**

STANDARD CONDITIONS OF APPROVAL

The applicant shall comply with Standard Conditions of Approval for Conditional Use Permits as adopted by City Council Resolution No. 2009-2799 (Exhibit B), except as modified by the following Special Conditions of Approval. In the event of conflict between a Standard and Special Condition of Approval, the Special Condition shall apply.

SPECIAL CONDITIONS

1. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit is deemed to be acceptance of all conditions of this permit.
2. The Conditions of Approval of this permit, City of Moorpark Municipal Code and adopted city policies at the time of the permit approval supersede all conflicting notations, specifications, dimensions, typical sections and the like which may be shown on plans.
3. Conditions of this entitlement may not be interpreted as permitting or requiring any violation of law or any unlawful rules or regulations or orders of an authorized governmental agency.
4. Nothing in this permit or its Conditions of Approval precludes the City from enforcing the Municipal Code with respect to any violations which may occur on the property affected by this permit.
5. The applicant shall defend, indemnify and hold harmless the City and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul any approval by the City or any of its agencies, departments, commissions, agents, officers, or employees concerning the permit, which claim, action or proceeding is brought within the time period provided therefore in California Code of Civil Procedure Section 1094.6 or California Government Code Section 65009, whichever is shorter. The City will promptly notify the applicant of any such claim, action or proceeding, and if the City should fail to do so or should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify and hold harmless the City or its agents, officers and employees pursuant to this condition.
 - a. The City may, within its unlimited discretion, participate in the defense of any such claim, action or proceeding, if both of the following occur:

- i. The City bears its own attorney fees and costs;
 - ii. The City defends the claim, action or proceeding in good faith.
 - b. The applicant shall not be required to pay or perform any settlement of such claim, action or proceeding unless the settlement is approved by the applicant. The applicant's obligations under this condition shall apply regardless of whether a building permit is ultimately obtained, or final occupancy is ultimately granted with respect to the permit.
6. If any of the conditions or limitations of this approval are held to be invalid, that holding shall not invalidate any of the remaining conditions or limitations set forth.
7. The development must be in substantial conformance with the plans presented in conjunction with the application for Conditional Use Permit No. 2012-03, except any modifications as may be required to meet specific Code standards or other conditions stipulated herein. Any future changes to the parking or vehicle storage layout shall require review and approval by the Community Development Director.
8. Landscaping shall be provided and continuously maintained in the area between the wall adjacent to Spring Road and the sidewalk. If the razor/barbed wire along the Spring Road frontage is to be maintained by the applicant for the duration of this permit, plant materials shall be of sufficient size and spacing to provide rapid screening of the razor wire and barbed wire so that it would not be visible from the public right-of-way. If the razor wire and barbed wire is removed in this area, only ground cover is necessary between the wall and sidewalk. Within thirty (30) days of approval, a landscaping plan showing landscaping in the area between the perimeter wall and the sidewalk on Spring Road, shall be submitted for review and approval by the Community Development Director. Such landscaping shall be installed within thirty (30) days of approval of the plan.
9. A separate sign permit application is required for all proposed signs.
10. All exterior areas of the site, including landscaping and parking areas must be maintained free of litter and debris at all times.
11. There shall be no maintenance of recreational vehicles, including washing or changing of propane tanks, on site. The existing dump station is the only location where holding tanks may be emptied.
12. Conditional Use Permit No. 2012-03 may be revoked or its use suspended by the City, if any of the causes listed in Section 17.44.080.B of the Zoning Code are found to apply, including if the use for which the permit was granted has not been exercised for at least twelve (12) consecutive months, has ceased to exist, or has been abandoned. The discontinuance for a period of one hundred eighty (180) or more days of a nonconforming use or a change of nonconforming use to a

conforming use constitutes abandonment and termination of the nonconforming status of the use.

13. The City of Moorpark reserves the right to modify, suspend or revoke for cause this conditional use permit consistent with Chapter 17.44 of the Moorpark Municipal Code or as may be amended in the future.
14. If the easterly wall on the adjacent residential property west of the subject site is constructed prior to the expiration of this Conditional Use Permit, any barbed wire strands, razor wire, and/or concertina wire (coiled barbed wire) adjacent to the residential development shall be removed by the applicant within thirty (30) days of notification by the Community Development Director.
15. At the end of the term of this CUP or if use is vacated earlier, whichever comes first, all barbed wire strands, razor wire, and/or concertina wire (coiled barbed wire) shall be removed within thirty (30) days of notification by the Community Development Director. Any razor or barbed wire that is removed may only be replaced by fencing that conforms with the standards of the Zoning Ordinance at the time of installation.
16. No vested right to any use or uses allowed by this permit shall apply or exist beyond the termination date of this permit as follows. All recreational vehicle and outdoor storage allowed by this Conditional Use Permit must cease by February 20, 2018, and the site must be restored or converted to a conforming use by this date. The City Council may extend the term of this Conditional Use Permit by one additional five (5) year period to February 20, 2023 if upon receipt of an application for extension from the operator not less than sixty (60) days prior to expiration, the City Council finds the use to be in conformance with all conditions of approval.
17. No additional tenant space in the administration building and storage building shall be leased during the term of this permit beyond that leased at the time of approval of this permit. Within thirty (30) days of permit approval, the applicant shall provide information on the current leased space in these buildings to the Community Development Director.

-END-

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, DENYING CONDITIONAL USE PERMIT NO. 2012-03 TO ALLOW AN OUTDOOR RECREATIONAL VEHICLE STORAGE FACILITY AT 4875 SPRING ROAD, ON THE APPLICATION OF BANNY ANDERSON (FOR MOORPARK RV AND STORAGE)

WHEREAS, at a duly noticed public hearing held on September 19, 2012, October 17, 2012, December 5, 2012, January 16, 2013, and February 20, 2013, the City Council considered Conditional Use Permit (CUP) No. 2012-03 on the application of Banny Anderson (for Moorpark RV and Storage) to allow an outdoor recreational vehicle storage facility at 4875 Spring Road; and

WHEREAS, at its meetings of September 19, 2012, October 17, 2012, December 5, 2012, January 16, 2013, and February 20, 2013, the City Council considered the agenda report and any supplements thereto and written public comments; opened the public hearing and took and considered public testimony both for and against the proposal; closed the public hearing and reached a decision on this matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. ENVIRONMENTAL DOCUMENTATION: The Community Development Director has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under the Class 1 exemption under State CEQA Guidelines Section 15301 (existing facilities) because CUP No. 2012-03 and related approvals allows for the continuation of an existing recreational vehicle storage use of the property with no expansion or addition to the use or its operation on the property. In addition, there is no substantial evidence that the project will have a significant effect on the environment. The City Council has reviewed the Community Development Department's determination of exemption, and based on its own independent judgment, concurs in staff's determination of exemption.

SECTION 2. CHANGE OF NONCONFORMING USE FINDINGS: Based upon the information set forth in the staff report(s), accompanying studies, and oral and written public testimony, the City Council finds the existing recreational vehicle storage yard does not meet the findings of City of Moorpark, Municipal Code Section 17.52.060(C)(2), in that that the existing recreational vehicle storage yard use has a greater impact than the previous nonconforming contractor's storage yard, that it is not similar in use to the contractor's storage yard, and that it is considered an expansion of the previous contractor's storage yard.

SECTION 3. **CONDITIONAL USE PERMIT FINDINGS:** Based upon the information set forth in the staff report(s), accompanying studies, and oral and written public testimony, the City Council makes the following findings in accordance with City of Moorpark, Municipal Code Section 17.44.040:

1. The proposed continuation of the recreational vehicle storage use is not consistent with the provisions of the general plan, zoning ordinance, and any other applicable regulations in that the City Council has determined that this use will have a greater impact than the previous nonconforming contractor's storage yard use, is not similar to the previous nonconforming contractor's storage yard use, and is considered an expansion of the previous nonconforming contractor's storage yard use;
2. The proposed continuation of the recreational vehicle storage use is not compatible with both existing and permitted land uses in the surrounding area in that zoning for the property has been changed to Commercial Planned Development (CPD) by Ordinance No. 155 in 1992 to encourage the development of coordinated innovative and efficient commercial sites and to provide areas for a wide range of commercial retail and business uses, including stores, shops and offices supplying commodities or performing services for the surrounding community and the permitted uses in the CPD zone do not include recreational vehicle storage uses;
3. The proposed continuation of the recreational vehicle storage use is not compatible with the scale, visual character, and design of surrounding properties in that the visible storage of recreational vehicles and the use of razor wire and barbed wire are not permitted in the CPD zone;
4. The proposed continuation of the recreational vehicle storage use would be obnoxious or harmful, or impair the utility of neighboring property or uses in that the storage of recreational vehicles and the use of barbed wire and razor wire are visible from adjacent properties and the Spring Road right-of-way and are not in keeping with the purpose of the CPD zone to encourage the development of coordinated innovative and efficient commercial sites and to provide areas for a wide range of commercial retail and business uses, including stores, shops and offices supplying commodities or performing services for the surrounding community.

SECTION 4. **CITY COUNCIL DENIAL:** the City Council hereby denies the application for Conditional Use Permit No. 2012-03 based on the findings above.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 20th day of February, 2013.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk