

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director
Prepared By: Joseph Fiss, Planning Manager 

DATE: February 4, 2015 (CC Meeting of 2/18/2015)

SUBJECT: Consider a Resolution Approving Modification No. 1 to Commercial Planned Development (CPD) Permit No. 2005-02, a Request to Modify Condition of Approval No. 27 to Allow 24-Hour Operation at the Retail Commercial Shopping Center on the South Side of Los Angeles Avenue between Moorpark Avenue and Park Lane, and Finding the Modification to be Categorically Exempt from Environmental Review under the California Environmental Quality Act (CEQA), on the Application of Rob Raznick / Tuscany Square Partners

BACKGROUND

On August 31, 2005, the City Council adopted Resolution No. 2005-2371, approving CPD Permit No. 2005-02 for the construction of an approximately 74,402 square foot retail commercial shopping center on approximately 6.96 acres on the south side of Los Angeles Avenue between Moorpark Avenue and Park Lane.

This approval included Condition of Approval No. 27, stating "Hours of operation shall be from 6:00 a.m. to 10:00 p.m. unless otherwise approved by Conditional Use Permit or these Conditions of Approval. Any maintenance, cleaning, sweeping, or landscaping activities of the exterior area of the buildings shall not be performed prior to 7:00 a.m. or after 7:00 p.m."

On January 21, 2015, Anytime Fitness submitted an application for an Administrative Permit to allow occupancy of a 5,822 square foot fitness center within this shopping center. The applicant is requesting a 24-hour operation as part of the application.

On January 22, 2015, an application was submitted by Rob Raznick / Tuscany Square Partners for a request to modify Condition of Approval No. 27 to CPD Permit No. 2005-02 to allow an extension of hours from 6:00 a.m. to 10:00 p.m. to 24 hours.

DISCUSSION

Analysis

The Moorpark Municipal Code allows for a Permit Modification for any proposed change to a discretionary permit that exceeds the criteria of a permit adjustment, but is not extensive enough to be considered a substantial or fundamental change in the approved entitlement or use relative to the permit, would not have a substantial adverse impact on surrounding properties and would not change any findings contained in the environmental documentation prepared for the permit. Action on the permit modification application shall be by the decision-making body that approved the original permit by the same type of public action process (i.e., action item without public hearing or public hearing item) and public noticing as required for the original project application. There is no timing requirement after approval for when a permit modification can be filed as long as it meets these criteria.

The restriction on hours of operation was placed on the original permit for Tuscany Square so that the hours would be consistent with hours of operation for other neighborhood shopping centers, such as Mountain Meadows Plaza. However, this shopping center is different from other neighborhood centers in that it is located along Los Angeles Avenue, a major arterial and State highway. As shown in the table below, most shopping centers along Los Angeles Avenue do not have restrictions on hours of operation.

Shopping Center	LA Avenue Intersection	Permitted Hours
Moorpark Marketplace	Miller Parkway	None specified
Village at Moorpark	Miller Parkway	None specified
Moorpark Plaza	Spring Road	None specified
LA Spring Center	Spring Road	6:00 a.m. to midnight
Gateway Center	Spring Road	Eating establishments to close by midnight
Tuscany Square	Moorpark Avenue	6:00 a.m. to 10:00 p.m.
Moorpark Town Center	Moorpark Avenue	None specified
Moorpark Grove	Park Lane	6:00 a.m. to 10:00 p.m.
Mission Bell Plaza	Park Lane/Leta Yancy	None specified

Tuscany Square is separated from residential uses by two wide streets, Moorpark Avenue and Park Crest Lane. With the center's orientation to Los Angeles Avenue, staff does not believe that limits on hours of operation are necessary to maintain compatibility with surrounding uses. A proposed amendment to Condition No. 27 of CPD Permit No. 2005-02, in the attached resolution, would still allow for restrictions in hours of operation as well as conditions to address security issues on uses that require administrative permits or conditional use permits when determined necessary to make the findings for such permits. It should be noted that during the research for this

request, staff discovered two uses in the center that are already operating outside the permitted hours of operation. The Fresh and Easy Market is open until midnight and the Rabobank ATM is accessible at all hours. Should this modification not be approved, staff will direct these tenants to comply with the hours of operation. Although this modification request was specifically for Tuscany Square, staff would support a similar modification for Moorpark Grove, should the owners request it, as it is adjacent to Tuscany Square and shares the same parking lot.

Findings

The proposed change in hours of operation of the Tuscany Square shopping center is not a substantial or fundamental change in CPD Permit No. 2005-02 or uses relative to the permit, and it would not have a substantial adverse impact on surrounding properties, nor change the findings in the Mitigated Negative Declaration prepared for the CPD Permit No. 2005-02 in that the Tuscany Square shopping center is located along a major arterial and is separated from residential uses by Moorpark Avenue and Park Crest Lane.

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: January 17, 2015

Planning Commission Action Deadline: Not Applicable

City Council Action Deadline: April 18, 2015

Upon agreement by the City and Applicant, one 90-day extension can be granted to the date action must be taken on the application.

ENVIRONMENTAL DETERMINATION

The Community Development Director has determined this project to be Categorically Exempt in accordance with Section 15301 (Class 1: Existing Facilities) of the California Code of Regulations (CEQA Guidelines) in that the project involves a request to amend the hours of an existing shopping center, and the project would not result in any environmental impacts in that it is located along a major arterial and is separated from residential uses by Moorpark Avenue and Park Crest Lane. No further environmental documentation is required.

FISCAL IMPACT

None.

NOTICING

Public Notice for this meeting was given consistent with Chapter 17.44.070 of the Zoning Ordinance as follows:

1. Publication. The notice of the public hearing was published in the Ventura County Star on Sunday, February 8, 2015.
2. Mailing. The notice of the public hearing was mailed on Friday, February 6, 2015, to owners of real property, as identified on the latest adjusted Ventura County Tax Assessor Roles, within one-thousand (1,000) feet of the exterior boundaries of the assessor's parcel(s) subject to the hearing.
3. Sign. One 32 square foot sign is to be placed on the street frontage by Sunday, February 8, 2015.

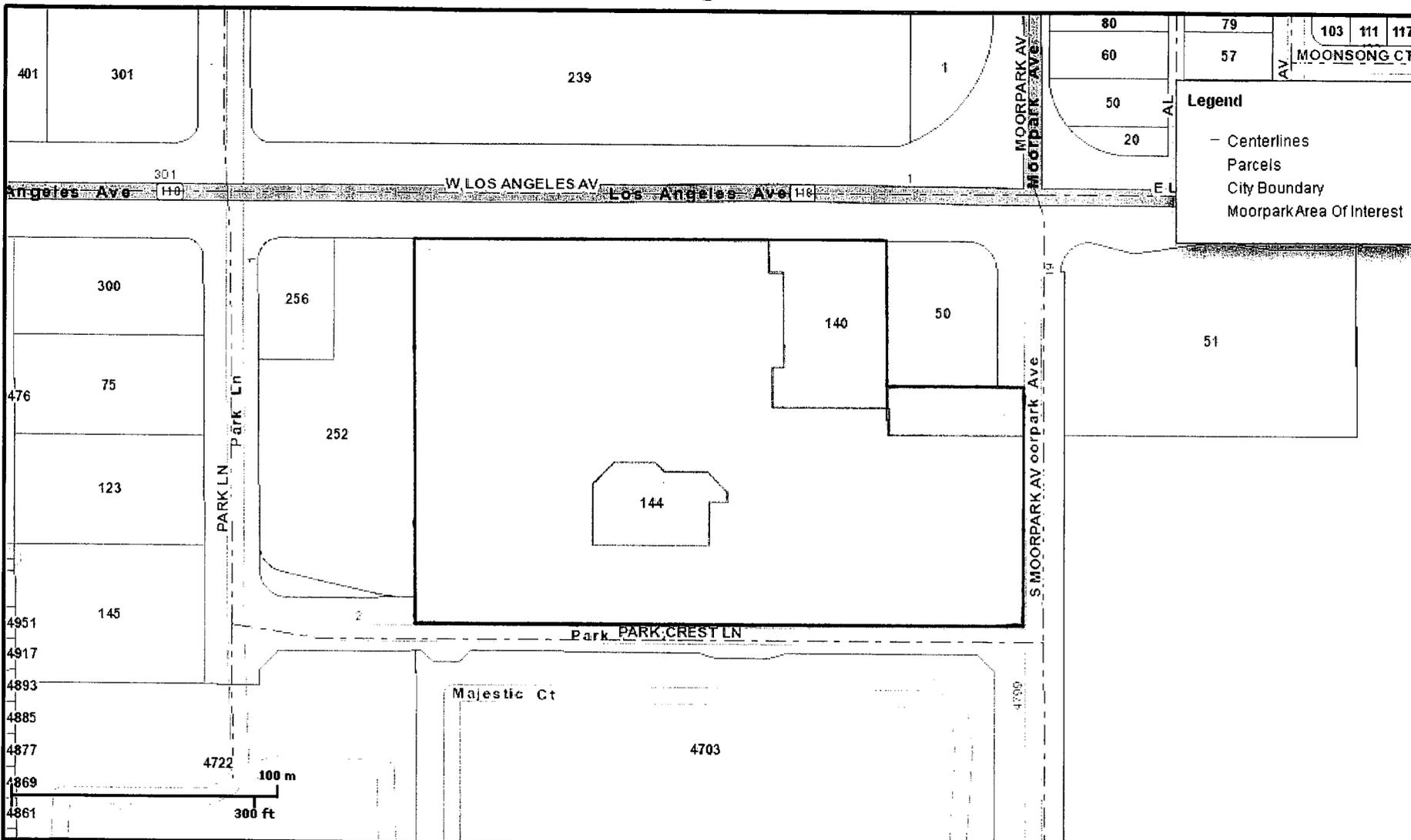
STAFF RECOMMENDATION

1. Open the public hearing, accept public testimony and close the public hearing.
2. Adopt Resolution No. 2015-____ approving Modification No. 1 to Commercial Planned Development (CPD) No. 2005-02.

ATTACHMENTS:

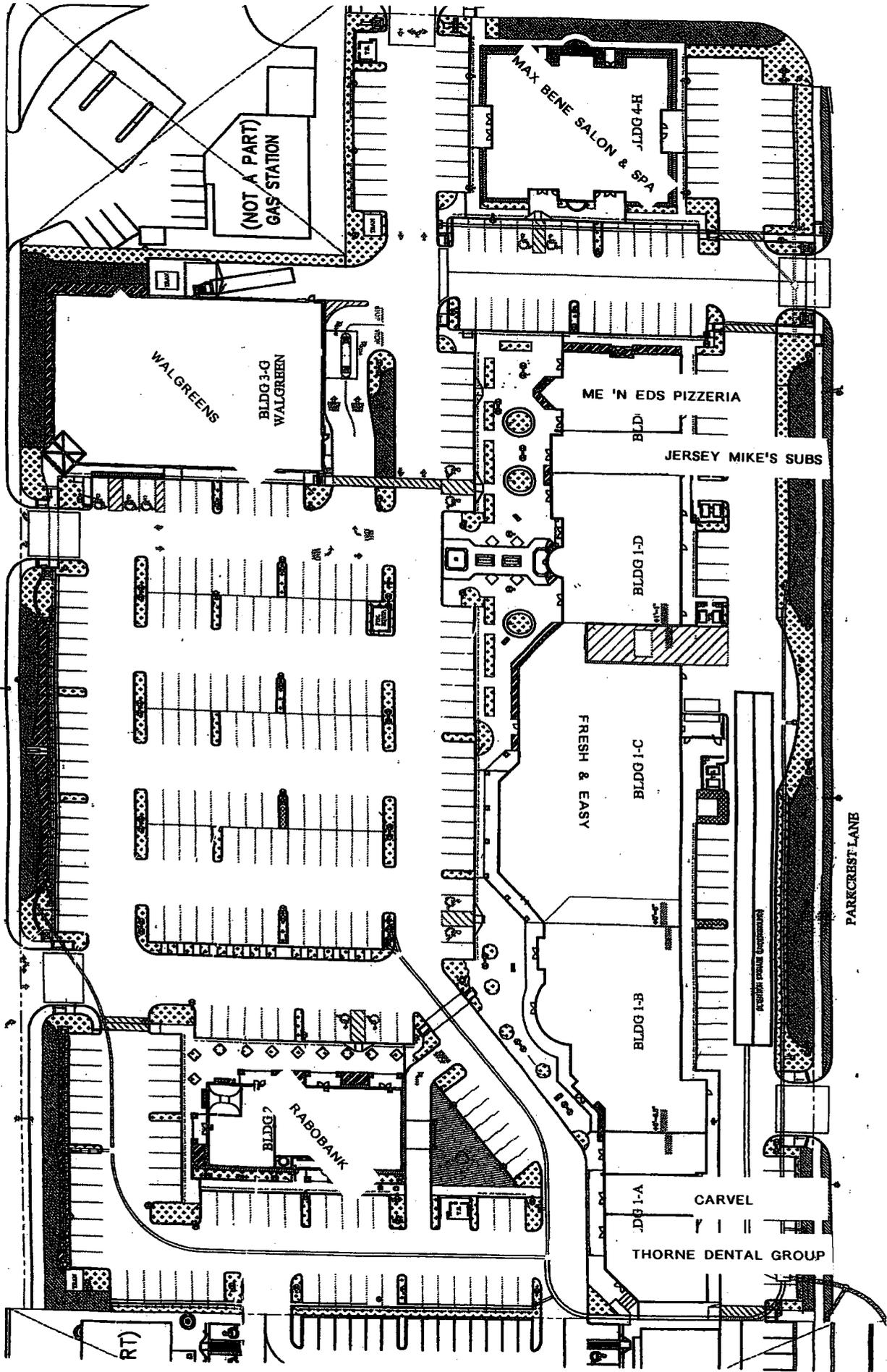
1. Location Map
2. Site Plan
3. Draft Resolution Approving Modification No. 1 to Commercial Planned Development (CPD) No. 2005-02.

Location Map 144 Los Angeles Avenue



CC ATTACHMENT 1

1" = 188 ft	Modification No. 1 to CPD 2005-02	01/22/2015		
<p>This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Moorpark staff for the most up-to-date information.</p>				



RESOLUTION NO. 2015-

A RESOLUTION APPROVING MODIFICATION NO. 1 TO COMMERCIAL PLANNED DEVELOPMENT (CPD) PERMIT NO. 2005-02, A REQUEST TO MODIFY CONDITION OF APPROVAL NO. 27 TO ALLOW 24-HOUR OPERATION AT THE RETAIL COMMERCIAL SHOPPING CENTER ON THE SOUTH SIDE OF LOS ANGELES AVENUE BETWEEN MOORPARK AVENUE AND PARK LANE, AND FINDING THE MODIFICATION TO BE CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), ON THE APPLICATION OF ROB RAZNICK / TUSCANY SQUARE PARTNERS

WHEREAS, on January 22, 2015, Rob Raznick, on behalf of Tuscany Square Partners, applied for Modification No. 1 to CPD Permit No. 2005-02 to amend Condition No. 27 to allow the Tuscany Square Shopping Center to be open 24 hours a day; and

WHEREAS, at a duly noticed public hearing held on February 18, 2015, the City Council considered the agenda report and any supplements thereto and any written public comments; opened the public hearing, took and considered public testimony both for and against the proposal, closed the public hearing, and reached a decision on this matter; and

WHEREAS, the Community Development Director has determined that this project is Categorically Exempt from the provisions of CEQA pursuant to Section 15301 (Existing Facilities) of the California Code of Regulations (CEQA Guidelines) in that the project involves a request to amend the hours of an existing shopping center, and the project would not result in any environmental impacts in that it is located along a major arterial and is separated from residential uses by Moorpark Avenue and Park Crest Lane. No further environmental documentation is required.

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

SECTION 1. ENVIRONMENTAL DOCUMENTATION: The City Council concurs with the Community Development Director's determination that this project is Categorically Exempt from the provisions of CEQA pursuant to Section 15301 (Existing Facilities) of the California Code of Regulations (CEQA Guidelines) in that the project involves a request to amend the hours of an existing shopping center, and the project would not result in any environmental impacts in that it is located along a major arterial and is separated from residential uses by Moorpark Avenue and Park Crest Lane. No further environmental documentation is required.

SECTION 2. MODIFICATION FINDINGS: Based upon the information set forth in the staff report(s), accompanying studies, and oral and written public testimony, the

CC ATTACHMENT 3

Planning Commission makes the following findings in accordance with City of Moorpark, Municipal Code Section 17.44.100:

The proposed change in hours of operation of the Tuscany Square shopping center is not a substantial or fundamental change in CPD Permit No. 2005-02 or uses relative to the permit, and it would not have a substantial adverse impact on surrounding properties, nor change the findings in the Mitigated Negative Declaration prepared for the CPD Permit No. 2005-02 in that the Tuscany Square shopping center is located along a major arterial and is separated from residential uses by Moorpark Avenue and Park Crest Lane.

SECTION 3. CITY COUNCIL APPROVAL: The City Council hereby approves Modification No. 1 to Commercial Planned Development (CPD) No. 2005-02 subject to the Conditions of Approval included in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 4. 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 18th day of February, 2015.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk

Exhibit A - Conditions of Approval

EXHIBIT A

**CONDITIONS OF APPROVAL FOR MODIFICATION NO. 1 TO COMMERCIAL
PLANNED DEVELOPMENT (CPD) PERMIT NO. 2005-02**

1. All conditions of approval for CPD Permit No. 2005-02 shall continue to apply except as modified herein.
2. Condition No. 27 of CPD Permit No. 2005-02 is hereby amended as follows:

27. Hours of operation shall be from 6:00 a.m. to 10:00 p.m. unless otherwise approved by Conditional Use Permit or these Conditions of Approval for specific uses may be limited by subsequent permit conditions if determined necessary to make the findings for such permits. Any maintenance, cleaning, sweeping, or landscaping activities of the exterior area of the buildings shall not be performed prior to 7:00 a.m. or after 7:00 p.m.
3. For indoor or outdoor events that are not considered part of the everyday operation of the facility, the applicant shall apply for and secure a Temporary Use Permit from the Community Development Department. Such application must be made at least thirty (30) calendar days prior to the commencement of the indoor or outdoor event. As part of the Conditions of Approval, the Community Development Director may require, based upon the scope and size of the event, security guards, traffic control, valet parking and other measures to assure that the event does not disrupt the neighborhood and surrounding area.
4. Modification No. 1 to Commercial Planned Development (CPD) No. 2005-02 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.
5. The applicant shall comply with Chapter 8.32 PROHIBITING SMOKING IN PUBLIC PLACES at all times and shall provide signs consistent with Section 8.32.040 of the Moorpark Municipal Code to the satisfaction of the Community Development Director, prior to initiation of the uses allowed by this permit. Any smoking area, if desired, shall comply with Section 8.32.030 of the Moorpark Municipal Code.

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