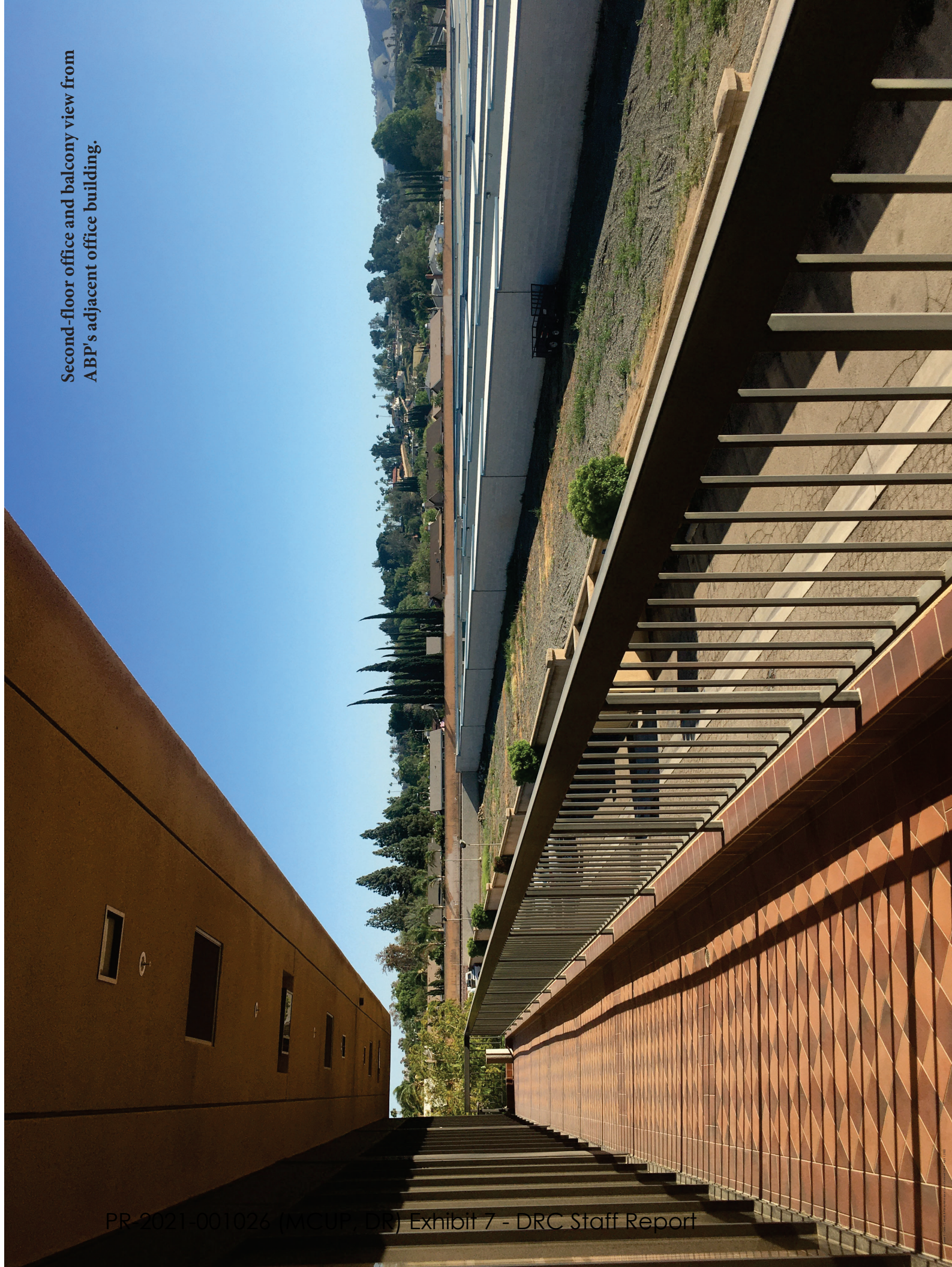


Ground level view from ABP's adjacent building site.



Second-floor office and balcony view from
ABP's adjacent office building.



LESTER, CANTRELL & KRAUS, LLP

ATTORNEYS AT LAW

Writer's E-Mail Address:
MKraus@lc-lawyers.com

November 28, 2022

Via Email: ABerlino@riversideca.gov

Alyssa Berlino
Associate Planner
City of Riverside
Community & Economic Development Dept., Planning Div.
3900 Main Street, 3rd Floor
Riverside, California 92522

**Re: Planning Case PR-2021-001026
(MCUP and Design Review for 10030 Indiana Avenue)**

Dear Ms. Berlino,

This letter follows our letter to you on April 1, 2022, regarding the MCUP application submitted by Richardson's RV for a proposed outdoor RV storage yard at 10030 Indiana Avenue (the "Richardson Property"). In our first letter, we pointed out, on behalf of our client Gustav G. Kuhn doing business as Arlington Business Plaza ("ABP") several reasons why the MCUP application should be denied. Having reviewed the most recent iteration of the application, we must inform you that it contains the same fatal flaws and should be denied.

The Minor Conditional Use Permit Application Should Be Rejected Because It Fails to Meet the Requirements of the Applicable Zoning Code Provisions

The MCUP for operating an outdoor storage yard on the Property can only be granted if:

from the facts available in the application and determined by investigation, all of the following written findings can be made:

- A. The proposed use is substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts.
- B. The proposed use will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.
- C. The proposed use will be consistent with the purposes of the Zoning Code.

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- D. The proposed use is in conformance with specific site location, development and operation standards as may be established in the Zoning Code for the particular use.

Zoning Code § 19.730.040.

Outdoor storage yards are further regulated by Section 19.285.010 of the Zoning Code, which provides: “The purpose of regulating outdoor storage yards is *to ensure compatibility of such uses with surrounding uses and properties* and *to avoid any impacts associated with such uses.*”

As we stated in our earlier letter, the proposed RV storage yard fails all of these tests in that it (a) is not substantially compatible with surrounding uses because there are no RV storage yards in this area, which is predominantly indoor commercial space; (b) will have environmental impacts that will interfere with these uses; (c) will detract from the commercial character of the surrounding area and unfairly penalize incumbent business owners and investors; and (d) most importantly, the Site Plan cannot meet the Zoning Code’s requirements for outdoor storage yards due to inadequate screening and inadequate grading.

The most recent Site Plan, like the initial one, fails to satisfy Section 19.285.040’s screening requirements for outdoor storage. Specifically, “[s]torage shall be visually screened *from all adjacent building sites and public streets and alleys* by a solid masonry wall *of a height sufficient to screen all materials stored outdoors* or by a building.” (Emphasis added.) Mr. Richardson’s latest proposal opts to use a 10 foot high metal fence and trees as visual screening instead of masonry. Landscaping for screening is permitted by the Code, but only “provided that the required visual screening is achieved.” Zoning Code § 19.285.040(A). Such screening must be “established at or before the time any area is used for outdoor storage.” *Id.*, § 19.285.040(B).

The most recent Site Plan’s visual screening efforts fail to achieve the required screening for three reasons. First, the landscaping proposed for visual screening is only contemplated to be installed along approximately 68 feet of the over 500-foot boundary between the Richardson Property and the neighboring property. The screening is required to visually screen the stored RVs *from all adjacent building sites and public streets and alleys*. The neighboring property has three commercial buildings, two of which are two-stories, along the entire length of the boundary. Thus, the screening must be installed along the entire length of the boundary.

Second, the proposed landscaping will not provide the required level of visual screening even if it is planted along the entire length of the boundary. The landscape must block out 12-plus-foot-tall RV’s stored on the Richardson Property not only from ground level at the adjacent property, but also from the second-floor offices and balconies used by ABP tenants. The Site Plan’s initial stretch of attempted screening in the Site Plan (located along the first 30 feet of the boundary from the street) calls for planting 5-gallon potted Texas privet bushes 30 inches apart. Texas privet bushes are capable of growing into a solid hedge, but are slow growing and only reach 6 to 9 feet tall.¹ This is insufficient to shield the second-story tenants of the neighboring property from the

¹ <https://www.garden-view.com/plant/texas-privet/> (accessed 11/22/2022). Texas privet bushes fitting a 5-gallon

unsightly storage activities and stored items on the Richardson Property. The updated Site Plan calls for a second stretch of landscaping along the boundary made up of 24-inch-box-sized Italian cypress trees placed at 6-foot intervals along the next 38 feet of the boundary. Italian Cypress trees, while capable of reaching an adequate height of 50 feet, do not grow very wide. Even at maturity, these tall, skinny trees only grow to be 3 or 4 feet wide at the base of the tree.² Planted at six-foot intervals, there would be 2-3 foot gaps between each of the proposed trees, even at maturity, and much larger gaps at higher elevations. And even if these two proposed landscaping modes could meet the required height and width to adequately screen (which they cannot) it would take years to reach such dimensions.³ The Code requires full visual screening to be “*established at or before the time any area is used for outdoor storage.*” Zoning Code § 19.285.040(B).

Additionally, the 10-foot metal fence that was added to the revised June 2022 site plan fails to cure the inadequate screening. The adjacent property sits at a higher elevation than the proposed outdoor RV storage yard. A 10-foot metal fence would not adequately screen the outdoor parking from patrons standing outside the adjacent commercial office buildings, let alone tenants and visitors located on the second floor looking toward the unsightly outdoor RV storage.

Finally, the proposed RV lot fails the requirement in Section 19.285.030 that the property be “graded and drained so as to dispose of all surface water in a manner consistent with water quality control standards enforced by the Public Works Department.” If the RV lot is eventually permitted, it must be conditioned on compliance with the paving and grading requirements of Section 19.285.030.

The Minor Conditional Use Permit Application Should Be Rejected Because It Is Inconsistent with the General Plan

A city’s land use decisions must be consistent with the policies expressed in its general plan. *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 570 (1990); *Leshar Communications, Inc. v. City of Walnut Creek*, 52 Cal. 3d 531, 536 (1990); Cal. Gov. Code § 65860. “[T]he propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.” *Citizens of Goleta Valley*, 52 Cal. 3d at 570.

The proposed RV lot and its steel stand-alone carport and house-office are not consistent with the policies and objectives set forth in the Riverside General Plan 2025 (amended August 2019) for the Arlington South neighborhood (the “Riverside General Plan”) where the subject property is situated. Objective LU-40 is to “[r]einforce Arlington South’s historic development patterns[.]” The proposed RV lot would run counter to decades of historic development patterns,

pot are puny, and would take years to grow into a unitary hedge capable of full visual screening. *See id.*

² <https://sites.redlands.edu/trees/species-accounts/italian-cypress> (accessed 11/22/2022).

³ Italian Cypress trees fitting a 24-inch box are 10-12 feet tall. *See* <https://www.plantclearance.com/italian-cypress-24-box/> (accessed 11/22/2022). Even at a rate of 3 feet per year, the proposed trees would take 2-3 years to reach the height required to fully screen the RV’s. *See* <https://www.plantingtree.com/products/italian-cypress-tree> (accessed 11/22/2022).

one specific example of which is the City shutting down Richardson's prior use of this parcel as an unpermitted RV storage lot. Policy LU-40.2 is to "[e]ncourage owners of industrial properties to keep those properties in industrial use in a manner that would benefit the community as a whole. As set forth throughout this letter and our prior letter, the proposed RV lot would be a *detriment* to the local community—not a benefit. Objective LU-41 is to "[s]pur the economic revitalization of the neighborhood." Lowering real estate prices and rents by using the property as an RV lot will do the opposite. Policy LU-41.2 is to "[e]nsure that commercial properties are well maintained and compatible with adjacent residential land uses." Mr. Richardson's proposed RV lot is not likely to be well maintained if history is any guide.

There are at least three more examples why Richardson's proposed plans for the Richardson Property have various architectural design deficiencies that violate the above-cited California law and the Riverside General Plan. First, the plans include a 63 foot by 23-foot covered carport parking area. This carport appears to be a bare steel building shell with a corrugated sheet metal roof and no architectural design features to make it compatible with any of the neighboring developed commercial properties. Second, the proposed use of the existing house as an office facility includes no architectural design features that make it compatible with the buildings developed in the entire neighborhood. No underground utilities are proposed, and the building will continue to look like a house after completion of the project. Finally, the parking design for the office use is poor: if one car is parked adjacent to the existing house, it will encourage visitors to park in the parking lot on the ABP property at 10020 Indiana Avenue. Many people connected with the Richardson Property already use the ABP property for parking and view the lot as available for "public use." Richardson has done nothing to cure this improper use, and the proposed development of the Richardson Property will only continue the improper use. The proposed parking on the Richardson Property must be designed to mitigate this chronic problem. The developers of commercial properties in the neighborhood have had to comply with all of the foregoing requirements that Richardson is attempting to escape, which is unacceptable.

If the Minor Conditional Use Permit Is Granted, the City Must Impose Additional Conditions

The RV lot proposed in the Site Plan that Mr. Richardson submitted to the Planning Division fails to meet the minimum requirements of Chapter 19.285. If it is to be permitted at all, the proposed Site Plan must first be significantly altered to address its current shortcomings, by including the following conditions in the MCUP:

- Sufficient masonry or landscape screening from adjacent first-floor and second-floor views (Section 19.285.040);
- Adequate paving (Section 19.285.030);
- Adequate grading and drainage sufficient to dispose of all surface water in a manner consistent with water quality control standards enforced by the Public Works Department (Section 19.285.030);
- Appearance restrictions to preserve neighborhood character and commercial appeal;
- Restrictions prohibiting any other use of this property, aside from neat and orderly storage (i.e., no repairs, fueling, or other RV-related services);

- One-year probation with revocation at or before one year if violations of conditional use are demonstrated to the City.

Thank you for considering these important issues. Please provide Mr. Kuhn and my office with written notice of any meeting where this project will be considered, and a copy of any written staff report related to the project. In the meantime, please do not hesitate to contact the undersigned if you have any questions or would like to discuss further.

Cordially,



Matthew J. Kraus
Coleman D. Heggi
Lester, Cantrell & Kraus, LLP

Cc: Chris Christopoulos (cchristopoulos@riversideca.gov)
Richard Kirby (dbkirby@att.net)
Judy Eguez (jeguez@riversideca.gov)

LESTER, CANTRELL & KRAUS, LLP

ATTORNEYS AT LAW

Writer's E-Mail Address:
cheggi@lc-lawyers.com

December 12, 2022

Via Personal Delivery & Email

Brian Norton
Principal Planner - Project Management
City of Riverside
Community and Economic Development Department - Planning Division
3900 Main Street, 3rd Floor
bnorton@riversideca.gov

Re: *Appeal of Planning Case PR-2021-001026*
(MCUP and Design Review for 10030 Indiana Avenue)
Our File No.: 1665-001

Dear Mr. Norton and Ms. Osorio,

This office represents Gustav G. Kuhn doing business as Arlington Business Plaza ("ABP"). ABP hereby appeals the November 30, 2022 decision of the Development Review Committee ("Committee") on Planning Case PR-2021-001026. The Committee granted a minor conditional use permit ("MCUP") permitting the establishment of a yard for outdoor storage of recreational vehicles at 10030 Indiana Avenue by Steve Richardson of Richardson's RV. The MCUP was granted in error for a number of reasons. ABP requests that Planning Commission revoke the MCUP for the reasons stated herein. In the alternative, the MCUP should be modified as requested herein.

The Minor Conditional Use Permit Application Should Be Rejected Because It Fails to Meet the Requirements of the Applicable Zoning Code Provisions

The MCUP for operating an outdoor storage yard on the Property can only be granted if:

from the facts available in the application and determined by investigation, all of the following written findings can be made:

- A. The proposed use is substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts.
- B. The proposed use will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.
- C. The proposed use will be consistent with the purposes of the Zoning Code.

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- D. The proposed use is in conformance with specific site location, development and operation standards as may be established in the Zoning Code for the particular use.

Zoning Code § 19.730.040.

Outdoor storage yards are further regulated by Section 19.285.010 of the Zoning Code, which provides: “The purpose of regulating outdoor storage yards is *to ensure compatibility of such uses with surrounding uses and properties* and *to avoid any impacts associated with such uses*.”

The proposed recreational vehicle (“RV”) storage yard fails all of these tests: (a) it is not substantially compatible with surrounding uses because there are no outdoor storage yards in this area, which is predominantly indoor commercial space; (b) it will detract from the commercial character of the surrounding area and unfairly penalize incumbent business owners and investors; (c) Richardson’s site plan cannot meet the Zoning Code’s requirements for outdoor storage yards due to inadequate screening; and (d) the proposed use is not consistent with the City’s general plan.

First, the proposed RV yard is not substantially compatible with surrounding uses because there are no RV storage yards—and virtually no outdoor storage of any kind—in this area, which is predominantly indoor commercial space. In response to ABP’s concerns on this issue, the Committee concluded—wrongly—that “the proposed outdoor storage yard and office is compatible with the variety of uses surrounding the project site[.]” (Report, p. 5 [Response to Concern No. 1].) Yet the only example of an ostensibly similar use the Committee could cite was the self-storage facility to the west of the Richardson property at 10090 Indiana Avenue. (*Id.*) However, this self-storage facility is clearly not outdoor storage. Instead, it has rows of indoor storage buildings accessible by outdoor drive corridors. Of the hundreds of self-storage units on that property, which presumably contain tens of thousands of stored items, not one stored item is visible from the street or any neighboring property.

Second, the proposed RV storage yard will detract from the commercial character of the surrounding area and unfairly penalizes incumbent business owners and investors. Richardson’s site plan fails to avoid these impacts. As ABP has stated in its previous letters, even if *minimum* screening requirements are met, the outdoor storage would be visible from the upper-floor windows and walkways of two adjacent building sites on ABP’s property. Tenants will be much less likely to rent space in these buildings, as opposed to space in other nearby parcels that do not have unsightly adjacent outdoor storage areas—to wit, none of the surrounding areas have adjacent outdoor storage. The Report fails to confront this obvious problem with the proposed use. (*See* Report, p. 6 [Responses to Concern Nos. 2, 3].) The Committee attempts to paper over this issue by insisting that since the proposed RV storage yard represents *a* use of otherwise vacant property for ostensibly commercial reasons, it necessarily will “spur the economic revitalization of the neighborhood.” Under this interpretation of “economic revitalization,” any conceivable commercial or industrial use of a parcel would count, even if such use would economically *devitalize* the commercial prospects for many of the longtime incumbent property owners in the area, and, indeed, for the area overall.

Third, the proposed RV storage yard should be rejected because Richardson's site plan fails to meet the Zoning Code's requirements for outdoor storage yards due to inadequate screening. Specifically, "[s]torage shall be visually screened **from all adjacent building sites and public streets and alleys** by a solid masonry wall **of a height sufficient to screen all materials stored outdoors** or by a building." (Emphasis added.) Mr. Richardson's most recent proposal opts to use a 10-foot high metal fence and trees as visual screening instead of masonry. Landscaping for screening is permitted by the Code, but only "provided that the required visual screening is achieved." Zoning Code § 19.285.040(A). Such screening must be "established at or before the time any area is used for outdoor storage." *Id.*, § 19.285.040(B).

In response to ABP's concerns on the screening issue, the Committee stated that the Richardson proposal provided "several site improvements to provide effective screening of the outdoor storage area to the adjacent building" owned by ABP and used by its tenants. However, the proposed methods of achieving "effective screening" will not effectively screen the outdoor storage yard from ABP's property. Furthermore, the ten foot metal fence that was added to Richardson's revised June 2022 site plan fails to cure the inadequate screening. The adjacent building sites on ABP's property sit at a higher elevation than the proposed outdoor RV storage yard. A 10-foot metal fence would not adequately screen the outdoor parking of RVs from patrons standing outside the adjacent commercial office buildings, let alone tenants and visitors located on the second floor of these buildings looking toward the unsightly outdoor RV storage.

Additionally, the Italian Cypress trees included on Richardson's revised June 2022 site plan appear to have been included to provide additional screening for the second story users of 10020 Indiana Avenue as required by Zoning Code § 19.285.040(A). This landscape screening is ineffective for multiple reasons. The plan calls for 24" box Italian Cypress trees planted 72" on center, and the Committee's report has increased these trees to 36" box. A 36" box Italian Cypress is typically about 12 feet tall and one foot wide at its base. Italian Cypress grow about three feet in height per year, and a mature Italian Cypress will grow to about 40 to 50 feet tall and up to three feet wide at the base. The diameter of an Italian Cypress narrows from its base to its top where it is only about a narrow point. Planting 36" box Italian Cypress as a visual screen will take years to mature. Even at maturity, Italian Cypress planted at 72" on center will have gaps of at least three to five feet in between each tree. And planting Italian Cypress only along the 10020 Indiana Avenue building will not visually screen the outdoor storage of RVs on the Richardson Property from both the 10000 Indiana Avenue and 100020 Indiana Avenue buildings. For Italian Cypress to even have a chance to provide adequate visual screening of the RVs planned to be stored on the Richardson property, they would need to be much more mature and planted right next to each other so that they have a chance of growing together. Alternatively, Richardson's proposed landscape screen should instead use a different mature tree variety that is conducive to providing privacy at tall heights, like Podocarpus or Ficus trees, and the landscape screen should be planted at least from the front of the storage yard all the way to the back of 10000 Indiana Avenue in order to provide adequate visual screening to the adjacent building sites as required by Zoning Code § 19.285.040(A). However, even with the use of a more effective tree variety, Richardson should not be able to have outdoor storage on his property until the visual screening is achieved as required by Zoning Code § 19.285.040(B), which could take three to 10 years after planting.

Fourth, the proposed use is not consistent with the City's general plan. A city's land use decisions must be consistent with the policies expressed in its general plan. *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 570 (1990); *Leshar Communications, Inc. v. City of Walnut Creek*, 52 Cal. 3d 531, 536 (1990); Cal. Gov. Code § 65860. "[T]he propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements." *Citizens of Goleta Valley*, 52 Cal. 3d at 570.

The proposed RV lot and its steel stand-alone carport and house-office are not consistent with the policies and objectives set forth in the Riverside General Plan 2025 (amended August 2019) for the Arlington South neighborhood (the "Riverside General Plan") where the subject property is situated. Objective LU-40 is to "[r]einforce Arlington South's historic development patterns[.]" The proposed RV lot would run counter to decades of historic development patterns, one specific example of which is the City shutting down Richardson's prior use of this parcel as an unpermitted RV storage lot. Policy LU-40.2 is to "[e]ncourage owners of industrial properties to keep those properties in industrial use in a manner that would benefit the community as a whole." As set forth throughout this letter and our prior letters, the proposed RV lot would be a *detriment* to the local community—not a benefit. Objective LU-41 is to "[s]pur the economic revitalization of the neighborhood." Lowering real estate prices and rents by using the property as an RV lot will do the opposite. Policy LU-41.2 is to "[e]nsure that commercial properties are well maintained and compatible with adjacent residential land uses." Mr. Richardson's proposed RV lot is not likely to be well maintained if history is any guide.

There are at least three more examples why Richardson's proposed plans for the Richardson Property have various architectural design deficiencies that violate the above-cited California law and the Riverside General Plan. First, the plans include a 63-foot by 23-foot covered carport parking area. This carport appears to be a bare steel building shell with a corrugated sheet metal roof and no architectural design features to make it compatible with any of the neighboring developed commercial properties. Second, the proposed use of the existing house as an office facility includes no architectural design features that make it compatible with the buildings developed in the entire neighborhood. No underground utilities are proposed, and the building will continue to look like a house after completion of the project. Finally, the parking design for the office use is poor: if one car is parked adjacent to the existing house, it will encourage visitors to park in the parking lot on the ABP property at 10020 Indiana Avenue. Many people connected with the Richardson Property already use the ABP property for parking and view the lot as available for "public use." Richardson has done nothing to cure this improper use, and the proposed development of the Richardson Property will only continue the improper use. The proposed parking on the Richardson Property must be designed to mitigate this chronic problem. The developers of commercial properties in the neighborhood have had to comply with all of the foregoing requirements that Richardson is attempting to escape, which is unacceptable.

The Minor Conditional Use Permit Application Should Be Rejected Because the Project Is Not Categorically Exempt from Further CEQA Review

The Committee incorrectly concluded this project is categorically exempt from further review under California Environmental Quality Act (CEQA). CEQA applies to discretionary

projects undertaken by private parties. Indeed, the issuance of a conditional use permit for a site-specific development proposal is a “project” under CEQA. Pub. Resources Code, Sections 21000 et seq.; 14 Cal. Code Reg Section 15378(a)(3); *Madrigal v. City of Huntington Beach*, 147 Cal.App.4th 1375 (2007). Under CEQA, an environmental impact report (EIR) is required whenever it can be fairly argued based on substantial evidence that the project may have significant environmental impact. Pub. Resources Code, Section 21151; *American Canyon Community United for Responsible Growth v. City of American Canyon*, 145 Cal.App.4th 1062 (2006). A “significant effect on the environment” under CEQA is a substantial or potentially substantial adverse change in the physical conditions existing within the area affected by the project. Pub. Resources Code, Sections 21060.5, 21068; *California Farm Bureau Federation v. California Wildlife Conservation Bd.*, 143 Cal.App.3th 173 (2006). A project will normally have a significant effect on the environment if it will cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system. There is a low threshold requirement under CEQA for preparation of an environmental impact report, and preference for resolving doubts in favor of environmental review. Cal. Pub. Res. Code 21000 et seq.; 14 CCR Section 15064(f); *Mejia v. City of Los Angeles*, 130 Cal.App.4th 322 (2005).

Here, the Committee incorrectly determined that this project is categorically exempt from further CEQA review. Categorical exemptions to CEQA are construed narrowly and will not be unreasonably expanded beyond their terms. Pub. Resources Code 21084, 14 Cal. Code Reg. 15300 et seq.; *California Farm Bureau Federation v. California Wildfire Conservation Bd.*, 143 Cal.App.4th 173 (2006). The Committee incorrectly relies on the following exemptions: Section 15301 (Existing Facilities), Section 15303 (New Construction or Conversion of Small Structures, and Section 15332 (In-Fill Development Projects). As summarized below, the Committee has not established any of the categorical exemptions apply to the Richardson Project.

Existing Facilities (14 Cal. Code Regs. § 15301). The Committee’s reliance on the “existing facilities” exemption is incorrect because the outdoor storage of RVs and trailers at the Richardson Project *is not* merely the continued operation of past activity. The Richardson Project represents a new and expanded use of the property. The proposed use includes the addition of forty-five paved parking stalls for RV and trailer parking. Moving RVs in and out of the property is not the same level of use as existing vacant dirt. Furthermore, the significant storage of RVs presents a new risk of potential leaks from oil, brake fluid, transmission fluid or other motor vehicle liquids. The Richardson Project is a material increase in use, and an entirely different and new use, of the property.

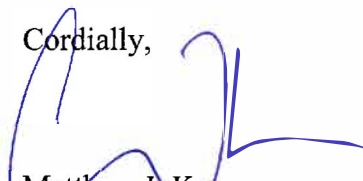
New Construction or Conversion of Small Structures (14 Cal. Code Regs. § 15303). The “new construction or conversion of small structures” exemption also fails to justify approving outdoor RV and trailer storage without CEQA review. This project does not merely involve the conversion of the house into an office building, or some other similar “new construction or conversion of small structures”. The Richardson Project primarily involves converting a large area of vacant dirt into a paved outdoor commercial storage area for large RVs and trailers. This is not the type of “conversion of small structures” that can support an exemption under Section 15303.

In-Fill Development Projects (14 Cal. Code Regs. § 15332). The project also fails to meet the conditions described in Section 15332, for “in-fill development projects”. For example, the project is not consistent with the applicable general plan designation and all applicable plan policies and applicable zoning designations and regulations – as explained above and in our prior correspondence. (See, Section 15332, subpart (a)). Additionally, approval of the Richardson Project would have a significant effect relating to traffic, noise, and air quality. (See, Section 15332, subpart (d).) Specifically, the proposed use involves many RVs moving in and out of the property as required for inventory control. The project involves 45 parking stalls for RVs and trailers. The flow of inventory in and out of the storage lot is unrestricted by the conditions of approval for the project. The staff report merely confirms the storage is “as required for inventory control.”

The constant moving in and out of RVs is a feature of this project that distinguishes it from any other project in the surrounding area because there are no other outdoor RV storage yards or other businesses that involve multiple large RVs moving in and out of an outdoor storage space. The proposed use for temporarily storing RV inventory will have a significant effect on the environment because it will cause an increase in traffic which is substantial in relation to the existing traffic load and capacity on Indiana Avenue. The impact the Richardson Project will have on traffic, noise or air quality was not studied as part of Richardson’s minor CUP application or the City’s approval. At a minimum, the minor CUP application should be denied pending completion of an EIR and traffic study.

Thank you for considering these important issues. Please provide Mr. Kuhn and my office with written notice of any meeting where this project will be considered, and a copy of any written staff report related to the project. In the meantime, please do not hesitate to contact the undersigned if you have any questions or would like to discuss further.

Cordially,



Matthew J. Kraus
Coleman D. Heggi
Lester, Cantrell & Kraus, LLP

Cc: Chris Christopoulos (cchristopoulos@riversideca.gov)
Richard Kirby (dbkirby@att.net)
Judy Eguez (jeguez@riversideca.gov)
Alyssa Berlino (aberlino@riversideca.gov)
Regine Osorio (rosorio@riversideca.gov)



Ali V. Tehrani
Of Counsel
(949) 263-2601
ali.tehrani@bbklaw.com

File No. 31911.00081

July 8, 2025

VIA EMAIL

Brian Norton
Principal Planner – Project Management
City of Riverside
Community and Economic Development Department – Planning Division
3900 Main Street, 3rd Floor
bnorton@riversideca.gov

Re: Response re Appeal of Planning Case PR-2021-001026
(MCUP and Design Review for 10030 Indiana Avenue)

Dear Mr. Norton:

On November 30, 2022, the Development Review Committee (“DRC”) properly approved an application from Steve Richardson of Richardson’s RV for a Minor Conditional Use Permit (“MCUP”) and Design Review (MCUP and Design Review collectively, the “Approvals”) to permit (1) the establishment of an outdoor storage yard for the temporary staging and storage of Recreational Vehicles (“RVs”) on an one-acre property located at 10030 Indiana Avenue (“Project Site”); and (2) the conversion of an existing 1,351 square foot residence at the Project Site into an office (collectively, the “Project”).

On December 12, 2022, Gustav G. Kuhn (“Appellant”) submitted an appeal (“Appeal”) via his counsel appealing the Approvals. The Appeal contends that the DRC purportedly erred (1) in making the findings necessary for a MCUP under the Riverside Municipal Code (“RMC”); and (2) in finding the Project categorically exempt from the California Environmental Quality Act (“CEQA”).

The Appeal is without basis, as explained in detail below. The DRC properly issued the Approvals, and the Appeal should be denied.

**The DRC Properly Approved the MCUP,
and the DRC's Approval Is Entitled To Deference**

The DRC's issuance of a conditional use permit is entitled to deference and must be upheld where, as here, its findings are supported by substantial evidence. (*Harrington v. City Davis* (2017) 16 Cal.App.5th 420, 434.) In determining whether the DRC's findings are supported by substantial evidence, all evidentiary conflicts must be resolved in favor of the DRC's findings and decision. (*Ibid.*)

An MCUP is appropriately issued where the DRC makes each of the four findings set forth in RMC section 19.730.040. Here, the DRC properly made each of these four findings, and each of the four findings is supported by substantial evidence. The findings are thus entitled to deference and must be upheld, as discussed below. (*Harrington, supra*, 16 Cal.App.5th at p. 434.)

1. **DRC Finding No. 1:** *The proposed use is substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts.*

The Project is "compatible" with other uses in the area if the Project and the other uses are "capable of existing together without discord or disharmony." (*Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2008) 164 Cal.App.4th 1, 9 [defining "compatible"].) Here, the DRC properly identified the other uses in the area, and determined that the Project's proposed use (outdoor storage yard) is capable of harmoniously existing with the other uses in the area. The DRC explained, in part:

Surrounding uses include a self-storage facility to the west, a mix of office and light industrial uses to the east, and office/retail uses to the north (across Indiana Avenue). The proposed outdoor storage yard and office is compatible with the variety of uses surrounding the project site, specifically the self-storage facilities to the west as the use operates in a similar manner.

(November 30, 2022 DRC Memorandum for the Project ("DRC Memorandum"), p. 5.)

Substantial evidence supports the DRC's conclusion that the Project's proposed outdoor storage yard use is compatible with the surrounding land uses. Again, the Project site is next to a self-storage facility, and the location of the Project site is directly adjacent to the AT&SF railroad to the south, is within 200 feet of State Route 91 to the north, and

abuts a major arterial, Indiana Avenue. There are no sensitive receptors within the Project vicinity.

Moreover, Richardson's RV has operated a RV dealership on 4.34 acres (APNs 138-040-007, 138-080-011 & 138-080-014) at 10717 Indiana Avenue, just one mile westerly of the Project site, for over thirty (30) years, since 1993. The RV dealership is a more intensive use than the Project's proposed outdoor storage facility, and the RV dealership is adjacent to more sensitive uses than the Project site (i.e., the RV dealership is directly across Indiana Avenue from residential properties). In over thirty years of operation, the RV dealership has not received any complaints regarding its compatibility with surrounding uses. Richardson's RV operations at 10717 Indiana Avenue demonstrates the compatibility of RV storage use with surrounding uses.

Appellant contends in his Appeal that the Project's outdoor storage facility would not be substantially compatible with surrounding uses "because there are no RV storage yards" in this area. (See Appellant's December 12, 2022 Appeal Letter ("Appeal Letter"), p. 2.) But, as the DRC previously noted, the "absence of a storage yard in the neighborhood does not determine its compatibility with the neighborhood." (DRC Memorandum, p. 5.) The issue is not whether there are other RV storage yards in the area, but rather whether the Project and its outdoor storage yard is capable of existing in harmony with the surrounding uses. (*Muzzy Ranch, supra*, 164 Cal.App.4th at p. 9.) The DRC has already determined based on substantial evidence that an RV storage yard is capable of existing in harmony with surrounding uses, and this determination is entitled to deference. (*Harrington, supra*, 16 Cal.App.5th at p. 434.)

2. **DRC Finding No. 2:** *The proposed use will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.*

There is no evidence that the Project will be materially detrimental to the health, safety, or general welfare of the public or otherwise injurious to the environment or to improvements within the area. In the Appeal Letter, Appellant nonetheless suggests the DRC erred in making this finding because the Project would purportedly "detract from the commercial character of the surrounding area and unfairly penalize incumbent business owners and investors." (Appeal Letter, p. 2.) Appellant makes this contention based on the assumption that the proposed outdoor storage "would be visible from the upper-floor windows and walkways of two adjacent building sites on [Appellant's] property." (*Ibid.*) This contention is without merit for a number of reasons.

First, Appellant's contention that the Project would "detract from the commercial

character of the surrounding area” is not relevant to whether the Project will “be materially detrimental to the health, safety, or general welfare of the public or otherwise injurious to the environment or to improvements within the area.” (RMC, § 19.730.040.) The proposed RV storage yard’s purported visibility from the upper-floor windows and walkways of adjacent buildings does not constitute an adverse health impact, in no way compromises the public’s safety, does not relate to the general welfare of the public, does not injure the environment, and has no physical impact to improvements in the area. Appellant’s contentions about the Project’s purported economic impacts are irrelevant.

Second, even if Appellant’s contention were relevant (and it is not), Appellant’s contention is entirely based on speculation. Appellant relies on no evidence and cites no facts establishing that the operation of an RV storage yard at the Project site would deter tenants from renting space in adjacent buildings. Appellant’s entire argument hangs on mere conjecture.

Third, the Project will improve—not detract from—views from adjacent properties. The majority of the Project site currently consists of a vacant, dirt lot. The Project will pave the lot with asphaltic concrete, replace the emptiness of the vacant lot with RVs, and screen the lot with a 10-foot-high decorative metal fence panel behind an existing 5-foot-high masonry wall and a 4.5-foot-wide planter consisting of a row of 36-inch box cypress trees

In short, the DRC properly made Finding No. 2 based on substantial evidence, and the finding must therefore be upheld. (*Harrington, supra*, 16 Cal.App.5th at p. 434.)

3. **DRC Finding No. 3:** *The proposed use will be consistent with the purposes of the Zoning Code.*

Appellant contends that the Project will not be consistent with the purposes of the Zoning Code because the Project purportedly will not meet the Zoning Code’s screening requirements. Appellant is mistaken.

As previously explained by the DRC, “the building site that needs to be screened from view of the outdoor storage yard does not include the second floor of the adjacent office building in the Arlington Business Plaza.” (DRC Memorandum, p. 6.) This is because while the Zoning Code does provide that “[s]torage shall be visually screened from all adjacent building sites and public streets and alleys by a solid masonry wall of a height sufficient to screen all materials stored outdoors or by a building” (RMC, § 19.285.040(A)), the Zoning Code defines a “building site” as “the ground area of a building or group of buildings together with all open spaces as required by this title.” (RMC, § 19.910.030 [see definitions of “building site” and “site, building”], emphasis added.) Accordingly,

Appellant's assertions that the storage yard "would be visible from the upper-floor windows and walkways of two adjacent building sites on [Appellant's] property" does not evidence any inconsistency with the Zoning Code. (Appeal Letter, p. 2.)

Appellant further contends that the adjacent building site sits at a higher elevation than the Project site, and that the proposed 10-foot metal fence would thus not adequately screen the outdoor parking of RVs from persons standing outside the adjacent commercial office buildings. (Appeal Letter, p. 3.) But, again, Appellant cites no evidence in support of his assertion, which is based entirely on conjecture. In contrast, the DRC properly determined that the "applicable building site will be entirely screened from view with the proposed 10-foot-high decorative metal fence along the entire east side property line." (DRC Memorandum, p. 6.)

Finally, Appellant complains of the proposed Italian Cypress trees that will further screen the Project site from the adjacent commercial office buildings. (Appeal Letter, p. 3.) But, as the DRC has already determined, the Project's inclusion of Italian Cypress trees goes above and beyond the RMC's screening requirements. (DRC Memorandum, p. 6 ["additional screening *above the minimum requirements* will be incorporated by planting cypress trees"].) With or without trees, the proposed 10-foot metal fence would adequately screen the Project site from the adjacent building sites. (*Ibid.*)

4. **DRC Finding No. 4:** *The proposed use is in conformance with specific site location, development and operation standards as may be established in the Zoning Code for the particular use.*

Apart from the screening issue discussed above, it does not appear that Appellant challenges this finding. Instead, Appellant contends that the Project "is not consistent with the City's general plan." (Appeal Letter, p. 4.) Appellant is mistaken.

The City's determination that the Project is consistent with the City's general plan is entitled to "great deference." (*Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1563.) "A city's findings that the project is consistent with its general plan can be reversed only if it is based on evidence from which no reasonable person could have reached the same conclusion." (*Ibid.*) Accordingly, "the party challenging a city's determination of general plan consistency has the burden to show why, based on all of the evidence in the record, the determination was unreasonable." (*Ibid.*)

Moreover, courts have recognized that "it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan." (*Pfeiffer, supra*, 200 Cal.App.4th at p. 1563.) Accordingly, "[i]t is enough that the

proposed project will be compatible with the objectives, policies, general land uses, and programs specified in the applicable plan.” (*Ibid.*)

Here, Appellant does not—and cannot—carry his burden of establishing that the City abused its discretion in determining that the Project is consistent with the City’s General Plan. Appellant challenges the Project’s consistency with Objective LU-40, Policy LU-40.2, Objective LU-41, and Policy LU-41.2. But, Appellant fails to cite any evidence of the Project’s purported incompatibility with these objectives and policies.

Objective LU-40. The Project is consistent with Objective LU-40, which provides: “Reinforce Arlington South’s historic development patterns, conserving the predominant single family residential character.” As the DRC previously explained, the “project site is not located within a historic district nor is it individually, locally, or nationally designated as historic.” (DRC Memorandum, p. 6.)

Moreover, the Project site is not located in an area that is predominantly single family residential in character, and the Project would thus not impact areas in Arlington South that are predominantly single family residential in character. Additionally, the only historic use of the Project site referenced by Appellant is the Project site’s use as an unpermitted outdoor storage yard. (Appeal Letter, p. 5.) Notably, the Project Site has a zoning designation of Business and Manufacturing Park (“BMP”), and outdoor storage yards are explicitly permitted in the BMP zone with a MCUP. (RMC, § 19.150.020.)

Objective LU-41 & Policy LU-40.2: The Project is consistent with Objective LU-41 and Policy LU-40.2. Objective LU-41 provides: “Spur the economic revitalization of the neighborhood.” Similarly, Policy LU-40.2 provides: “Encourage owners of industrial properties to keep those properties in industrial use in a manner that benefits the community as a whole.” As the DRC previously explained, the “project site has been unimproved for a number of years and the proposed improvements and legal operation of the site will allow for the proposed business to operate on an unconventionally shaped parcel.” (DRC Memorandum, p. 6.) The Project thus revitalizes a currently underused and unconventionally shaped parcel of property, as the Project site has a long, narrow configuration with a lot width of 78 feet and a lot depth of approximately 555 feet.

Appellant claims that the Project would have a detrimental impact on the neighborhood, but offers no evidence in support of this claim. Appellant baselessly asserts that the Project would lower real estate prices and rents, but again, this is mere conjecture.

Policy LU-41.2. The Project is consistent with Policy LU-41.2, which provides: “Ensure that commercial properties are well maintained and compatible with adjacent residential land uses.” Again, Appellant claims the Project is inconsistent with this policy

without offering any facts or evidence in support of his claim. Moreover, this policy is inapplicable to the Project because there are no adjacent residential land uses to the Project site.

Finally, Appellant claims that the Project has three “architectural design deficiencies” that violate the City’s General Plan. (Appeal Letter, p. 4.) Appellant, however, makes no attempt to explain how these claimed deficiencies in any way demonstrate a violation of the City’s General Plan. Nor does Appellant explain by what standard the claimed deficiencies are, in fact, deficiencies. For example, Appellant complains that the architecture of the existing house on the Project site will remain unchanged; it is unclear what relevance this has to General Plan consistency. Appellant further vaguely complains about the existing parking situation, but does not assert that the Project will violate any parking standards.

In short, Appellant has failed to carry his burden of establishing that the City abused its discretion in determining that the Project is consistent with the City’s General Plan. The Appeal must therefore be denied.

**The DRC Properly Found the Project Categorically Exempt from CEQA, and
The DRC’s Finding Is Entitled to Deference**

The DRC properly determined that the Project is categorically exempt from CEQA under the Class 1 (Existing Facilities), Class 3 (New Construction or Conversion of Small Structures), and Class 32 (Infill Development Projects) exemptions.

Existing Facilities, Class 1 Exemption: The Class 1 exemption applies to, among other things, the “[c]onversion of a single family residence to office use.” (State CEQA Guidelines, § 15301(n).) Here, the Project entails, in part, the conversion of a single family residence on the Project site to office use. This Project component falls squarely within the Class 1 exemption.

New Construction or Conversion of Small Structures, Class 3 Exemption: The Class 3 exemption applies to, among other things, “construction and location of limited numbers of new, small facilities or structures.” (State CEQA Guidelines, § 15303.) Here, the construction of fences and walls, along with the construction of a 63-foot by 23-foot covered carport parking area, constitute the construction of limited numbers of new small structures. These Project components again fall squarely within the Class 3 exemption.

Moreover, the Class 3 exemption extends to the “conversion of existing small structures from one use to another where only minor modifications are made in the exterior

of the structure.” Here, the Project’s conversion of the single-family residence on the Project site to office use is additionally categorically exempt under the Class 3 exemption.

In-Fill Development Projects, Class 32 Exemption: The Class 32 exemption applies to infill development that meets five enumerated conditions. (State CEQA Guidelines, § 15332.) As set forth below, the Class 32 exemption applies to the entirety of the Project because the Project constitutes infill development that meets each of the five conditions set forth in State CEQA Guidelines section 15332.

- a. *The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.*

The DRC analyzed the Project’s consistency with the City’s General Plan and Zoning Code, and found the Project to be consistent with both. (DRC Memorandum, pp. 2-3.) As discussed above, Appellant has not established any inconsistency between the Project and applicable General Plan and zoning regulations.

The Project Site’s General Plan land use designation is B/OP – Business/Office Park, which provides for single or mixed light industrial uses that do not create nuisances or heavy truck traffic. (General Plan, p. LU-140.) Suitable uses include much more intensive uses than the use proposed by the Project, including 10,000 square foot warehouses. (*Ibid.*) The storage of RV vehicles is not an activity that will create nuisances due to odor, dust, or noise. There are no sensitive receptors (e.g., residences, schools, or hospitals) in close proximity to the Project site. To the contrary, the Project site is directly adjacent to the AT&SF railroad to the south, is within 200 feet of State Route 91 to the north, and abuts a major arterial, Indiana Avenue.

Moreover, the Project site will not generate heavy truck traffic. As noted above, the General Plan provides that a 10,000 square foot warehouse is a suitable use within the B/OP land use designation. A 10,000 square foot warehouse would generate more than 110 trips per day.¹ In contrast, the Project would result in far lighter traffic, as the primary purpose of the Project is merely to store RVs, and no more than 45 RVs will be stored at the Project site at one time.

Finally, the Project is consistent with the applicable zoning designation. The Project Site’s zoning designation is BMP, which as noted above, explicitly permits outdoor storage yards with a MCUP. (RMC, § 19.150.020.)

¹ See Office of Planning and Research Technical Advisory re Evaluating Transportation Impacts in CEQA, https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf, p. 12.

- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses*

The Project site is located on a one-acre parcel within the City of Riverside. Moreover, the site is substantially surrounded by urban uses. Surrounding land uses include commercial retail to the north (across Indiana Avenue), a self-storage facility to the west, AT&SF railroad to the south, and a mix of office and light industrial uses to the east. (DRC Memorandum, p. 2.)

- c. The project site has no value as habitat for endangered, rare or threatened species.*

There is no vegetation at the Project Site, and the Project Site consists of a vacant lot within 200 feet of a railroad, State Route 91, and a major arterial in Indiana Avenue. The Project Site has no value as habitat for endangered, rare, or threatened species.

- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.*

i. Traffic

The Project will not have any significant effects relating to traffic. Under CEQA, “a project’s effect on automobile delay [as measured by Level of Service] shall not constitute a significant environmental impact.” (State CEQA Guidelines, § 15064.3(b)(2).) Rather, vehicle miles traveled (“VMT”) is the appropriate measure of transportation impacts. (State CEQA Guidelines, § 15064.3.) Projects that generate or attract fewer than 110 trips per day are assumed to cause a less-than-significant transportation impact.²

Here, the Project will not result in a significant traffic impact as it will generate or attract fewer than 110 trips per day. The Project will have capacity to store just 45 RV units at a time, and most RVs will remain in storage throughout the day. As Appellant has noted, the Project site has been used for outdoor RV storage in the past, and historically, only 4 RVs a day were moved to or from the Project site. Moreover, the outdoor storage use of RVs will not attract customers to the Project site since all trips will be conducted by employees of Richardson’s RV. There will be no selling, repair, or exhibition of RVs at the Project site, which will be used solely for staging surplus inventory for the retail location. For all of these reasons, the Project will not result in any significant effects relating to traffic.

² See Office of Planning and Research Technical Advisory re Evaluating Transportation Impacts in CEQA, https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf, p. 12.

ii. Noise

The Project site is situated at a noise-intensive location—directly adjacent to the AT&SF railroad to the south, within 200 feet of State Route 91 to the north, and abutting a major arterial, Indiana Avenue. Baseline noise levels are thus high at the Project location. A noise study performed for the Project confirmed that the Project would not have significant noise impacts. (See Exhibit A to this Memorandum [Richardson’s RV Storage Noise Impact Analysis (“Noise Memo”), pp. iii, 30-34].)

The Project will not result in any significant effects relating to construction noise. Notably, City of Riverside Municipal Code section 7.35.020(G) provides that noise sources associated with construction, repair, remodeling, or grading of any real property is exempt from the provisions of the RMC that govern noise, provided that such activity does not take place between the hours of 7:00 p.m. to 7:00 a.m. on weekdays, 5:00 p.m. to 8:00 a.m. on Saturdays, or at any time on Sundays or federal holidays. Here, no construction, remodeling, or grading for the Project will occur during the aforementioned times.

The Project’s operation likewise will not involve any noise-intensive uses, and it will not result in any significant effects relating to operation-related noise. The Project’s operational noise will not exceed any City standards, and it would not be noticeable over the existing noise environment. (Noise Memo, pp. 32-33.) The Project would thus would not result in a significant noise impact.

iii. Air Quality

The Project would not result in a significant air quality impact. An air quality technical memorandum has been prepared to analyze the Project’s potential air quality impacts, and the memorandum concluded that the Project would not exceed any applicable thresholds of significance relating to air quality. (Exh. B [Richardson RV Storage Air Quality Technical Memorandum (“Air Quality Memo”), pp. 5-6].) As demonstrated below, the Project’s maximum daily emissions would be less than one percent of the emissions of a project that would have a significant impact on the environment:

Activity	Pollutant Emissions (pounds/day)					
	ROG	NOx	CO	SO2	PM10	PM2.5
Maximum Daily Emissions	0.07	0.03	0.26	0.01	0.02	0.01
SCAQMD Thresholds	55	55	550	150	150	55
Exceeds Threshold?	No	No	No	No	No	No

(Air Quality Memo, pp. 6, 9-10.)

iv. *Water Quality*

A project-specific water quality management plan (“WQMP”) has been prepared for the Project, and the WQMP confirms that the Project will not have a significant water quality impact.

e. *The site can be adequately served by all required utilities and public services.*

The single-family residence on the Project site, which will be converted to office use as part of the Project, is already served by all required utilities and public services. No additional utilities or public services are required for the Project.

No exceptions to the categorical exemptions apply

A categorical exemption does not apply if one of six enumerated exceptions to the exemption is applicable. (State CEQA Guidelines, § 15300.2.) Here, however, no exceptions to the categorical exemptions apply.

Location. The Class 3 exemption is qualified by consideration of where the project is to be located. (State CEQA Guidelines, § 15300.2(a).) The exemption does not apply “where the project may impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.” (*Ibid.*) This exception does not apply here as the Project will not impact any environmental resource of hazardous or critical concern.

Cumulative impact. A categorical exemption does not apply “when the cumulative impact of successive projects of the same type in the same place, over time, is significant. (State CEQA Guidelines, § 15300.2(b).) Here, the Project will not contribute to any potentially significant cumulative impacts. Notably, there are no other outdoor storage yards for RV storage proposed in the immediate vicinity of the Project site.

Significant effect. A categorical exemption does not apply where “there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (State CEQA Guidelines, § 15300.2(b).) Here, there are no unusual circumstances related to the Project or the Project Site, and accordingly, the Project will not have a significant effect on the environment due to any unusual circumstances. Notably, there are no unusually sensitive receptors near the Project Site, and there is nothing unusual about the Project. The City explicitly permits outdoor storage yards, like the Project here, at BMP-zoned property with a MCUP.

Scenic Highways. A categorical exemption does not apply to a project that “may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. (State CEQA Guidelines, § 15300.2(c).) Here, the portion of SR-91 near the Project Site has not been officially designated as a state scenic highway, and the Project will not result in damage to any scenic resources.

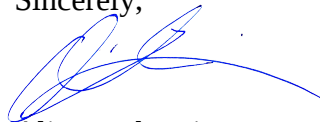
Hazardous Waste Sites. A categorical exemption does not apply to a project that is located on a site that is included on any list compiled pursuant to Government Code section 65962.5. (State CEQA Guidelines, § 15300.2(d).) The Project Site is not included on any such list.

Historical Resources. A categorical exemption does not apply to a project that may cause a substantial adverse change in the significance of a historic resource. (State CEQA Guidelines, § 15300.2(e).) Here, no historic resource is located on the Project Site, and the Project will not adversely impact any historic resource.

Conclusion

The DRC properly made the findings required for a MCUP and properly found the Project categorically exempt from CEQA. These findings are supported by substantial evidence, and they are entitled to deference. Accordingly, we request the Appeal be denied.

Sincerely,



Ali V. Tehrani
for BEST BEST & KRIEGER LLP

EXHIBIT A

RICHARDSON'S RV STORAGE NOISE IMPACT ANALYSIS

February 24, 2025

City of Riverside



Traffic Engineering • Transportation Planning • Parking • Noise & Vibration
Air Quality • Global Climate Change • Health Risk Assessment

RICHARDSON'S RV STORAGE NOISE IMPACT ANALYSIS

February 24, 2025

City of Riverside

prepared by
Roma Stromberg, INCE, MS
Catherine Howe, MS



GANDDINI GROUP INC.

555 Park Center Drive, Suite 225
Santa Ana, California 92705
(714) 795-3100 | ganddini.com

Project No. 19631

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