



Community & Economic Development Department

3900 Main Street, Riverside, CA 92522 | Phone: (951) 826-5371 | RiversideCA.gov

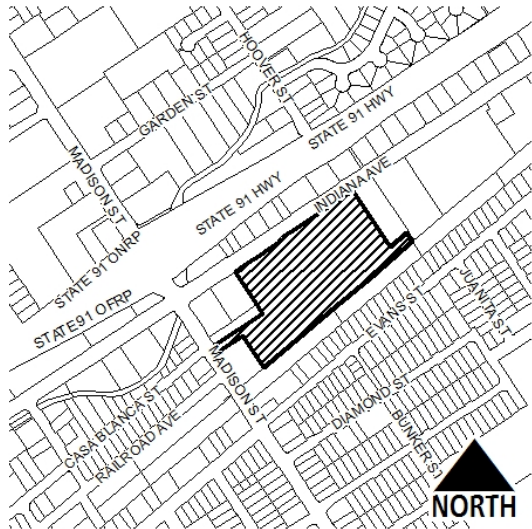
Planning Division

RiversideCA.gov

PLANNING COMMISSION HEARING DATE: JANUARY 21, 2016

AGENDA ITEM NO.: 3

PROPOSED PROJECT

<i>Case Numbers</i>	P15-0825 (Conditional Use Permit)	
<i>Request</i>	A Conditional Use Permit to bring a non-conforming large format Home Improvement Store (Home Depot) into conformity and f to permit the outdoor display of large for-sale and rental merchandise within surplus parking area as a Special or Unusual Uses.	
<i>Applicant</i>	Scott Mommer, on behalf of The Home Depot	
<i>Project Location</i>	3323 Madison Street	
<i>APN</i>	230-370-021	
<i>Project area</i>	11.6-acre parcel within an existing approximately 14-acre commercial complex	
<i>Ward</i>	4	
<i>Neighborhood</i>	Casa Blanca	
<i>Specific Plan</i>	None	
<i>General Plan Designation</i>	C – Commercial	
<i>Zoning Designation</i>	CR-S-2-X-15 - Commercial Retail, Building Stories, 2-Story Building Height and 15-Foot Building Setback combining zones	
<i>Staff Planner</i>	Matthew Taylor, Planning Technician; 951-826-5944; mtaylor@riversideca.gov	

RECOMMENDATIONS

Staff Recommends that the City Planning Commission recommend that the City Council:

1. **DETERMINE** that Planning Case P15-0825 (Conditional Use Permit) constitutes an existing facility, and therefore is categorically exempt from the provisions of the California Environmental Quality Act per Section 15301 of the CEQA Guidelines.
2. **APPROVE** Planning Case P15-0825, based on the findings outlined in the staff report and summarized in the attached findings and subject to the recommended conditions;

BACKGROUND

As shown on the attached exhibits, the approximately 14-acre, 4-parcel, developed site is located on the southeasterly corner of the intersection of Madison Street and Indiana Avenues. Access to the site is taken from both Madison Street and Indiana Avenue.

Attached exhibits 1-9 demonstrate the project site's specific location as well as the subject and surrounding General Plan and Zoning designations.

The site is developed with a 129,000 square foot non-conforming large format home improvement retail store (The Home Depot) that was constructed in 1997 and later expanded in 2000 to include a 2,900 square foot Tool Rental Center.

In July 2015, the City received a complaint regarding the removal of parking space as a result of the placement of sheds, rental equipment and trucks within a portion of the parking lot. Upon inspection by Code Enforcement Staff, a Courtesy Notice of Violation was issued for outdoor sales and display of merchandise without a Temporary Use Permit.

In August, 2015, Planning Staff received and reviewed a request for an interpretation of the Zoning Code pursuant to section 19.150.030 which states "At the discretion of the Community Development Director or his/her designee, a Conditional Use Permit may be considered for a unique or unusual combination of uses or special facilities similar to and not more detrimental than other uses in a particular zone." The Community & Economic Development Department Director determined that the outdoor display and sales of large equipment, sheds and other similar products is unique to large format home improvement stores and was not otherwise considered or accounted for within the Zoning Code; therefore, the use may be considered through the Conditional Use Permit process. As a result, the applicant has submitted a request for a Conditional Use Permit to allow the existing outdoor display and sales to remain. In addition, the proposed Conditional Use Permit will bring the non-conforming use into conformity with the current zoning regulations.

PROPOSAL

The applicant requests approval of a conditional use permit to:

- (1) bring the non-conforming use into conformity with the current Zoning Code regulations; and
- (2) legalize the existing outdoor display of large merchandise incidental to the primary retail business conducted within the home improvement store.

The display area occupies 21 parking stalls as well as an oversized sidewalk area adjacent to the building. The outdoor display is proposed to include sheds, rental equipment, and merchandise for sale commonly displayed outdoors at similar establishments nationwide.

The proposed outdoor display area is located in the southernmost row of parking stalls approximately 450 feet from Indiana Avenue and 500 feet from Madison Street. The display area displaces 21 parking spaces.

The northern half of the display area, located closer to the exterior entrance to the Tool Rental Center, is intended for the display of large construction equipment available for rent such as Bobcat tractors and frontloaders, diesel generators, portable construction lights, tow trailers and similar equipment generally too large to be accommodated within the 2,900-square foot Tool Rental Center. The southern half of the display area is intended for prefabricated storage sheds available for purchase.

In addition, the applicant is proposing to legalize the display of merchandise along the oversized sidewalk adjacent to the building which typically consists of various plant and planting materials, barbeques and other seasonal merchandise.

PROJECT ANALYSIS

Non-Conforming Use:

Prior to the Zoning Code update in December 2007, Home Improvement stores (hardware store) were permitted by right in the subject zone. Following the adoption of the updated Zoning Code, a Conditional Use Permit was required to establish any new Home Improvement stores greater than 20,000 square feet in the CR Zone (permitted by right in the CG Zone). As a result, the legally established building and use became non-conforming since it did not have a Conditional Use Permit. Although the application submitted was specific to legalizing the outdoor display and sales referenced below, staff noted that this would provide an opportunity to bring the use into conformity with the Zoning Regulations. No change to the existing use, aside from the outdoor display and sales, is proposed at this time.

Outdoor Display and Sales:

Pursuant to Chapter 19.150.030, Special or Unusual Uses at the discretion of the Community Development Director, "a Conditional Use Permit may be considered for a unique or unusual combination of uses or special facilities similar to and not more detrimental than other uses in a particular zone." The Community Development Director determined at the August 27, 2015 Zoning Administrator meeting that this use constitutes a special or unusual use and therefore may be considered through the Conditional Use Permit process.

Outdoor display of merchandise is generally limited to only the CG – Commercial General Zone. The Zoning Code, however, does permit in the CR – Commercial Retail base zone the incidental outdoor display of plant materials subject to the standards provided in Chapter 19.500. The Home Depot store on the site features a 23,000-square foot Garden Center where plants and similar items are displayed outdoors. In addition, the Home Depot displays other merchandise such as building materials and patio furnishings within the large sidewalk area adjacent to the building facing the parking area.

Section 19.505.030 – Site Location, Operation and Development Standards for Outdoor Display and Sales states “Outdoor display and sales activities, other than those associated with vehicle and large equipment sales or rental, shall only be permitted subject to the granting of a Temporary Use Permit pursuant to the provisions of Chapter 19.740 (Temporary Use Permits) or Chapter 19.500 (Outdoor Display of Incidental Plant Materials).” However, the Temporary Use Permit (TUP) Section limits the granting of a TUP for “Outdoor Sales in Conjunction with a Permanent Land Use (Parking Lot Sale)” up to a maximum of 5 days per event, 8 events per calendar year for a maximum of 40 days per calendar year. Additionally, the Outdoor Display of Incidental Plant Materials Section limits the display to “live plants only and shall not be for the purpose of any other form of merchandise display (19.500.030)”.

The Zoning Code permits special or unique uses in any zone subject to the granting of a Conditional Use Permit when the proposed use is substantially similar to and no more detrimental than other uses permitted in the zone. The proposed outdoor display area is both visually and functionally similar to the existing outdoor display areas on the site and are not operationally different from the retail and incidental display uses as a whole. The proposed display area is clearly incidental to the primary retail function of the site and is neither intended for nor large enough to be used as inventory storage.

The Special or Unusual Use applies specifically to the size and type of outdoor display which is customary to the industry standards for large-format Home Improvement stores. Unlike other retail establishments, the storage of equipment within the building could cause significant challenges for compliance with Building and Fire Codes including separation requirements, upgrades to the fire suppression systems, etc.

<i>Authorization and Compliance Summary</i>			
	N/A	Consistent	Inconsistent
<i>General Plan 2025</i> The proposed project is consistent with the underlying General Plan 2025 land use designation of C – Commercial, which will further the intent of the General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Zoning Code Land Use Consistency (Title 19)</i> The underlying CR – Commercial Retail Base Zone is consistent with the C – Commercial General Plan land use designation. The proposed project is subject to the granting of a conditional use permit.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Compliance with Citywide Design & Sign Guidelines</i> The proposed project substantially meets the objectives of the City’s design guidance document, subject to the recommended conditions of approval detailed below.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

COMPLIANCE WITH APPLICABLE DEVELOPMENT STANDARDS

Standard			Proposed	Consistent	Inconsistent
<i>Max. Floor Area Ratio</i>	0.5		0.27	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Min. Setbacks</i>	Front	15 ft.*	~500 ft.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Interior Side	0 ft.	~55 ft.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Street Side	15 ft.*	~450	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Rear	0 ft.	~560 ft.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Min. Parking</i>¹	1 space per 250 ft ² gross floor area, plus 5 additional spaces for Garden Center	549	550	<input checked="" type="checkbox"/>	<input type="checkbox"/>

* Standard based on the minimum 15-foot street-side landscape setback required for parking lots over 21 spaces (19.580.090[D][2]).

<i>Outdoor Display Standards (19.505)</i>					
Standard			Proposed	Consistent	Inconsistent
<i>Landscape Setbacks</i>	Street Frontages	10 ft.	20 ft.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Interior Property Lines	None	15 ft.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Other Standards</i>	Paved to Public Works specifications		Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Graded for proper drainage		Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>

¹ Parking may be provided on the same lot or within 150 feet of the subject site.

<i>Outdoor Display Standards (19.505)</i>				
Standard		Proposed	Consistent	Inconsistent
	Maintained in good repair	Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Internal circulation with entrances and exits	As Conditioned	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Minimum 6-ft. masonry wall where adjacent to residential use	N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project is consistent with all of the applicable development standards for the Commercial Retail Zone and Outdoor Display and Sales provisions of the Zoning Code.

DESIGN REVIEW

Site Access

Vehicular access to the project site is taken from two primary drive aisles at each street frontage – approximately 40 feet at Indiana Avenue and 33 feet at Madison Street. No change to site access or circulation is proposed in conjunction with this proposal.

Parking

A parking analysis provided by the applicant and verified by staff indicates that the 21 parking stalls to be occupied by the proposed display area are in excess of the required parking for the site per Chapter 19.580 of the Zoning Code. A summary of the existing and proposed parking requirement is provided below:

Use	Area	Parking Ratio	Required	Provided	Surplus
Retail Store and Tool Rental Center	108,297 ft ²	1 per 250 ft ²	435	550	115
Garden Center	23,580 ft ²	5 spaces plus 1 per 250 ft ²	100	550	15
Outdoor Display Area	3,402 ft ²	1 per 250 ft ²	14	550	1
Total	135,279 ft²	—	549	550	1

ENVIRONMENTAL REVIEW

This proposal is exempt from California Environmental Quality Act (CEQA) review pursuant to Section 15301, as the project constitutes an existing facility.

NEIGHBORHOOD COMPATIBILITY

The surrounding neighborhood consists of a variety of automobile-oriented suburban and semi-urban commercial uses bounded generally by the 91 Freeway to the north and the ATSF Railway to the south of the project site. South of the railway the neighborhood transitions to smaller-scale commercial and small-lot single-family residential land uses. The proposed outdoor display area is consistent with both the commercial character of its immediate surroundings and the nearby Riverside Auto Center Specific Plan Area, where outdoor display of large merchandise along the east-west Indiana Avenue Corridor is commonly found.

PUBLIC NOTICE AND COMMENTS

Public hearing notices were mailed to property owners within 300 feet of the site. As of the writing of this report, no responses have been received by Planning Staff.

APPEAL INFORMATION

Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten calendar days after the decision. Appeal filing and processing information may be obtained from the Planning Department Public Information Section, 3rd Floor, City Hall.

EXHIBITS LIST

1. Findings
2. Staff Recommended Conditions of Approval
3. Aerial Photo/Location
4. General Plan Map
5. Zoning Map
6. Site Plan
7. Existing Site Photos
8. Applicant-Provided Project Description
9. Correspondence received

Report and Recommendations Prepared by:
Report and Recommendations Reviewed by:
Report and Recommendations Approved by:

Matthew Taylor, Planning Technician
Ted White, City Planner
Rafael Guzman,
Community & Economic Development
Director



EXHIBIT 1 – FINDINGS

PLANNING CASES: P15-0825 (Conditional Use Permit)

Conditional Use Permit Findings pursuant to Chapter 19.760.040

- a. *The proposed use is substantially compatible with other existing and proposed uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts.*

The proposal **complies** with this finding. Owing to the relatively intensive commercial character of the immediate surroundings, as well as the size of the existing Home Depot store and the overall site, the proposed outdoor display area is compatible both in purpose and appearance with the neighborhood. The proposed use is both visually and functionally similar to the incidental outdoor display of plants and related materials already found on the site, a use which is permitted in conjunction with the Home Depot's existing 23,000-square foot Garden Center. Finally, there is significant precedent for the outdoor display of equipment and merchandise along the Indiana Avenue Corridor due to the site's proximity to the Riverside Auto Center Specific Plan Area.

- 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.*

The proposal **complies** with this finding. The proposed display area's location within the center of the 14-acre complex and proximity to the 129,000-square foot Home Depot store minimize any potential visual and operational effects on nearby residences. The proposed use does not displace any required parking and does not affect the circulation of vehicular or pedestrian traffic either within or around the site. As conditioned, the proposed outdoor display area does not create any foreseeable hazards to the health or safety of patrons of the commercial complex or the public in general. Finally, as there are no significant changes proposed to the existing non-conforming use, aside from the added outdoor display and sales area, bringing the use into conformity with the Zoning Code will not prove materially detrimental to the health, safety and general welfare.

- c. *The proposed use will be consistent with the purposes of the Zoning Code and the application of any required development standards is in the furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.*

The proposal **complies** with this finding. The proposed use is both substantially compatible with and ancillary to the retail commercial orientation of both the Zoning and Land Use designations applied to the site. Further, the proposed use is consistent with the purposes of the Zoning Code insofar as the Code permits uses not specifically authorized so long as they are similar to and no more detrimental than the other uses

permitted in a particular zone. The proposed outdoor display area is both substantially similar to and not more detrimental than the incidental outdoor display of plant materials in conjunction with a Garden Center, a use which is already present on the site. The proposal as submitted complies with all applicable development standards and no further standards need be applied. Finally, the proposed Conditional Use Permit will bring the non-conforming Home Improvement store into conformity with the Zoning Code.



EXHIBIT 2 – STAFF RECOMMENDED CONDITIONS OF APPROVAL

RECOMMENDED CONDITIONS & GENERAL INFORMATION NOTES

PLANNING CASES: P15-0825 (Conditional Use Permit)

Case Specific

• **Planning**

1. Outdoor display of merchandise shall be permitted only within the area delineated on the plans approved herein. Any expansion of the approved outdoor display area shall be subject to the granting of a new or modified Conditional Use Permit.
2. Within 90 days of approval, a revised plot plan shall be reviewed and approved by the Building & Safety division and Planning Staff to ensure compliance with applicable codes.

Operational Conditions

3. A copy of the Conditional Use Permit and the final Conditions of Approval shall be available at the site and presented to City staff, including the Police Department and Code Enforcement, upon request. Failure to have the latest approved conditions available upon request will be grounds for revocation.

• **Public Works**

4. No conditions.

• **Fire Department**

5. No Conditions.

Standard Conditions

6. The applicant is advised that the business or use for which this conditional use permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the satisfaction of the Planning Division.
7. The project shall comply with all existing State Water Quality Control Board and City storm water regulations, including compliance with NPDES requirements related to construction and operation measures to prevent erosion, siltation, transport of urban pollutants, and flooding.
8. The subject property shall be developed and operated substantially as described in the text of this report and as shown on the plot plan on file with this case except for any specific modifications that may be required by these conditions of approval.

9. There shall be a two-year time limit in which to commence the project beginning the day following approval by the Planning Commission unless a public hearing is held by City Council; in that event the time limit begins the day following City Council approval.
10. Enumeration of the conditions herein shall not exclude or excuse compliance with all applicable rules and regulations in effect at the time this permit is exercised.
11. The Project must be completed per the Conditional Use Permit approved by the Planning Commission, including all conditions listed in this report. Any substantial changes to the Project must be approved by the Planning Commission or minor modifications by Planning Staff. Upon completion of the Project, a Planning Staff inspection must be requested.
12. Within 30 days of approval of this case by the City, the developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim, action or proceeding and the City will cooperate in the defense of the proceeding.
13. This project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation or further legal action.
14. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
15. The applicant herein of the business subject to this conditional use permit acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The applicant shall inform all its employees and future operators of the business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.

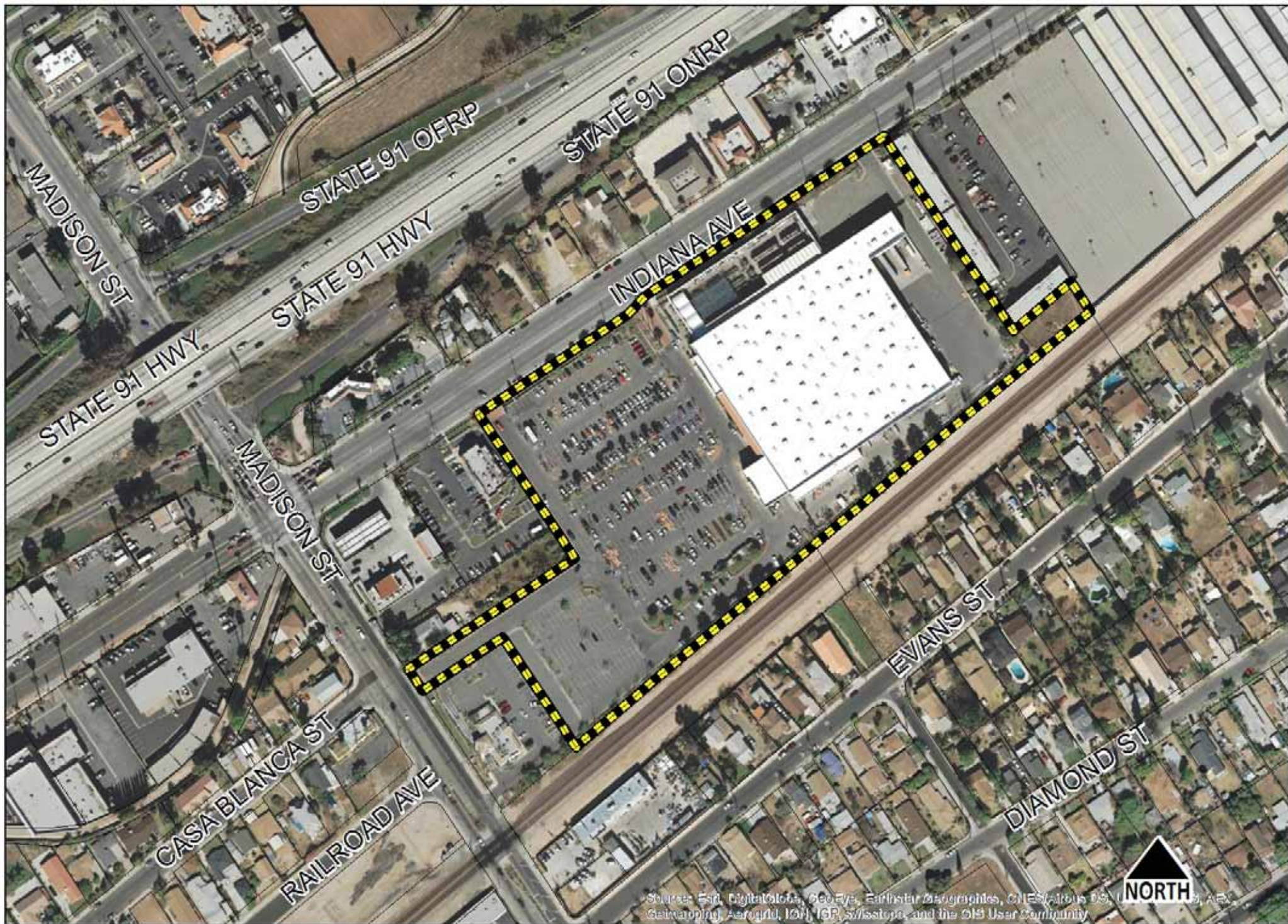


Exhibit 3 - P15-0825, 2012 Aerial Photo

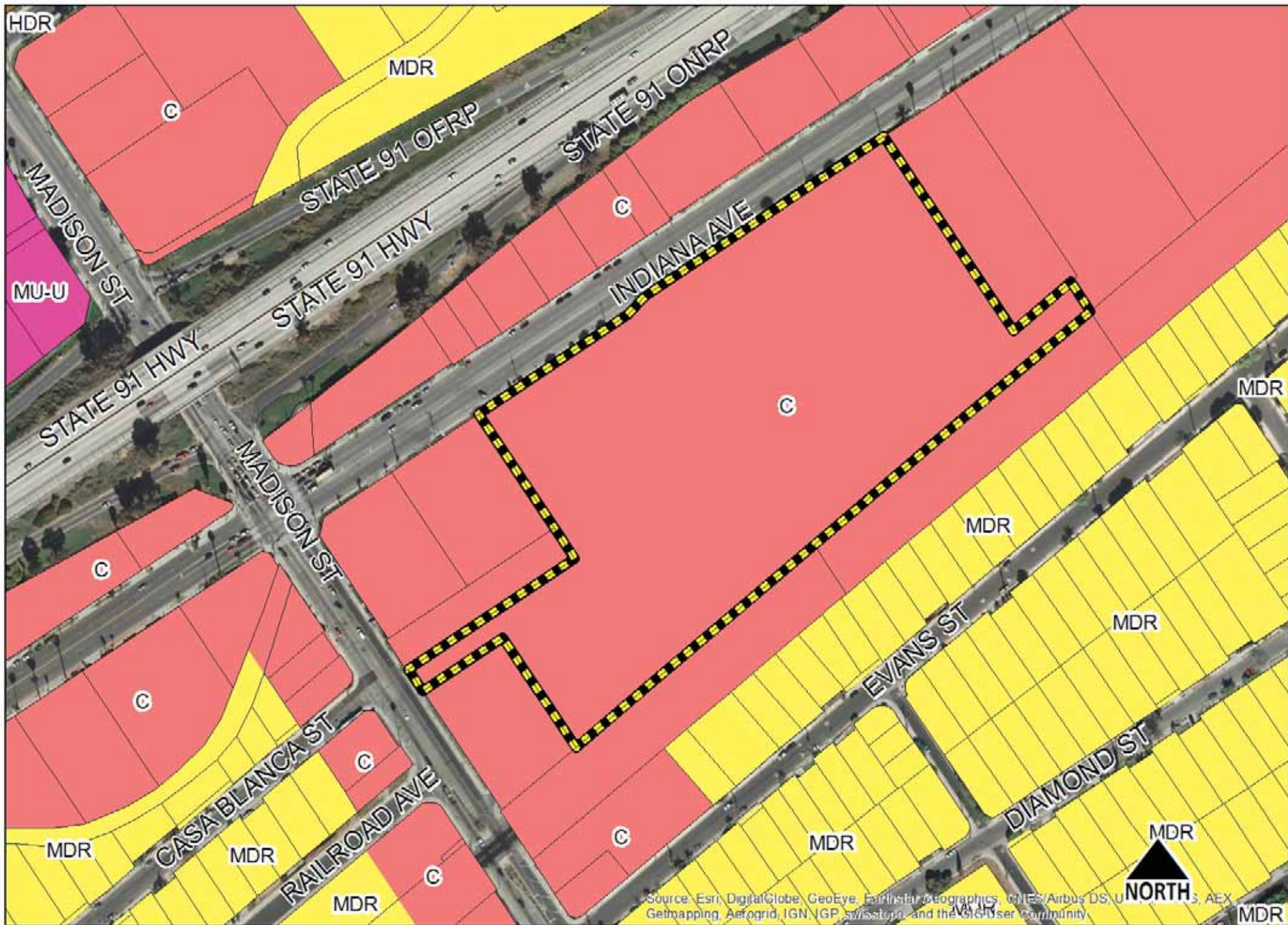


Exhibit 4 - P15-0825, General Plan Map

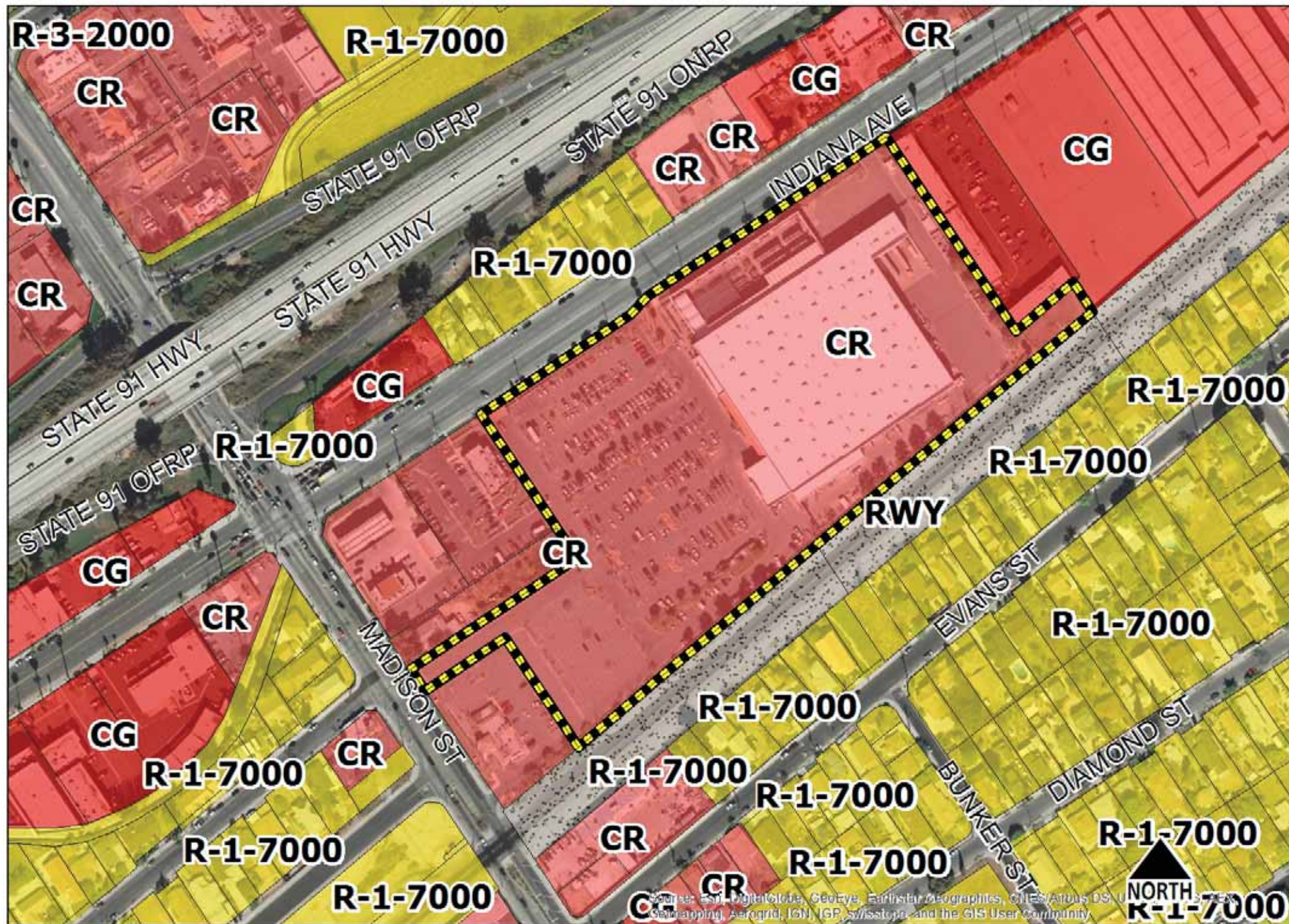
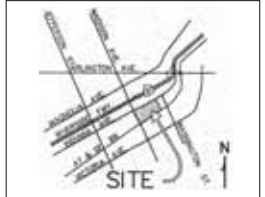


Exhibit 5 - P15-0825, Zoning Map

SCOTT A. MOMMER CONSULTING

LAND DEVELOPMENT SERVICES
4694 WEST JACQUELYN AVENUE - FRESNO, CA 93722
TEL 559-978-7000 FAX 559-278-8650 SMMOMMER@SCOTTMOMMER.COM

LOCATION MAP



PROJECT INFORMATION

PROJECT AREA
HOME DEPOT PARCEL AREA 12.16 AC
ZONING CLASSIFICATION: C-2

APPLICANT/OWNER
THE HOME DEPOT U.S.A., INC.
3800 W CHAPMAN AVENUE
ORANGE, CA 92666
TEL NO. (714) 940-3662
FAX NO. (714) 940-3579
ATTN: JEFFERY HARDMAN, REAL ESTATE MANAGER

HOME DEPOT AREA DATA
HOME DEPOT BUILDING 105,439 S.F.
HOME DEPOT GARDEN CENTER 23,580 S.F.
TOOL RENTAL CENTER 2,100 S.F.
LARGE EQUIPMENT STORAGE 756 S.F.
TOTAL HOME DEPOT AREA 131,115 S.F.
SITE COVERAGE 28.75% (11.65SF/AC)

HOME DEPOT PARKING
REQUIRED
HOME DEPOT W/ TRC (1,250 S.F.) 431 SPACES
GARDEN CENTER (1,250 S.F. + 5) 100 SPACES
TOTAL PARKING REQUIRED 531 SPACES

PROVIDED
FRONT FIELD 472 STALLS
SIDE FIELD 24 STALLS
REAR FIELD 54 STALLS
TOTAL PARKING PROVIDED 550 STALLS

OUTDOOR DISPLAY
SHED DISPLAY 10 SPACES
RETAIL EQUIPMENT AREA 11 SPACES

SITE PLAN NOTES:
THIS SITE PLAN IS BASED ON TENTATIVE PARCEL MAP NO. 28468 & PLAN W.O. 9513337 DATED APRIL 1996 BY J.P. DAVIDSON ASSOCIATES, INC.

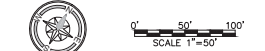
REVISION NOTES:

DATE: 9/22/2015
REVISION DATES:

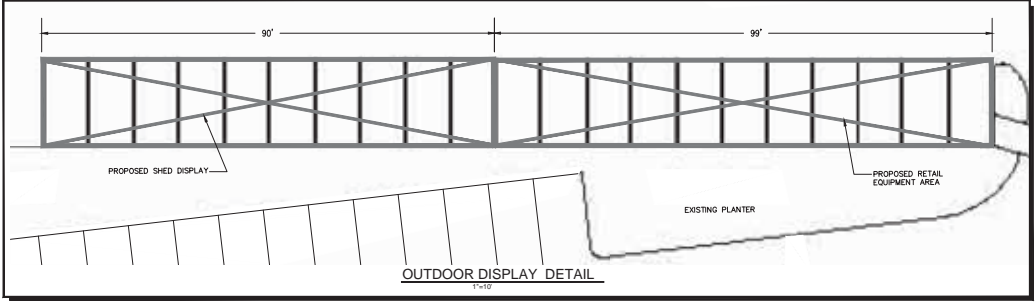
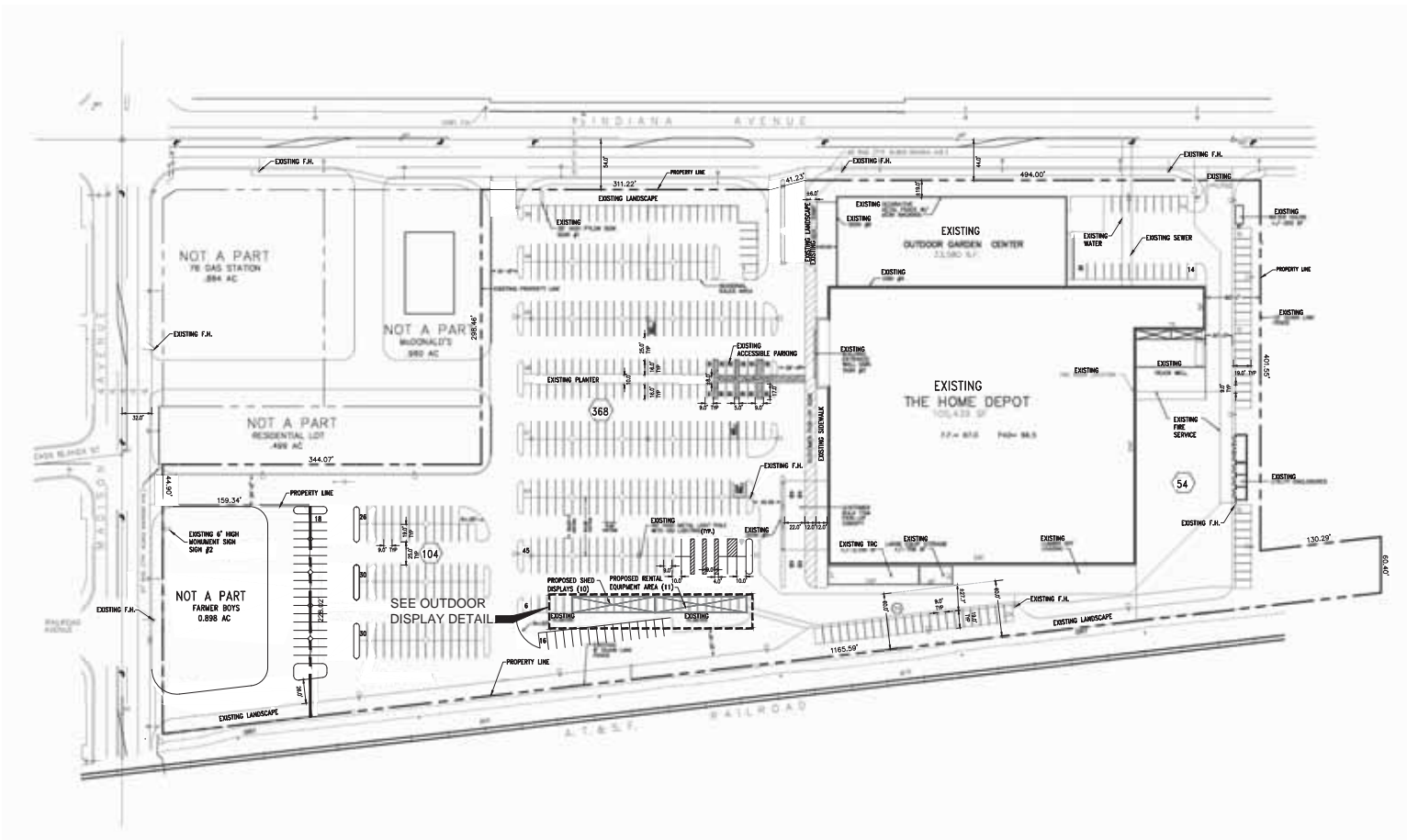
**C.U.P.
PLOT PLAN**
DATE: 9/22/2015
REVISION DATES:
SITE PLANNER LINDA THAO
SITE DEV. COORDINATOR SCOTT MOMMER
R. E. MARKER
R. E. AGENDA NAME
R. E. MANAGER JEFF HARDMAN

RIVERSIDE, CA #6619
MADISON AVENUE & INDIANA AVENUE

ADDRESS: 3323 MADISON STREET
SAMC PROJECT NUMBER SM244.15
HOME DEPOT SITE ID: #



SAMC



Home Depot Riverside #6619

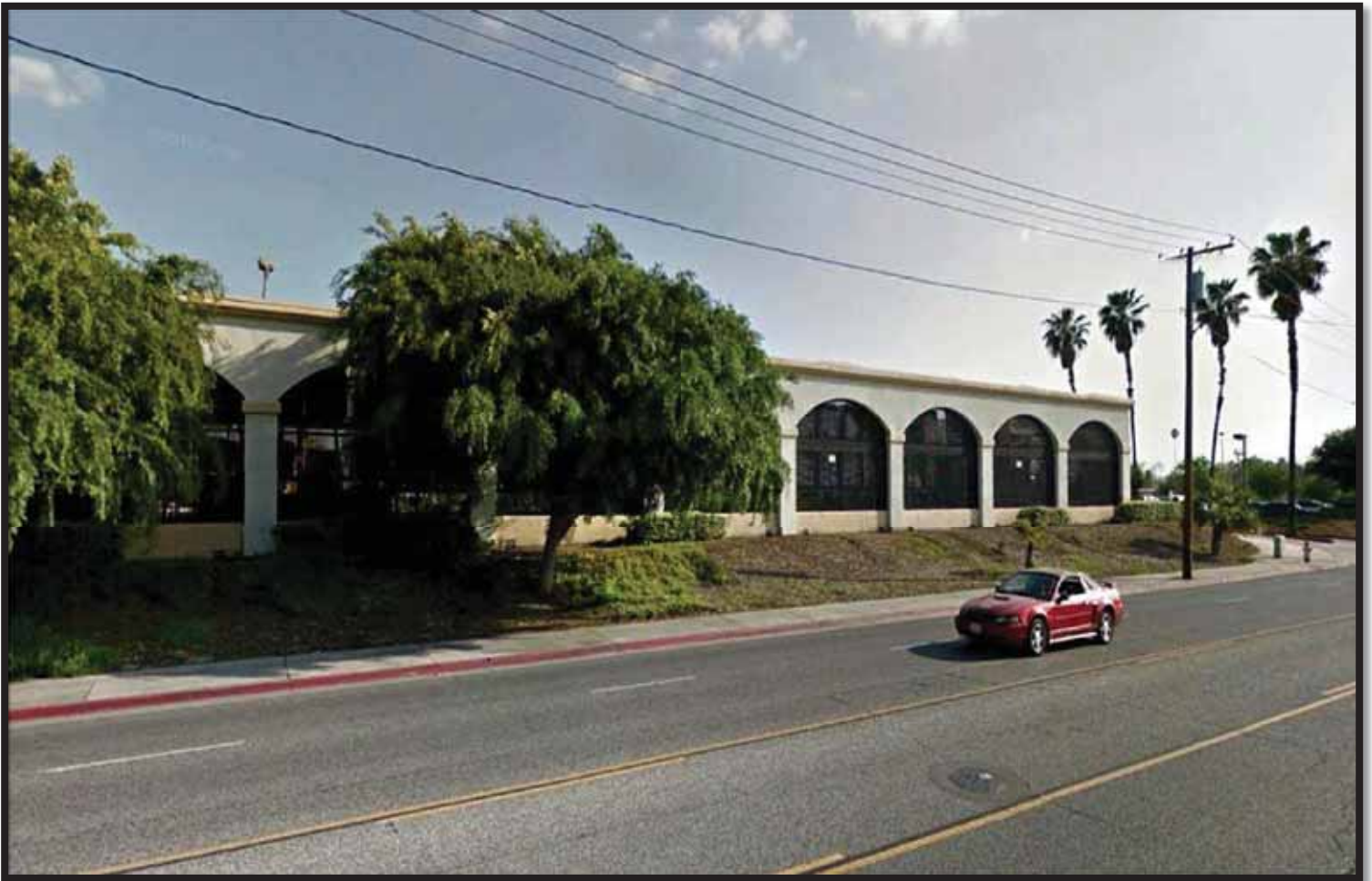
Site Photos



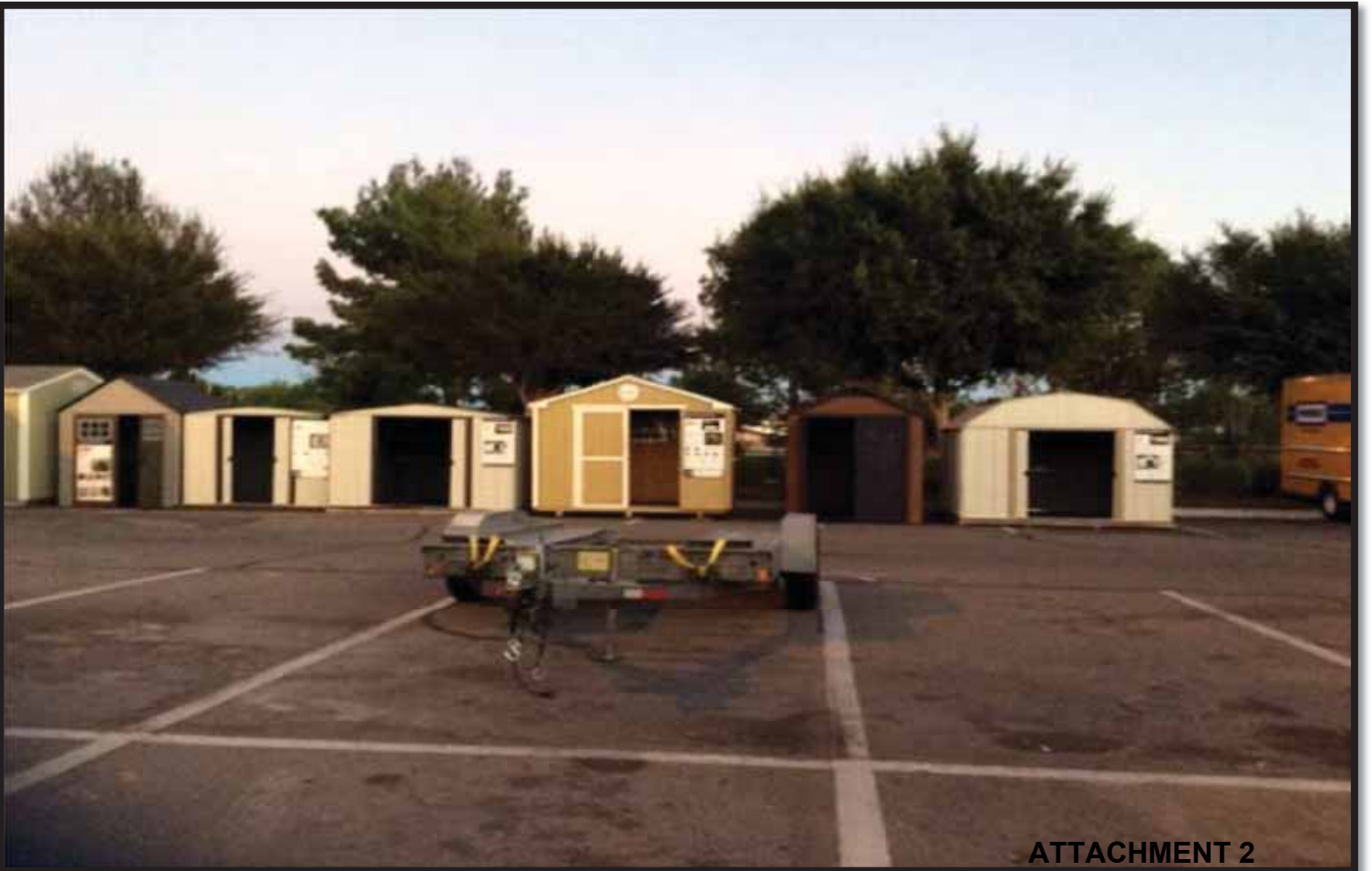
ATTACHMENT 2



ATTACHMENT 2



P15-0825, Exhibit 6 - Site Plan



ATTACHMENT 2



ATTACHMENT 2

Project Description
The Home Depot Riverside #6619
Conditional Use Permit for Outdoor Display

The Home Depot in Riverside, CA is located on the NE corner of Madison Street and Indiana Avenue in Riverside, CA at 3323 Madison Street. The APN number for the property is 230-370-021 and the current zoning for the property is (CR) Commercial Retail Zone. The Home Depot is requesting a Conditional Use Permit for an Outdoor Display area for sheds and compact power equipment for the benefit of the customers and communities use.

Home Depot has been operating at this site since approximately 1997, and has been operating as a Home Improvement Center. Approximately in 2000, a Tool Renter Center was added and went through the City's approval process. Currently, Home Depot has been and is currently renting tools from the Tool Rental Center and other equipment such as generators and concrete mixers that are mounted on small wheel-base trailers for towing purposes behind trucks. This use is in conjunction with the Tool Rental Center, in which this is an auxiliary use. In addition, for the benefit of the community and our customers, we have also been displaying sheds for customers to view in order to purchase a shed to be constructed on their property. A total of twenty one parking stalls are being utilized for the Outdoor Display area. The current parking count including the Outdoor Display is 535, which will meet the City's parking requirements.

The Home Depot is requesting a Conditional Use Permit to allow the use of Outdoor Display for sheds and compact power equipment on the property. These uses are not visible to the public right-of-way for adjoining properties. They also provide a benefit to the community as local residents and Contractors can utilize the Outdoor Display to their advantage.