

CITY PLANNING COMMISSION AGENDA

STAFF: JEFF HUDDLESTON

FILE NO(S):
CPC AP 18-00006

PROJECT: **APPEAL OF NOTICE AND ORDER TO ABATE NON-COMPLIANCE WITH DEVELOPMENT PLAN VIOLATION AT 2150 WEST GARDEN OF THE GODS ROAD**

APPLICANT: **MICHAEL UNDERWOOD**
OWNER: **M & J 2150 GG LLC**



PROJECT SUMMARY:

1. **Project Description:** This is a request to appeal the Notice and Order to abate the non-compliance with a development plan code violation issued to the property owner at 2150 West Garden of the Gods Road (**FIGURE 1**) by certified mail on/or about January 11, 2018; and by personal service to Leigh Bass, the property manager, on/or about January 10, 2018. The Notice and Order was issued for violations of storing several recreational vehicles, boats, and other vehicles on the property when the outside storage of vehicles was not indicated as allowed on the development plan for the site as issued via the conditional use approval for CPC CU 14-00029-A1MN14. City Code Section 7.5.505, **COMPLIANCE** reads: "All properties subject to an approved development plan shall be developed and maintained in accord with said plan. All new construction, alteration, enlargement or modification of existing structures and changes of land uses must substantially conform to the approved development plan or as amended or as modified".

The property is zoned PIP-1 (Planned Industrial Park) and is located on the north side of the 2100 block of Garden of the Gods Road.

2. Applicant's Project Statement: **(FIGURE 2)**
3. Planning and Development Department's Recommendation: Staff recommends the City Planning Commission uphold the Notice and Order and deny the appeal.

BACKGROUND:

1. Site Address: 2150 West Garden of the Gods Road
2. Existing Zoning/Land Use: PIP-1/CU (Planned Industrial Park/Conditional Use) (10.00 acres)
3. Adjacent Zoning/Land Use:
North: PIP-1/CU (Planned Industrial Park/Conditional Use)
South: PIP-1 (Planned Industrial Park)
East: PIP-1 (Planned Industrial Park)
West: OC/HS/CU (Office Complex/Hillside/Conditional Use)
4. Comprehensive Plan/Designated 2020 Land Use: Employment Center
5. Annexation: Pope's Bluff Annexation, November 1965
6. Master Plan: There is no master plan associated with this property.
7. Subdivision: Hotsy Subdivision, Plat 4715
8. Zoning Enforcement Action: Non-compliance with City Code Section 7.5.505, Compliance. All properties subject to an approved development plan shall be developed and maintained in accord with said plan. All new construction, alteration, enlargement or modification of existing structures and changes of land uses must substantially conform to the approved development plan or as amended or as modified.
9. Physical Characteristics: The property is located on the north side of the 2100 block of Garden of the Gods Road. The property is within an industrial park center that is visible from east and west bound Garden of the Gods Road. The property dimensions measure approximately 554 linear feet wide from the east to west end of the property, by 739 linear feet from the north to south end of the property.

STAKEHOLDER PROCESS AND INVOLVEMENT:

No stakeholder process is required with the issuance of a Notice and Order. The site will be noticed to property owners located within 1000 feet of the subject property regarding the City Planning Commission hearing and posted for 10 days prior per current Code requirements.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. Timeline of the Notice and Order Issuance:
The initial complaint was that the owner was "parking recreational vehicles and trailers in an area on the north end of the property that was not zoned for parking." A site inspection was conducted pursuant to this complaint on December 26, 2017 at approximately 1445 hours, when an establishing photograph of the property and the address of the property were taken **(FIGURES 3 and 4)**. The site was recorded to be in violation of the City Zoning Code and photographs were taken of approximately 8-10 vehicles that were parked outside of the storage structures on the north portion of the property. These vehicles consisted of a boat, trailers, and recreational vehicles **(FIGURES 5 and 6)**.

During this first inspection the property manager, Leigh Bass, was contacted at the property. Ms. Bass stated that the company had built the storage rental facility within the past year and that she was not aware of any prohibitions on parking vehicles outside on the property. She further stated that she was unaware of any development/site plan allowances for the property.

A second site inspection occurred on January 10, 2018 at approximately 1300 hours, after development plan CPC CU 14-00029-A1MN14 **(FIGURE 7)**, which was approved July 28, 2016 by Colorado Springs City Planning Commission, was found and read. This second site inspection found approximately 8-10 vehicles parked outside of the storage structures on the north and east portions of

the property (**FIGURES 8 and 9**), where the development plan indicated the land use for these areas were to be used as “driveway”. As a result of the vehicles being stored outside on the property, without any approval of outside vehicle storage within the approved development plan for the property, the Notice and Order letter (**FIGURE 10**) to abate the land use code violation was issued.

On January 11, 2018 at approximately 1100 hours contact occurred with the property owner, Mike Underwood, via telephone. Several options were discussed such as moving the vehicles to another location (he stated several of the trailers belong to him), or meeting with City Planning staff to discuss a possible amendment to the development plan. Mr. Underwood stated he would speak to his attorney first, and then send a letter to Code Enforcement staff.

2. Background:

The City Planning Commission approved a conditional use development plan for mini-warehouse on this PIP-1 (Planned Industrial) zone property in 2014. Per City Code Section 7.3.202 a mini-warehouse is defined as *Buildings designed primarily for the storage of household items and inventory of small commercial businesses where storage units are individually leased or rented, where access to storage units is infrequent and where no utilities are provided except for the service of a manager’s apartment and for lighting of individual storage units.* The conditional use approval is accompanied by a development plan that illustrates the improvements and construction of structures on this lot and specifies the use as mini-warehouse as defined per City Code.

City staff has approved one minor amendment and two minor modifications to the conditional use development plan over the past several years. These amendments were very minor in nature and did not change the overall land use or property configuration; indicating the land use for the area on the north side of the property to be used as a driveway.

Per City Code Section 7.5.505, *COMPLIANCE: All properties subject to an approved development plan shall be developed and maintained in accord with said plan. All new construction, alteration, enlargement or modification of existing structures and changes of land uses must substantially conform to the approved development plan or as amended or as modified.*

The storage of vehicles, boats and RV’s in coordination with a mini-warehouse has been considered accessory to the min-warehouse use and permitted as part of a conditional use approval in the PIP zone districts. However, this particular conditional use approval and associated development plan did not illustrate outdoor storage on the existing development plan (CPC CU 14-00029-A1MN14). An amendment to the conditional use development plan is required in order to continue the outdoor storage component.

In comparison, the property to the immediate north and identified as 4879 North 30th Street is also zoned PIP-1 with an approved conditional use. This property is a storage facility and the conditional use approval specifically allows for mini-warehouses and outdoor storage pursuant to the conditional use development plan (CPC CU 10-00104). This approval from the City Planning Commission stated that the outdoor storage component to the site was accessory to the mini-warehouse use and screening, buffering and specific parking area was rolled into the development plan for Planning Commission approval. In order to obtain this conditional use, the property was required to meet additional standards such as landscaping and limitation on number and location outdoor parking spaces and full City agency review of the layout and consideration of the storage area.

While the two adjoining properties appear similar from a land usage standpoint, the property owner(s) at 2150 Garden of the Gods Road has not applied for or received an amended approved development plan allowing for the outdoor storage use of the property, while the property owner(s) at 4879 North 30th Street clearly applied for and received an amended approved development plan allowing for the outdoor storage use of the property.

Staff finds that the Notice and Order to Abate meets the criteria as set forth in City Code.

3. Conformance with the City Comprehensive Plan:
Not applicable to a notice and order

4. Conformance with the Area's Master Plan:
No master plan exists for this site.

STAFF RECOMMENDATION:

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Deny the appeal and uphold the Notice and Order to Abate the land use code violation issued at 2150 Garden of the Gods Road on January 10, 2018, based on the finding that the appeal does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.1007.