

SCHEDULED MATTER

SUBJECT: CONSIDERATION OF TEMPORARY/INTERIM USE AT 952 WEST NORTH GRAND AVENUE


SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: The applicant is requesting use of a 2.46± acre lot for storage and consignment of vehicles and equipment. The site is located at the northeast corner of State Route 65 and North Grand Avenue. The site address is 952 West North Grand Avenue.

HISTORY: In August of 2009, the City Council approved a Temporary Structure Permit facilitating the establishment of a storage and consignment of equipment business. The staff report indicated that due to the location's long term use for storage of construction materials and equipment, the site could be considered a legal, non-conforming use from the time of annexation in 1978. The issue brought to Council at that time was the consignment of vehicles as a temporary use. At that time, the applicant was conditionally granted a temporary structure permit for a one-year period as authorized by Municipal Code Section 7-3.3 and City Council Resolution 80-2009. The applicant returned in August 2010 to request a one-year extension, which was also granted. In 2011, staff asked the business owner if they intended to return to Council to request another one-year extension, but at that time, the applicant told staff that his intent was to let the permit lapse, citing the economy as the reason. The site was soon thereafter cleared of materials and was vacant and no longer retains its non-conforming use status.

In January 2013, City staff contacted the applicant after noticing that the site was again showing signs of business activity. Equipment and vehicles were being brought to the site. Through a phone call and a follow-up letter, staff notified the applicant that the previously issued permit had expired and that the business was no longer permitted. In response, the applicant submitted an application to the Project Review Committee requesting consideration of reinstating the previous temporary uses. Because the applicant abandoned the nonconforming uses previously onsite for a period longer than six months, it cannot be automatically resumed pursuant to Section 308.10 of the Porterville Development Ordinance.

ANALYSIS: The rationale behind approval of the prior temporary structure permit is contained in the attached staff report dated August 18, 2009. However, since the time of the original consideration of the project, a number of circumstances have changed that affect Council's consideration of the applicant's proposal. Since 2009, the City Council has adopted a new Development Ordinance, which includes new

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CM 

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standards for Temporary Uses It should be noted that the prior approval relied upon Section 7-3.3 of the Municipal Code – Temporary Structures - that was not amended. However, the Temporary Use provisions of the Development Ordinance does not consider this type of use, but uses ancillary to a primary use. The City has installed new improvements in the right-of-way along the North Grand Avenue frontage of the subject site, including new road pavement, curbs, and gutters. The City Council approved a reimbursement agreement for the frontage improvements requiring payback at the time of development of the site. Further, one of the primary reasons the use was originally considered was that the construction of a new interchange at North Grand and State Route 65 seemed imminent. At this time, that timeline appears more distant and the use of transportation funds are being considered for other highway interchange projects; that project, which could result in significant right-of-way acquisition at the subject site, is not likely to move forward within the current planning horizon.

Because of these factors, staff requests that the City Council provide direction on how to process the application. The applicant has been maintaining a storage and consignment equipment sales lot on the site since January 2013 without a business license. Issues such as obsolete dilapidated buildings, lack of improved parking and proper site access for vehicles need to be addressed, but without knowing which mechanism to use, no defined comments have yet been presented to the applicant.

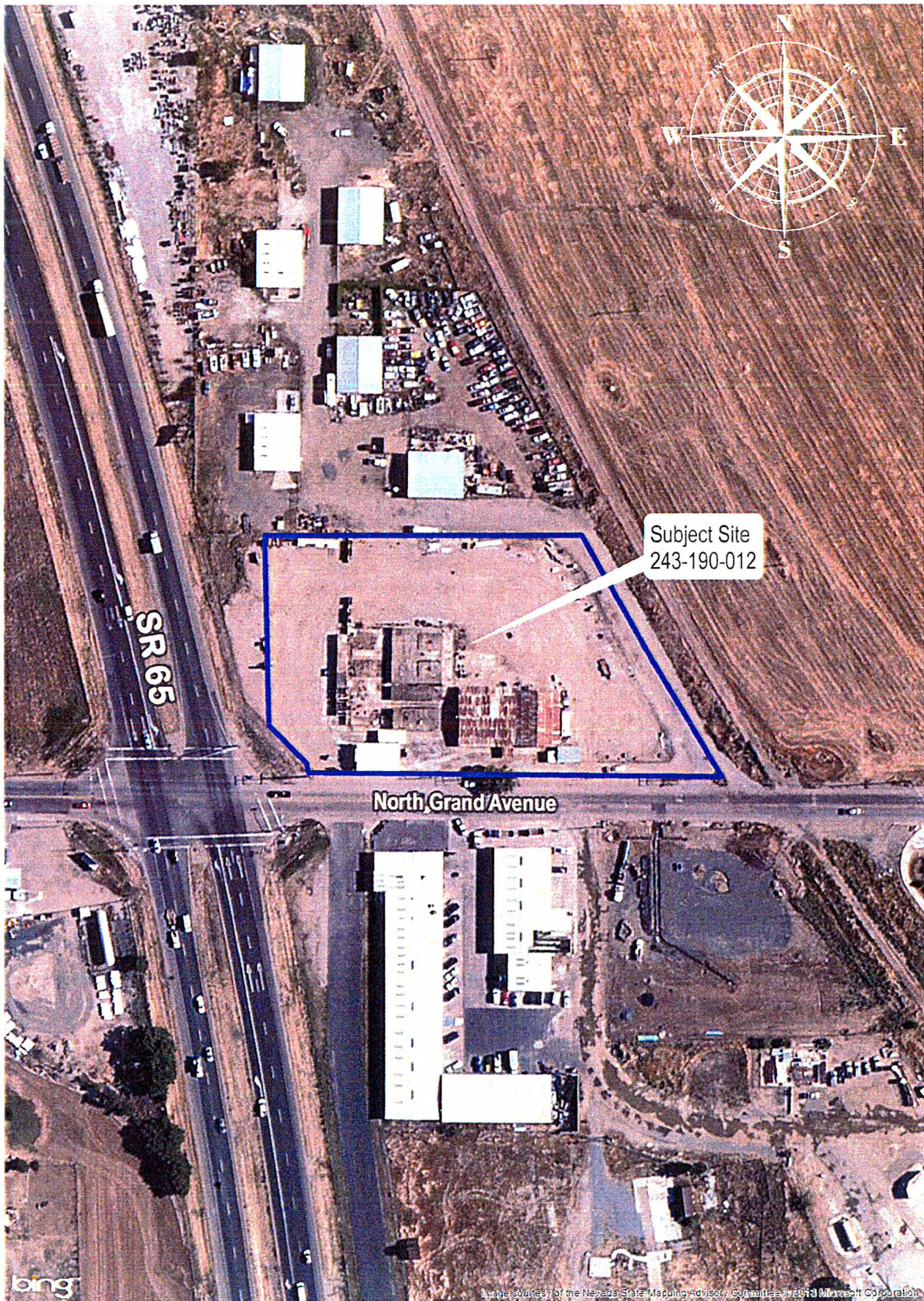
Aside from any temporary or interim consideration, the establishment of the proposed use on the site would require construction of the full scope of improvements and payback for concrete improvements. The subject site is zoned General & Service Commercial (CG), and as such, the proposed uses could be accommodated permanently with a Conditional Use Permit and would require significant improvements. However, the Development Ordinance would not accommodate use of the existing, non-conforming structures currently on site. Equipment sales could be accommodated with a Conditional Use Permit, subject to special provisions of Section 301.05. Similarly, outdoor retail sales, as the other primary proposed use of the site, could be authorized as Permanent Outdoor Retail Sales subject to the provisions of Section 301.12(b) of the Development Ordinance.

Although the initial consideration of a similar use on this site relied on Section 7-3.3 of the Municipal Code (Temporary Structures), the new Development Ordinance now provides a mechanism to more properly approve the use in consideration through a Conditional Use Permit, defined in Sections 203.02 and 604 of the Development Ordinance.

RECOMMENDATION: Provide direction to staff on whether to move forward considering the application as an interim use, or require that the applicant develop permanent improvements and request a Conditional Use Permit to accommodate the use.

ATTACHMENTS:

1. Project location map
2. Staff Report from August 18, 2009 and Resolution 80-2009-Original approval of temporary structure permit
3. January 29, 2013 letter to applicant requesting compliance
4. Applicant's site plan of proposed uses



Geographic
Information
Systems

Northeast Property
Aerial

ATTACHMENT
ITEM NO. 1

CITY COUNCIL AGENDA: AUGUST 18, 2009

SCHEDULED MATTER

SUBJECT: REQUEST FOR A TEMPORARY STRUCTURE PERMIT FOR THE STORAGE AND CONSIGNMENT OF EQUIPMENT (952 West North Grand Avenue)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting a temporary structure permit to allow for the storage and consignment of vehicles and equipment. The site is located on the northeast corner of Highway 65 and North Grand Avenue (952 W. North Grand Avenue).

HISTORY: Annexed in 1978 (Annexation No. 261), the site located at 952 W. North Grand has been used as a storage lot for decades. Since being brought into the City limits, the site has been through a number of Project Review Committee (PRC) meetings for various proposals including a proposed veterinary clinic in September 1997, a proposed auto sales lot with temporary office in November 2001, and an indoor gun range, restaurant, gas island and carwash in April 2004. Due to challenges with the site and the extent of the proposals, none of the projects have been constructed. Two main constraints on the site have included the non-conforming status of the storage of material, and the future construction of a freeway interchange that will eliminate the majority of the project site when constructed in the next 10 or so years.

Since the property has existed as a legal non-conforming use for storage of construction materials and equipment, the effect of the proposed change focuses on whether the consignment of vehicles for sale should be permitted as a temporary use.

Staff has processed this request based on a past action of the Council to consider a temporary remote control vehicle track on a site on Henderson Avenue just east of the abandoned San Joaquin Valley Railroad right-of-way. On October 19, 2004, the City Council adopted Ordinance 1659, allowing for a temporary remote control vehicle track in a manner similar to this proposed use and in the same manner as temporary structures. Section 7-3.3 of the Porterville Municipal Code empowers the City Council to conditionally approve temporary structures and provides the City Council the discretion to determine the type and location of the structure, period of time the structure will be allowed, and other conditions deemed pertinent by the City Council.

PROJECT DESCRIPTION:

The applicant is requesting a temporary structure permit to continue the legal nonconforming use for the storage of equipment with the addition of allowing consignment of equipment for sale on the property. Unlike some of the earlier submittals that proposed using a portion of the site, the applicant has made significant efforts in cleaning up the entire blighted site and is proposing to reduce the level of nonconformity by doing minor improvements to the site. The applicant proposes to store and consign

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items such as farming supplies, tractors, and vehicles and has already paved the area with decomposed granite (DG). Although decomposed granite is more effective in mitigating dust and providing all weather access to the site, the applicant is proposing to utilize his water truck to dampen the DG as needed to control dust. Staff and the applicant have discussed a 5-year timeframe for allowing the temporary use before making it permanent and installing full on-site and off-site improvements. Staff indicated this would be communicated to the City Council for consideration although the Council can, if approved, change the term of the temporary use. While the applicant has made a specific proposal, there are a number of options available to the City Council which are as follows:

OPTIONS:

1. Approve the request as proposed per the submitted plan and conditions contained in the attached resolution.
2. Deny the applicant's request and require the full extent of improvements be made prior to allowing any degree of use other than storage.
3. Approve the request with conditions to apply oil or other dust retardant to the customer parking and vehicular travel areas.
4. Approve the request and require the applicant to pave the travel ways per Sections 2206 and 2211 of the Zoning Ordinance.

While there are certainly implications with respect to precedence, staff has identified some benefits of this proposal. The proposal cleans up a blighted gateway into the City along Highway 65. Due to the economic distress our community and country face the desire to operate the site in a safe and efficient manner is a positive. As stated, earlier proposals mostly proposed scraping the materials off of one portion of the site to another and did not really address the underlying blight problem. The Caltrans Project Study Report calls for most of the property to be impacted by the proposed interchange improvements which is a component of the Measure R improvement program. Staff is seeking direction from Council on whether the City would like to facilitate the temporary use. In the event the Council wishes to approve the proposed temporary use, Staff has provided a draft resolution.

RECOMMENDATIONS: Provide direction to Staff

ATTACHMENTS: Draft Resolution with Site Plan

RESOLUTION NO. 80-2009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING A TEMPORARY STRUCTURE PERMIT TO ALLOW FOR THE
STORAGE AND CONSIGNMENT OF EQUIPMENT LOCATED AT 952 WEST
NORTH GRAND AVENUE.

WHEREAS: The applicant has filed a request for a Temporary Structure Permit to operate a storage and consignment business at 952 West North Grand Avenue; and

WHEREAS: Section 7-3.3 of the Porterville Municipal Code authorizes the City Council to, upon written application to the city council, issue a permit enabling an applicant in time of stress or emergency or in conjunction with development of residential, commercial, or industrial projects, to erect, construct, maintain and utilize a temporary structure within the city of Porterville; and

WHEREAS: Ordinance 1659 allows the Council to apply Section 7-3.3 of the Municipal Code to temporary uses as well as structures; and

WHEREAS: The applicant has worked with City Staff to address potential safety and other pertinent issues.

WHEREAS: The City Council of the City of Porterville, at its regular scheduled meeting of August 19, 2009 conducted a public meeting to consider approving a temporary structure permit to allow for the storage and consignment of equipment located at 952 West North Grand Avenue; and

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby grant a Temporary Use Permit to allow for the storage and consignment of equipment located at the Northeast corner of Highway 65 and North Grand Avenue (952 W. North Grand) with the following conditions:


1. The applicant shall pave the outdoor storage area with decomposed granite or similar material to the satisfaction of the Zoning Administrator.
2. That the merchandise displayed in any outdoor display area on the site be limited to farm or construction equipment.
3. The hours of operation shall be limited to between the hours of dawn to dusk Monday through Saturday.
4. That any or all outdoor storage area and travel ways in use shall be watered daily to mitigate dust.
5. That oil pans or like devices shall be installed underneath all stored vehicles, and maintained in a manner so as to prevent vehicle engine oil/fluids from contacting the ground.

6. That a record of consignment sales be submitted to the Community Development Department at least one month prior to the one year review for inclusion into the annual Council review.
7. In the event the applicant fails to satisfy all conditions set forth by the city council in the permit, the right to construct, maintain and utilize the temporary structure may be terminated immediately by action of the City Council; and, in addition thereto, a violation of the conditions of said permit is hereby declared to be unlawful.
8. Nothing herein shall permit the applicant to make use of any structure or area in violation of any zoning law, ordinance or regulation of the city.
9. That this Temporary Structure Permit be valid for a period of one year, to expire on August 18, 2010, unless renewed by applicant and approved by the City Council prior to that date.
10. Install a vehicle barrier such as railroad ties acceptable to the City Engineer between the public parking area and the storage/display area.
11. Comply with the plans included herein as Exhibit A.


Pete V. McCracken, Mayor

ATTEST:

John D. Lollis, City Clerk

BY 
Patrice Hildreth, Chief Deputy City Clerk

CENTRAL VALLEY CONSIGNMENT + STORAGE
STEVE PENN
(559) 284-5940

DESIGNATED AREAS OF OPERATION



EQUIPMENT



Parking



FENCE



gates



STORAGE

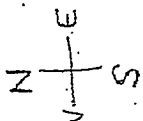
DUST CONTROL

AREA COMPLETELY COVERED WITH GRANIT

ANY AND ALL AREAS IN USE WILL BE WATERED

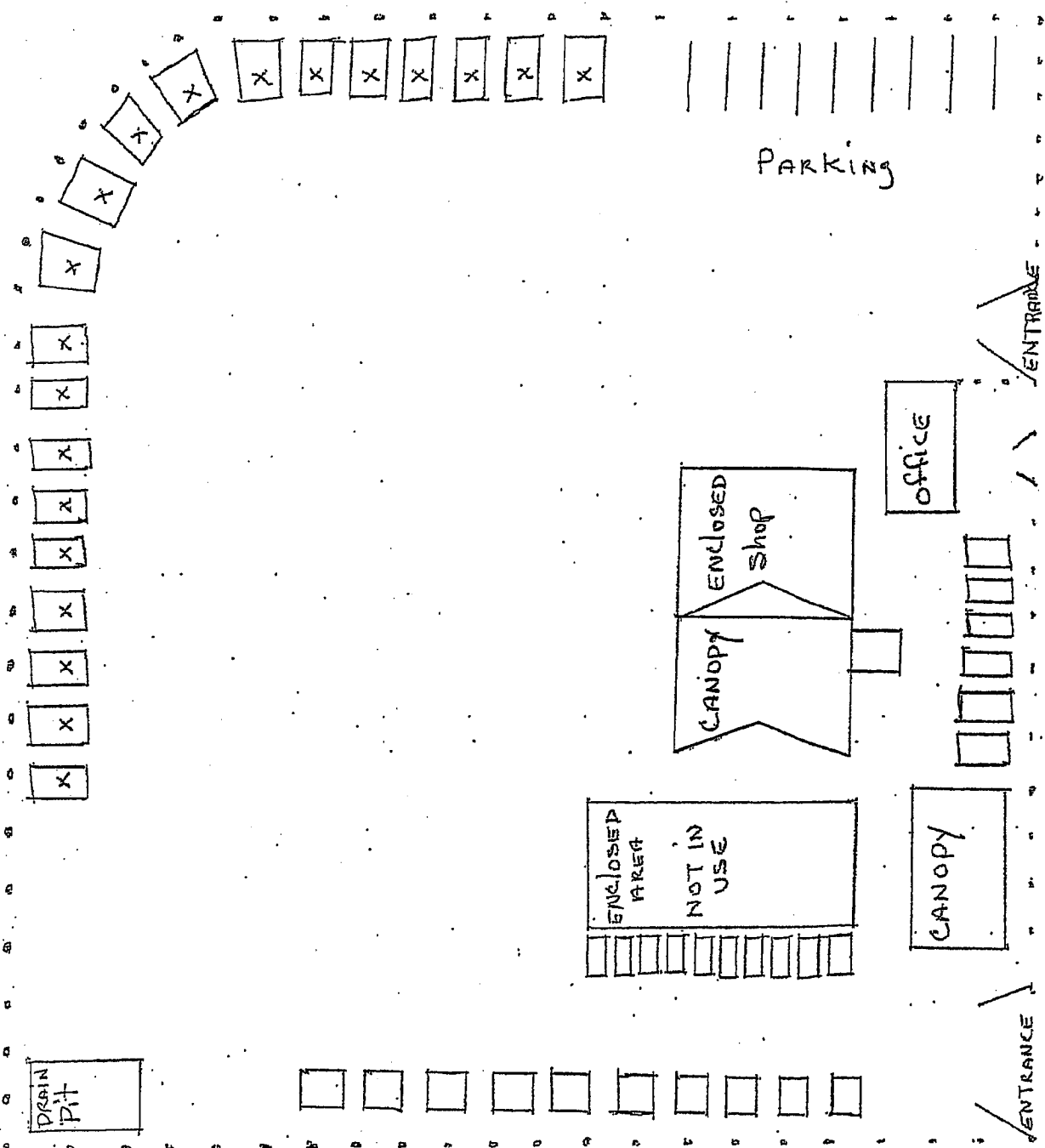
DAILY AS NEEDED

HOURS OF OPERATION. MONDAY - FRIDAY 8:00 TO 4:00 SAT 8:00 TO 12:00



H3165

North Grand



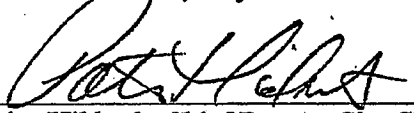
STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

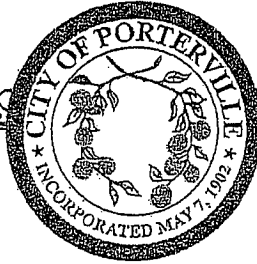
I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 18th day of August, 2009.

THAT said resolution was duly passed, approved, and adopted by the following vote:

Council:	McCRACKEN	P. MARTINEZ	F. MARTINEZ	WARD	HAMILTON
AYES:		X	X	X	X
NOES:	X				
ABSTAIN:					
ABSENT:					

JOHN D. LOLLIS, City Clerk.


Patrice Hildreth, Chief Deputy City Clerk



Community Development
Department

January 29, 2013

Steve Penn
952 W. North Grand Ave
Porterville, CA 93257

Subject: Temporary Use Permit for outdoor sales of farm and related equipment at 952 North West Grand Ave.

Deat Mr. Penn,

On Monday, January 28, 2013, we spoke over the phone about your expired temporary use permit for outdoor sales at the above stated address. We discussed the last call we had just before the use permit was set to expire in 2011. Your response at that time was that "the state of the economy was just too poor" and that you were "just going to remove everything and close things up." Our understanding was you were not going to renew your temporary use permit and that if things got better you would be coming in with a brand new request for another permit.

We also discussed the farm equipment and the large construction vehicle on the property that are for sale. I informed you that as your permit was expired, that equipment was not permitted. You stated that you understood and that you would be removing all the items and taking them to public auction. We agreed that everything would be removed within 30-days of our conversation.

Please have the equipment and vehicle, including the sign with contact information removed by February 28, 2013. If you have any questions please feel free to contact Julie Phillips, Community Development Manager, at 559-782-7460.

Sincerley,

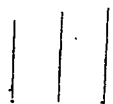

Jose B. Ortiz
Associate Planner

CENTRAL VALLEY CONSIGNMENT + STORAGE
STEVE PENN
(559) 284-5940

DESIGNATED AREAS OF OPERATION



EQUIPMENT



PARKING



FENCE



GATES



STORAGE

DUST CONTROL

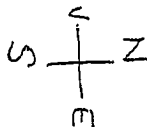
AREA COMPLETELY COVERED WITH GRANIT

ANY AND ALL AREAS IN USE WILL BE WATERED

DAILY AS NEEDED

HOURS OF OPERATION. MONDAY - FRIDAY 8:00 TO 4:00 SAT 8:00 TO 12

ATTACHMENT
ITEM NO. 4



HW-1 65

North Canal

