

AN ORDINANCE GRANTING A SPECIAL USE PERMIT AND APPROVING A PRELIMINARY DEVELOPMENT PLAN FOR A MAINTENANCE EQUIPMENT STORAGE FACILITY IN DISTRICT R-1 ON LAND LOCATED AT 504 SW 163<sup>RD</sup> STREET, FOR A PERIOD OF 10 YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, Applications #2003-109 and #2003-110, submitted by Raintree Lake Property Owner's Association, requesting a special use permit and preliminary development for a maintenance equipment storage facility in District R-1 on land located at 504 SW 163<sup>rd</sup> Street, was referred to the Planning Commission to hold a public hearing; and,

WHEREAS, the Unified Development Ordinance, Sections 4.280 and 4.360 provide for the approval of a special use permit and a preliminary development plan by the City following public hearings by the Planning Commission and City Council, and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held a public hearing for the request on May 27, 2003, and rendered a report to the City Council containing findings of fact and a recommendation that the special use permit and preliminary development plan be approved; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on June 19, 2003, and continued the public hearing to a date certain of July 7, 2003, and,

WHEREAS, the City Council continued the public hearing on July 7, 2003, and rendered a decision to grant said special use permit.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the application pursuant to Section 5.310 and Section 10.160 of the Unified Development Ordinance to allow a maintenance equipment storage facility in District R-1 with a Special Use Permit is hereby granted for a period of ten (10) years, with respect to the following described property:

*Lot 2, Brigance Acres, a subdivision of record in Lee's Summit, Jackson County, Missouri*

SECTION 2. That the following conditions of approval apply:

1. There shall be no outdoor storage of equipment or materials.
2. All parking areas and access drives shall be paved.
3. Vinyl shall be approved as a conditional material since it is compatible with residential construction.
4. The berm on the east side of the maintenance facility shall be 4 feet in height, extending the length of the building and wrapping around to the northwest.

- 5. The proposed landscaping along the front third of the east elevation shall be shifted to the rear two-thirds of the same elevation to provide additional relief for the large walls. Staff recommends 2-gallon shrubs be used for the proposed decorative groundcover.
- 6. A 6' white vinyl fence shall be provided along the west property boundary up to the depth of the proposed building; a medium-impact landscaping screen shall be provided between the proposed building and the existing single-family residence to the east up to the depth of the proposed building.
- 7. Street frontage landscaping satisfying the minimum UDO requirements shall be provided. One (1) tree shall be provided for every 30' of street frontage, and one (1) shrub shall be planted for each 20' of street frontage.
- 8. 8' evergreen trees shall be provided along the rear of building (north side) to screen the proposed building from the adjacent residential lots.
- 9. The use is restricted to maintenance equipment storage.

SECTION 3. That development shall be in accordance with the preliminary development plan dated May 2, 2003, appended hereto and made a part hereof and the use shall be limited to a maintenance facility.

SECTION 4. That failure to comply with all of the provisions contained in this ordinance shall constitute violations of both this ordinance and the City Unified Development Ordinance, No. 5209.

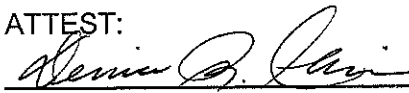
SECTION 5. That this ordinance shall be in full force and effect from and after the date of its passage and approval.

PASSED by the City Council of the City of Lee's Summit, Missouri, this 7th day of July, 2003.


ATTEST:  
  
 City Clerk Denise R. Chisum

  
 Mayor Karen R. Messerli

APPROVED by the Mayor of said city this 7th day of July, 2003.

ATTEST:  
  
 City Clerk Denise R. Chisum

  
 Mayor Karen R. Messerli

APPROVED AS TO FORM:  
  
 City Attorney Robert H. Handley

# City of Lee's Summit

## Department of Planning & Development

July 1, 2003

TO: Steve Arbo, Assistant City Administrator  
 FROM: Robert G. McKay, AICP, Director *RGM*  
 RE: **PUBLIC HEARING – Application #2003-109 – SPECIAL USE PERMIT for a Maintenance Equipment Storage facility in R-1, and Application #2003-110 - PRELIMINARY DEVELOPMENT PLAN – 504 SW 163<sup>rd</sup> Street, Raintree Lake Maintenance Equipment Storage Facility; Raintree Lake Property Owner's Association, applicant**

### Commentary

This application was continued for the purpose of providing an analysis to questions raised during the public hearing from the neighbors and their attorney. An affidavit has been filed indicating that the individual signing as owner or agent was legally authorized by the property owners association to sign on their behalf. A statement has also been filed indicating the intended use of the proposed maintenance building. Also filed for this application and attached hereto is an explanation from the applicant stating how the criteria described in Article 4 and Article 10 of the UDO for a special use permit has been met.

This application is for a Special Use Permit and a Preliminary Development Plan for a 5,000 sq. ft. maintenance equipment storage facility in R-1 (single-family residential) to service the Raintree Lake subdivision. A maintenance equipment storage facility is allowed in the R-1 district as a special use per Section 10.160 as follows.

"Section 10.160. Boats, recreational vehicles and maintenance equipment storage

A special use permit is required for storage of boats, recreational vehicles and maintenance equipment, whether in open or enclosed yards. Such facility shall meet the following conditions:

- A. The facility is to be located on land owned by, leased by, or under the control of the users or an association.
- B. Open yards are to be properly screened by means of a solid, sight-obscuring fence, not less than six (6) feet in height. Screening directly adjacent to land zoned residential shall incorporate planted buffers as required in Article 14.
- C. All parking areas and access drives shall be paved.
- D. The requirements of the "exterior building materials design standards" in Article 7, Division V, of this Chapter shall apply to all applicable buildings."

The proposed facility will sit on a 3.88-acre lot and is set back approximately 400' from the rear (north) property line, 85' and 110' from the west and east property lines (side setbacks), respectively and 118' from the front (south) property line. UDO setback requirements are 30' front, 7.5' side and 30 feet rear. Single family homes exist to the north, undeveloped agricultural lot in Cass County to the west; a single-family home in the Raintree Lake subdivision to the east and undeveloped agricultural property in Cass County to the south.

## Section 10.010. Statement of Intent

The division of the City into zoning districts is based on the principle that similar conditions prevail throughout a particular district. Some uses of land are not appropriate as a "permitted use" in certain districts and are designated as special uses. These uses may be approved at a particular location because of factors or reasons not applicable to the zoning district as a whole. Special uses may have a unique impact on the adjoining uses of land, and are therefore subject to individualized considerations as to location and conditions of use to protect and promote the basic purposes of this Chapter. A special use permit is issued by the Governing Body following the procedures set forth in Article 4, Division III.

- 5,000 sq. ft. building
- 0.03 floor area ratio (FAR)

## Proposed City Council Motion

I move to: direct staff to **draft an ordinance granting a special use permit** for a maintenance equipment storage facility in the R-1 zoning district and **approving the preliminary development** plan for 504 SW 163<sup>rd</sup> Street, Raintree Lake Maintenance Equipment Storage Facility; RLPOA, applicant, subject to staff's letter, recommendation items 1-9.

## Planning Commission Action

Date of Hearing: May 27, 2003

Recommendation: Voted unanimously to recommend **APPROVAL** of a special use permit for a maintenance facility in R-1 and a preliminary development plan for 504 SW 163<sup>rd</sup> Street, Raintree Lake Maintenance Facility; RLPOA, applicant, subject to staff's letter, recommendation items 1-9.

## Staff Recommendation

Staff recommends **APPROVAL** of the special use permit and the preliminary development plan, subject to the following:

1. A special use permit shall be granted for the period of 10 years.
2. There shall be no outdoor storage of equipment or materials.
3. All parking areas and access drives shall be paved.
4. Vinyl shall be approved as a conditional material since it is compatible with residential construction.
5. The berm on the east side of the maintenance facility shall be 4 feet in height, extending the length of the building and wrapping around to the northwest.
6. The proposed landscaping along the front third of the east elevation shall be shifted to the rear two-thirds of the same elevation to provide additional relief for the large walls. Staff recommends 2-gallon shrubs be used for the proposed decorative groundcover.

7. A 6' white vinyl fence shall be provided along the west property boundary up to the depth of the proposed building; a medium-impact landscaping screen shall be provided between the proposed building and the existing single-family residence to the east up to the depth of the proposed building.
8. Street frontage landscaping satisfying the minimum UDO requirements shall be provided. One (1) tree shall be provided for every 30' of street frontage, and one (1) shrub shall be planted for each 20' of street frontage.
9. 8' evergreen trees shall be provided along the rear of building (north side) to screen the proposed building from the adjacent residential lots.
10. The use is restricted to maintenance equipment storage (**added by staff**)

## Project Information

**Proposed Use:** subdivision maintenance equipment storage facility

**Land Area:** 3.88 acres or approximately 169,013 sq. ft.

**Building Area:** 5,000 sq. ft.

**Location:** 504 SW 163<sup>rd</sup> Street, *Brigance Acres, Lot 2*

**Zoning:** R-1 (single-family residential)

**Surrounding zoning and use:**

**North:** R-1 (Single-family residential) – *Raintree Lake*

**South:** AG (Agricultural) – undeveloped property in Cass County

**East:** R-1 – *Raintree Lake*

**West:** AG – undeveloped property in Cass County

## Background

- December 21, 1993 – The City Council approved the final plat for *Brigance Acres, Lots 1 & 2* by Ordinance 3936.
- March 6, 2003 – The City Council approved a Special Use Permit and Preliminary Development Plan (Applications #2002-297 and 2002-304) for the *Raintree Lake* maintenance facility at 504 SW 163<sup>rd</sup> Street by Ordinance 5496.
- May 1, 2003 – The City Council rescinded Ordinance 5496, which granted approval for a Special Use Permit and Preliminary Development for the maintenance facility at 504 SW 163<sup>rd</sup> Street.

## Analysis of Special Use Permit

**Ordinance Requirement.** This application is for a maintenance equipment storage facility in District R-1 to service the Raintree Lake subdivision. All operations will be conducted within an enclosed building. Section 10.160 of the UDO requires a special use permit for "storage of boats, recreational vehicles and maintenance equipment, whether in open or enclosed yards" with the following conditions:

- The facility is to be located on land owned by, leased by, or under the control of the users or an association;
- Open yards are to be properly screened by means of a solid, sight-obscuring fence, not less than six (6) feet in height. Screening directly adjacent to land zoned residential shall incorporate planted buffers as required in Article 14;
- All parking areas and access drives shall be paved;
- The requirements of the "exterior building materials design standards" in the UDO shall apply to all applicable buildings.

**Time Period.** The applicant did not request a specific time period for the Special Use Permit. Staff recommends a time period of 10 years.

## Code and Ordinance Requirements to be Met Following Approval

### Public Works

1. All engineering plans, including water, sanitary sewers, storm drainage, and streets, must be submitted and approved prior to issuance of any building permits.

### Fire

1. A Hazmat Permit shall be issued for the storage of any chemicals or other hazardous materials in quantities requiring such permit.

### Planning and Development

2. The final development plan shall include the following information:
  - a) The lot area shall be shown on the plans.
  - b) Manufacturer specifications for proposed motion lighting shall be submitted for approval. Metal halide lighting incorporating flat lenses with full cut-offs so as to direct the light downward shall be used. The light source shall be shielded so it will not be seen from neighboring properties.
  - c) Proposed erosion control measures shall be indicated on the plan.
  - d) Identify and distinguish between the new and old right-of-way lines and their dimensions.
  - e) Identify and label the 15' U/E along the property boundary to the immediate west of the proposed facility.
  - f) Proposed overhead door colors shall be shown. The colors shall match or be compatible to the adjoining wall.
3. All exterior mechanical equipment, whether roof-mounted or ground-mounted, shall be screened from view from off the property. The appearance of screens shall be coordinated with the building to maintain a unified appearance.

RGM/hsj/lt

#### Attachments:

1. Attachment A – Issues, Impacts and Analysis
2. Minutes from the May 27, 2003 Planning Commission Meeting
3. Applicant's comprehensive narrative description and SUP criteria responses
4. Affidavit from applicant addressing application's authorized signature
5. Public Works Memo of May 12 addressing storm water
6. Dimond Architecture response to PW memo of May 12
7. Transcript of March 6, 2003 City Council Meeting
8. Transcript of June 19, 2003 City Council Meeting
9. Preliminary Development Plan
10. Applicant Pictures (small)
11. Opponents Pictures (large)
12. Location Map

## ATTACHMENT "A"

# ISSUES, IMPACTS & ANALYSIS

This application is to allow a new maintenance equipment storage building for Raintree Lake subdivision on property owned by the Raintree Lake Property Owner's Association. The 3.88 acre parcel is located on 163<sup>rd</sup> Street and is zoned R-1 single family residential.

### **ISSUE: What standards should be considered and applied to approval of special use permits?**

Section 10.030 of the UDO provides for standards of approval including a list of criteria that may be considered in granting a special use permit to the extent they are pertinent to the particular application.

In considering any application for a special use permit, the Commission and Governing Body may give consideration to the criteria listed below, to the extent they are pertinent to the particular application.

1. Character of the neighborhood
2. Compatibility with adjacent property uses and zoning
3. Suitability of the property for which the special use is being requested
4. Extent to which the proposed use will negatively impact the aesthetics of the property and adjoining properties
5. Extent to which the proposed use will injure the appropriate use of, or detrimentally affect , neighboring property
6. Impact on the street system to handle traffic and/or parking
7. Impact of additional storm water runoff to the existing system or to the water shed area if no storm sewer is available
8. Impact of noise pollution or other environmental harm
9. Potential negative impact on neighborhood property values
10. Extent to which there is need of the proposed use in the community
11. Economic impact upon the community
12. Extent to which public facilities and services are available and adequate to satisfy the demand generated by the proposed use
13. Comparison of the benefit gained to the public health, safety and welfare of the community if approved versus the hardship imposed upon the landowner if the requested application is denied
14. Conformance to the Master Development Plan, current city policies and ordinances
15. Recommendation of professional staff
16. Consistency with permitted uses in the area in which the special use is sought.



Attached is a narrative provide by the applicant addressing each criteria above and those criteria found in Article 4, Section 4.280 Staff has reviewed this narrative and concurs with the comments provided by the applicant.

Staff has also reviewed the specific conditions of Section 10.160, listed under the "Commentary" portion of this staff letter. Staff also concurs that with incorporation of staff's recommendation the conditions will be met.

**ISSUE: Is this an appropriate use in an R-1 district?**

This proposed facility will front on 163<sup>rd</sup> Street but will be set back 118 feet from the ROW line. The home to the east is setback 50 feet from the ROW. The properties directly west and south are both undeveloped parcels zoned AG, agricultural. From a land use perspective the proposed use is permitted only as a special use in an R-1 district and carries with it the condition that it is screened from adjacent residentially zoned properties with planted buffers. Open yards are also to be screened by a 6 foot solid fence and meet the exterior building materials design standards of Article 7.

The proposed building materials to be used are the same as would be allowed for a residence. Vertical vinyl siding, composition roofing, cultured stone veneer and E.I.F.S., aluminum clad wood windows and metal garage doors.

Staff is recommending that proposed landscaping along the east building elevation be shifted to the rear two-thirds of the same elevation to provide relief to the long wall sections. In addition, staff recommends the berm on the east side of the maintenance facility be 4 feet in height, extending the length of the building and wrapping around to the northwest. This will provide the home to the east with a better side view of this building. Also being recommended is a 6 foot white vinyl fence on the west property line to shield activities utilizing the two garage doors. With these conditions in place the facility lessens its impacts on those around it.

**IMPACTS**

The only impact identified with this facility is its location within an R-1 area. With the conditions established above, the impacts to adjacent properties will be mitigated. There is not to be any outside storage of any kind at this location

**ANALYSIS**

The following is a list of issues raised by neighbors in opposition to the applications at the public hearing on June 19, 2003, based on a review of the transcript for that hearing. This list is only a summary of the opponents' arguments. Staff's analysis to each issue follows.

**Allegation/Issue #1**

**1. Uses of the property**

- A. **Other commercial uses.** The opponents argue that use of the property will not be limited to the storage of maintenance equipment. They argue that the property will be used for commercial activities, including lawn maintenance of private property for a fee, which is included in the annual budget of the subdivision property owners' association. This use is not allowed in the R-1 District, and requires rezoning.

**1A. Staff Analysis:** The special use is listed in the UDO as "maintenance equipment storage". Storage is defined in the UDO as "...the placement, keeping, or retention of vehicles, equipment, materials, goods, or products for intermittent use or subsequent distribution or transfer." The interpretation by staff is that the maintenance equipment storage facility would allow storage of maintenance equipment and such incidental uses as would be found in a single family garage, i.e., oil changes, lawnmower blade sharpening, belt replacement, etc. A new item brought to staffs attention at the last public hearing was the lawn mowing service provided by the RLPOA for a fee to owners of vacant property in the subdivision. Staff would agree that such a service, by UDO definition could place it in a different land use category entitled "building and grounds maintenance service". Building and grounds maintenance service is defined in the UDO as "...an establishment or place of business **primarily** (emphasis added) engaged in the provision of maintenance and custodial services to firms, business or individuals. Typical uses include janitorial, mowing, landscape maintenance, or window cleaning services." Building and grounds maintenance services are only allowed as a permitted use in CP-2, BP or PI-1 zoning districts and not in the R-1 district in which the subject property is located. The key word in the definition of building and grounds maintenance service is "primarily". Staff has interpreted "primarily" to mean the major portion of their activities would be a place of business that was providing such services as described to firms, businesses or individuals. In this case it is our understanding that the RPLOA may contract with owners of some of the vacant properties within the subdivision for mowing services. Staff did not interpret such mowing service as the primary function of the maintenance equipment storage facility and therefore determined that it did not appear to fit the definition of building and grounds maintenance services. Further, staff has added a condition in "Staff Recommendation" of the staff letter restricting the use to maintenance equipment storage.

B. **Base of operations.** The opponents argue that maintenance of the equipment will exceed simple storage of the equipment. They argue that the property will serve as the base of operations for the maintenance of the subdivision

**1B. Staff Analysis:** With respect to the applicants response to the UDO criteria it is staff's understanding that the main offices will continue to be located at 825 SW Raintree Parkway. It is also our understanding that storage of maintenance equipment is not intended as a long-term uninterrupted storage facility such as a mini warehouse storage facility. Storage of "maintenance" equipment has been interpreted by staff to mean that the equipment will be stored and used when needed for maintenance purposes, not unlike a storage building on a single-family lot. These types of uses tend to be seasonal. The applicant has indicated that seasonal summer employees will come to this facility to pick up maintenance equipment for the "Association" and return them to storage when finished. Also, according to the applicant's response, administrative requests for grounds and maintenance and dispatching of employees will remain at the clubhouse.

C. **Daily use is not intermittent.** The opponents argue that use of the property does not meet the definition of "storage" in UDO Section 2.2720, which includes the requirement of "intermittent use." Assuming that "intermittent" means "appearing in interrupted sequences," as proposed by the opponents' attorney, daily use of the facility is not intermittent.

**1C. Staff Analysis:** Staff's analysis of "intermittent" is based on the definition provided in "The American Heritage College Dictionary Third Edition" which defines the term "Intermittent" as

"the starting and stopping at intervals". The synonym listed is "periodic", which is defined as "having or marked by repeated cycles" or "happening or appearing at regular intervals". The seasonal use of equipment also appears to meet this definition of intermittent. Although the facility may be used on a daily basis, various types of equipment are used at various times. The City Council's ultimate decision on the definition of "intermittent" will provide guidance to staff in future determinations of this term.

- D. **Other potential uses.** The neighbors suspect that use of the property will be expanded to other uses that have not been discussed in the public hearings and which are beyond the scope of the SUP.

**1D. Staff Analysis:** Conditions can be placed on the Special Use Permit restricting the use of the proposed building. As recommended by staff the use of the building is maintenance equipment storage with such incidental use as indicated in Staff Analysis 1A. Other uses requested would be individually reviewed to determine compliance with the UDO.

## 2. Pre-application conference

The opponents argue that a pre-application conference was not held before the application was filed. UDO § 4.030.

**2. Staff Analysis:** A pre-application conference was held prior to the submission of the original application and since the second application was filed to remedy a notification deficiency the need did not exist to reschedule a new pre-application conference. However, staff did discuss the second application prior to its submittal to determine what was being submitted and possible timelines, which meets the criteria for a pre-application conference.

## 3. 60 day delay

The opponents argue that the applicant did not wait 60 days after the first decision before filing the second applications. UDO § 4.320.

**3. Staff Analysis:** UDO Article 4.320.A. states "No application for **rezoning** (emphasis added) shall be accepted if any application for rezoning or a special use permit for substantially the same property has been filed and advertised for public hearing within the preceding sixty (60) days." This only applies to an application for a property requesting rezoning. Both the current and previous applications were for special use permits, not rezoning, therefore this section of the UDO does not apply. UDO Article 4.320.D. further states "The Governing Body may waive the limitation in this Section for good cause shown", had this provision applied.

## 4. Parking

Only five spaces are provided on the property, which the opponents argue is not sufficient for the 6 to 7 daily workers. The applicant indicated workers can park at the clubhouse and walk, but the opponents point out that the clubhouse is 2.1 miles away on foot.

**4. Staff Analysis:** The UDO did not address parking requirements for this particular use. Therefore, the parking requirements were assessed based on 1 space for each 1000 sq. ft. of office warehouse use, which is a similar type of function, resulting in a minimum of 5 spaces recommended. Additional spaces can easily be accommodated on the site and could be made a part of the conditions. The applicant has indicated six spaces are to be provided at this location.

### 5. Access to property

This argument was not clearly stated by the opponents – The issue related to a rule regarding "500 feet per 50 homes."

**5. Staff Analysis:** UDO Article 16.310.B and C.1 addresses the concerns raised. Potentially the concern raised was the requirement that cul-de-sacs shall normally not be longer than 500 feet including the turnaround and that one point of ingress and egress from a subdivision should be required for each fifty dwelling units in the subdivision. These requirements are only relative to an application for which a subdivision is being requested for approval. Currently 163<sup>rd</sup> Street is a dead end street with a turnaround, which has been in existence for a long time. Staff concurs with the applicant that there are only 36 homes on this stretch of 163<sup>rd</sup> Street.

### 6. Traffic safety

The opponents argue that the road is narrow, vehicles travel fast, there are no shoulders, and when a car passes a tractor it could cause an accident. The opponents argue that this risk is magnified by sight distance problems at the crest of hills on the road.

**6. Staff Analysis:** The posted speed limit along 163<sup>rd</sup> Street is 25 miles per hour in both directions. The cross section of 163<sup>rd</sup> Street is approximately 22 feet wide and the roadway was resurfaced in recent years. According to the American Association of State Highway and Transportation Officials (AASHTO), a roadway of this cross section should be able to serve up to 2,000 vehicles per day (vpd). Based on peak hour traffic counts and the number of single family residents along this street, the existing daily traffic volume on 163<sup>rd</sup> Street is approximately 350 vehicles per day (vpd), well below the capacity of the road. Based on testimony at the public hearing regarding the number of employees, the proposed maintenance equipment storage facility could generate approximately 10-20 daily trips which would not significantly impact the capacity of the roadway.

Field measurements were taken from the proposed driveway location to determine the actual sight distance available for vehicles to enter 163<sup>rd</sup> Street. Looking to the east along 163<sup>rd</sup> Street from the driveway, there is 395 feet of sight distance, just past the crest of a small hill. Based on AASHTO criteria, this more than sufficient distance for passenger vehicles to turn right from the driveway and accelerate to an appropriate speed without being overtaken by other westbound vehicles. The available sight distance also significantly exceeds the required sight distance for westbound traffic to stop if a tractor or other slower moving vehicle enters the public street. Based on the posted speed limit of 25 mph, the minimum stopping sight distance required is approximately 160 feet. As a benchmark, vehicles driving in excess of the posted speed (up to 45 mph) would have sufficient sight distance to brake and stop and avoid an accident.

Regarding the passing of vehicles along roadways, it is left up to the driver's judgment as to whether there is sufficient gap in oncoming traffic and adequate sight distance to pass a slower moving vehicle. Additional signing could be posted along 163<sup>rd</sup> Street that warn of slower moving vehicles. Due to the relatively rural land use along the south side of 163<sup>rd</sup> Street, it's possible that drivers already encounter slow moving vehicles along that roadway. Further, a solid line could be painted prohibiting passing on this roadway.

**7. Agent affidavit**

The opponents argue that the applicant who signed (person) is an agent of the property owner (corporation), but the record does not contain an affidavit which authorizes the agent to file the application on behalf of the property owner. UDO § 4.020. The opponents argue that the application is therefore incomplete and should not be processed.

**7. Staff Analysis:** An affidavit has been submitted verifying the individual that signed the application was authorized.

**8. Narrative description**

The opponents argue that the application contains an incomplete narrative description of the proposed uses of the property. UDO § 4.270. The opponents conclude that the application is therefore incomplete and should not be processed.

**8. Staff Analysis:** A complete narrative description has been provided and is attached. Storage of equipment owned by the Association for maintenance of common area along with incidental maintenance for the operation of this equipment is indicated for the use of this building. The building is also to include a restroom and office. The applicant indicates there are six parking spaces where up to six employees could park while the facility is being used.

**9. Storm water plans**

One opponent stated: "Applicant's own engineer indicated on that checklist that at least two of the requirements relating to storm water collection and detention are not met."

**9. Staff Analysis:** Attached hereto is a public works staff memo and response letter from applicant's architect addressing the issues raised on storm water requirements. The UDO requires engineering plans for storm water collection and detention to be submitted at final development plan stage not at preliminary. (Compare Section 4.360.B.1.h.2 and Section 4.400.B.16). Final development plans will be required at the time of building permit application.

**10. Facility not in Raintree subdivision**

The opponents argue that the SUP application violates the "spirit and intent" of the UDO because proposed use is not located in the Raintree subdivision. UDO § 10.160.

**10. Staff Analysis:** UDO Article 10.160.A. states "The facility is to be located on land owned by, leased by, or under the control of the users or an association." It does not require the land to be in the same subdivision.

**11. Protest petition**

The opponents argue that the protest applies to a SUP.

**11. Staff Analysis:** The City legal department has stated that SUP's are not subject to protest petitions by virtue that they are an administrative not a legislative review performed by the governing body. This is similar to a modification to zoning that could be granted.

**SUMMARY**

With the conditions as outlined in the staff report, staff finds this use to be appropriate on the requested parcel and that the impacts associated with this application concerning the criteria within Articles 4 and 10 of the UDO for a special use permit appear to have been satisfied.