PLANNING COMMISSION STAFF REPORT

DATE: December 23, 2009 **for the January 4, 2010 MEETING**

ITEM: VII. B – Planning Commission Public Hearing

FILE: **UP 11-09 Town of Moraga (Applicant), Madhu and Anjali Sridhar - 331 Rheem Boulevard, LLC (Owner), Town of Moraga Corporation Yard Use Permit:** A Conditional Use Permit to relocate the Town of Moraga Corporation Yard to the 22,651 square foot property located at 331 Rheem Boulevard, including the storage of parks and public works equipment and materials in the enclosed side and rear yard areas and the storage of old Town files and records.

ASSESSOR'S PARCEL NUMBER: 255-020-003

TOWN ZONING: CC (Community Commercial)

ENVIRONMENTAL REVIEW STATUS: This project is categorically exempt per CEQA Guideline Section 15301 (Class 1), which includes the operation, repair, maintenance or minor alteration of existing facilities or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Class 1 exemption may include but is not limited to the following:

(a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
(d) Restoration or rehabilitation of deteriorated or damaged structures or mechanical equipment to meet current standards of public health and safety;
(g) New copy on existing on and off-premise signs;
(h) Maintenance of existing landscaping and native growth (excluding the use of pesticides);

PUBLIC NOTICE AND CORRESPONDENCE: A Public Hearing Notice was mailed on December 23, 2009 to property owners within 300 feet of 331 Rheem Boulevard as shown on the area of notice map and mailing list attached as **EXHIBIT A**. The notices were also posted at the Hacienda (2100 Donald Drive), Moraga Commons, and the Moraga Library on December 23, 2009 in accordance with Moraga Municipal Code Section 8.12.070.

SUMMARY: The Corporation Yard provides storage for all of the equipment and materials used by the Moraga parks and public works maintenance staff, including: street repair and storm drain materials. The exterior fenced yard at the sides and the rear of the building will be used for storage of Town vehicles and equipment including: seven passenger vehicles, five trailers, and other miscellaneous equipment including mowers and small heavy-duty equipment like a Bobcat. Maintenance staff will also park their personal vehicles in the fenced yard while on duty, for an additional five vehicles. Several Police Department vehicles may also be stored in the fenced yard area.

Approximately 850 square feet of the 3,542 square foot building will be used as office, restroom/shower, and kitchen facilities for the maintenance staff. Approximately 1,100 square feet of the building is anticipated to be used for storage for old Town records and files and another 300 square feet may be used as storage for the Police Department.

Regular hours of operation are from 7:00 a.m. to 6:00 p.m., seven days a week; however, the maintenance staff may be called for an emergency response at any time of the day or night. The public generally contacts the public works maintenance staff through the Town Engineering office at 2100 Donald Drive. Occasionally a member of the public may need to visit the Corporation Yard in order to pick-up a sign that was left in a street right-of-way. Deliveries of storm drain pipes, fertilizers and other parks and public works supplies will not require the use of large trailer trucks and is not required at frequent intervals. The location of the property is shown in the GIS aerial photo below:

Aerial photo was taken prior to site improvements at 331 Rheem by the previous owners The Town Office and Police Department at 329 Rheem is located at upper left of picture.

BACKGROUND:

The building at 331 Rheem Boulevard was originally constructed as a fire station for the Moraga Fire Protection District, which later became the Moraga-Orinda Fire District (MOFD). Prior to the sale of the property by MOFD, a seismic retrofit was completed. The Town Council decided not to acquire the property when the MOFD offered the property for sale. Since then the property has sold twice. A conditional use permit (CUP-12-03) was approved on June 21, 2004 for a contractor's yard for a Fiberglass Pool Resurfacing business. The approval included a hillside development permit to replace old retaining walls with new larger retaining walls behind the building. The

conditions of approval required removal of a modular office building that the MOFD had installed on the property, screening of employee vehicles, proper handling of chemicals, and submittal to the Design Review Board (DRB) for the proposed screening fence and business signage. The DRB reviewed two alternative improvement plans on July 11, 2005 and recommended a plan for a circular driveway around the back of the building with a second driveway to Rheem Boulevard at the east side of the building. This plan also required a use permit amendment to allow weekly deliveries by a large truck and trailer rig for the purpose of off-loading fiberglass supplies at the front of the building.

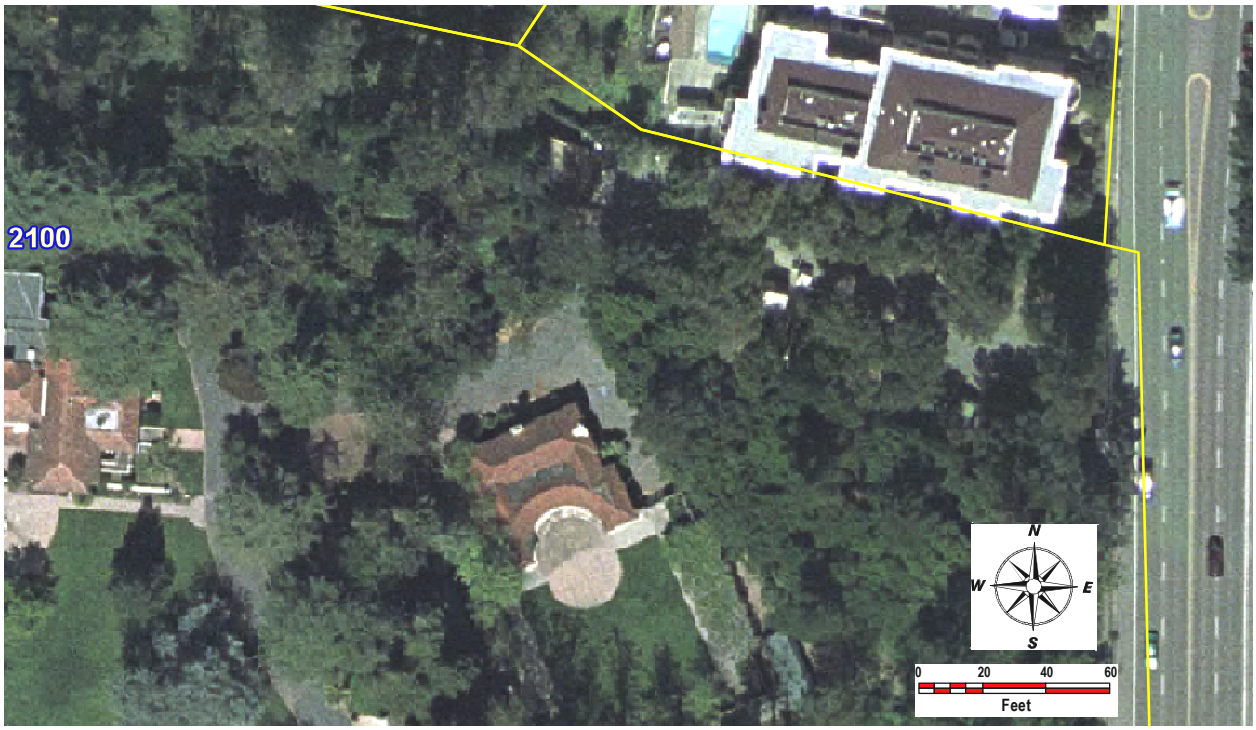
The Planning Commission approved the use permit amendment on August 1, 2005. The pool resurfacing contractor subsequently applied for a building permit to start construction to rebuild the retaining wall at the rear of the building. However, he proceeded to make alterations to the paving and landscaping at the front of the building without first obtaining DRB approval or encroachment permits for the work in the Rheem Boulevard right-of-way, which is exceptionally wide across the front of the property (see aerial photo on previous page). After several more DRB meetings, the Board made recommendations to the Planning Commission on September 26, 2006. The Planning Commission approved the landscaping plans and site improvements on December 4, 2006 subject to the conditions in Resolution 15-2006 which also includes the approved landscaping plan and is attached as **EXHIBIT B**.

Shortly after final approval of the landscaping improvement plans, the pool resurfacing contractor sold the property to Stephen Kozel, who obtained an administrative use permit on March 1, 2007 for a digital imaging and printing company called "Pixel Outpost". On February 26, 2007 the DRB approved Mr. Kozel's plans for replacement of the large roll-up doors at the front of the building with store front glass windows and replacement of other doors and windows around the building (**EXHIBIT C**). The conditions of approval required completion of the landscaping improvements at the front of the property that were approved on December 4, 2006. The photograph below shows the completed landscaping and change to store front windows.

Panorama view of 331 Rheem Boulevard showing the completed landscaping

The most recent sale was for a price of $1,145,000 and was closed in June of this year. Both a Phase I and a Phase II environmental analysis of the site have been prepared with no significant areas of concern.

Currently the Corporation Yard and public works maintenance staff are located at the Hacienda de las Flores, where they utilize building and grounds space that could be used for recreational and community programming. The Corporation Yard has an access drive to Moraga Road and several small sheds and buildings for storage at the northeast corner of the Hacienda property. The aerial photo below shows the area north of the Pavilion building where the Corporation Yard is located, but the trees in the park obscure the view from above.



REQUIRED FINDINGS FOR THE CONDITIONAL USE PERMIT

The property at 331 Rheem Boulevard is zoned CC (Community Commercial). The proposed uses for the Town's Corporation Yard can be considered in accordance with Moraga Municipal Code sections 8.36.030-F and G. A building contractors' yard and auto and vehicle storage are conditional uses. Moraga Municipal Code Section 8.12.120 lists the required finding that must be made in order to approve a conditional use permit. Draft findings are printed in italics.

A. **The proposed use is appropriate to the specific location because** *the subject property on Rheem Boulevard is adjacent to other commercial and office uses and will not have any direct impact on any existing residential units. The location allows convenient access to Rheem Boulevard and the surrounding thoroughfares without traversing through any residential neighborhoods. The previous use of the property as a fire station and then as a contractors office and storage yard lends itself to the intended use as the Town's Corporation Yard. The site improvements previously installed by the*

swimming pool contractor for the circular driveway around the back of the building will allow for sufficient parking, storage and access areas.

B. **The proposed use is not detrimental to the health, safety, and general welfare of the Town because** *the Town's vehicles, trailers and other parks and public works equipment and supplies will be within a fully enclosed area behind the building and they will not be visible from Rheem Boulevard unless the driveway gates are left open. The proposed use will not create significant traffic either from the public or by the public works maintenance staff. Some hazardous materials, such as cleaning solvents, pesticides and fertilizers, will be stored, but not used at the property, with the exception of minimal amounts of regular household cleaning fluids for building maintenance. All stored hazardous chemicals will be stored in locking, spill control, secondary containment cabinets approved by UL and meeting all Fire Department and OSHA regulations. The "hazardous" chemicals are comparable to those already in the vicinity (i.e. gas stations, dry cleaners, drug store). The storage of old Town files and records will not be detrimental to the health or safety of the Town.*

C. **The proposed use will not adversely affect the orderly development of property within the Town because** *almost all of the surrounding property is already developed. There is one vacant Suburban Office zoned lot located to the southeast across Rheem Boulevard between the Rheem Theater and a private school. There are two large vacant MOSO zoned parcels located north of 331 Rheem Boulevard, which currently have approved use permits for two single family homes. The proposed use is similar to the previously approved contractor's storage yard for the fiberglass pool resurfacing contractor except that the Town's Corporation Yard would not require regular deliveries by a large trailer truck, which was a problem with the pool contractor's business.*

D. **The proposed use will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the Town because** *the property and landscaping will be maintained by the Town and the vehicles, equipment and materials stored in the rear and side yard areas will be screened from view by the fencing. Trash will be stored behind the building prior to being taken to the dump.*

E. **The proposed use is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan because** *the proposed uses at 331 Rheem Boulevard will comply with the requirements for a conditional use permit and will not substantially increase traffic, noise, glare. The use will not interfere with any existing businesses in the area. The proposed relocation of the Town's Corporation Yard complies with the 2002 General Plan goals and policies, including the following:*

LU2.3 The relocation of the Town's Corporation Yard from a Town Park surrounded by residential development to a commercially zoned area will comply with this land use goal, which reads "Locate new commercial developments in the vicinity of existing commercial areas".

LU2.5 The proposed location of the Corporation Yard will "Provide direct access from major arterials to commercial uses so that traffic generated by the use does not traverse existing residential neighborhoods."

CD1.1 The property at 331 Rheem Boulevard is a good location for the Corporation Yard because it will be in an area that is "least sensitive in terms of environmental and visual resources, including:

a) Areas of flat or gently sloping topography outside of flood plain or natural drainage areas.
b) The Rheem Park area.
c) Infill parcels in areas of existing development."

CD1.3 The existing landscaping in the expanded planters along the Rheem Boulevard frontage of the property can be further enhanced with additional shrub and tree planting to help "maintain the Town's semi-rural character" with "particular attention to viewsheds along the Town's scenic corridors".

CD3.5 Additional street tree planting and ornamental landscaping could be added to enhance the visual continuity along the Rheem Boulevard Scenic Corridor, including the use of native and drought-tolerant species.

C3.1 Commercial Area Traffic Safety. Maintain effective and safe vehicle circulation into, out of, and within commercial areas. The existing driveway for the Town's Corporation Yard exits onto Moraga Road at a location that presents some traffic safety concerns due to lack of visibility and the high traffic volume on Moraga Road. The relocation of the Corporation Yard to 331 Rheem Boulevard will provide for much safer ingress and egress from the wide and easily seen driveway, which was previously used for Fire Trucks and other emergency vehicles.

C3.3 The existing parking at the sides and rear of the building at 331 Rheem Boulevard will maintain sufficient, convenient parking to accommodate actual and anticipated parking needs for the parks and public works maintenance staff.

PS2.4 In the future a portion of the building at 331 Rheem Boulevard may be used as an emergency operations center to serve the community as part of the Town's Disaster Preparedness Plan.

PS4.11 Retaining Walls. Discourage the use of retaining walls and other man-made grading features to mitigate geologic hazards, permitting them only when:

- *Required to decrease the possibility of personal injury or property damage;*
- *Designed to blend with the natural terrain and avoid an artificial or structural appearance;*
- *Appropriately screened by landscaping;*
- *Designed to avoid creating a tunnel effect along roadways and to ensure unrestricted views for vehicular and pedestrian safety; and*
- *Designed to ensure minimal public and/or private maintenance costs.*

The retaining wall constructed behind the building in 2006 replaced a smaller retaining wall that had been built prior to the Town's incorporation. The replacement retaining wall exceeded the maximum height in the Design Guidelines but is hidden behind the building. The retaining wall was built with a building permit and inspected by the CCC building inspector.

FS1.1 The relocation of the Corporation Yard to 331 Rheem Boulevard will help achieve maximum efficiency for the operation of the Town and delivery of its maintenance services.

FS3.4 The new Corporation Yard will help to provide a high level of maintenance at all park and recreation facilities.

FS3.6 The facilities at 331 Rheem Boulevard include Americans with Disabilities Act (ADA) compliant parking at the front of the building and bathroom facilities for access for people of all abilities.

FS3.8 The Hacienda Business Plan clearly identifies the need to provide a different location and facility for the Corporation Yard functions. By relocating the corporation yard, the Hacienda de las Flores can be fully utilized as a recreational facility for the community, botanical garden and historical complex.

IP-K4 The relocation of the Corporation Yard conforms to the General Plan action program IP-K4 which calls for evaluation and consideration of alternate sites for the corporation yard location.

F. The proposed use will not create a nuisance or enforcement problem within the neighborhood because *the properties that are located closest to the proposed Corporation Yard are zoned commercial or suburban office and no existing or proposed residential structures would be located close enough to the facility to be affected by the daily operations. The Corporation Yard will be required to screen the vehicles and business operations so that the property does not appear "industrial." The building will be locked during non-working hours.*

G. The proposed use will not encourage marginal development within the neighborhood because *most of the property in the immediate vicinity is already developed. The vacant property located southeast and across the Rheem Boulevard from the proposed Corporation Yard is zoned Suburban Office and would not be adversely affected because the existing landscaping across the frontage of 331 Rheem Boulevard will be maintained and possibly improved to enhance the screening of the side and rear yard storage areas.*

H. The proposed use will not create a demand for public services within the Town beyond that of the ability of the Town to meet in the light of taxation and spending restraints imposed by law because *the relocation of the Corporation Yard will not increase the number of maintenance staff employees or increase the existing demand for parks and public works maintenance services beyond that which currently exist. The required maintenance of the relatively small amount of landscaping at the front of 331 Rheem Boulevard could be reduced substantially if the turf areas are replaced with drought tolerant shrubs and trees.*

I. The proposed use is consistent with the Town's approved funding priorities because the improvements made by the two previous owners of the building will substantially meet the Town's needs and very few alterations will be necessary for the uses proposed for the corporation yard and storage of Town files. The purchase of the building and minor alterations to some interior partitions and doors are possible within the current financial resources of the Town because a favorable loan can be secured for the building and the sale of underutilized Town property is expected to generate well over $1,000,000, which will pay a significant portion of the cost of acquiring 331 Rheem. Relocating the corporation yard to 331 Rheem would also free up space at the Hacienda de las Flores to provide additional parking for the Pavilion building. This would make the

Pavilion much more useable for activities and events and potentially provide additional income to the Town. Increased revenue from such use could be in the range of $10,000 to $15,000 per year. The cost to convert the current corporation yard to parking is estimated at $200,000.

OTHER ISSUES:

LANDSCAPING MAINTENANCE: Since the building has been vacated by the previous owner (Pixel Outpost), the maintenance of the landscaping has been neglected. In particular, the turf areas require frequent mowing, watering and fertilization and are considered relatively high maintenance areas. The turf areas were installed by the pool resurfacing contractor prior to approval by the DRB and they were not a preferred alternative by the DRB. When Stephen Kozel completed the two landscape areas at the west side of the site, the planting materials conformed to drought tolerant species on the approved planting pallets for scenic corridors in the Design Guidelines. It is recommended that the turf areas should be considered for replacement with a drought tolerant ground cover, shrubs and additional trees to lower maintenance costs and to improve the screening of the storage areas at the sides and back of the building.

The photos above show the turf areas at the east side of the property in comparison to the landscape island at the west side, which has drought tolerant shrubs and trees. The photo at the right also shows a maintenance problem with dirt spilling out on the sidewalk below the low rock retaining walls. Originally the land sloped down to the sidewalk and the pool resurfacing contractor built the raised planting areas presumably to dispose of excess dirt from the excavation for the larger retaining wall at the rear of the property.

PARKING AND STORAGE OF VEHICLES: A site plan of the parking and storage area has been submitted that shows the approximate locations for the bobcat, trailers, police vehicles and other parked vehicles. The public works department plans to have the trucks behind the building, the trailers along the west side property line and five parking spaces for the maintenance staff at the west side of the building. They are also considering replacement of one of the new windows at the back of the building with a roll-up garage door to allow entry for work on their equipment and vehicles. Moraga

Municipal Code (MMC) Section 8.76.090-M requires one parking space for each 500 square feet of gross floor area used for commercial service and repair shops. About 1000 square feet of the back bay of the building would be used for street maintenance tools and service and repair of equipment. This service work area would require at least 2 parking spaces. MMC Section 8.76.090-O requires one parking space for each 1,000 square feet of warehouses and storage buildings. All the proposed storage areas add up to approximately 1,400 square feet, which would require at least 2 more parking spaces. Under MMC Section 8.76.090-K, office uses require one parking space for each 250 square feet of gross floor area. Including the kitchen, lunch room, meeting room and two bathroom areas within the "office" space, then the total area of office would be about 1000 square feet, which would require 4 more parking spaces. Therefore a total of 8 parking spaces would be required based on the proposed allocation of the space. In addition to the 5 staff parking spaces at the west side of the building, the property also has 3 parking spaces at the front of the building, including one ADA compliant van pool parking space.

SUBLEASE OF SPACE AT THE BUILDING: When the Police Chief went to look at the building with Dan Bernie a couple of days ago, there was a tenant occupying a small office at the west side of the building in the area shown as "Police Storage" on the site plan. Apparently, this tenant is a contractor who has stored equipment and supplies in the rear and side yard areas. The tenant has not obtained a use permit and therefore does not conform to the Town's zoning requirements. The Town Manager is seeking information on the terms of the lease with this tenant. The Town's request for a use permit for the relocation of the Corporation Yard and storage of old Town records does not include any provision for sublease of the space and it is anticipated that the Town will need all of the space to meet the needs of the parks and public works maintenance staff.

RECOMMENDATION:
Staff recommends approval of the use permit and a draft resolution has been prepared and attached as **EXHIBIT D**. The draft resolution includes the findings under MMC Section 8.12.120 and recommended conditions of approval.

Prepared By: Richard Chamberlain, Senior Planner

EXHIBITS:

A – Area of Notice Map, Mailing List and Public Hearing Notice
B – Resolution 15-2006 PC approving pool resurfacing contractor's storage yard with the approved landscaping plan for frontage of property.
C – DRB Action Memorandum from February 26, 2007 for Pixel Outpost.
D – Draft PC Resolution
E – Project Plans