



Planning Commissioners Present: Krista Bernasconi, Donald Brewer, Sam Cannon, Gordon Hinkle, Audrey Huisking, David Larson

Planning Commissioners Absent: Robert Dugan (Excused)

Staff Present: Paul Richardson, Director, Planning & Redevelopment
Chris Burrows, Senior Planner
Tricia Stewart, Associate Planner
Derek Ogden, Associate Planner
Chris Kraft, Engineering Manager
Robert Schmitt, Assistant City Attorney
Carmen Bertola, Recording Secretary

WELCOME 7:00 PM

PLEDGE OF ALLEGIANCE - Led by Commissioner Brewer

ORAL COMMUNICATIONS None.

CONSENT CALENDAR

Chair Huisking asked if anyone wished to remove any of the items from the Consent Calendar for discussion.

Chair Huisking asked for a motion to approve the CONSENT CALENDAR as listed below:

IV-A. MINUTES OF JANUARY 13, 2011.

IV-B. CONDITIONAL USE PERMIT – 9001 FOOTHILLS BOULEVARD – NIPA PCL 50 – BLUE OAKS BAPTIST CHURCH – FILE # 2010PL-101; PROJECT #CUP-000066. The applicant requests approval of a Conditional Use Permit to allow a community assembly use (Blue Oaks Baptist Church) to operate within a Light Industrial (M1) zone. Applicant: Jason Azzarello, Blue Oaks Baptist Church. Owner: Steven Fassler, Fassler, LLC. (Wiley)

MOTION

Commissioner Cannon made the motion, which was seconded by Commissioner Brewer, to approve the Consent Calendar as submitted.

The motion passed with the following vote:

Ayes: Cannon, Brewer, Larson, Hinkle, Bernasconi, Huisking
Noes:
Abstain:

NEW BUSINESS

V-A. REZONE – 311 VERNON STREET – SB 2 CHURCH STREET REZONE – FILE #2008PL-077; PROJECT #RZ-000057. The City requests approval of a rezone of 22 properties along Church Street between Cedar Street and Hickory Street (704 Church Street to 1122 Church Street). The rezone would change the existing zoning from Industrial Business Park (MP) to Industrial Business Park with a Special Area Overlay (MP/SA). The SA Overlay would require approval of a Conditional Use Permit (CUP) before an Emergency Shelter use could locate on any of these properties where currently a CUP is not required. Applicant: City of Roseville, Planning, Housing & Redevelopment Department. (Stewart)

Associate Planner, Tricia Stewart, presented the staff report and responded to questions.

Chair Huisking opened the public hearing and invited comments from the applicant and/or audience.

Public Comment:

- Kary Faria, resident, spoke in favor of recommending approval of the special area overlay;
- Linda Warn, resident, spoke in favor of recommending approval of the special area overlay;
- Susan Wheat, resident & business owner (childcare), spoke in favor of recommending approval of the special area overlay;

Commission Discussion:

- Kenroy Lane does not have direct access to residential neighborhoods, Church Street does;
- If approved by City Council, the Rezone would place a special area overlay that would require an Emergency Shelter to apply for a Conditional Use Permit prior to establishment on Church Street between 704 and 1122 Church St ;
- The requirements for registered sex offenders seeking shelter would prohibit them from establishing residency in an Emergency Shelter located on Church Street.

Chair Huisking temporarily closed the public hearing and asked for a motion.

MOTION

Commissioner Bernasconi made the motion, which was seconded by Commissioner Hinkle, to Recommend that the City Council consider the Addendum to the Zoning Ordinance Amendment to Comply with SB2 Negative Declaration as shown in Exhibit A as submitted in the staff report; Recommend that the City Council adopt the two (2) findings of fact for the Rezone; and Recommend that the City Council approve the Rezone as shown in Exhibit B as submitted in the staff report.

The motion passed with the following vote:

Ayes: Bernasconi, Hinkle, Brewer, Larson, Cannon, Huisking

Noes:

Abstain:

V-B. APPEALS - PLANNING DIRECTOR'S ZONING DETERMINATION - IMPOUND YARDS – 311 VERNON ST - PROJECT#ZCC-003971. The Planning Director has made zoning determinations regarding a number of Impound Yards located within the City of Roseville. Several of these determinations have been appealed and will be the subject of the public hearing. Applicant: City of Roseville, Planning, Housing & Redevelopment Department. (Ogden)

Planning Director, Paul Richardson, recused himself from the Appeal Hearing (Item V-B) as it is his Determination being appealed.

Associate Planner, Derek Ogden, presented the staff report and responded to questions.

Chair Huisking opened the public hearing and invited comments from the applicant and/or audience.

701 Riverside Ave (Sierra Hart Towing & Ace in the Hole Towing)

Public Comment:

- Appellant, Richard Keller, Owner Classic Tow, addressed the Commission and expressed his reasons for appealing the Planning Director's Determination which found the property at 701 Riverside Av (Sierra Hart Towing & Ace in the Hole Towing) Zoning Compliant. Mr. Keller disagreed and requested his Appeal be upheld based on his findings that the two owners established their respective businesses after the Zoning Code change requiring Conditional Use Permits and that the site should not be deemed Legal Nonconforming.

Chair Huisking asked Assistant City Attorney, Robert Schmitt, to clarify what a Legal Nonconforming Use is; purpose of a Conditional Use Permit and why it stays with the property; and purpose of a Special Use Permit.

Senior Planner, Chris Burrows, explained that Special Use Permit was the historical name for Conditional Use Permit. They are one in the same. They are a land use entitlement whose approving authority is the Planning Commission. The CUP's run with the land, not with different businesses. It is the use that is permitted, not a specific business.

- 701 Riverside, Larry Moniz, Owner, Ace in the Hole Towing, asked the Commission to uphold the Planning Director's determination. The property has never been without a tow business. He stated that he came to City Hall in 2008 to verify that all was in order and that his business could be established at this address. The City approved his Business Licenses referring to the SUP that was in place. He responded to questions from the Commission.
- Appellant, Sandra Keller, owner Classic Tow, addressed information presented by staff that she was in disagreement with. She responded to questions from the Commission.

Commission Discussion:

- Captain Edward Rosenbrook, RPD, answered questions from the Commission regarding 701 Riverside Av;
- Background investigation does show that there is historic vehicle storage use on this property;
- Fire Dept has reviewed the property and has found it in compliance;
- Tow Rotation, Police Dept limits list to 10 tow companies;
- Percentage of potential business a Tow Company would receive from the Tow Rotation List;
- Appreciation for the various tow operators who continue to run their business;
- Purpose of Tow Rotation List;
- Number of auto related businesses that have used 701 Riverside Ave for their businesses;
- Fences put up on property are OK as long as they do not interrupt circulation or emergency responders;

Chair Huisking temporarily closed the public hearing and asked for a motion.

MOTION

Commissioner Hinkle made the motion, which was seconded by Commissioner Larson, to uphold the Planning Director's Zoning Determination that the Zoning is compliant for 701 Riverside Ave. and deny the appeal as submitted in the staff report.

The motion passed with the following vote:

Ayes: Hinkle, Larson, Bernasconi, Brewer, Cannon, Huisking

Noes:

Abstain

204 Kenroy Lane (Anderson Tow Services & Jake's Towing)

- Appellant Richard Keller addressed the Commission and explained his reasons for the Appeal of the Planning Director's Determination which found the property at 204 Kenroy Lane (Anderson Tow Services & Jake's Towing) Zoning Compliant. He feels that the tow owners are not following the required conditions of approval and asked his appeal be upheld based on his findings that the two owners never effectuated their permit and are not following required conditions of approval and the Nonconforming use has expanded.

Jerry Lee, business owner, previous owner of Alta Sierra Towing, stated that the other half of the lot was used as a tow yard by his business.

Vladimir Benedict, owner of Anderson Tow Services, said he has been a part of Anderson Tow for many years and is now the owner of Anderson. He has made improvements to the front of the property over the last couple of years. He has been at this location since 1994, with the same company, with the same number of employees, and same fleet. Nothing has changed. The office is a portable office trailer that can be moved at any time.

Jayson (Jake) Uhil, owner of Jake's towing, moved into property about a year ago. Subleasing from Pat Adolf, who has a sales spot at the front of the property, assured him that the property had a Use Permit and that a Tow and Impound Yard would be permitted.

Commission Discussion

- This site has historically been used as a site for outdoor vehicle storage and is legal nonconforming, Special Use Permit for the operation of an impound yard was approved in 1994.

Chair Huisking temporarily closed the public hearing and asked for a motion.

MOTION

Commissioner Larson made the motion, which was seconded by Commissioner Hinkle, to uphold the Planning Director's Zoning Determination that the Zoning is compliant for 204 Kenroy Lane and deny the appeal as submitted in the staff report.

The motion passed with the following vote:

Ayes: Larson, Hinkle, Brewer, Bernasconi, Cannon, Huisking

Noes:

Abstain

201 Derek Place (H & L Towing)

Appellant Dain Lyon, owner of H & L Towing & Recovery, addressed the Commission and requested his appeal of the Planning Director's Determination that H & L Towing needs a CUP in order to locate an Impound Yard at this location be upheld. He stated that his business is not associated with John's Auto Care, but H & L Towing elected to use 201 Derek Place based on precedence that the City has allowed a previous tow company in a more stringent General Commercial (GC) zoning to operate a towing impound yard when there was limited auto repair facilities on the premises, not directly associated with the tow company. H & L carefully chose 201 Derek Place based on that precedence and opened in 2009. He said that he believes he does not need a CUP based on what the City has historically allowed. He also expressed his concern with the RPD two year tow rotation list, when the state requirement is that tow vehicles must pass a yearly inspection. He asked RPD to reduce the time of the tow service agreement rotation list from two years to one year. He then responded to questions from the Commission.

Public Comment

- None

Commission Discussion

- Comparing H & L Towing with L.J.'s Towing; L.J.'s Towing is a separate business from the Auto Repair, L.J.'s Towing was ancillary to the Auto Repair;
- The average length of time to secure a Conditional Use Permit;
- No previous tow or impound yard located at 201 Derek Place, auto repair only;
- Review of Director's Determination;
- No precedent for this location.

Chair Huisking temporarily closed the public hearing and asked for a motion.

MOTION

Commissioner Hinkle made the motion, which was seconded by Commissioner Brewer, to uphold the Planning Director's Zoning Determination that the Zoning is not compliant for an impound yard, necessitating a Conditional Use Permit, and thus deny the appeal as submitted in the staff report.

The motion passed with the following vote:

Ayes: Hinkle, Brewer, Bernasconi, Cannon, Larson Huisking

Noes:

Abstain

425 Clinton Avenue (L.J.'s Towing)

Appellant, James Hewitt, owner of L J's Towing, addressed the Commission and requested his appeal of the Planning Director's Determination be upheld based on the facts that he has been operating a tow service at this location since 1996 under the name of A1 Towing. In 1998 he separated from his partner and changed the name to L J's Towing. Prior to his business, that facility at 425 Clinton Ave was an auto body shop (Sierra Graphics Auto Body) which existed for more than 10 years. They had a tow truck in conjunction with their facility. When the auto body shop left, L J's Towing took over the property within two weeks. Contends that 425 Clinton Ave has a legal nonconforming use and has been used as a vehicle storage yard for more than 60 years. He responded to questions from the Commission.

Public Comment

- Diane Studebaker, property owner, asked Commission to support her tenants appeal to the Planning Directors Determination. She recited the historic use of the land for vehicle storage beginning in the 1930's. She confirmed that there was a week between the termination of the lease with Sierra Graphics and the signing of the new lease with L.J.'s Towing. There is a history of uninterrupted vehicle storage at this property for over 50 years. She asked that her tenant L.J.'s Towing continue to be allowed on the City's Tow Rotation List without any interruption.

Discussion

- Percentage of business from the towing rotation list 70%;
- Tow Yard runs 24 hours a day, and has a good relationship with surrounding neighbors;
- Primary business was the auto repair business, when the repair business left, the impound yard lost its non-conforming status since they are not permitted under the GC zoning;
- Property owner notification;
- Neighborhood complaints, none on record;
- Director's Determination acknowledges that vehicle impound / storage is historic at this site;
- Zoning code states that if the primary business has ceased an ancillary business cannot continue its nonconforming operations;
- Why auto repair is considered proper use, while towing is not, but can be an ancillary legal nonconforming use. Auto repair is done within a building and Impounding is outside;

- Other options the business / landowner has;

- Economy downturn has closed the auto repair portion;
- The Commission can determine to “grandfather” this use to Legal Nonconforming;
- Uphold the appeal on the basis of continuous outdoor vehicle storage for decades;

Chair Huisking temporarily closed the public hearing and asked for a motion.

MOTION

Commissioner Hinkle made the motion, which was seconded by Commissioner Cannon, to Grant the appeal of the Planning Director’s Zoning Determination for L.J.’s Towing (business) and Diane Studebaker (owner) on the basis of the continuous and historical outdoor storage of vehicles at 425 Clinton Ave.

The motion passed with the following vote:

Ayes: Hinkle, Cannon, Bernasconi, Brewer, Larson, Huisking

Noes:

Abstain:

REPORTS/COMMENTS/COMMISSION/STAFF

A. REPORTS FROM PLANNER

- Creekview Specific Plan will be presented on February 10, 2010
- Request for the timeline for demolition of Cena di Mare. Staff will check and report back.
- Request for trimming of landscape at Eureka off-ramp from I-80, near the theaters.
- Signs in the new display areas for the Automall need to be looked at and possibly perked up.

ADJOURNMENT

Chair Huisking asked for a motion to adjourn the meeting.

MOTION

Commissioner Cannon made the motion, which was seconded by Commissioner Larson, to adjourn to the meeting of February 10, 2011. The motion passed unanimously at 9:02 PM.