

PLANNING AND ZONING COMMISSION DRAFT MINUTES OF MARCH 5, 2012

AGENDA PUBLIC HEARING ITEM: #7-SU091001A, Specific Use Permit Renewal, 1519 E. Main Street (City Council District 5).

Senior Planner Martin Barkman presented the case report and a Power Point presentation to the Commission for the approval of a request for the renewal of Specific Use Permit No. 830 for automotive sales. The site is currently zoned Light Industrial (LI) District and is generally located south of Main Street between 15th Street and 16th Street. This property is located in the Central Business District Three (CBD-3) Overlay District. The owner is Ricardo Flores and the agent is Steve Keeton.

Mr. Barkman stated there is one 384 square foot masonry building adjacent to Main Street, two existing metal buildings totaling 4,949 square feet, and two 860 square foot carport structures totaling 6,953 square feet of structures on a 0.662 acre parcel. There was little or no landscaping installed at the time of development. On an average day, there are a maximum of 14 to 20 vehicles in sales inventory. The operation has approximately four employees, and operates from 8:00 am to 6:30 pm Monday through Saturday.

Mr. Barkman stated in the process of review for renewal, both the Code Enforcement Division and Environmental Services Department have indicated continuing violations of city codes. However, the site has been cleaned up and violations have been corrected as of the date of this report.

Mr. Barkman said the applicant was not present at the DRC meeting and has not made contact with planning staff. Planning staff has been informed the owner is contesting citations that were issued.

Mr. Barkman stated this case was initially brought forward in 2009 by repeated code violations to the Auto Related Business Ordinance. At the time, the applicant requested to be allowed to do various other auto related functions. The Commission and City Council denied the additional uses and determined only to grant used car sales with a make ready service.

Mr. Barkman stated in the current review and renewal process, city staff again documented numerous code violations. Although the violations have been corrected, the nature of the continuing violations themselves indicates a general failure to meet minimum city operational standards. For this reason, Planning and Environmental staff is not recommending support for the renewal of this SUP. However, if the Commission and City Council determine to approve this case, staff is recommending a final inspection and review in six months. If within that time any citations are issued, staff will recommend immediate termination of the SUP.

Mr. Barkman stated if the renewal is denied, staff recommends that the owner be given notice of termination of the SUP, the Certificate of Occupancy be revoked, and require the site to be vacated within 60 calendar days after City Council action.

Chairman Garrett noted there were no questions for staff, opened the public hearing, and asked for speakers.

Commissioner Motley asked Mr. Barkman if he has spoken with the owner of the property.

Mr. Barkman replied no, staff has mailed out several letters regarding this case, noting the dates and times of the DRC meetings and public hearings. The owner has not made any effort to contact staff nor has attended any of the DRC meetings.

Mr. Barkman stated, in response to a question from Commissioner Wooldridge, the applicant does not appear to speak English and required a translator for the initial SUP case back in 2009.

Commissioner Motley said there seems to be a behavior pattern with this applicant, either he does not understand what needs to be done, due to a language barrier or he simply refuses to follow the ordinance standards.

Mr. Lasher stated staff has not been able to bring the applicant in for a face-to-face discussion for this renewal.

Commissioner Motley reiterated that his problem with this case is that the applicant either doesn't understand or is not willing to discuss the issues in a face-to-face meeting with the city. Numerous violations need to be addressed.

Assistant City Attorney Steve Alcorn said we need to have a distinctive recommendation from Environmental Services before this case is presented to the City Council, if the owner is not present at the meeting, and has not complied with the approved ordinance, then there needs to be some form of recommendation.

Mr. Lasher stated that if the Commission would feel more comfortable addressing this case with the applicant present, then staff will endeavor to locate Mr. Flores and request his testimony for a future meeting.

Commissioner Gray said he felt staff has presented enough information for this case to move forward.

Commissioner Wooldridge said his concern is that the owner knows about this meeting, but did not choose to show up.

Mr. Barkman noted several letters were mailed to the owner regarding the DRC meeting and this public hearing, but the owner has not made an effort to communicate with staff. Mr. Barkman also stated he has made contact with the owner's surveyor, who prepared the SUP exhibit and site plan, but he neither showed up to the required DRC meeting held February 23rd.

Commissioner Philipp asked if the Certificate of Occupancy is revoked, is the owner required to vacate within 60 days, and what is the City's course of action if the premises are not vacated.

Mr. Alcorn stated if the owner does not vacate the premises within 60 days the city could turn off the power and issue the owner another citation.

Commissioner Motley expressed he felt, based on staff's report, that the owner should be aware of these revocation/renewal proceedings.

Chairman Garrett stated he felt if the owner is arguing with municipal court about the citations and fines, as reported by staff, then the owner is most probably aware of these proceedings.

There being no further discussion on the case, Commissioner Moser moved to close the public hearing and recommend the SUP be revoked for case SU091001A as presented by staff. The action and vote being recorded as follows:

Motion: Moser

Second: Gary

Ayes: Garrett, Adams, Gray, Wooldridge, Motley, Moser, Moss and Philipp.

Nays: None

Approved: **8-0**

Motion: **carried.**

The owner is Victor Guerror, the applicant is Artur Sargsyan, and the agent is Greg Graham. (On March 5, 2012, the Planning and Zoning Commission recommended approval of this request by a vote of 8-0.)

Kevin Lasher, Chief City Planner, said the applicant had appealed the front yard setback, but they have changed the lot configuration and now have the required lot width, so no appeals are required.

Mayor Pro Tem Swafford moved, seconded by Council Member Hepworth, to close the public hearing and approve Case RP120301. The motion carried unanimously.

Ayes: 9 -

Mayor Charles England; Mayor Pro Tem Jim Swafford; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Richard Fregoe; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Ron Jensen; Council Member Tony Shotwell and Council Member Bill Thorn

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SU091001A - Specific Use Permit Renewal - 1519 E. Main Street (City Council District 5). Renewal of Specific Use Permit No. 830 for automotive sales. The site is currently zoned Light Industrial (LI) District and is generally located south of Main Street between 15th Street and 16th Street. This property is located in the Central Business District Three (CBD-3) Overlay District. The owner is Ricardo Flores and the agent is Steve Keeton. (On March 5, 2012, the Planning and Zoning Commission recommended revocation of Specific Use Permit Number 830 for automotive sales by a vote of 8-0.)

Mr. Lasher stated that staff and the Planning and Zoning Commission recommended revocation of this permit. He said the business is located on Main Street surrounded by similar auto-related uses. The applicant has used the site for used car sales since 2005. The business started as a legal non-conforming use. There have been problems with violations at this site and because of violations, the applicant requested in 2009 to legally expand the number of uses (repair work; body work and painting; and salvage parts). Staff and the Planning and Zoning Commission recommended approval but only for used car sales and basic make ready repairs. In 2009, the non-conforming use was no longer legal. The applicant in 2009 was asked to pave the back area with concrete because they were going to store vehicles waiting to be repaired. The applicant appealed to leave this open, but staff wanted it to be concrete. They were also planning to install a new dumpster on the back part of the lot. Staff did not approve the additional uses since the applicant did not want to pave this portion. Since 2009 when it was approved, the city has done several inspections and found several violations including outside storage with body parts and engine components such as a salvage use. Fluids and tires are stored outside in unpaved areas. Several violations have occurred since 2006, including outside storage of tires, chemicals, debris and various auto parts. There has been no consistent pattern of compliance. The owner has appealed the fines for these violations through the Municipal Court.

Lucy Flores, 4329 Presto Circle, speaking on behalf of her father, said the applicant was not aware he was asked to come to the city to discuss the violations. Ms. Flores said her father would make every effort to comply with city regulations. Maria Jones, 4329 Presto Circle, was present to support her family.

Mayor Pro Tem Swafford asked Ms. Flores if she was aware of these code violations prior to this initiation of revocation. Ms. Flores said she was aware of the violation

with a fine, but was not aware of any followup meeting that was requested. Council Member Shotwell said he recalled that in 2009, when the SUP was approved, Ms. Flores spoke because her father was in Mexico and that Ms. Flores agreed to all of the requirements on the SUP such as no salvaging or repair work and that she accepted the permit for just used car sales. Ms. Flores said she was aware at that time the permit was just supposed to be for used car sales.

Council Member Shotwell moved, seconded by Deputy Mayor Pro Tem Ruthe Jackson, to close the public hearing and accept staff and the Planning and Zoning recommendation to revoke SU091001A. The motion carried unanimously.

Ayes: 9 -

Mayor Charles England; Mayor Pro Tem Jim Swafford; Deputy Mayor Pro Tem Ruthe Jackson; Council Member Richard Fregoe; Council Member Greg Giessner; Council Member Mark Hepworth; Council Member Ron Jensen; Council Member Tony Shotwell and Council Member Bill Thorn

Enactment No: ORD 9350-2012

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S120302 - Site Plan - Tract 2, Grand Lakes Business Park (City Council District 5). Approval of a Site Plan for a warehouse facility on 15.41 acres. The site is currently zoned Light Industrial (LI) District and is located at the southwest corner of the intersection of Grand Lakes Boulevard and the IH-30 Eastbound Frontage Road. The subject property is located within the Interstate Highway 30 (IH-30) Corridor Overlay District. The owner is South IH 30, LTD, the applicant is DMO Property Holdings DAL, LLC, and the agent is Barry A. Sherman. (On March 5, 2012, the Planning and Zoning Commission recommended approval of this request by a vote of 8-0.)

Mr. Lasher stated that this is the first industrial building in conformance with Grand Lakes Business project in the I-30 Overlay district. Mr. Lasher showed adjacent uses for two warehouse buildings on 15.41 acres. He said the applicant has complied with requirements with the exception of two appeals: facades that face major street must have some minor articulation. The applicant has asked instead to add a curvilinear roof on each section of the building. The second appeal is for the dumpster screening to be stone or brick if facing a major street. The applicant will put solid metal fencing in front of the dumpster enclosure.

Mayor Pro Tem Swafford asked if there was shared parking between the two buildings. Mr. Lasher said it was, but one day there may be a lot line going through it and then parking will stand on its own. Council Member Shotwell asked if the mutual access on Gifford would be built with the first building. Mr. Lasher said it would not be built until the other building (A) is built. Mr. Shotwell stated that it appeared the right turn southbound on Grand Lakes to turn west on Gifford would be a tight turn for trucks. Mr. Lasher said it was designed for truck traffic, so it should have correct turn radii.

Barry Sherman, 909 E. Second, Denver, CO, thanked staff for their help to get to this point and stated this was a relocation from Arlington to Grand Prairie.

Council Member Shotwell said that Gifford splits a neighborhood in half and the city prefers the only time Gifford is used is to get on I-30 going west. The Room Store has put up notices to use the service road in lieu of Gifford. Mr. Sherman said he would work with his team to explore what can be done to support this effort.

Council Member Shotwell moved, seconded by Deputy Mayor Pro Tem