

Exhibit D – Zoning Inquiry Application

P23-02357 - Zoning Inquiry

A notice was added to this record on 2023-07-06.
Condition: Severity: Notice
Total conditions: 4 (Notice: 4)

[View notice](#)

Menu Help

File Date: [07/06/2023](#)

Application Status: [Complete](#)

Application Type: [Zoning Inquiry](#)

Application Detail: [Detail](#)

Description of Work:

Application Name: [Zoning Inquiry](#)

Address: [317 W VOORMAN AVE, FRESNO, CA 93706](#)

Owner Name: [BAUER BETTY LOU TRUSTEE](#)

Owner Address: [146 E CORTLAND, FRESNO, CA 93704](#)

Parcel No: [45804022](#)

Contact Info:	Name	Organization Name	Contact Type	Status
	Ed Mason	Bauer's Auto Wr...	Applicant	Active
	Ed Mason	Bauer's Auto Wr...	Business Owner	Active

Licensed Professionals Info:	Primary	License Number	License Type	Name	Business Name	Business License #
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Total Fee Assessed: [\\$214.81](#)

Total Fee Invoiced: [\\$214.81](#)

Balance: [\\$0.00](#)

Workflow Status:	Task	Assigned To	Status	Status Date	Action By
	Application		Generate Fin...	09/26/2023	Phillip Siegrist

Condition Status:	Name	Short Comments	Status	Apply Date	Severity	Action By
	AB617 Area	This Parcel is located...	Applied	07/06/2023	Notice	Administrator
	AB617 Area	This Parcel is located...	Applied	07/06/2023	Notice	Administrator
	Downtown Community Plan	This area is on the Do...	Applied	07/06/2023	Notice	Administrator
	Downtown Community Plan	This area is on the Do...	Applied	07/06/2023	Notice	Administrator

Documents:	File Name	Document Group	Category	Description	Type	Docurr
	D-Jennifer Clark Mtg -...	PLN_ZONE_INQ	Zoning Inquiry ...	Documents relevant ...	application/pdf	Upload
	Exhibit 1 - Filing Pla...	PLN_ZONE_INQ	Zoning Inquiry ...	Continued descripti...	application/pdf	Upload
	Attachments - Filing P...	PLN_ZONE_INQ	Zoning Inquiry ...	Attachments to "Con...	application/pdf	Upload
	P23-02357 317 Voorman ...	PLN_ZONE_INQ			application/pdf	Upload
	Planning Application P...	PLN_GENERAL	Notices		application/octet-s...	Upload
	Show all					

Application Comments:	View ID	Comment	Date
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Initiated by Product: ACA

Scheduled/Pending Inspections:	Inspection Type	Scheduled Date	Inspector	Status	Comments
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Resulted Inspections:	Inspection Type	Inspection Date	Inspector	Status	Comments
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1 Letter and Exhibit "1" attached thereto), the only plan or future requirement I set forth, was an
2 additional base rock addition, "as necessary," requirement; and, that Bauer's add base rock to the
3 area, "as necessary," within six (6) months. I did not specifically provide that Bauer's needed to
4 "pave" the vehicle "Storage Lot Area" indicated on page three (3) of the letter (the illustration)
5 with asphalt, because I approved base rock as an "other approved surface" for paving. The
6 sentence where I set forth on page one (1) of the letter where I provided that, "Applicant shall
7 maintain a "paved" surface pursuant to Exhibit A-1" meant that the approved "paving" was to be
8 maintained by applying an additional later of base rock, as necessary, within six (6) months to
9 such Storage Lot Area that was not paved with asphalt, but was "paved" and approved as an
10 "other approved alternate surface" with base rock.

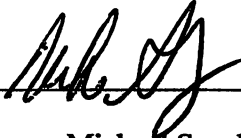
11 6. At the time of my approval letter, and with regard to other tow companies I
12 approved to be in compliance with C-002 around this time, base rock was also an "other
13 approved alternative surface" for the paving requirement at such towing company locations
14 according to the Planning Department due to Directors Classification No. 208 2nd Amendment,
15 Public Works Standard P-21, and my authority at the time in the scope and performance of my
16 job as City Planning Manager.

17 7. On Friday, May 12, 2023, I reviewed the approval letter I signed penned to Mr.
18 Ed Mason of Bauer's dated August 5, 2011. I also had the opportunity to review a color Google
19 Earth schematic of Bauer's property. Recalling the letter, and given my memory of this matter
20 and the inspection of August 5, 2011, again, I specifically recall that on behalf of the Planning
21 Department, I approved Bauer's location pursuant to C-002 requirements (which was signed by
22 my hand and dated June 14, 2011), Directors Classification No. 208 2nd Amendment (dated June
23 17, 2010), and based on the fact that "A paved surface, or other approved alternative surface . . ."
24 and the base rock utilized at Bauer's vehicle storing location on this day sufficed for a "paved"
25 surface under C-002 for any outside vehicle or vehicle parts storage area, as afforded by City of
26 Fresno Public Works Standard P-21 and my authority as Planning Manager.

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1 I declare under penalty of perjury under the laws of California that the foregoing is true
2 and correct, and that this declaration was executed in Fresno, California on May 12, 2023.
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Michael Sanchez

ATTACHMENT "1"

August 5, 2011

Please reply to:
Mike Sanchez
(559) 621-8040

Edward Mason
317 West Voorman Avenue
Fresno, CA 93706

Dear Mr. Mason:

SUBJECT: TOW YARD LAND USE INQUIRY (Q-11-035) REQUESTING INFORMATION RELATED TO PROPERTY LOCATED AT 317 WEST VOORMAN AVENUE (ASSESSOR'S PARCEL NO. 458-040-22).

Thank you for your recent inquiry as to whether the existing tow yard on subject site is considered a legal non-conforming use. A review of the City of Fresno Municipal Code (FMC), the City of Fresno Official Zone Map, and review of permit, business license, code enforcement and entitlement records reveals the following information regarding the subject property:

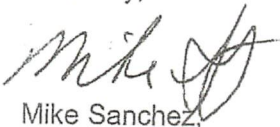
1. The property is zoned M-3 (Heavy Industrial District). The 2025 Fresno General Plan designates the planned land use of the site as *Heavy Industrial*.
2. The existing tow yard use on the subject site has been in existence prior to January 24, 2006 (prior to the initial adoption of Director's Classification No. 208).
3. The subject site has never been required to file a conditional use permit or site plan review application for the use of the site as a tow yard.
4. The subject site has never had an open code enforcement case related to the existing tow yard use.
5. The existing use on the subject site, a tow yard with lien sales as well as auto dismantling is a use allowed in the M-3 zone district with a site plan review application pursuant to Director Classification No. 208.
6. Although the subject site does not have an approved site plan review application for this use, the proposed use has been determined to be a **LEGAL NONCONFORMING USE**. The use is considered nonconforming because it does not conform to current zoning regulations (no site plan approval). **As a legal nonconforming use, the site may continue to legally operate as a tow yard with lien sales.** All existing tow yards shall comply with the following minimum conditions:

- Bauer's Specif*
- General / C-002*
- a. The areas where cars or vehicle parts are stored and vehicles drive must be paved. The Applicant shall maintain a paved surface pursuant to the attached Exhibit A-1. The Applicant shall also apply an additional layer of base rock, as necessary, within six months of the date of this letter, to those areas where towed vehicles will be stored.
 - b. The area where cars are stored must be completely screened from view from the public right-of-way or residential areas by a solid fence or wall. A chain link fence with slats is acceptable. All graffiti must be removed from these fences within 48 hours. Staff has verified that this condition has been met.
- pg 3*

- c. The operator shall provide adequate security of vehicles and property at the storage site.
- d. The storage of property other than motor vehicles is limited to personal property found inside the impounded vehicles.
- e. Retail sales shall be limited to lien sales of vehicles and/or personal property not claimed by the owner.
7. Pursuant to Section 12-317-C-3 of the Fresno Municipal Code, the nonconforming use of land may be continued, but shall be subject to the following limitations: (1) such use shall not be expanded or extended in any way either on the same or adjoining land, (2) such use shall not be changed, except to a use which conforms to the regulations of the zone in which such land is located, and (3) if such use is discontinued it shall not thereafter be reestablished.
8. In order to modify or expand the existing nonconforming use, a full site plan review application will be required and the subject site will be required to comply with all existing codes, policies and regulations as applicable. The addition of buildings or structures requires a site plan review.
9. Please note that this letter only relates to the nonconforming use of the subject site as a tow yard. **It does not legalize any other uses on the subject site or legalize any other code violations that may exist on the subject site. Potential uses on the site that are NOT approved under this review are as follows:**
- a. Barbed tape or wire, concertina wire or similar security toppings are specifically prohibited in the city, except for barbed tape or wire constructed pursuant to a barbed wire permit. Applications for this permit may be obtained at the Planning Front Counter in City Hall.
- b. The on-site parking lot striping may not conform to current standards. Parking lot geometrics have not been reviewed under this land use inquiry.
- c. Any parking of company vehicles has not been approved to be off-site and should be contained on-site.

If you have any questions regarding this matter, please contact me at the number above.

Sincerely,

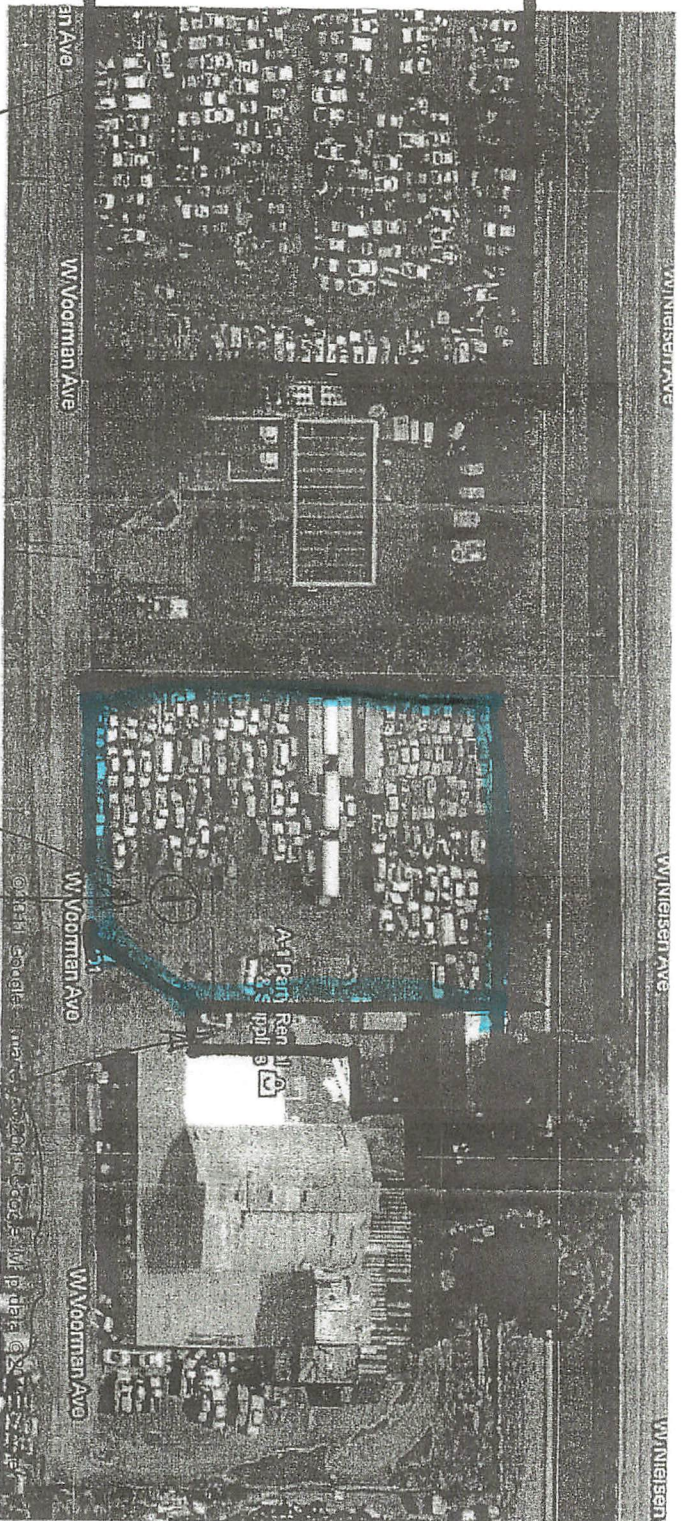


Mike Sanchez,
Planning Manager

CC: Fresno Police Department, Attn: Captain Hall (via e-mail)
Job Address File: 317 West Voorman Avenue

Google maps

To see all the details that are on screen, use the "Print" link next to the map.



Auto Dismantling Yard.

NOTE

Apply Condition by per 8/5/11 Appeal letter.

Storage Lot Area

Plant portion of yard for towed vehicles

Reduce amount to storage Area



BAUER'S AUTO WRECK
103 N. Thorne
Fresno, CA 93706

Wikegarner's
hand writing 8/5/11
EXHAUST A-1



Tow Yards

Development and Resource Management Department
2600 Fresno Street, 3rd Floor, Rm 3076
Call (559) 621-8277 for an appointment or visit www.fresno.gov for information

Policy and Procedure No.

C-002

Date:

June 14, 2011

Target Audience: Planning staff, the Police Department, the Community Revitalization Division, and business owners who plan to establish a Tow Yard or have an existing Tow Yard in the City of Fresno.

Purpose: The purpose of this Policy is to give City staff, tow yard business owners and the general public the ability to easily verify whether or not a Tow Yard was legally established and/or a legally allowable use on a specific site.

Policy: The following policy applies to industrially zoned properties (C-M, M-1, M-2 and M-3)

1. All tow yards established after January 24, 2006, must either 1) Comply with Director's Class No. 208 dated June 17, 2010 and file a full conditional use permit application; or 2) File a full site plan review application as a transit storage yard. The type of application filed will depend on which land use is applicable based on the facility's existing or proposed operational characteristics (see Definitions below).
2. An existing tow yard that was established either before or after January 26, 2006 that was previously required to apply for a special permit (either a site plan review or conditional use permit) must comply with all conditions of the approved special permit application in order to be considered legally in operation. If this special permit was filed but never approved, a new special permit is required.
3. All existing tow yards established prior to January 24, 2006 that were not previously required to file a special permit application may be determined to be a legally operating tow yard if the following conditions are met:
 - i. The applicant must have a legal business license for a tow yard with the City of Fresno for the year 2005 that shows that the specific site in question was in operation as a tow yard at that time. If no such license exists, all business license fees must be paid and the operator must provide proof to the satisfaction of the Director that the tow facility was in operation prior to January 26, 2006.
 - ii. The site must have no open or previous code enforcement cases related to the operation of a tow yard.
 - iii. If the site is in compliance with items 3-i and 3-ii above, the applicant must submit a request with the City to verify compliance and pay a fee of \$510. The applicant must submit a site plan and pictures showing that the following two requirements have been met:
 - a. The areas where cars or vehicle parts are stored and vehicles drive must be paved. This pavement must be constructed to Public Works Standard P-21. A grading plan and permit will be required for the installation of pavement on a site.
 - b. The area where cars are stored must be completely screened from view from the public right-of-way or residential areas by a solid fence or wall. A chain link fence with slats is acceptable.

A complete request must include: A City of Fresno Special Permit application signed by the property owner, a site plan drawing (this site plan does not need to be drawn by a professional, but must be to scale and show all buildings, structures, and storage areas), a detailed operational statement, and pictures of the site showing that the site is in compliance with the conditions noted above.

not reg'd
in
approval
letter

- iv. A tow yard must comply with following operational conditions contained in Director Classification No. 208 as applicable:
 - a. The operator shall provide adequate security of vehicles and property at the storage site.
 - b. The storage of property other than motor vehicles is limited to personal property found inside the impounded vehicles.
 - c. Retail sales shall be limited to lien sales of vehicles and/or personal property not claimed by the owner.
 - d. There shall be no dismantling of motor vehicles.
- v. A site that is not in compliance with items 3-i and 3-ii above must file a full special permit application in order to legally establish and operate as a tow yard in accordance with item #1 above.

Definitions: A Tow Yard as used in this policy includes 1) A towing company with a storage yard (considered transit storage as defined by Section 12-105 of the Fresno Municipal Code); and 2) A towing company with a storage yard that stores not only cars but motor vehicle parts and conducts lien sales of motor vehicles. This second use is described in Director's Classification No. 208 as "Towing, Storage and Lien Sales of Impounded Motor Vehicles".

A full site plan review or conditional use permit application means full fees and a full review routed for comment to all applicable agencies and departments.

Procedures: For staff: Number 3 under the Policy section of the document is not a procedure for a new special permit. Rather, it is a process to verify that the use existed prior to the existence of Director Classification No. 208. The request for verification will be entered into Navaline (HTE) as a Zoning Inquiry. The fee of \$510 for staff time will have to be entered into the system manually. The applicant will be given a letter (after all documentation is submitted and staff is able to verify compliance) that indicates that the subject tow yard is legally in operation.

Documents Referenced in this Policy/Procedure:

[Director Classification No. 208 dated June 17, 2010](#)

[Fresno Municipal Code](#)

Review and Responsibility: Current Planning Staff will ensure compliance with these policies when the public inquires about tow yards and when a site plan review or conditional use permit application for such a use is submitted.

Forms (attached): N/A

Signature:



Mike Sanchez, Planning Manager

Dated:

6/14/11



MEMORANDUM

DATE: June 17, 2010

TO: JOHN M. DUGAN, AICP, Director
Planning and Development DepartmentTHROUGH: JERRY D. BISHOP, Assistant Director
Planning and Development DepartmentMIKE SANCHEZ, Planning Manager
Planning DivisionFROM: BONIQUE SALINAS, Planner
Planning Division

SUBJECT: DIRECTOR CLASSIFICATION NO. 208 SECOND AMENDMENT. ORIGINALLY A REQUEST TO ADD "TOWING, STORAGE AND LIEN SALES OF IMPOUNDED MOTOR VEHICLES" AS A USE PERMITTED IN THE M-1, M-2 AND M-3 DISTRICTS. NEW REQUEST IS TO ALLOW THIS USE IN THE C-M DISTRICT.

DIRECTOR ACTION

The Director hereby approves this amendment of Director Classification No. 208 as follows:

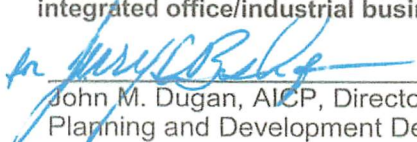
Title: "Towing, Storage and Lien Sales of Impounded Motor Vehicles"

Zone District: C-M and M-1 Districts, subject to a conditional use permit, and conditions listed below.

M-2 and M-3 Districts, as a use permitted subject to a site plan review, and conditions listed below.

Conditions:

1. The operator shall be approved by an established Governmental Law Enforcement Agency.
2. Storage lots must provide either a minimum of 5,000 square feet in area, or the capability to store minimum of 20 vehicles.
3. A minimum six-foot high solid fence or wall shall enclose any outside storage area to screen the stored vehicles and other property from public view.
4. The operator shall provide adequate security of vehicles and property at the storage site.
5. Property other than motor vehicles is limited to personal property found inside the impounded vehicle.
6. A paved surface, or other approved alternative surface, shall be provided for any outside vehicle or vehicle parts storage area.
7. Retail sales shall be limited to lien sales of vehicles and/or personal property not claimed by the owner.
8. There shall be no dismantling of motor vehicles.
9. In the C-M zone district, these uses are not permitted on property that is within 200-feet of property planned or zoned for residential uses.
10. In the C-M zone district, these uses are not permitted on property that is in or within 200-feet of an integrated office/industrial business park or shopping center.


John M. Dugan, AICP, Director
Planning and Development Department


Date 6/16/10

This second amendment to Director Classification No. 208 has been requested by Mr. Raul Reyna of RR-M Reyna Towing. Mr. Reyna has requested that Towing, Storage and Lien Sales of Impounded Motor Vehicles be added as a use permitted in the C-M (*Commercial and Light Manufacturing*) District.

In January of 2006 the Director of the Planning and Development Department approved Director Classification No. 208 which added Towing, Storage and Lien Sales of Impounded Motor Vehicles as uses permitted in the M-1, M-2 and M-3 zone districts. In April of 2007 Director's Classification No. 208 was slightly modified. Condition No. 1 of this Director's Classification was amended to permit a tow yard if the operator was approved by an established Governmental Law Enforcement Agency rather than requiring that the operator be in conformance with a valid contract with the City of Fresno and be identified as a "Police Tow List Operator".

This third request proposes to expand these same uses (Towing, Storage and Lien Sales of Impounded Motor Vehicles) to the C-M (*Commercial and Light Manufacturing*) zone district.

BACKGROUND INFORMATION

This Director Classification has been requested by Staff of the Code Enforcement Section of the Planning and Development Department. Currently, there are number of businesses being conducted that are working with, and under supervision of, an established law enforcement agency, for the towing and storage of vehicles, with occasional lien sales, that have been impounded. There is no current category listing for this use with its many facets. Therefore to facilitate code interpretation and application, this Director Classification has been requested.

There are two issues regarding this use that must be answered in this investigation: Firstly, are the lien sales considered the Retail Sales of Automobiles? If it is, the business must also meet all of the requirements of the Fresno Municipal Code (FMC) regarding Auto Sales.

Secondly, many of the vehicles stored at these facilities are damaged, and in some cases, in pieces as a result of an accident, which gives the appearance of a junk yard. If this is a junk yard, it can only be located in the M-3 District subject to a conditional use permit.

While being approved for this service, the business is obligated to follow strict guidelines on the structure of the business. This results in a land use that is unique and not identified in the Zoning Ordinance.

ANALYSIS

Section 12-408 of the Fresno Municipal Code (FMC), enables the Director, subject to certain standards and findings, to add a use to a zone district, either by right or subject to a conditional use permit

The first step in this procedure is to examine the classification of the use. Section 12-408-B states: "The Director may classify such use as a permitted use, or as a permitted use subject to Conditional Use Permit. In no instance shall the Director determine that a use be permitted in a district when such use is specifically listed as first permissible in a less restricted district." A listing of the districts, from most restrictive to least restrictive is found in Section 12-317-B-1-c (FMC).

As described, this use has many facets of land use. It is a motor vehicle towing company. It is a storage facility for motor vehicles, both operative and non-operative. It is a storage facility for (personal) property other than motor vehicles. It conducts the sale of those motor vehicles upon which a lien has been placed. Current Code deals with most of these land use categories. The problem is that the proposed use is none of the above categories in their truest sense, and the overall operation is so restricted, it is none of the above, nor is it the full combination of those classifications.

These operations, approved by an established law enforcement agency, have very stringent rules and

regulations by which to operate, makes them a unique land use.

The basic premise of this use, a towing company with a storage yard, is a use permitted in the Industrial Zone Districts. What really separates the proposed use from being just a towing company with a storage yard, are two operational variations: 1) Storage of motor vehicle parts; and 2) Lien sales of motor vehicles.

Firstly, there is an appearance that one of the aspects of the business is to dismantle the motor vehicles that are brought in to the storage yard. Many of the vehicles that are brought in have sustained damage from accidents or having been stripped after being stolen. As a result the separate parts are also stored on site, and well as the motor vehicles, both operative and non-operative. Because of the nature of impounded vehicles, the operator is required by both local and State regulations to store and display vehicles and parts in a prescribed manner. While this may give the visual appearance of a junk yard, or the retail sales of autos, it is neither. In order to place and maintain proper controls over such a use, a condition of approval is that the operator shall be approved by an established law enforcement agency to tow and store impounded vehicles.

Secondly, again by local and State regulations, the business is authorized to place a lien against the motor vehicles, vehicle parts and personal property not claimed by the owner, and after the prescribed period of time, sell those items.

It is the opinion of staff, that this is a special situation where after storing a vehicle for a specified time, the business is permitted to dispose of an unclaimed vehicle or other property after the placing of a lien upon that property. This is an effort to dispose of property that has gone unclaimed. It is not an operation whose primary business is to obtain vehicles for the purpose of retail sales.

Based upon the discussion above, and for the purpose of classifying this use, the following are proposed:

- | | |
|----------------|---|
| Title: | "Towing, Storage and Lien Sales of Impounded Motor Vehicles" |
| Zone District: | C-M and M-1 District, subject to a conditional use permit, and conditions listed below.

M-2 and M-3 Districts, as a use permitted subject to a site plan review, and conditions listed below. |
| Conditions: | <ol style="list-style-type: none">1. The operator shall be approved by an established Governmental Law Enforcement Agency.2. Storage lots must provide either a minimum of 5,000 square feet in area, or the capability to store a minimum of 20 vehicles.3. A minimum six-foot high solid fence or wall shall enclose any outside storage area to screen the stored vehicles and other property from public view.4. The operator shall provide adequate security of vehicles and property at the storage site.5. Property other than motor vehicles is limited to personal property found inside the impounded vehicle.6. A paved surface, or other approved alternative surface, shall be provided for any outside vehicle or vehicle parts storage area7. Retail sales shall be limited to lien sales of vehicles and/or personal property not claimed by the owner. |

8. There shall be no dismantling of motor vehicles.
9. In the C-M zone district, these uses are not permitted on property that is within 200-feet of property planned or zoned for residential uses.
10. In the C-M zone district, this use shall not be allowed on property that is in or within 200-feet of an integrated office/industrial business park or shopping center.

As a result of the analysis of this request, staff recommends that the use be added to the C-M and M-1 Zone District, subject to a conditional use permit, and to the M-2 District as a use permitted, which cumulatively will add the use to the M-3 District as a use permitted.

FINDINGS

The second step in this process is to make the required findings in accordance with Section 12-408-C of the Fresno Municipal Code. Based upon the title, description and conditions listed above, staff makes the following findings:

1. *That the subject use and its operation are compatible with the uses permitted in the district where it is proposed to be allowed;*

The basic use of this operation is a towing company with a storage yard. This type of use is permitted by the current FMC. The additional aspects of the operation, the storage of auto parts and other property, and the conduct of lien sales, are secondary in nature, and are tightly controlled as a result of working with an established law enforcement agency. As such, this use is considered compatible with other industrial uses.

2. *That the subject use is similar to two or more uses permitted in the district within which it is proposed to be allowed;*

This use is basically a specialized storage yard. There are seven types of storage yards listed in the M-1, M-2 and M-3 Districts to which the proposed use is similar in nature. **These same types of storage yards are allowed in the C-M zone district with the exception of draying and freight and trucking terminal storage yards. Transit storage is allowed in the C-M zone district and is similar in nature to the proposed use.**

3. *That the subject use will not cause substantial injury to the value of the property in neighborhoods or districts within which it is likely to be located;*

Because of the limited and controlled operation of this proposed use, it will blend in properly with surrounding industrial uses and not cause substantial injury to the value of properties in the neighborhood. Furthermore, being subject to a conditional use permit in the C-M and M-1 Districts, which are the industrial districts that are more likely to be near land planned or zoned for residential uses, will enable the city to better monitor the operation. **In addition, if this use is proposed in the C-M zone district, two conditions have been added that will prevent this type of use from being within 200-feet of property planned or zoned for residential uses or on property that is in or within 200-feet of an integrated office/industrial business park or shopping center. These conditions will protect the integrity and appearance of established residential areas and business parks.**

4. *That the subject use will be so controlled that the public health, safety, and general welfare will be protected.*

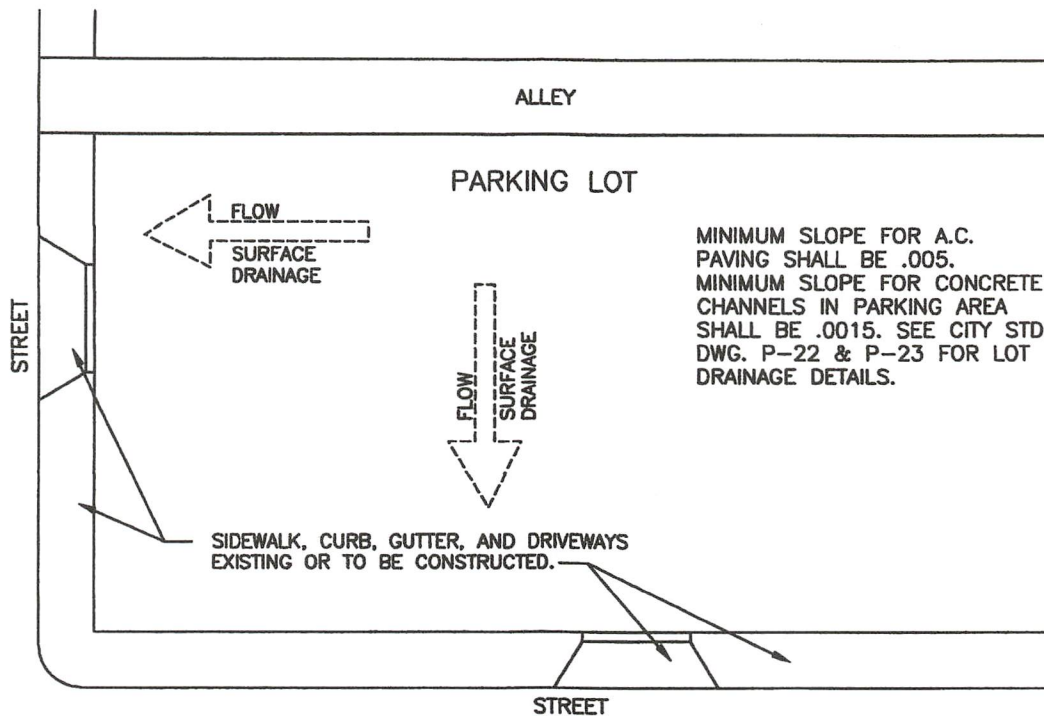
Being subject to approval of an established law enforcement agency to conduct this business, and subject to a conditional use permit in the C-M and M-1 Districts, and subject to a Site Plan Review for the M-2 and M-3 Districts, the public health, safety and welfare will be protected.

CONCLUSION

Based upon the discussion above, and with the imposition of the suggested conditions, staff supports this Director Classification as proposed above.

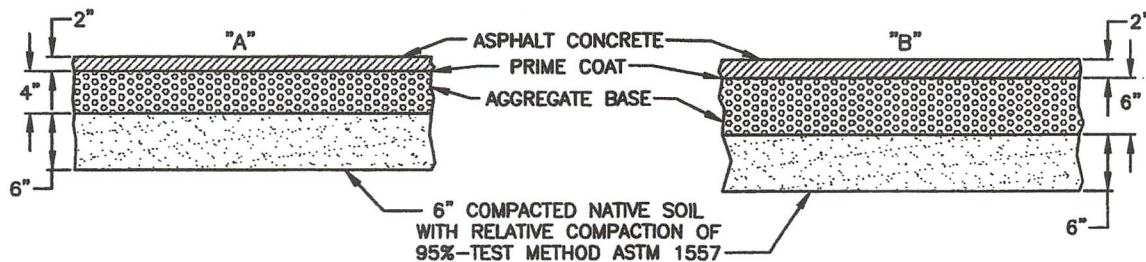
RECOMMENDATION

Staff recommends that the Director approve this Classification as a use permitted subject to a conditional use permit in the C-M and M-1 Districts, and as a use permitted in the M-2 and M-3 Districts as described and conditioned above.



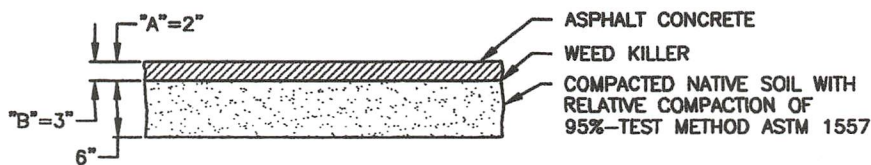
MINIMUM SLOPE FOR A.C. PAVING SHALL BE .005. MINIMUM SLOPE FOR CONCRETE CHANNELS IN PARKING AREA SHALL BE .0015. SEE CITY STD. DWG. P-22 & P-23 FOR LOT DRAINAGE DETAILS.

TYPICAL CROSS SECTIONS



PARKING LOTS

INDUSTRIAL PARKING LOTS AND LOADING ZONES



NOTES:

OPTIONAL-WITH APPROVED TEST

1. SURFACE DRAINAGE SHALL BE TO STREET.
2. PARKING BUMPERS TO BE PLACED SO THAT PARKED CARS WILL NOT OVERHANG ON SIDEWALKS OR STREETS.
3. THE OPTIONAL CROSS-SECTION MAY BE USED UPON SUBMISSION OF "R" VALUE TESTS TAKEN BY AN APPROVED LABORATORY SUBSTANTIATING THE USE OF EXISTING SOIL FOR THE BASE. A MINIMUM VALUE OF 65 WILL BE REQUIRED.
4. WHERE ASPHALT CONCRETE IS APPLIED TO THE NATIVE SOIL, SOIL STERILANT AS PER MANUFACTURES SPECIFICATIONS WILL BE REQUIRED BEFORE THE SURFACE MATERIAL IS PLACED. WEED KILLER TO BE APPLIED IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATION.
5. SURFACE DRAINAGE TO ALLEY ONLY BY WRITTEN APPROVAL OF THE CITY ENGINEER.
6. TEMPORARY PARKING LOTS (USE NOT TO EXCEED 60 DAYS) SHALL BE GRADED AND ROLLED SMOOTH. THE TOP 6" OF NATIVE SOIL SHALL BE COMPACTED TO 85% RELATIVE COMPACTION USING TEST METHOD ASTM 1557. A DUST PALLIATIVE PER STATE STANDARD SPECIFICATIONS AT THE RATE OF 1 GAL./SQ. YD. TO OBTAIN A MINIMUM PENETRATION OF 1". THE MIXING RATIO SHALL BE 4:1 PER STATE STANDARD SPECIFICATIONS. THE DEVELOPER SHALL POST A BOND TO GUARANTEE REMOVAL OF ALL IMPROVEMENTS FOR A TEMPORARY PARKING LOT.



103 N Thorne Ave
Bauer's Auto Wrecking

Bauer's

EMobile

B's Impound

6 wire
over

W Voorman Ave

PG#E

Image Landsat / Copernicus

Google

36°44'39.77" N 119°48'49.42" W elev 284

CITY OF FRESNO DEVELOPMENT
2600 FRESNO ST RM 3043
FRESNO, CA 93721
559 621-8011
541619101303030

Merchant ID: 1910130303001

Sale

*****2003

AMEX

Entry Method: Swiped

Total: \$ 510.00

07/07/11

13:31:54

Inv#: 000004

Appr Code: 529426

Apprvd: Online

Batch#: 000291

Customer Copy
THANK YOU!
COME AGAIN!

CITY OF FRESNO
*** CUSTOMER RECEIPT ***
Oper: FRESRLM2 Type: DV Drawer: 1
Date: 7/07/11 01 Receipt no: 24326

Description	Quantity	Amount
2011 80000105		
PZ PLANNING & ZONING	1.00	\$510.00

BAUER'S AUTO WRECK
EDWARD MASON
233-9046

Tender detail	
AX AMERICAN EXP	\$510.00
Total tendered	\$510.00
Total payment	\$510.00

Trans date: 7/07/11 Time: 10:31:53

FAX

To: BAUERS

Company:

Fax: 233-0513

Phone:

From: DalanR

Fax:

Phone: 559-621-5068

E-mail: Dalan.Richards@fresno.gov

NOTES:

FW: Compliance with Directors Code

Date and time of transmission: Thursday, June 30, 2011 3:28:38 PM

Number of pages including this cover sheet: 02

All Tow Operators,

Please make sure you contact Fresno Development and Resource Management Department as soon as possible to start the process for your Conditional Use Permit. Please read the forwarded email from Captain Hall. If you have any questions please contact me.

Officer Dalan Richards 847

Fresno Police Dept. Tow Unit

621-5068

From: Andrew Hall
Sent: Thursday, June 30, 2011 3:05 PM
To: Dalan Richards
Cc: Mike Sanchez; Richard Tucker
Subject: Compliance with Directors Code

Dalan;

I spoke to Planning Manager Mike Sanchez this afternoon and he indicated that as of today, only about half of the tow companies had contacted his office. He also indicated that none of our tow companies have completed the process and met the requirements of the Director's Code. Please remind the tow companies that per the City of Fresno Development and Resource Management Department, tow companies will not be allowed to participate in the New Tow Service Agreement until they have met the requirements of this code and we have received approval from Mike Sanchez's office.

Please forward this to our tow companies as a reminder.

Captain Andrew Hall

Traffic Bureau Commander

Fresno Police Department

(559) 621-5051

Bradley K. Boulden

From: Bradley K. Boulden
Sent: Wednesday, May 24, 2023 3:55 PM
To: Jennifer Nguyen-Bui; Michael Flores
Cc: Daniel Casas
Subject: RE: 103 N Thorne Ave. (Bauer's Auto Wrecking and Towing) TSA-Reinstatement: Statement of Decision
Attachments: Declaration-MikeSanchez-5-12-23.pdf; Storage lot 8-5-11.pdf

Honorable Flores,

The purpose of this communication is to respectfully request, based on Your Honor's authority to maintain jurisdiction over this matter pursuant to the March 30, 2023 D&O, page 52, Section 11, Paragraph 6, an informal meeting (based on the City Attorneys' idea) to see if we can resolve this last issue forthwith. I anticipate that would require at most, thirty (30) minutes, to resolve it.

As you are well aware, my client has had to wait, wait, and wait some more. Your Decision and Order dated March 30, 2023 ("D&O"), required Bauer's to be, within two (2) weeks, "reinstated." It is now almost eight (8) weeks since the D&O. When my client signed the last TSA "extension" for the 2018 TSA (six (6) weeks or so ago), Dalan Richards told him he would have a counter-signed copy back within a week. The FPD failed to provide my client with a counter-signed copy.

As you are also aware, the Planning Department was looking into Bauer's tow yard and whether or not it complied with C-002. I OBJECTED vehemently to this additional hurdle. I was clear that Your Honor stated that we were to be "REINSTATED" and that Bauer's was not a new tow company "applying" for the rotational tow list. Asking the Planning Department to get involved with this was outside the scope of the D&O, and in fact inviolate of what was ordered. My client passed this C-002 requirement in 2011. That's how it was awarded the 2011 TSA to sign in October, 2 months after Mr. Mike Sanchez from the Planning Department sent my client the August 5, 2011 Approval Letter.

The City Attorneys' interpretation of the "APPROVAL" Letter for Bauer's Towing was not surprisingly the same interpretation as the Planning Departments. The interpretation does not make sense, but the City Attorneys provided Mr. Phillip Siegrist's name to contact, claiming it was his decision, due to the "Approval" Letter attached hereto not being "clear" that Bauer's was approved in 2011. Mr. Siegrist held to the City Attorneys' interpretation that the 2011 Approval Letter was not really an approval, but contained a paving requirement.

In Bauer's May 10, 2023 meeting with Mr. Siegrist, Phillip stated the following to my client and I:

- 1) Mike Sanchez, who was the City Planning Manager in 2011, has the same position as Mr. Siegrist currently holds with the Planning Department;
- 2) Mr. Sanchez, just like Mr. Siegrist now, had the authority to approve Bauer's in 2011;
- 3) The August 5, 2011 approval letter attached hereto from Mr. Sanchez to Bauer's was allegedly unclear (to him and FPD) and it seemed like Bauer's needed to pave the area (with asphalt) where towed vehicles are stored back in 2011;
- 4) Since Phillip allegedly didn't know if Mr. Sanchez really approved it or not in 2011, the way the 2011 letter read to him (and first the City Attorneys), the Planning Department's position is that Bauer's storage area needs to be paved with asphalt for Bauer's to get back on the FPD's rotational tow list; and
- 5) That if Mr. Sanchez approved it in 2011, this case would be done and easy, but we don't know what Mr. Sanchez really said, so the Planning Department is not currently approving it.

Based on Phillip's comments, as you are aware, I went to Mr. Mike Sanchez. I interviewed him, showed him my client's application and file, pictures of the property, illustrations, his very 2011 approval letter, C-002, the Directors No. 28, P-21 Standard, and other documents/images. Before I could get through the first document—the 2011 August Approval

Letter—Mr. Sanchez distinctively recalled the property and said he unequivocally approved Bauer's on August 5, 2011, as the letter stated it was an "approval" letter.

Even a plain reading of the language of the Approval Letter clearly indicates that Bauer's can't PAVE it with asphalt and then add base rock over that within six (6) months, as necessary. It was already base rock at the time it was approved. Mr. Sanchez confirmed that. That is why the Approval letter said, "The applicant (relating to my client and not all towing companies) shall also apply an "ADDITIONAL" later of base rock, as necessary. (See page 1, Par. 6.a.)

In any event, I submitted Mr. Sanchez's declaration to Mr. Siegrist on or around May 12—May 14. The City Attorneys then sent me an email Monday claiming this is now Jennifer Clark's call when they first said it was Mr. Siegrist's and provided me his information. I feel frustrated and like I wasted my time meeting with Phillip.

My client spent enough money on the appeal and was awarded reinstatement on March 29. We have waited far too long and would love your assistance in this matter. It costs my client money every day to not be towing for the FPD. As such, we respectfully request, as the City Attorneys offered, to have an informal meeting with Your Honor, at your earliest convenience.

As an aside, we reserve our right to appeal this matter with Your Honor given your continued jurisdiction in this matter as provided above. We also reserve my client's right to appeal the Planning Department's alleged decision (if it even is a decision through the information emailed to us by the City Attorney's Office and not the Planning Department) should that for some reason become necessary, though we do not believe that direction is required given your continued jurisdiction. These would cost much more money from my client to put in writing and submit, as well as to wait for Your Honor to review and decide. As such, we love the City Attorneys' idea to meet informally.

We are thus hopeful, and look forward to meeting with you and the City Attorneys' at your earliest convenience.

Thank you for your time and consideration in this matter.

Regards,

Brad

BRADLEY K. BOULDEN

Attorney at Law

355 E. Avante Ave.

Fresno, CA 93720

Phone: (559) 425-6330

Fax: (559) 553-6220

E-mail: brad@bouldenlaw.com

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From: Jennifer Nguyen-Bui <Jennifer.Nguyen-Bui@fresno.gov>

Sent: Monday, May 22, 2023 3:33 PM

To: Bradley K. Boulden <brad@bouldenlaw.com>; Michael Flores <Michael.Flores@fresno.gov>

Cc: Daniel Casas <Daniel.Casas@fresno.gov>

Subject: RE: 103 N Thorne Ave. (Bauer's Auto Wrecking and Towing) TSA-Reinstatement: Statement of Decision

Good afternoon, Hearing Officer Flores and Mr. Boulden:

EXHIBIT "1"

1. Attached as item 1 is the Planning Department's response to a prior Zoning Inquiry. It is dated August 5, 2011 and addressed to Mr. Edward Mason (the owner of Bauer's Auto Wrecking and Towing) concerning the legal status of the subject property to support use as a Tow Yard. The letter confirms that the use of a tow yard on this site was, as of that date, a **legal nonconforming use**. Item 6(a) of that prior Zoning Inquiry determination confirmed that the applicant was to maintain a paved services as delineated on its Exhibit A. It also stated that the applicant was to *supply an additional layer of base rock within six months of that date to those areas where towed vehicles will be stored*.

2. That Zoning Inquiry's requirement of pavement was not a requirement of pavement to be constructed under Policy and Procedures No. C-002, which at item 3(iii)(a) requires pavement to be constructed in accordance with Public Works Standard P-21. Instead, the requirement was to use the base rock as the relevant pavement surface. This is evident from the fact that the prior Zoning Inquiry described the base rock as being located in those areas where towed vehicle's will be stored. It makes no mention of any further paving requirements.

3. In addition, Policy and Procedures C-002, was issued on June 14, 2011. It established standards for new and existing tow yards in specified industrial zones. The prior Zoning Inquiry arose based upon those requirements, and the response dated August 5, 2011, which confirmed that the subject property complied with legal requirements, was based upon application of Policy and Procedures C-002, and the City's determination that the site complied with those standards with the application of base rock for the pavement requirement.

4. That circumstance is further evidenced by the attached item 2, which is the Declaration of Mr. Mike Sanchez, the prior City of Fresno Planning Manager, and the issuer of the prior Zoning Inquiry response. He confirmed that the subject property received an evaluation in accordance with the requirements and standards of Policy and Procedures C-002, and assessed those compliances based on the property's status as a legal nonconforming use, and the authorities established by Condition 6 of Director's Classification No. 208, Second Amendment, to authorize an approved alternative surface as the relevant pavement. The City has not subsequently repealed nor modified Director's Classification No. 208, as amended by its Second Amendment.

5. The use of the subject property as a tow yard has been continuously maintained after the evaluations and confirmations required by Policy and Procedures C-002 were conducted. This is evened by the tow contracts that the property owner has maintained with the City of Fresno Police Department and other law enforcement authorities during those periods. In addition, after the City of Fresno Police Department suspended its contracts with the applicant in early 2021 (which action was reversed by the Decision and Order), the applicant continued to maintain such contracts and services with the Fresno County Sherriff's office and the California Highway Patrol. Those contracts with the

Sheriff and CHP for periods after 2020 that support this determination are listed on attached item 3, and available for further inspection if required.

6. As described above, the Decision and Order by the City of Fresno Hearing Officer under Honorable Independent Hearing Officer, Michael Flores, directed the Police Department to complete its reinstatement of the Tow Services Agreement and related Rotational Tow List within 14 calendar days of the issuance of such Decision and Order. That Decision and Order presumed good faith and diligent efforts would be conducted by the City during that 14 day period to confirm the property's legal compliances with Fresno Municipal Code Standards. That Decision and Order was issued on March 30, 2023, and the required confirmations have not yet been obtained. We therefore request that this evaluation and the confirmations requested under this Zoning Inquiry be handled expeditiously to avoid further damages to the property owner.

Respectfully Submitted,

Jeff Reid

Partner

McCormick Barstow et al LLP

7647 N. Fresno Street

Fresno, CA 93720

T (559) 433-2310

Jeff.Reid@mccormickbarstow.com

Brad Boulden

Attorney At Law

355 E. Avante Ave.

Fresno, CA 93720

Ph: (559) 425-6330

F: (559) 553-6220

brad@bouldenlaw.com

ATTACHMENT "1"

August 5, 2011

Edward Mason
317 West Voorman Avenue
Fresno, CA 93706

Please reply to:
Mike Sanchez
(559) 621-8040

Dear Mr. Mason:

**SUBJECT: TOW YARD LAND USE INQUIRY (Q-11-035) REQUESTING INFORMATION
RELATED TO PROPERTY LOCATED AT 317 WEST VOORMAN AVENUE
(ASSESSOR'S PARCEL NO. 458-040-22).**

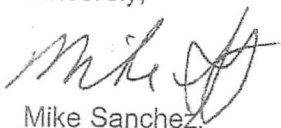
Thank you for your recent inquiry as to whether the existing tow yard on subject site is considered a legal non-conforming use. A review of the City of Fresno Municipal Code (FMC), the City of Fresno Official Zone Map, and review of permit, business license, code enforcement and entitlement records reveals the following information regarding the subject property:

1. The property is zoned M-3 (Heavy Industrial District). The 2025 Fresno General Plan designates the planned land use of the site as *Heavy Industrial*.
2. The existing tow yard use on the subject site has been in existence prior to January 24, 2006 (prior to the initial adoption of Director's Classification No. 208).
3. The subject site has never been required to file a conditional use permit or site plan review application for the use of the site as a tow yard.
4. The subject site has never had an open code enforcement case related to the existing tow yard use.
5. The existing use on the subject site, a tow yard with lien sales as well as auto dismantling is a use allowed in the M-3 zone district with a site plan review application pursuant to Director Classification No. 208.
6. Although the subject site does not have an approved site plan review application for this use, the proposed use has been determined to be a LEGAL NONCONFORMING USE. The use is considered nonconforming because it does not conform to current zoning regulations (no site plan approval). **As a legal nonconforming use, the site may continue to legally operate as a tow yard with lien sales.** All existing tow yards shall comply with the following minimum conditions:
 - a. The areas where cars or vehicle parts are stored and vehicles drive must be paved. The Applicant shall maintain a paved surface pursuant to the attached Exhibit A-1. The applicant shall also apply an additional layer of base rock, as necessary, within six months of the date of this letter, to those areas where towed vehicles will be stored.
 - b. The area where cars are stored must be completely screened from view from the public right-of-way or residential areas by a solid fence or wall. A chain link fence with slats is acceptable. All graffiti must be removed from these fences within 48 hours. *Staff has verified that this condition has been met.*

- c. The operator shall provide adequate security of vehicles and property at the storage site.
 - d. The storage of property other than motor vehicles is limited to personal property found inside the impounded vehicles.
 - e. Retail sales shall be limited to lien sales of vehicles and/or personal property not claimed by the owner.
7. Pursuant to Section 12-317-C-3 of the Fresno Municipal Code, the nonconforming use of land may be continued, but shall be subject to the following limitations: (1) such use shall not be expanded or extended in any way either on the same or adjoining land, (2) such use shall not be changed, except to a use which conforms to the regulations of the zone in which such land is located, and (3) if such use is discontinued it shall not thereafter be reestablished.
8. In order to modify or expand the existing nonconforming use, a full site plan review application will be required and the subject site will be required to comply with all existing codes, policies and regulations as applicable. The addition of buildings or structures requires a site plan review.
9. Please note that this letter only relates to the nonconforming use of the subject site as a tow yard. **It does not legalize any other uses on the subject site or legalize any other code violations that may exist on the subject site. Potential uses on the site that are NOT approved under this review are as follows:**
- a. Barbed tape or wire, concertina wire or similar security toppings are specifically prohibited in the city, except for barbed tape or wire constructed pursuant to a barbed wire permit. Applications for this permit may be obtained at the Planning Front Counter in City Hall.
 - b. The on-site parking lot striping may not conform to current standards. Parking lot geometrics have not been reviewed under this land use inquiry.
 - c. Any parking of company vehicles has not been approved to be off-site and should be contained on-site.

If you have any questions regarding this matter, please contact me at the number above.

Sincerely,

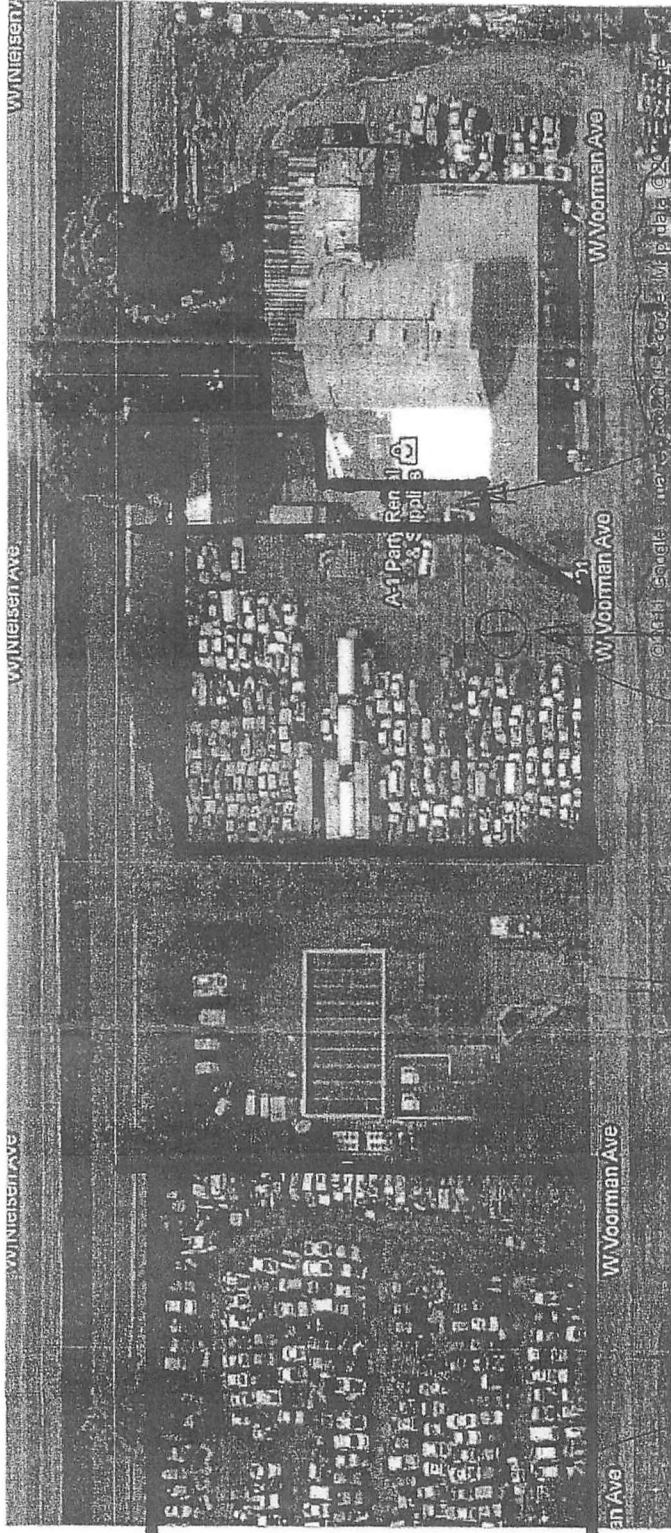


Mike Sanchez,
Planning Manager

CC: Fresno Police Department, Attn: Captain Hall (via e-mail)
Job Address File: 317 West Voorman Avenue

Google maps

To see all the details that are on screen, use the "Print" link next



Auto Dismantling YARD

NOTE
Apply Condition 6a
per 8/5/11 Appeal
letter.

Change Addition to Storage Area
STORAGE LOT AREA
Front Portion of yard
for towed vehicles

BAUER'S AUTO WRECKING
103 N. Thorne
Fresno, CA 93706

EXHIBIT A-1
8/5/11

ATTACHMENT "2"

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1 Letter and Exhibit "1" attached thereto), the only plan or future requirement I set forth, was an
2 additional base rock addition, "as necessary," requirement; and, that Bauer's add base rock to the
3 area, "as necessary," within six (6) months. I did not specifically provide that Bauer's needed to
4 "pave" the vehicle "Storage Lot Area" indicated on page three (3) of the letter (the illustration)
5 with asphalt, because I approved base rock as an "other approved surface" for paving. The
6 sentence where I set forth on page one (1) of the letter where I provided that, "Applicant shall
7 maintain a "paved" surface pursuant to Exhibit A-1" meant that the approved "paving" was to be
8 maintained by applying an additional later of base rock, as necessary, within six (6) months to
9 such Storage Lot Area that was not paved with asphalt, but was "paved" and approved as an
10 "other approved alternate surface" with base rock.

11 6. At the time of my approval letter, and with regard to other tow companies I
12 approved to be in compliance with C-002 around this time, base rock was also an "other
13 approved alternative surface" for the paving requirement at such towing company locations
14 according to the Planning Department due to Directors Classification No. 208 2nd Amendment,
15 Public Works Standard P-21, and my authority at the time in the scope and performance of my
16 job as City Planning Manager.

17 7. On Friday, May 12, 2023, I reviewed the approval letter I signed penned to Mr.
18 Ed Mason of Bauer's dated August 5, 2011. I also had the opportunity to review a color Google
19 Earth schematic of Bauer's property. Recalling the letter, and given my memory of this matter
20 and the inspection of August 5, 2011, again, I specifically recall that on behalf of the Planning
21 Department, I approved Bauer's location pursuant to C-002 requirements (which was signed by
22 my hand and dated June 14, 2011), Directors Classification No. 208 2nd Amendment (dated June
23 17, 2010), and based on the fact that "A paved surface, or other approved alternative surface . . ."
24 and the base rock utilized at Bauer's vehicle storing location on this day sufficed for a "paved"
25 surface under C-002 for any outside vehicle or vehicle parts storage area, as afforded by City of
26 Fresno Public Works Standard P-21 and my authority as Planning Manager.

27 ///

28 ///

1 I declare under penalty of perjury under the laws of California that the foregoing is true
2 and correct, and that this declaration was executed in Fresno, California on May 12, 2023.

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5 _____
6 Michael Sanchez
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ATTACHMENT "3"

**BAUER'S AUTO WRECKING & TOWING
LAW ENFORCEMENT TOWING CONTRACTS
2020 THROUGH PRESENT**

I. CALIFORNIA HIGHWAY PATROL (FRESNO AREA)

Tow Service Agreements. Bauer's was and is currently a rotational tow list operator for the CHP for the following relevant years. It was also continuously a rotational tow list operator for the CHP since the mid 1990's. The relevant years are:

- July 1, 2023 Through July 1, 2024
- July 1, 2022 Through July 1, 2023
- July 1, 2021 Through July 1, 2022
- July 1, 2020 Through July 1, 2021

II. FRESNO COUNTY SHERIFF DEPARTMENT

- January 25, 1995
 - Bauer's has towed continuously for the Fresno County Sheriff's Department as a rotational tow operator on its Tow Service Agreement since 1/25/1995. The FCSD has not issued or required updated contracts since such time, but Bauer's has continuously towed under such contract since 1995.