

Exhibit E – Zoning Inquiry P23-02357
Response Letter

September 26, 2023

Ed Mason
Bauer's Auto Wrecking
317 West Voorman Avenue
Fresno, CA 93706

Please reply to:
Phillip Siegrist
559-621-8061
phillip.siegrist@fresno.gov

**SUBJECT: ZONING INQUIRY NO. P23-02357 FOR INFORMATION FOR PROPERTY
LOCATED AT 317 WEST VOORMAN AVENUE (ASSESSOR'S PARCEL NO.
458-040-22)**

Thank you for your letter of inquiry regarding zoning of the subject parcel. The requested information about Fresno Municipal Code (FMC) Zoning Ordinance compliance has been obtained from public records in the Planning and Development Department. The City of Fresno, on December 3, 2015, adopted a new Citywide Development Code, Chapter 15 of the Fresno Municipal Code. In addition, a citywide rezoning was passed by the Fresno City Council on February 4, 2016, and became effective on March 7, 2016. This zoning inquiry reflects the updated zone district classification changes to the property.

You requested the following information:

- Confirm zoning
- Confirm conformity

In addition, you requested the following information:

This is an application for a Zoning Inquiry related to real property located at 317 West Voorman Avenue (Assessor's Parcel No. 458-040-22). This Zoning Inquiry is related to the implementation of the March 30, 2023, Decision and Order by the City of Fresno Independent Hearing Officer wherein Bauer's Auto Wrecking and Towing was ordered to be reinstated to the current Tow Services Agreement and related Rotational Tow List within 14 calendar days of the issuance of such Decision and Order, during which the Fresno Police Department was to confirm that Bauer's Auto Wrecking and Towing meets all standards and requirements under the current Tow Services Agreement and all applicable Fresno Municipal Code, State and Federal Laws.

The undersigned previously requested a determination from the Planning Director confirming its operations was in compliance with applicable Fresno Municipal Code standards, and received an oral conveyance, from the City Attorneys Daniel Casas and Jennifer Nguyen-Bui that, Bauer's property was required to comply with the requirements of Fresno Planning Department's Policy and Procedure C-002, including standards of pavement. This request is to seek a written determination from the Planning Director regarding such matters, and to request that such decision take into account the information submitted in support of this application.

The request is for the Planning Director's written confirmation that the use of the subject property for a Tow Yard satisfies relevant zoning laws of the City, based on the following facts and evidence. Alternatively, the request is for the Planning Director's written statement of the specific circumstances that exist that result in a violation of such laws, and particularly any violations of Policy and Procedures No. C-002. The facts and evidence are continued in Exhibit 1 attached to this Application. Please also first focus on the second and third attachments, as the D-5-31-23 attachment is unable to be removed from this Application from prior working on this Application on June 26, 2023. Thank you.

This letter verifies that the subject assessor's parcel pertains to ± 2.19 acres of property located between West Voorman and West Nielsen Avenues, west of North Thorne Avenue in Fresno, California. Research of the property reveals the following:

1. The subject parcel is located within the boundaries of the updated Fresno General Plan adopted on December 18, 2014. The Fresno General Plan may be accessed by clicking the following link: [Long-Range Plans & Development Code](#).
2. The Fresno General Plan and the Downtown Neighborhoods Community Plan designate the subject property as Employment – Heavy Industrial planned land use. These planning documents serve the community as tools for coordinating local policies and implementation programs and determining the strategy for the continued land use development within the city.
3. The subject property is located in the IH (*Heavy Industrial*) zoning district. Pursuant to the FMC [Chapter 15, Article 13](#), the IH Zone District is intended accommodate the broadest range of industrial uses on sites identified in the General Plan. It includes manufacturing, assembly, wholesaling, distribution, and storage activities that are essential to the development of a balanced economic base. Small-scale commercial services and ancillary office uses are also permitted. The IH zone district is consistent with the Employment – Heavy Industrial planned land use designation.
4. Surrounding properties are classified as follows:
 - North: IH (*Heavy Industrial*)
 - South: IH (*Heavy Industrial*)
 - East: IH (*Heavy Industrial*)
 - West: IH (*Heavy Industrial*)
5. The subject property is currently developed and utilized as a Tow /Automobile Impound Yard (Bauer's Towing/Auto Wrecking).
6. Pursuant to FMC Section 15-6704 (Commercial Use Classifications), the existing use would be classified as Towing and Impound, which is a sub classification of the more general Automobile/Vehicle Sales and Services. Towing and Impound is defined as follows:

- **Towing and Impound.** Establishments primarily engaged in towing light or heavy motor vehicles, both local and long distance. These establishments may provide incidental services, such as vehicle storage and emergency road repair services (for automobile dismantling, see Salvage and Wrecking).

7. Development of the subject parcel was facilitated by, and in accordance with, the following applications, policies, etc.:

- Annexation No. 890: the subject property was annexed into the City of Fresno on July 21, 1980.
 - Per aerial images made available from the Map and Aerial Locator Tool (MALT) the subject property does not appear to be operating as a as a Tow Yard prior to being annexed into the City of Fresno in 1980.
- According to available City of Fresno Business Tax Division records, Bauer's Towing has been continually operating at this site and has maintained a valid Business Tax Certificate since August 1, 1984.
- **Director's Classification No. 208** (2nd amendment), approved on June 16, 2010 (initially adopted January 24, 2006), permitted "Towing, Storage and Lien Sales of Impounded Motor Vehicles" in the:
 - 1) C-M and M-1 Districts, subject to a conditional use permit, and conditions contained below; and
 - 2) 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 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 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, 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.

- **Policy and Procedure No. C-002** dated June 14, 2011, provided City staff, tow yard business owners and the general public the ability to verify whether or not a Tow Yard was legally established and/or a legally allowable use on a specific site.

According to item No. 3 of Policy and Procedure No. C-002 and as it relates to the subject property and use:

- 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.

- 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.

According to procedures outlined in Policy and Procedure No. C-002, requests for verification are to be filed as a Zoning Inquiry and the applicant is to 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.

➤ **Zoning Inquiry No. Q-11-035** (submitted July 7, 2011 under HTE Naviline No. PZ11-80000105) dated August 5, 2011 was prepared and processed in response to Policy and Procedure No. C-002 dated June 14, 2011.

- It is noted that the subject site, specifically the areas where cars or vehicles are stored and vehicles drive, is not paved nor constructed to Public Works Standard P-21 as required in accordance with policy item 3-iii-a.
- It is further noted that base rock material does not meet the standards detailed in Public Works Standard P-21. Additionally, it is noted that there are no records of grading plans and permits being submitted or pulled for installation of pavement on the site.

Therefore, the site is not in conformance with the standards and requirements outlined under Policy and Procedure No. C-002 dated June 14, 2011.

8. Pursuant to FMC Table 15-1302 (Land Use Regulations – Employment Districts), Towing and Impound is permitted in the IH zone district with an approved Conditional Use Permit and subject to additional regulations in accordance with FMC Section 15-2765 (Vehicle Impound Yard (Tow Yard) and Transit Storage.

➤ Pursuant to FMC Section 15-2765-A (Existing Facilities), Existing facilities established prior to January 24, 2006 may continue to operate subject to the following conditions:

- 1) Compliance with all Conditions of Project Approval per the pertinent entitlement.
- 2) If an entitlement was not required per zoning regulations, the applicant shall provide evidence, satisfactory to the Director, that the facility:
 - a) Was established prior to January 24, 2006 and that the use has been in continuous use;
 - b) The site has had a valid business license since January 24, 2006; and
 - c) The site does not have any outstanding items from Code Enforcement.

9. The existing use was not established with an approved Conditional Use Permit or other land use entitlement. However, the existing use was established prior to January 24, 2006 (as evidenced in the Zoning Inquiry No. Q-11-035) and has been in continuous use, has maintained a valid business license since January 24, 2006 and has no outstanding Code Enforcement violations related to the use (Tow Yard). Therefore, according to the current zoning ordinance and regulations for the IH zone district, the current use (Tow Yard) of the subject property is a legal non-conforming use which is subject to the provisions of FMC Section 15-404, Legal Non-Conforming Uses.

- **Continuation of Legal Non-Conforming Uses.** Except as otherwise provided in this article, any Legal Non-Conforming use may be continued indefinitely. No Illegal Non-Conforming use shall be continued unless such use subsequently comes into conformity with the applicable provisions of this Code.
- **Expansion of Legal Non-Conforming Uses.** A Legal Non-Conforming use shall not be expanded unless a Conditional Use Permit is granted for such expansion. Prior to issuance of a Conditional Use Permit, it must be determined that at least one of the following three circumstances exists: 1. The resultant use and/or project design will reduce current adverse impacts on adjacent properties and/or on the general public; 2. The resultant use and/or project design will aid in the preservation of a historic resource; or 3. The expansion of the use or the enlargement of a structure housing a non-conforming use is necessary to comply with a requirement imposed by law for the operation of the particular use, including, but not limited to, regulations for disabled access or seismic retrofit.
- **Change of Legal Non-Conforming Use.** A Legal Non-Conforming use shall not be changed to, or substituted for, another non-conforming use unless a Conditional Use Permit is granted for such change or substitution. To grant such a Conditional Use Permit the Director must first find that, in addition to the findings required by Section 15-404-B, the resultant use will be more consistent with the uses permitted in the district than the former use.
- **Abandonment of Legal Non-Conforming Uses – All Other Districts.** A Legal Non-Conforming use shall not be re-established in any structure if such Legal Non-Conforming use has ceased for a consecutive 12-month period within five years of January 3, 2016. Once the five year period from the effective date of this Code has passed, a Legal Non-Conforming Use shall not be re-established in any structure in a Non-Residential District if such Legal Non-Conforming Use has ceased for a consecutive period of 90 days or more.

This information was researched by the undersigned per the zoning request. The undersigned certifies that the above information contained herein is believed to be accurate and is based upon, or relates to, the information supplied by the requestor. The City of Fresno assumes no liability for errors and omissions. All information was obtained from public records held by the

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Planning and Development Department, which may be inspected during regular business hours.

A copy of the FMC may be obtained by contacting the City Clerk's office at (559) 621-7650. The FMC may also be searched on the Internet, free of charge, by going to www.fresno.gov. If you have questions regarding this matter, please contact me by telephone at (559)621-8486 or at Phillip.Siegrist.gov.

Sincerely,



Phillip Siegrist
Planning Manager
Planning and Development Department

Attachments: Director's Classification No. 208 dated June 16, 2010
Policy and Procedure No. C-002 dated June 14, 2011
City of Fresno Department of Public Works Standard P-21
Zoning Inquiry No. Q-11-035 dated August 5, 2011 (HTE Naviline No. PZ11-80000105)
Material Submitted by Applicant



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:

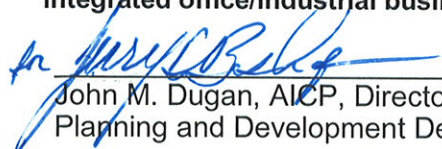
Title: "Towing, Storage and Lien Sales of Impounded Motor Vehicles"

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

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.



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.

- 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

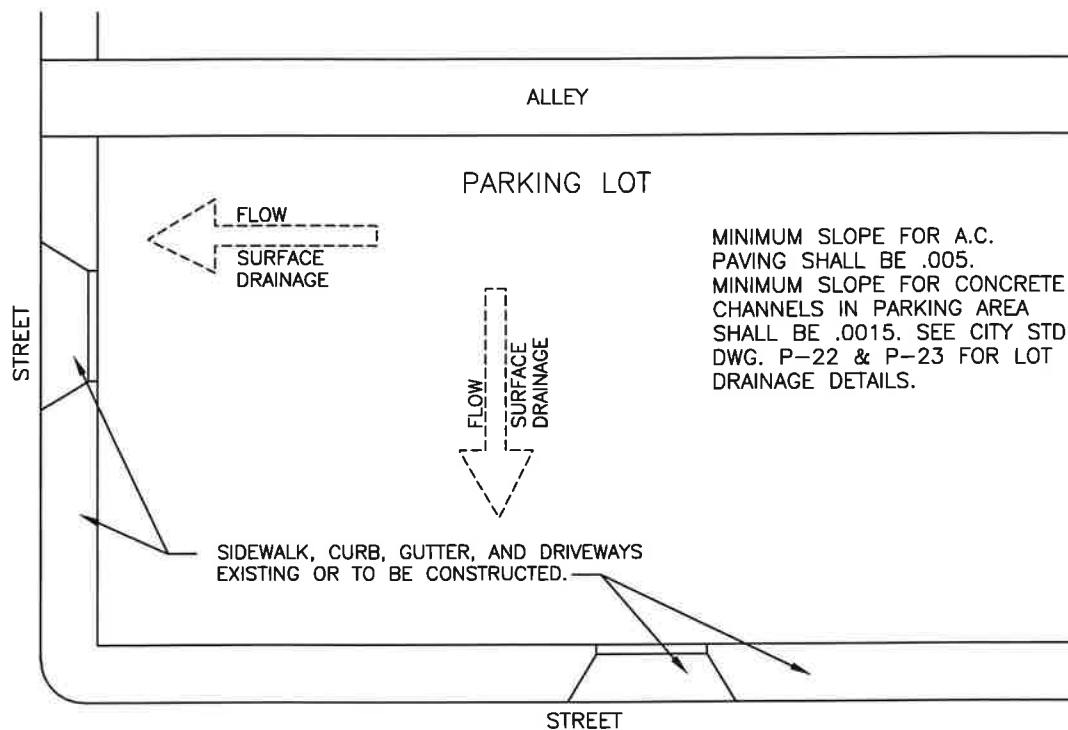
Signature:



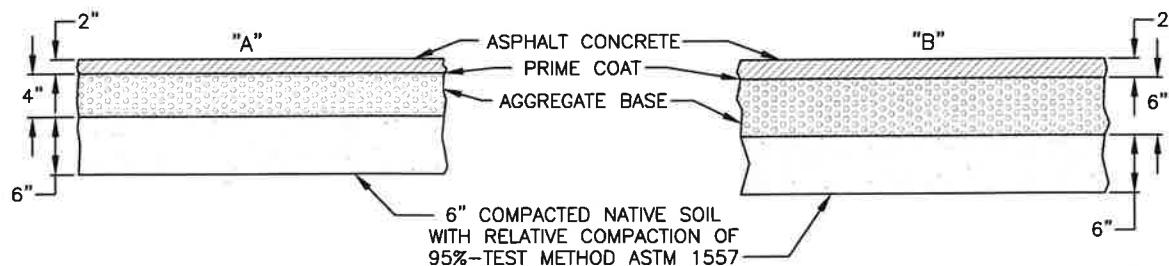
Mike Sanchez, Planning Manager

Dated:

6/14/11

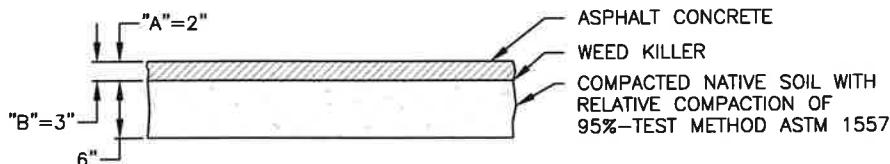


TYPICAL CROSS SECTIONS



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.



DEVELOPMENT AND RESOURCE MANAGEMENT

2600 Fresno Street • Third Floor
Fresno, California 93721-3604
(559) 621-8277; FAX (559) 498-1026

Mark Scott
Interim Director

TOW YARD LAND USE VERIFICATION APPLICATION

A written response for a Tow Yard Land Use Verification will provide the following standard information for the requested property located within the City of Fresno:

- Zoning District
- Conformity of Use to the Fresno Municipal Code Zoning Ordinance
- Ability to Operate as a Tow Yard which may be approved by an established Governmental Law Enforcement Agency

PROPERTY INFORMATION (Provide the following information for the property in question.)

Address 317 W. VODKMAN; 103 N. THORNE APN 458-040-22

Existing Land Use (include all uses of land and buildings)

AUTO STORAGE
AUTO STORAGE & AUTO DISMANTLING

ADDRESS THE LETTER TO:

Name EDWARD MASON Phone (559) 233-9046
Address 103 NORTH THORNE AVE Email Ed@BAUERSAUTOWRECKING.COM
City FRESNO State CA Zip Code 93706

Please read carefully before signing or filing.

Submission of this application does not imply approval by the Development and Resource Management Department. Application approval will become null and void if it is determined that approval was based on omissions or inaccurate information submitted by the applicant.

Note: This application will not be deemed as accepted for processing without the mandatory attachments. Please see the corresponding **Application Submittal Requirements** for the checklist(s) of required documents.

Signature [Signature] Ed Mason

Request for a written response for Tow Yard Land Use Verification shall not be processed until payment for the service has been received. The fee is \$510, payable to the City of Fresno.

For Department Use Only

Accepted by BP Date 7.7.11 PZ# 11.8.105
Zone District M-3 Application # 6-11-105
S-11-045

Created 070111

Payment Due Selection - City of Fresno

SUNGARD PUBLIC SECTOR
NavLine



Payment Due Selection

Project number: 11 80000105

Project description: CUP TOW YARD BAUER'S AUTO WRECKING

Project type: CUP 90

Select	Amount To Apply	Balance Due	Fee Description	Transaction Amount
	510.00	510.00	C U P APPLICATION 1 ACRE	510.00

510.00

✓ OK

✗ Exit

✗ Cancel

Select all fees

C-11-105



Owner's Letter of Authorization

NAME AND ADDRESS OF OWNER(S) OF THE PROPERTY

Name: Betty Lou Bauer
Address: 1146 E. Cartland
City: Fresno State: Ca Zipcode: 93704
Phone: 227-0389 Email: _____

To Whom It May Concern:

As owner(s) of the property located at 317 W. VOORMAN ! 103 NORTH THORNE
I/we authorize EDWARD MASON to act as Agent for the following permit(s):

Sincerely,

BETTY LOU BAUER
Owner's Printed Name

Betty Lou Bauer
Owner's Signature

July 6, 2011
Date



AUTO WRECKING
American & Foreign

A Computerized Inventory and Interchange Yard

103 N. Thorne Ave. • Fresno, CA 93706 • (559) 233-9046 • (800) 678-9046 • FAX (559) 233-0513

City Of Fresno
Development & resource Management Department
Development Services Division
2600 Fresno Street, Room 3043
Fresno, CA 93721-3604

The following statements are informational to comply with our Tow Yard Land Use Application.

Our Business Name and Address:

Bauer's Auto Wrecking
103 North Thorne Avenue
Fresno, CA 93706

Contact Name:

Edward Mason
(559) 233-9046 or (559) 233-9121

With towing storage located west and directly behind the Thorne Avenue address location, at:

317 West Voorman
Fresno, CA 93706

We are a fully licensed, State of California, Auto Dismantler. Dismantler License Number DM16289, who is also engaged in the towing business. Our offices, parts and towing sales counter is located at 103 North Thorne, with stored towing vehicles, stored directly behind the Auto Dismantling Yard at 317 West Voorman.

Are normal open door business hours, are from Monday though Friday, from 8 A.M. to 5 P.M. except for the major holidays. We are also available for 24/7 towing by request and after hour vehicle pick-ups.

We currently have 3 tow trucks in service, with a fourth coming soon. The business as a whole, has 6 people employed. Some tow trucks are taken home for 24/7 calls, others are stored at either of the two addresses, when not in service.

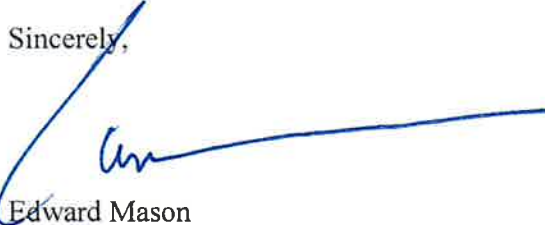
People visiting this location for towing related issues, should average no more than 4-5 parties on business days, and 1-2 a week, after hours. Our trucks will come and go 24/7, with the volume averaging about 4-5 times, each 24-hour period.

Complying with 3.iv. (a,b,c & d) Tow Yard Policy

- a. The storage yard is located at the end of a dead end street, and land locked on the east and west sides by fencing and other business. The south side is also fenced and protected by a canal. The north side with the entry gate is also well fenced and located at the end of a dead end street with very limited traffic. The storage yard is also well hidden from public site. We also have both locations under recorded video surveillance 24/7.
- b. The front area of the Voorman address will be used for towing, and stored towed vehicles only.
- c. We conduct all sales at the Thorne Avenue address, which is also the dismantling yard part of the operation, and which is fully licensed and permitted to sell parts and junked vehicles. The towed vehicles not picked up by owner at the Voorman storage yard after being properly lien sale, will be junked, and then processed at the Thorne Avenue site only.
- d. We are a fully licensed auto dismantler and will perform this type of work only at the Thorne Avenue address.

By the nature of our primary business, I believe, we will exceed legally exceed the conditions needed to comply.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Em', with a long horizontal stroke extending to the right.

Edward Mason
Bauer's Auto Wrecking

CITY OF FRESNO BUSINESS TAX CERTIFICATE

EXPIRES: March 31, 2011

Business Name: BAUER AUTO WRECKING
Description:

Location: 103 N THORNE AVE
Tax Account No. 7632

This tax certificate must be available for inspection by any authorized City of Fresno employee. Please detach and display this TOP portion in your business. Businesses that do not maintain a fixed location, or are located outside the City, should carry this Tax Certificate while conducting business within the City. This certifies that the noted business has a Business Tax Certificate with the City of Fresno. It is effective through the expiration shown above. It does not, however, entitle the holder to carry on business activities in a manner inconsistent with any applicable provision of the Fresno Municipal Code.

BUSINESS NAME & MAILING ADDRESS
BAUER AUTO WRECKING
103 N THORNE AVE
FRESNO, CA 93706-1441



Joe Gray
Controller

Information: 559-621-6880

CITY OF FRESNO BUSINESS TAX CERTIFICATE

EXPIRES: March 31, 2011

Business Name: BAUER AUTO DISMANTLER
Description:

Location: 103 N THORNE AVE
Tax Account No. 7633

This tax certificate must be available for inspection by any authorized City of Fresno employee. Please detach and display this TOP portion in your business. Businesses that do not maintain a fixed location, or are located outside the City, should carry this Tax Certificate while conducting business within the City. This certifies that the noted business has a Business Tax Certificate with the City of Fresno. It is effective through the expiration shown above. It does not, however, entitle the holder to carry on business activities in a manner inconsistent with any applicable provision of the Fresno Municipal Code.

BUSINESS NAME & MAILING ADDRESS
BAUER AUTO DISMANTLER
103 N THORNE AVE
FRESNO, CA 93706-1441



Joe Gray
Controller

Information: 559-621-6880

2011 EPA ID NUMBER VERIFICATION QUESTIONNAIRE
Return within 30 days to avoid suspension of your EPA ID Number

See Instructions on back.

Please type or print clearly and use only standard abbreviations.

Mailing Address: If no change, please leave blank.

BAUER'S AUTO WRECKING
103 N THORNE AVE
FRESNO, CA 93706-1441

Address: _____

City/State/Zip: _____

DO NOT WRITE IN THIS BOX. If the information in this box is incorrect, call (877) 454-4012.

1. EPA ID NUMBER: **CAL000057021**
2. LOCATION ADDRESS: 103 N THORNE AVE
FRESNO, CA 93706-1441

If your business has moved, a new EPA ID Number is required. See instructions on back.

3. FEDERAL EMPLOYER ID NUMBER (FEIN) REQUIRED: 77-0078760 (Also called a Federal Tax ID.)
If you do not have a Federal Employer Identification Number, please provide your Social Security Number.
4. BOARD OF EQUALIZATION NUMBER (BOE) Hazardous Waste Number: _____ (HG EF 36-xxxxxx)
REQUIRED ONLY IF GENERATING 5 OR MORE TONS OF HAZ WASTE PER YEAR.
5. COMPANY OWNER INFO: **IMPORTANT** – If you are a new owner and this is a California EPA ID Number (CAL and some CAD prefixes) that belonged to the previous owner, do not enter new information on this form. Check Box 6 to cancel this ID Number.

Company Owner Info Change: If no change, please leave blank.

Owner or Corp. Name: _____

☐ Name Change Only /No Ownership Change

☐ Ownership Change* Date of Ownership Change*: _____

Address: _____

City/State/Zip: _____

Telephone: _____ Fax: _____

* Federal EPA ID Numbers Only. California EPA ID Numbers are not transferable.

6. ☐ **CHECK TO CANCEL THE EPA ID NUMBER SHOWN ON LINE 1. ID NUMBER WILL BE CANCELED EFFECTIVE 6/30/2011.**
If you checked this box in prior year(s) and did not manifest in 2010, please contact our office. (See back for more info.)

7. COMPANY NAME:
BAUER'S AUTO WRECKING

Company Name Change: If no change, please leave blank.

8. CONTACT INFO:
EDWARD MASON
103 N THORNE AVE
FRESNO, CA 93706-1441
(559)233-9046
(559)233-0513
ED@BAUERSAUTOWRECKING.COM

Contact Info Change: If no change, please leave blank.

Name/Title: _____

Address: _____

City/State/Zip: _____

Telephone: _____ Fax: _____

Business Email Address: _____

9. SIC CODE (4 digits):
5013

If printed SIC Code is incorrect, please enter correct Code.
5 0 1 3 See instructions on back for SIC Code information.

10. I hereby certify under penalty of perjury that the information above and on the fee form is true and correct.

Name (please print): Edward Mason Title: Owner

Signature: _____ Date: 6/10/11

Bauer's

AUTO WRECKING
American & Foreign
Hot Line & Teletype Service
(559) 233-9046
(800) 678-9046

103 N. Thorne Ave.
Fresno, CA 93706

■ ■ ■ ■ ■

STORM WATER POLLUTION PREVENTION PLAN

To Comply With
California Regional Water Quality Control Board
Central Valley Regional Water Board
3614 East Ashlan Avenue
Fresno, California 93726
(559) 445-6071

FOR

FACILITY: BAUER'S AUTO WRECKING

ADDRESS: 103 NORTH THORNE AVENUE

CITY / STATE / ZIP: FRESNO, CALIFORNIA 93706-1441

PHONE: (559) 233-9046

RESPONSIBLE PERSON: EDWARD MASON, OWNER

OPERATOR: EDWARD MASON

DATE NOTICE OF INTENT FILED: ON OR ABOUT FEBRUARY 1, 1993
REVISED, SEPTEMBER 13, 2002

STATE WATER RESOURCES CONTROL BOARD PERMIT #: 5C10S009872

■ ■ ■ ■ ■

STATE WATER RESOURCES CONTROL BOARD

PAUL R. BONDERSO BUILDING
11 P STREET
P.O. BOX 100
SACRAMENTO, CA 95812-0100

(916) 657-1146
FAX: (916) 657-2388



ED MASON
BAUER'S AUTO WRECKING
103 NORTH THORNE AVENUE
FRESNO CA 93706

March 30, 1993

STATUS OF YOUR NOTICE OF INTENT

Enclosed is a revised permit package for the STATEWIDE GENERAL INDUSTRIAL ACTIVITIES STORM WATER DISCHARGE PERMIT, under which you are currently registered as a permittee. The revisions to the permit package are: a revised, expanded "fact sheet", minor technical or editorial amendments to the permit, replacement of the entire Section B: Monitoring Requirements with generally less difficult monitoring requirements, and minor modifications to the Notice of Intent form. We particularly wish to draw your attention to the new Section B: Monitoring Requirements.

Your receipt of this letter is acknowledgement of your registration as a general permittee according to the information you submitted on your Notice of Intent to Comply with the terms of the General Permit.

FACILITY DESCRIPTION

Owner: BAUER'S AUTO WRECKING
Facility: BAUER'S AUTO WRECKING
Facility Address: 103 NORTH THORNE AVENUE
City: FRESNO County: FRESNO
Type of Business: AUTO DISMANTLING

Your permit identification number is 5C10S009872. Please use this number in any future communications with the State Water Resources Control Board or appropriate Regional Water Quality Control Board regarding this permit.

Dischargers are required to resubmit an amended NOI to reflect a change in owner/operator or operational status. Upon notification to the State Water Board that your facility is no longer operational or is no longer to be covered by the General Permit, it will be removed from the roll of general permittees. Unless notified that a facility is no longer to be covered under the General Permit, you will continue to be invoiced for an annual fee.

If you have any questions regarding permit requirements, please call the Regional Water Quality Control Board at (209)445-5116.

Sincerely,

Archie H. Matthews, Chief
Regulatory Section
Division of Water Quality

Notify Environmental Health of any change of ownership, type of business activity, business name, or billing address by calling 559 445-3357. Failure to notify Environmental Health may result in late penalties, Permit denial or revocation, and business closure. Permits to Operate and fee payments are not transferable or refundable. Permits become void on change of ownership. New owners must apply and pay for a new Permit(s) prior to beginning operation or penalties will be assessed at 10% per month or fraction thereof.

ATTN : EDWARD MASON
BAUER'S AUTO WRECKING
103 N THORNE AVE
FRESNO CA 93706

CT 000700

DETACH FORM HERE AND DISPLAY CONSPICUOUSLY ON THE PREMISES



**Department of Public Health
Environmental Health Division**
P O Box 11867, Fresno CA 93775-1867
559 445-3357
EnvironmentalHealth@co.fresno.ca.us
www.fcdph.org

REGULATED FACILITY :

**BAUER'S AUTO WRECKING
103 N THORNE AVE
FRESNO CA 93706**

Facility ID: FA0271974
Account ID: AR0011840
Issued: 5/17/2011

OWNER NAME :

MASON, EDWARD

UNIFIED PROGRAM FACILITY PERMIT

This facility shall comply with all of the following:

Permit to Operate #PT0014679/PR0048549 – 2245-AUTO REPAIR/MAINTENANCE MODEL PLAN
Permit Valid From 06/01/2011 To 05/31/2012

- Hazardous Materials Release Response Plan (HMRRP) – Health and Safety Code, Division 20, Chapter 6.95, Article 1 (commencing with Section 25500).

Permit to Operate #PT0014680/PR0054243 – 2232-HAZARDOUS WASTE GENERATOR (SQG)
Permit Valid From 06/01/2011 To 05/31/2012

- Hazardous Waste Generator – Health and Safety Code, Chapter 6.5 (commencing with Section 25100); and Title 22, California Code of Regulations, Division 4.5, Chapter 12 (commencing with Section 66262.10).

Edward L. Moreno, M.D., M.P.H., Director, Department of Public Health

Permits to Operate and fee payments are not transferable or refundable. Permits referenced above are valid only for this owner: MASON, EDWARD. Permits become void on change of ownership. New owners must apply and pay for a new Permit(s) prior to beginning operation or penalties will be assessed.

THIS FORM MUST BE DISPLAYED CONSPICUOUSLY ON THE PREMISES

EDWARD MASON
ed@bauersautowrecking.com

Bauer's

AUTO WRECKING
American & Foreign

103 N. Thorne Ave.
Fresno, CA 93706

(559) 233-9046
(800) 678-9046



CALIFORNIA STATE BOARD OF EQUALIZATION

SELLER'S PERMIT

8-84

SR DH 22-754916

ACCOUNT NUMBER

Bauer Auto Wrecking
Edward Bauer
Sharon Kaye Bauer-Mason
103 N. Thorne Ave.
Fresno, Ca. 93703

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW
TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL
PROPERTY AT THE ABOVE LOCATION

STATE BOARD OF EQUALIZATION

THIS PERMIT IS VALID UNTIL REVOKED OR
CANCELLED BUT IS NOT TRANSFERABLE

BT-442-R REV. 9 (1-83)

DISPLAY CONSPICUOUSLY AT THE PLACE OF BUSINESS FOR WHICH ISSUED



A Public Service Agency

VEHICLE DISMANTLER

Lic. No.: **16289**

Date Issued: **OCT 13, 2010**

Expiration Date: **AUG 31, 2012**

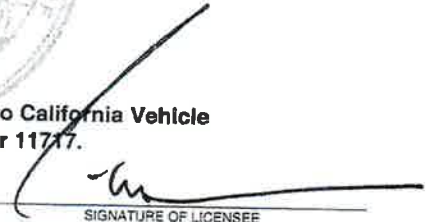
This license is valid for the period indicated above. This license shall be signed and displayed in the office at the address shown below, pursuant to the California Vehicle Code.

ISSUED **BAUERS AUTO WRECKING**
TO **103 N THORNE AVENUE**
VALID **FRESNO**
ONLY AT **CA 93706**

DM

License must be renewed prior to expiration date pursuant to California Vehicle Code Sections 11105, 11105.6, 11204, 11410, 11508, 11620 or 11717.

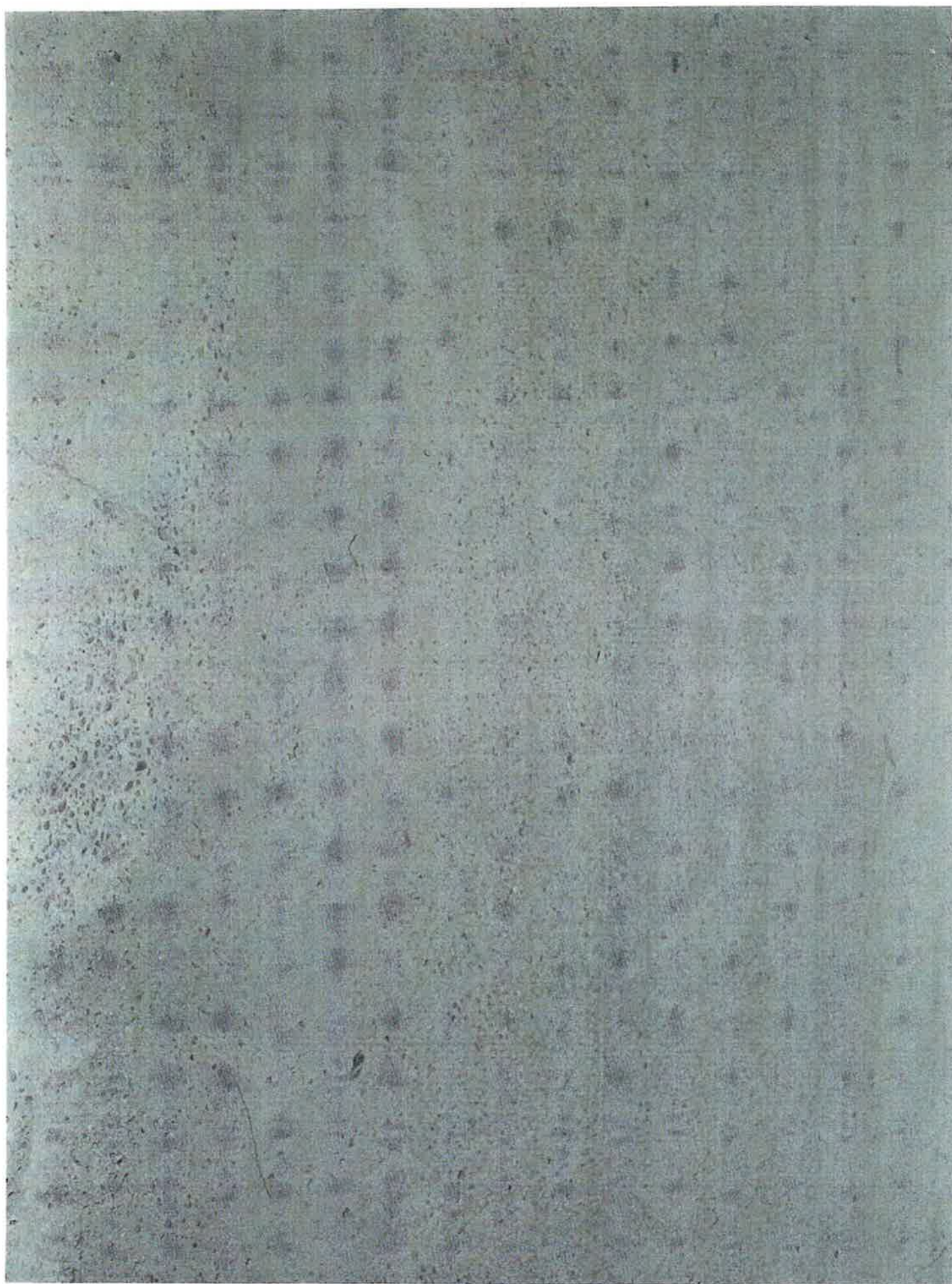
FORM CONTROL NO. **1052733**


SIGNATURE OF LICENSEE







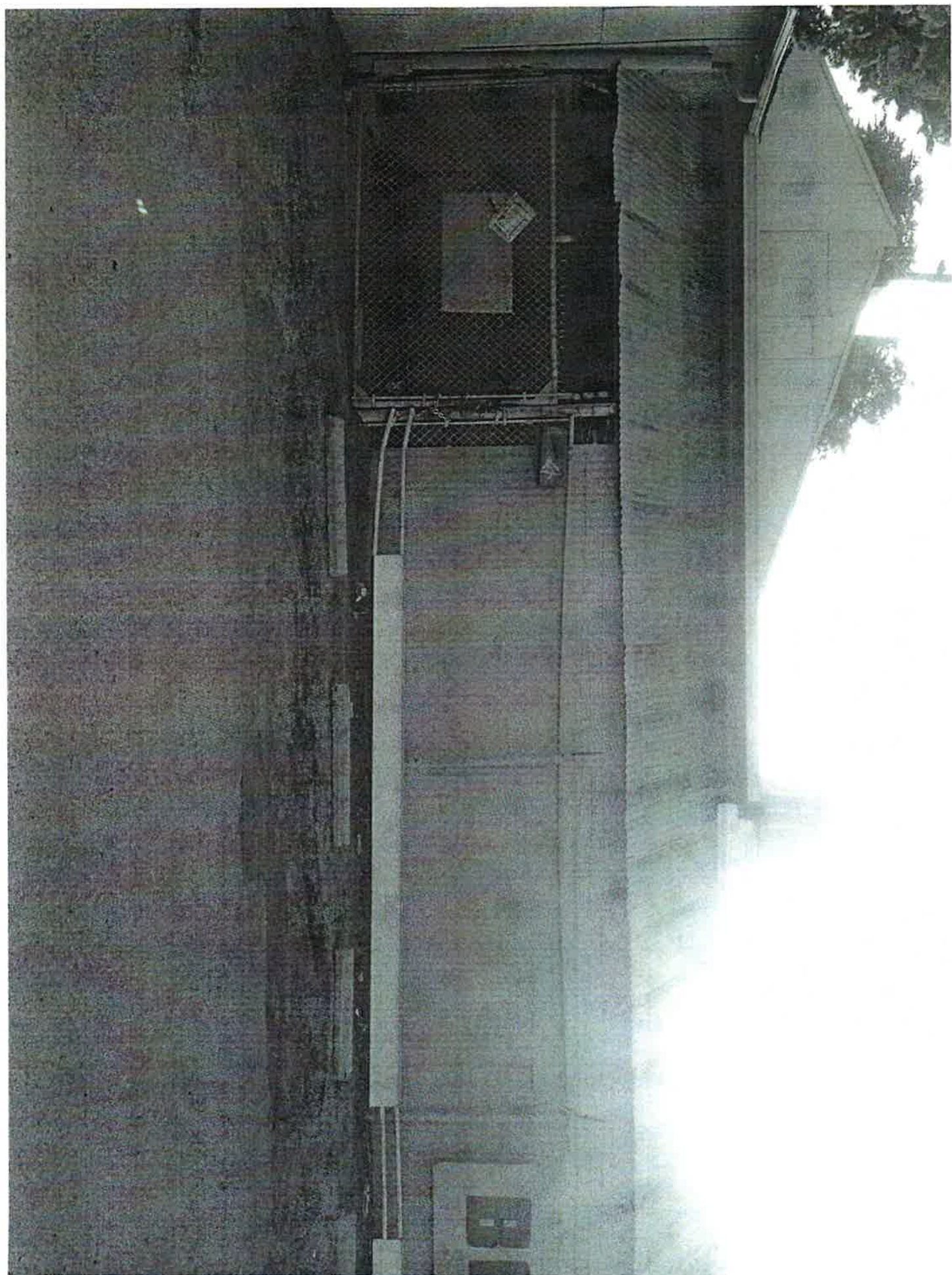






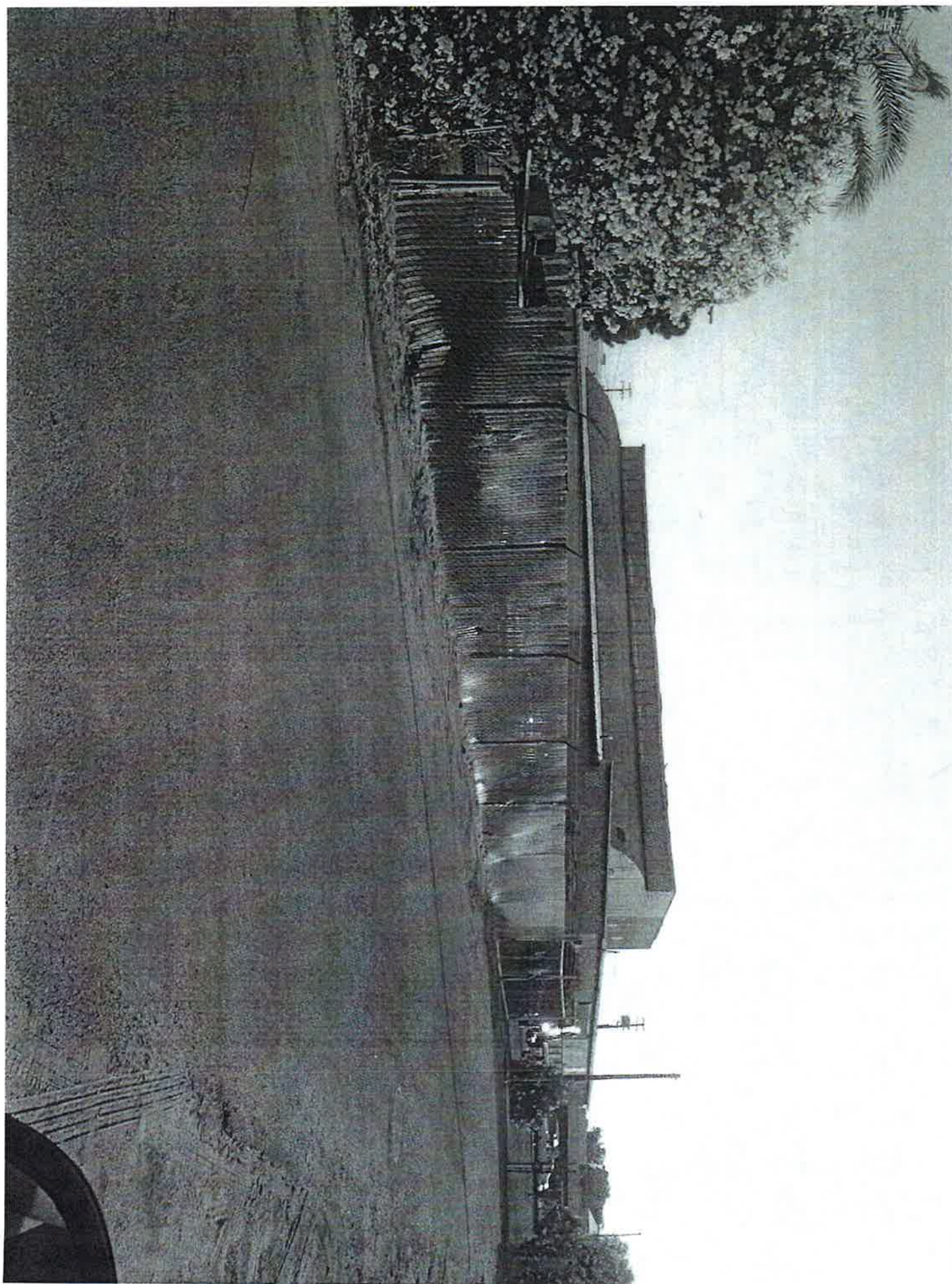
Bauer's AUTO WRECKING
TOWING
103 N. THORNE AVE
OPEN 8:2 - 5: MON-FRI
CLOSED SAT SUN & HOLIDAYS
AFTER HOURS
TOWING INFO PH 233-9121





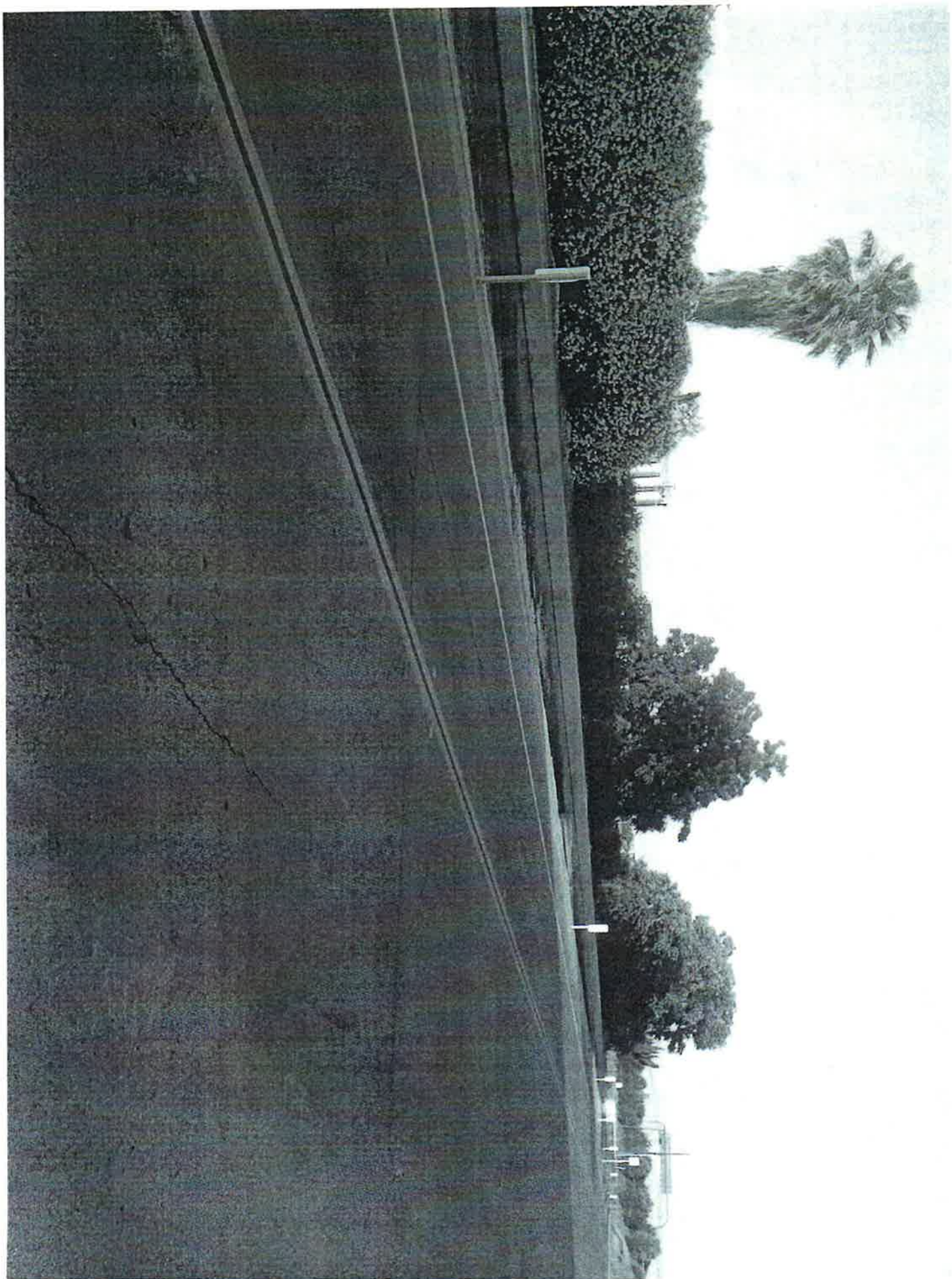




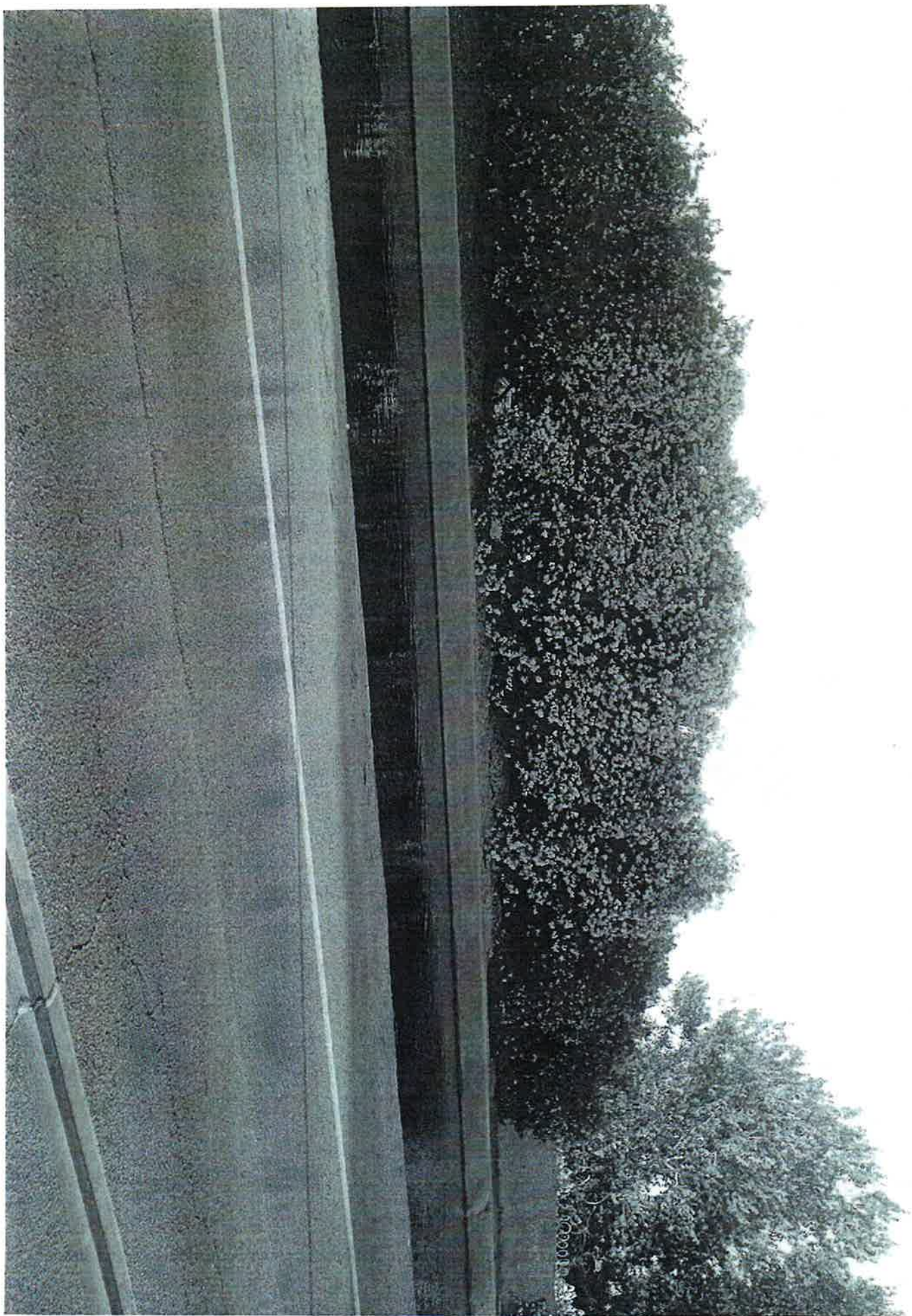


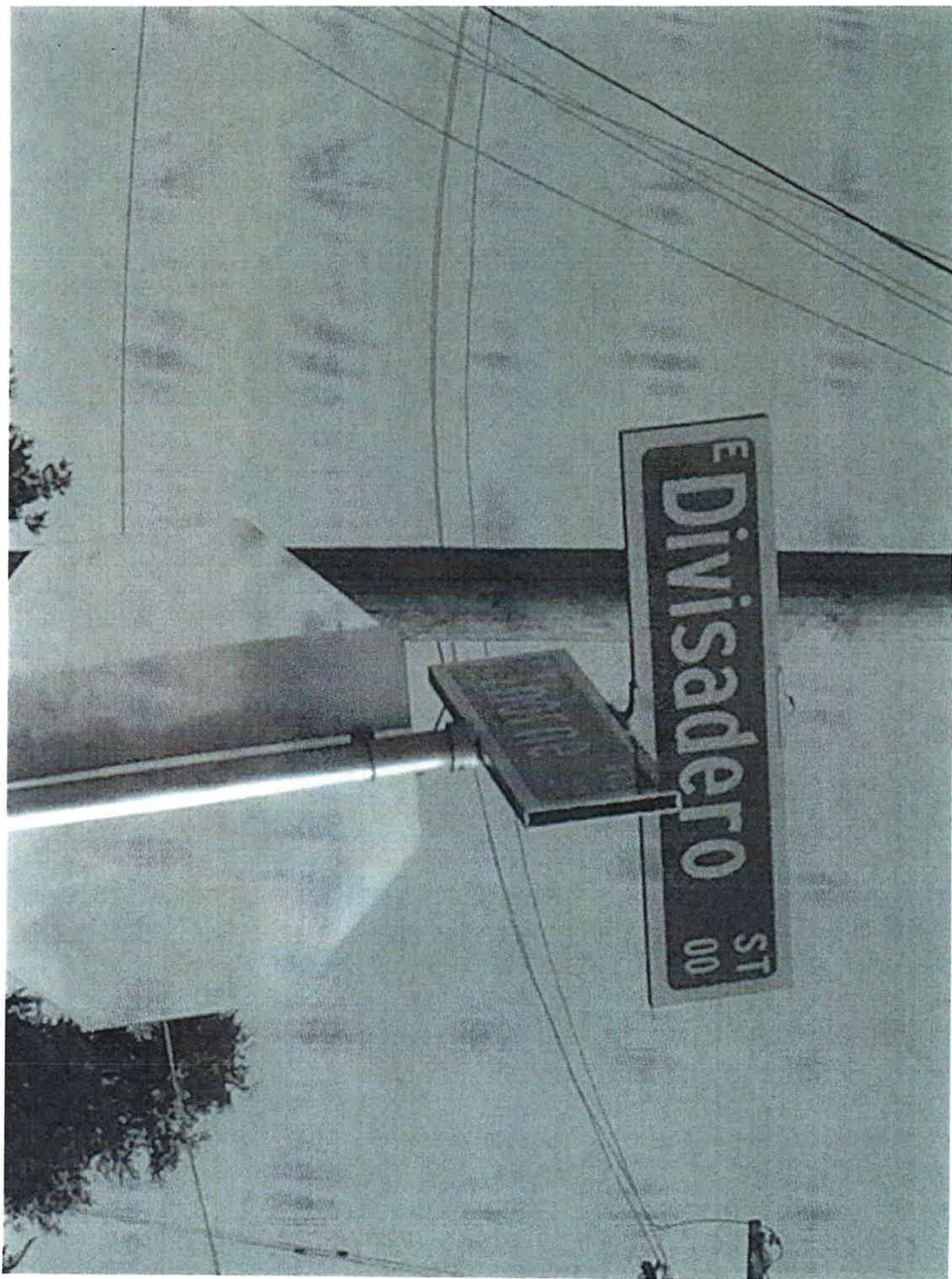














W VOORMAN AVE
300



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.

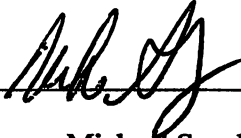
11 6. At the time of my approval letter, and with regard to other tow companies I
12 approved to be in compliance with C-002 around this time, base rock was also an "other
13 approved alternative surface" for the paving requirement at such towing company locations
14 according to the Planning Department 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.

3
4 
5 Michael Sanchez
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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:

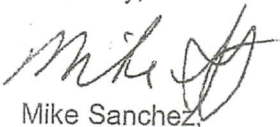
1. The property is zoned M-3 (Heavy Industrial District). The 2025 Fresno General Plan designates the planned land use of the site as *Heavy Industrial*.
2. The existing tow yard use on the subject site has been in existence prior to January 24, 2006 (prior to the initial adoption of Director's Classification 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

This is an aerial map of a city block in Minneapolis, Minnesota. The map shows a grid of streets with a proposed development site highlighted in blue. The site is bounded by W Voorn Ave to the north, W Nielsen Ave to the south, and W Voorn Ave to the east. The map includes street names, a scale bar, and a north arrow.

Streets shown include W Voorn Ave, W Nielsen Ave, and W Voorn Ave. The proposed site is located between W Voorn Ave and W Nielsen Ave, and between W Voorn Ave and W Voorn Ave.

Other features include a scale bar (0 to 100 feet), a north arrow, and a legend for the proposed site.

2075

1st Apply Condition 6a

Plant portion of yard
for turned vehicles

SPMALL LOT AREA

Reduce from

BAUER'S AUTO WRECK

1034. Thorne

Fresno, CA 93706

EXHIBIT A-1

8/5/18

1 of 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 Navalene (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:

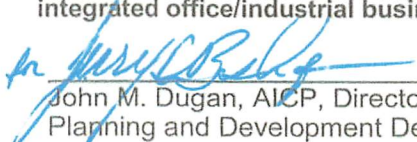
Title: "Towing, Storage and Lien Sales of Impounded Motor Vehicles"

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.*

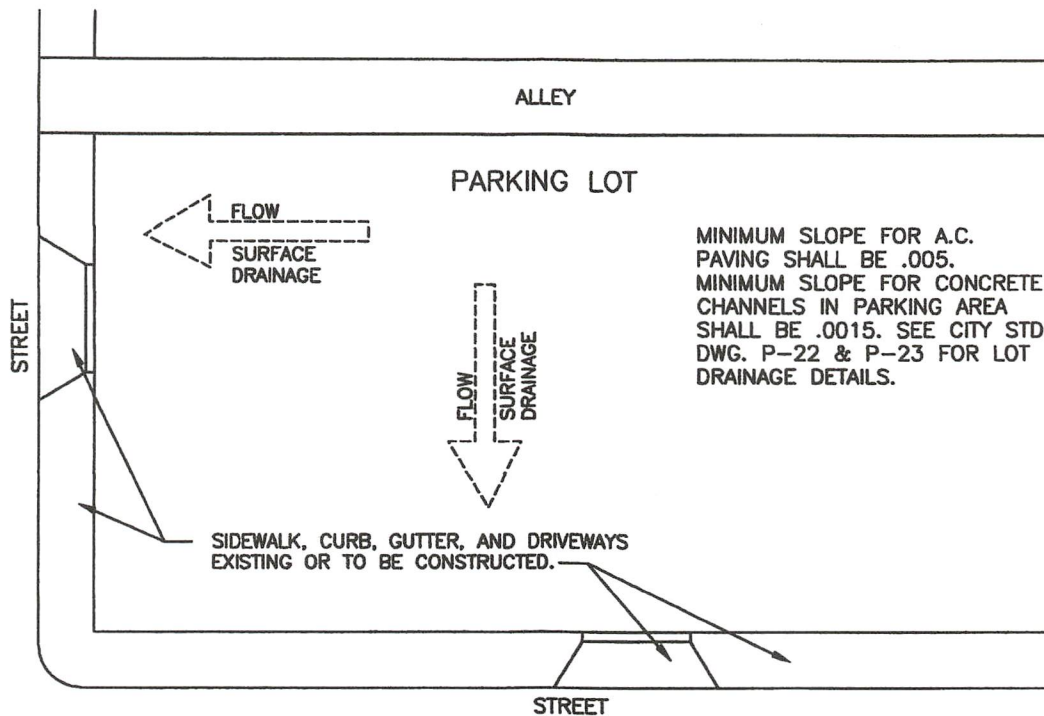
Being subject to approval of an established law enforcement agency to conduct this business, and subject to a conditional use permit in the C-M and M-1 Districts, and subject to a Site Plan Review for the M-2 and M-3 Districts, the public health, safety and welfare will be protected.

CONCLUSION

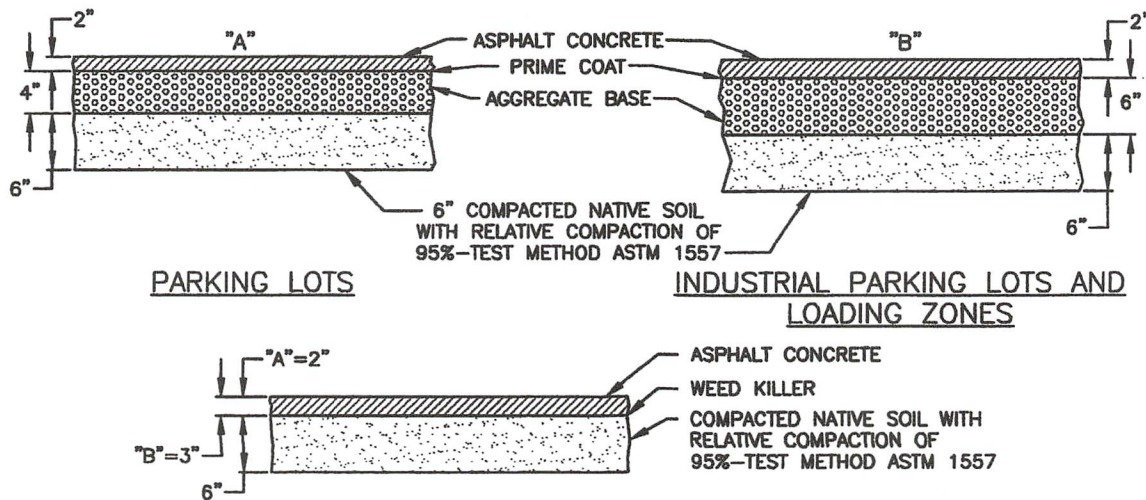
Based upon the discussion above, and with the imposition of the suggested conditions, staff supports this Director Classification as proposed above.

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.



TYPICAL CROSS SECTIONS



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
4 over

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

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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).**

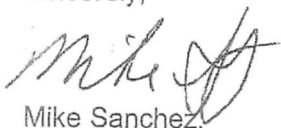
Thank you for your recent inquiry as to whether the existing tow yard on subject site is considered a legal non-conforming use. A review of the City of Fresno Municipal Code (FMC), the City of Fresno Official Zone Map, and review of permit, business license, code enforcement and entitlement records reveals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

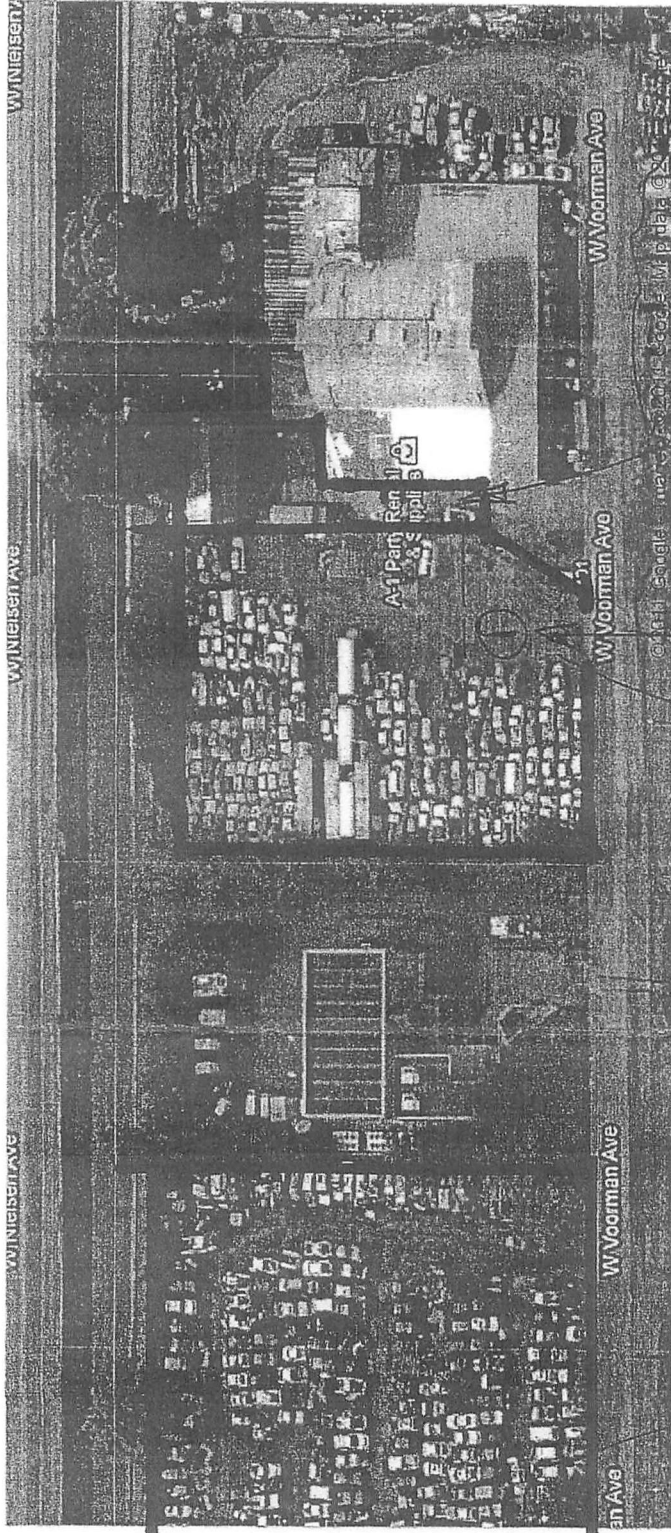


Mike Sanchez,
Planning Manager

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 ///

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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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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.