

RESOLUTION NO. PC-08- 12

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF COSTA MESA APPROVING CONDITIONAL
USE PERMIT PA-07-44**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by John Vach, authorized agent for Marilyn Huscroft, with respect to the real property located at 1640 Babcock Street, requesting approval of a conditional use permit for vehicle auctions in the MG zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 28, 2008.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** Planning Application PA-07-44 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Planning Application PA-07-44 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B", as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 28th day of January, 2008 .



Donn Hall, Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Kimberly Brandt, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on January 28, 2008, by the following votes:

AYES: COMMISSIONERS: HALL, FISLER, CLARK, EGAN, RIGHEIMER

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE



Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS**

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2)347 in that the proposed vehicle lien sales is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the proposed vehicle lien sales will be incidental to the approved towing business and impound yard and the conditions of approval will minimize impacts to surrounding industrial and proposed mixed-use development. Granting the conditional use permit will allow a use, density or intensity which is in accordance with the general plan designation for the property.
- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL**

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| PIng. | 1. | Applicant is reminded that all conditions of approval of ZA-07-27, with the exception of condition number 9, still apply. |
| | 2. | All customer traffic for the vehicle lien sales shall be from Placentia Avenue only, both to arrive and depart, and include the newly purchased vehicles, whether driven or towed from the site. |
| | 3. | No more than one vehicle lien sale per week shall be conducted at the property. |
| | 4. | The vehicle lien sales shall take no longer than 2 hours. |
| | 5. | A maximum of 20 vehicles per week shall be sold at each weekly vehicle lien sale. |
| | 6. | All customer parking shall occur on site. |
| | 7. | Any type of public address system is prohibited. |
| | 8. | Vehicle lien sales shall only occur between 8 a.m. and 5 p.m., Monday through Friday but are prohibited on federal holidays. |
| | 9. | Auto repair and detailing are prohibited. |
| Fire | 10. | Vehicles shall not be parked in the emergency access roadway. |
| PIng. | 11. | During the vehicle lien sales, the business operator shall post signs directing customers where to park. |
| Comm. | | |



CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. The business license shall be modified to reflect the vehicle auction business and, as applicable, the increase in gross receipts.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JANUARY 28, 2008

VI.7

ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-07-44
SOUTHSIDE TOWING – 1640 BABCOCK STREET

DATE: JANUARY 17, 2008

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER
714.754.5136

DESCRIPTION

The applicant proposes to conduct vehicle auctions at a tow yard previously approved under ZA-07-27.

APPLICANT

John Vach is the authorized agent for the property owner, Marilyn Huscroft.

RECOMMENDATION

Deny by adoption of Planning Commission resolution.

Willa Bouwens-Killeen

WILLA BOUWENS-KILLEEN, AICP
Principal Planner

Kimberly Brandt

KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND

The applicant recently received Planning Commission approval (under appeal) to expand his towing business at the subject property under ZA-07-27. During processing of the project it became apparent that towed vehicles, not claimed within a legally specified time period, were being auctioned from the site. Because auction businesses are not a permitted use in the City, condition of approval number 9 of ZA-07-27 required the applicant apply for a CUP if they wished to continue to auction or otherwise sell vehicles from the property.

The applicant states that the auctions take place approximately once a week and that they anticipate selling 15 to 20 vehicles a week, depending on volume and future business. Approximately 10 to 15 people attend the auction. The auctions typically last 2 hours with the first hour for vehicle viewing; the auction takes place during the second hour. After the auction, the purchased vehicles are either towed or driven off the site. The applicant states that they have been conducting these auctions for approximately 7 years. (The towing use was originally approved for this site under ZA-00-55 in April 2001.)

ANALYSIS

State law allows tow companies to auction vehicles not claimed within a legally specified time period. However, State law does not require the auctioning to take place at the tow company's impound yard.

Staff feels that the auctioning of vehicles is not an appropriate use for this site. Auctioning is a retail use and this property is industrially zoned. Furthermore, the property is located within the Mesa West Bluffs Urban Plan area, an overlay zone that encourages visual enhancement and the development of live-work units or residential uses. Planning Commission recently approved a master plan for 7-acre property across Babcock Street to the west, at 1640 Monrovia Avenue, for a mixed-use (residential, live/work, and industrial office) development. The towing business, as conditioned by Planning Commission, would not negatively impact the long term goals of the urban plan due to the limited site improvements and future tenants across Babcock Street, staff believes that the vehicle auctions would further intensify the use, making it less appropriate for the site.

It has been stated that other towing businesses auction vehicles from their impound yards; however, such an activity would have to be specifically stated within the approved Conditional Use Permits. Furthermore, A and B Towing, located at 2956 Randolph Avenue, was specifically prohibited from conducting auto auctions from their site. Therefore, unless specifically requested by the applicant and approved by the Planning Commission in a conditional use permit, conducting vehicle auctions from other impound lots is prohibited.

GENERAL PLAN CONFORMITY

The proposed use is not consistent with General Plan Objective LU-1B, which calls for ensuring the long term productivity and viability of the community's economic base. Auction uses are commercial in nature and are more appropriately placed in a commercial zone.

ALTERNATIVES

If Planning Commission approves this request, vehicle auctions would be allowed, subject to the adopted conditions of approval and applicable code requirements.

If Planning Commission denies this request, vehicle auctions would be prohibited and a similar application could not be submitted for 6 months.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 -- Existing Uses.

CONCLUSION

It is staff's opinion that the proposed vehicle auctions, as a commercial use, are not appropriate for the subject property with its industrial zone. Furthermore, approval would intensify the towing business, which is located across Babcock Street from a recently approved mixed-use development.

Attachments: Draft Planning Commission Resolution

Exhibit "A" - Draft Findings

Exhibit "B" - Draft Conditions of Approval

Applicant's Project Description and Justification

Location Map

Plans

Distribution: Deputy City Mgr.-Dev. Svs. Director
 Sr. Deputy City Attorney
 Public Services Director
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Marilyn Huscroft
 519 36th Street
 Newport Beach, CA 92663

John Vach
 1463 N. Red Gum Street
 Anaheim, CA 92806

Wendy Shih
City of Costa Mesa Planning Department
Costa Mesa, California

November 5, 2007

Wendy as per the planning commission's recommendation I am formally submitting for a conditional use permit for vehicle auctions at 1640 Babcock Street, Costa Mesa California, 92627. Per our argument in the planning commission hearing we are required by both California Vehicle Code and California Civil Code to auction towed or stored vehicles. The auctions will take place once a week at the above listed address. We anticipate selling approximately 15-20 cars a week depending on volume and future business. Approximately 10-15 people currently attend our auctions, all parking can take place within the facility inside the auction area, or front spaces allotted to customers in planning. The auctions will last approximately two hours the first hour viewing the vehicles, and the second hour for the actual auction. After the auction all customers will be asked to exit the facility in an orderly manner and vehicles purchased will be towed or driven off site.

We have been conducting these auctions for approximately 7 years in accordance with the guidelines set forth by the California Civil Code.

Plans Checklist answers in bullet format:

1. 1640 Babcock Street, Costa Mesa, California, 92627
2. No architect involved
3. No variation to current planning.
4. No grading plan
5. No existing trees
6. See exiting plans submitted by VR Mason Construction for development of 1640 Babcock Street, Costa Mesa, California, 92627
7. Not applicable (N/A)
8. N/A
9. N/A
10. See exiting plans submitted by VR Mason Construction for development of 1640 Babcock Street, Costa Mesa, California, 92627
11. N/A
12. -16. See exiting plans submitted by VR Mason Construction for development of 1640 Babcock Street, Costa Mesa, California, 92627
16. N/A
17. - 23. See exiting plans submitted by VR Mason Construction for development of 1640 Babcock Street, Costa Mesa, California, 92627

Should you have additional questions you can reach me (John Vach) by phone 818-298-0703, email: pwrply@pacbell.net or fax 818-843-2008.



John X. Vach Jr.
President
P.D. Transport, Inc. DBA Southside Towing

