



**ITEM VI-A:**      **REQUEST FOR PERMIT REVOCATION – CONDITIONAL USE PERMIT & DESIGN REVIEW PERMIT – 201 WEST IVY STREET (C & F TOWING IMPOUND YARD) – FILE NO’S: CUP 03-03 & DRP 02-56**

**REQUEST**

The Planning Department is requesting that the Planning Commission initiate an order to revoke the Conditional Use Permit and Design Review Permit for C & F Towing Impound Yard due to non-compliance with the conditions of approval for the project.

Applicant/Owner – Cliff Lowrie

**SUMMARY RECOMMENDATION**

The Planning Department recommends that the Planning Commission take the following actions:

- A. Find that the use is not in compliance with the conditions of approval;
- B. Initiate an order to revoke the Conditional Use Permit and Design Review Permit for C & F Towing Impound Yard;
- C. Recommend that the City Council revoke the Conditional Use Permit and Design Review Permit for C & F Towing Impound Yard due to non-compliance with the conditions of approval;
- D. Direct the property owner to bring the property into compliance; and,
- E. Direct staff to initiate enforcement proceedings.

**BACKGROUND**

**Location:** The subject site is located at 201 West Ivy Street, at the southwest corner of West Ivy and Ivy Street, northwest of Church Street (See Attachment 1). The site is 6,200 square feet (SF) in area, is zoned Light Industrial (M1) and is located in the infill area of the City.

**Permit History:** On June 26, 2003, the Planning Commission approved a Conditional Use Permit to allow for the operation of a towing and impound yard and a Design Review Permit to construct site improvements including parking and fencing at the project site. Previous entitlements and Planning Commission actions include:

- December 12, 2002, the Planning Commission considered a Conditional Use Permit and Design Review Permit to allow for operation of an approximately 5,000 SF towing impound yard with associated parking and fencing improvements. The applications were the result of an enforcement action because the applicant installed an 8-foot tall chain link fence with slats and barbed wire around the perimeter of the site and had initiated operation of a towing impound yard at the site without necessary permits. The December 12<sup>th</sup> hearing was continued off-calendar at the request of the applicant who verbally stated at the hearing that he intended to withdraw the Conditional Use Permit application. The Conditional Use Permit application was formally withdrawn in January of 2003.

- The Planning Commission subsequently considered Design Review Permit and Zoning Interpretation applications for the site on February 13, 2003. The Planning Commission continued this item off-calendar with direction to staff to report back in 90 days.
- On April 30, 2003, the applicant withdrew the appeal of the Zoning Interpretation and re-applied for a Conditional Use Permit to operate the towing and impound yard.

## **EVALUATION**

Section 19.88.030 of the Zoning Ordinance indicates that a permit may be revoked upon a finding of any of the following:

- The permit was obtained or extended by false, misleading or incomplete information;
- One (1) or more of the conditions upon which the permit was approved have been violated, or have not been complied with.

The approved project had several conditions which outlined specific improvements that needed to be made to the project site within a specified timeframe. These conditions are listed below.

***CUP 03-03 Condition 6 and DRP 02-56 Condition 1: The Conditional Use Permit shall be effectuated in compliance with the following:***

- a. Within 90 days of the effective date of the permit, the applicant must submit complete improvement plans and construction documents to the City for review and approval.***
- b. The applicant shall diligently work to gain City approval of the improvement plans and construction documents and to obtain necessary permits, and said plans and permits shall be approved within 90 days of submittal.***
- c. The site improvements shall be completed and accepted as complete by the City within 60 days of the issuance of permits.***

***In the interim, the applicant may operate the impound yard. If the applicant fails to comply with any of the conditions of approval or the above milestones, the Planning Department shall set a compliance hearing for review of the permits. (Planning)***

The following Design Review Permit (DRP 02-56) conditions outline the improvements that needed to be completed:

***9. Fencing for the site shall be provided in accordance with the following:***

- a. An eight (8) foot tall masonry wall shall be installed along the north and east property lines. A non-scarifiable coating shall be applied to the exterior of the block wall.***
- b. The wall and gate on the north property line shall be setback from the West Ivy Street right-of-way a sufficient distance to provide landscaping as shown on Exhibit B and to ensure that the parking spaces are located wholly on the subject property and not in the City right-of-way.***
- c. The gate along West Ivy Street shall have a solid metal appearance. The gate material, finish, and construction, shall be compatible with and shall not detract from the appearance of the wall as approved by the Planning Director based upon review of construction details. (Planning)***

***10. A Landscape plan shall be submitted with provisions for a minimum 2 foot wide planter adjacent to the front wall for planting of vines, and a minimum 8 foot wide finger planter***

**adjacent to the parking for the planting of a shade tree, with shrubs and groundcover provided in both planters. (Planning)**

**19. The applicant shall extend asphalt paving from the south side of the existing edge of pavement of West Ivy Street into the site to accommodate access into the site. The pavement shall be placed to ensure that storm water runoff moves across the frontage of the parcel and away from the traveled way. The road section shall be constructed to match the existing road section of Ivy Street, or be placed with 3-inches of AC over 7-inches of base, which ever is greater. The parking stalls shall be constructed wholly on the parcel and shall not extend out into the Public Right-of-way. (Engineering)**

**29. Lighting shall be provided on the north and south side of the northern masonry wall for purposes of lighting the two (2) parking spaces and the impound area. All on-site external lighting shall be installed and directed to have no off-site glare. Lighting within the parking areas shall provide a maintained minimum of one (1) foot candle of light. All exterior light fixtures shall be vandal resistant. (Planning & Police)**

To date, the property owner has not submitted complete improvement plans or construction drawings. Therefore, the required improvements to the site have not been completed. However the property owner has continued to operate a towing and impound business from this site. Below is a summary of the events that have taken place since the project was approved (June 26, 2003).

Date	Subject/Action
9/23/03	Property owner submitted a letter requesting more time (45 days) to finish and submit construction drawings and improvement plans. Staff agreed to the extension.
12/04/03	Property owner submitted construction drawings to the City.
12/31/04	The Planning Department completed its review of the plans and sent comments to the property owner's architect.
7/1/04	Property owner submitted revised construction drawings to the City.
7/23/04	The Planning Department completed its second review of the plans and sent a letter indicating that a few items still needed to be addressed before the plans would be deemed complete.
10/29/04	The Planning Department sent a letter to the property owner outlining the numerous extensions that were given to allow the property owner to complete the construction drawings. A deadline of November 16, 2004 is given to submit complete drawings and obtain a building permit for the required improvements.
11/15/04	Property owner submits a letter indicating that the property is up for sale and that he intends on vacating the site by 12/15/04.
11/18/04	Staff sent the property owner a letter indicating that an extension would be granted since the property owner intended on vacating the site. The letter also indicated that the property owner needed to remove all stored items from the site and the eight (8) foot tall chain link fence would either need to be removed or reduced to six (6) feet in height in order to bring the site back in compliance with the Zoning Ordinance.
12/15/04	Property owner submitted a letter indicating that they were in the process of vacating the site, but need additional time due to the weather and some unforeseen issues with a new property that they were moving to. Due to the wet weather, the property owner was given more time to vacate the property and bring it back into conformance.
1/14/05	Staff went out and inspected the project site and found that it was still being used as a towing and impound yard and that the fence had not been removed or reduced in height.
1/19/05	Staff sent the property owner a letter indicating that the site was still out of compliance. Due to the numerous extensions of time that had been granted and the lack of compliance, a hearing date to request revocation of the permits was set.

The applicant maintains that inclement weather and complications with selling the current site and moving to a new location have prevented him from bringing the site into compliance.

## **CONCLUSION**

Over the past 16 months, staff has spent a considerable amount of time trying to get the property owner to comply with the conditions of approval for his project. As illustrated in the evaluation section of the report, staff has granted numerous extensions of time to the property owner to complete the construction drawings and most recently to vacate the site and return the property to its original condition. To date, very little progress has been made to bring the site into compliance with the conditions of approval. Based on this information, staff is requesting that the Planning Commission initiate an order to revoke the Conditional Use Permit and Design Review Permit for C & F Towing Impound Yard.

## **RECOMMENDATION**

Staff recommends that the Planning Commission take the following actions:

- A. Find that the use is not in compliance with the conditions of approval;
- B. Initiate an order to revoke the Conditional Use Permit and Design Review Permit for C & F Towing Impound Yard;
- C. Recommend that the City Council revoke the Conditional Use Permit and Design Review Permit for C & F Towing Impound Yard due to non-compliance with the conditions of approval;
- D. Direct the property owner to bring the property into compliance; and,
- E. Direct staff to initiate enforcement proceedings.

## **Attachments**

- 1. Vicinity Map
- 2. Planning Commission Staff Report dated June 26, 2003
- 3. Notice to Applicant dated June 27, 2003
- 4. Correspondence between staff and the property owner

<p><b>Note to Applicant and/or Developer:</b> Please contact the Planning Department staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing.</p>
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