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March 15, 2023

Roni Corado (A)
RC's Towing, Inc.
7821 Burnet Avenue
Van Nuys, CA 91405

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4964 Telegraph Road
Ventura, CA 93003

Fernando J. Diaz (R)
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3646 Long Beach Boulevard, #103
Long Beach, CA 90807

CASE NO.: ZA-2020-0779-ZV
ZONE VARIANCE
7821 North Burnet Avenue
Van Nuys – North Sherman Oaks
Planning Area
Zone : M1-1
D. M. : 189B145
C. D. : 6 - Martinez
CEQA : ENV-2020-0780-CE
Legal Description: TR 7459, Lot 14, Arb

Pursuant to California Environment Quality Act (CEQA), I hereby DETERMINE:

That based on the whole of the administrative record, the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15301, Class 1 (Existing Facilities), that there is not substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Pursuant to Charter Section 562 and Los Angeles Municipal Code Section 12.27-B, I hereby APPROVE:

A Zone Variance from Section 12.17.6-A,8 of the Los Angeles Municipal Code granting the establishment, use, and maintenance of an automobile impound yard in the M1-1 Zone.

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the

development and use of the property, except as such regulations are herein specifically varied or required.

2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file. Fees required per LAMC Section 19.01-E,3 for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City prior to the final clearance of this condition.
7. The subject grant shall be for ten-year time period. Said time period to begin on the effective day of this action shown elsewhere in the report. If the owner of the land wishes to continue operation as granted herein, he must file a new application with the Office of Zoning Administration.
8. The subject grant shall be for a ten-year time period. Said time period to begin on the effective day of this action shown elsewhere in the report. If the owner of the land wishes to continue operation as granted herein, he/she must file a new application with the Office of Zoning Administration.
9. Authorization/Grant:
 - a. A vehicle impound yard in the M1-1 Zone allowed the parking of commercial trucks and tow vehicles incidental to such business as well as the repair and

maintenance of said tow vehicles incidental to said uses and the storage of vehicles.

- b. Operational hours: 24 hours, seven days a week. While delivery of the vehicles by the tow trucks may occur at any time, the site shall be available to the public only during 7 a.m. and 7 p.m.
10. Compliance Other: Prior to utilizing rights, granted in this variance, the project proponent shall submit verification that he is allowed by the California Highway Patrol (CHP) and the Los Angeles Police Department (LAPD) to tow vehicles that have been abandoned or damaged in such a fashion that they need to be removed from freeways and highways under the jurisdiction of the CHP and LAPD.
11. Project Design:
 - a. Parking. No deviation from Municipal Code required parking is granted by the subject entitlement. The Department of Building and Safety shall ensure the use complies with current parking and circulation requirements. Paved off-street parking spaces are provided for buildings as required by Section 12.21-A, and in addition for all other portions of the lot, other than public parking areas for one of fewer acres, a minimum of six spaces. The Department of Building and Safety shall ensure compliance with this condition.
 - b. The proposed use shall be within an enclosed area behind a solid masonry wall or solid fence no less than 8 feet in height, but not to exceed 10 feet. Slats shall be installed within the fence gates, if not already planned for.
12. Project Operation:
 - a. Noise. Regulating noise shall comply with the City of Los Angeles Noise Ordinance No. 144,331 and 161,571, and any subsequent ordinances, which prohibits the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
 - b. No dismantling of vehicles or crushing, smashing, bailing or reduction of metal shall take place on the premises.
 - c. No materials shall be stored to a height greater than the height of the enclosing wall or fence.
 - d. Maintenance: The subject property, including any associated parking facilities and abutting streets, sideways and alleys, shall be maintained in a neat and attractive condition at all times and shall be kept free of trash and debris on any daily basis.

13. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages and/or settlement costs.
- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement (b).
- e. If the City determines it necessary to protect the City's interests, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the

applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

“City” shall be defined to include the City, its agents, officers, boards, commission, committees, employees and volunteers.

“Action” shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

“A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its conditions. The violation of any valid condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.”

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD – EFFECTIVE DATE

The applicant's attention is called to the fact that this variance is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then this variance shall be subject to revocation as provided in Section 12.27 of the Municipal Code. The Zoning Administrator's determination in this matter will become effective after March 30, 2023, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street
4th Floor
Los Angeles, CA 90012
(213) 482-7077

**Marvin Braude San Fernando
Valley Constituent Service Center**
6262 Van Nuys Blvd., Room 251
Van Nuys, CA 91401
(818) 374-5050

**West Los Angeles
Development Services Center**
1828 Sawtelle Blvd., 2nd Floor
West Los Angeles, CA 90025
(310) 231-2912

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that subsequent contact regarding this determination must be with the Development Services Center. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on January 18, 2023, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the five requirements and prerequisites for granting a variance as enumerated in Section 562 of the City Charter and Section 12.27-B,1 of the

Municipal Code have been established by the following facts:

BACKGROUND

The property is a level, rectangular-shaped, interior lot, approximately 22,518 square feet of land located on the west side of Burnet Avenue. The Property is developed with a one-story 4,749 square-foot office building and 19-space parking lot. The property is located within the Van Nuys – North Sherman Oaks Community Plan Area, Los Angeles State Enterprise Zone, and approximately 6.066 kilometers from the nearest known fault. The Van Nuys – North Sherman Oaks Community Plan have corresponding zones of CM, MR2, and M1 within the Limited Manufacturing land use designation. The project site has one (1) one-single story structure housing the office, dispatch warehouse and ancillary operational uses. The structure is situated towards the front of the property and appears in character, scale and development to similar adjacent uses. The surrounding community has similar lots within the M1 zone varying from 7,500 square feet to roughly two (2) acres. The project site is configured as one parcel fronting Burnet Avenue and is situated proximate to Sepulveda Boulevard to the west, Staff Street to the south, and Raymer Street to the North.

The applicant is requesting a Zone Variance to establish tow truck storage and non-official police garage and vehicle impound yard within the M1 Zone with an existing 5,490 square foot building and proposing 13 parking stalls with six bicycle parking with the hours of operation from 8:00 a.m. to 6:00 p.m. Monday to Friday with 24-hour site access for emergency and non-emergency tow service.

Surrounding Properties

Properties to the north adjoining the subject property are zoned M1-1 and developed with industrial uses.

Properties to the south adjoining the subject property are zoned M1-1 and developed as a one-story industrial building.

Properties to the east across Burnet Avenue are zoned M1-1 are developed as a one-story industrial use for sheet metal.

Properties to the west adjacent to the subject property are zoned M1-1 and developed as a one-story building with a mix of industrial uses.

Street

Burnet Avenue, adjoining the property to the east is a Collector Street with a width of 66 feet with no curb, gutter or sidewalk.

Previous relevant cases, affidavits and orders on the subject property:

Case No. ZA-2011-1743-ZV – On March 21, 2012, the Zoning Administrator approved a Variance from Section 12.17.6-A, 8 of the Los Angeles Municipal Code granting the

establishment, use and maintenance of an automobile impound yard in the M1-1 Zone Classification in lieu of complying with all the standards of said section.

Previous Cases on Surrounding Properties:

None

Public Correspondence

The department has not received any correspondence regarding this case.

PUBLIC HEARING

A Notice of Public Hearing was sent to abutting property owners and/or occupants residing near the subject site for which an application as detailed below was filed with the Department of City Planning. The purpose of the hearing was to obtain testimony from affected and/or interested persons regarding the project. All interested persons were invited to attend the public hearing where they could listen, ask questions or present testimony regarding the project. Interested parties were also invited to submit written comments regarding the request prior to the public hearing. The hearing was held on January 18, 2023, at approximately 9:30 a.m. Due to concerns over COVID-19, the Office of Zoning Administration Public Hearing was conducted entirely telephonically.

The hearing was attended by the applicant's representative, Roni Corado and the owner. The applicant's representative presented a description of the site, stating that the facility was previously approved for and used as a police garage since 2012. The site was provided a 10 year grant and required to file a new case in 2022, which they did in 2020. While the site is not currently an Official Police Garage, it may be used as a police garage in the future. As such, the project is requesting relief from the requirements of the Official Police Garaging requirements located in 12.17.6. According to the representative, the owner is requesting two exceptions from the official police Garage regulations, including (1) not defining the subject site as a Official Police Garage and (2) To observe 11 required parking stalls under L.A.M.C Section 12.21.A4(c) and not the additional provision under 12.17.6.A.8(1), all other provisions to stand.

There were no members of the public or council representation at the meeting.

At the end of the public hearing, the Zoning Administrator stated that she would leave the record open for 15 days as she takes the project "under advisement." The Zoning Administrator explained that she would be personally observing the site to ensure maintenance of all previous conditions, including the parking and overall maintenance of the facility.

MANDATED FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Municipal Code Section 12.27 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

On May 26, 2011, the Department of Building and Safety issued an Order to Comply and Notice of Fee No. A-2779431 to the project proponent for an unapproved impound automobile storage in the M1 Zone Classification. Subsequently, the project proponent applied for a Zone Variance from Section 12.17.6-A to permit the continued use and maintenance for a private automobile impound yard, as not otherwise permitted in the M1 Zone. The project proponent has requested a variance to allow a vehicle impound yard in the M1-1 Zone Classification that is not an official police garage designated by the Los Angeles Police Commission.

Research of the Project Planner determined the use is a private automobile impound yard and tow truck storage on an approximately 22,518 square-foot lot, with a 4,749 square-foot building, with nine parking stalls. The operating times are approved with 24-hour site access for emergency and non-emergency tow services on Monday to Friday from 8:00 a.m. to 6:00 p.m. for public access. Furthermore, no mechanical or auto body work of any type takes place with respect to the impound vehicles. While delivery of the vehicles by the tow trucks may occur at any time, the site will be available to the public only during business hours. As stated by the project proponent, the location is a distance from residential or other sensitive uses.

Denial of the Zone Variance would be a severe hardship since the property has been leased, occupied and operational since 2003. The facility has since developed and maintained a local clientele base that would be difficult to reestablish in another location.

Additionally, the general purpose and intent of the zoning regulations is to ensure balanced communities, provide for orderly development of the City and support local economic growth all while minimizing any potentially negative impacts upon each other. This establishment has been in operation since 2003 and has been in full compliance with a series of conditions to ensure its compatibility with the surrounding, Industrially zoned, community. The site will continue to abide by the conditions imposed by this entitlement ensuring compatibility in the future. The site is not within any residential zones within 500 feet, and is deemed to be compatible with surrounding uses.

2. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally**

to other property in the same zone and vicinity.

Regulations in Zoning and Planning are deemed necessary in order to encourage the most appropriate use of land; to conserve and stabilize the value of property; to provide adequate open space for light and air, and to prevent and fight fires; to prevent undue concentration of population; to lessen congestion on streets; to facilitate adequate provisions for community utilities and facilities such as transportation, water, sewerage, schools, and parks and other public requirements; and to promote health, safety, and the general welfare all in accordance with the comprehensive plan. The general purpose and intent of the regulations are to limit uses to specific zones in order to comply with the general plan and provide compatibility between respective properties.

The subject site is approximately 22,518 square feet of land located on the west side of Burnet Avenue. The property is developed with a one-story 4,749 square-foot office building with nine parking stalls. The size, shape and configuration of the site does not hamper its use as an impound yard.

The north adjacent properties are zoned M1-1, developed with manufacturing businesses, a building supply company, and sheet metal business. North of Raymer Street, properties are zoned [Q]M1-1 and PF-1XL, and developed with auto related uses, the Metrolink Right-of-Way, and public storage. The south adjacent properties are zoned M1-1 and developed with office and manufacturing uses. The west adjacent to the property are zoned M1-1 and developed with auto-related and manufacturing uses. The adjacent east properties are zoned M1-1 and developed with other industrial uses. Thus, an impound yard is appropriate in this location considering surrounding uses.

The M1 (Limited Industrial) Zone Classification does not permit a vehicle impound yard in the M1 Zone Classification, unless specific performance standards are met. In this instance, the proposed project is not an Official Police Garage designated by the Los Angeles Police Commission. Nevertheless, the proponent's use functions in a similar manner as those approved pursuant to Section 12.17.6 in the M1 Zone. The regulations are designed to ensure the maintenance of an Official Police Garage, which this site is not currently.

The regulations, however, are written on a citywide bases and cannot take into account individual unique characteristics on a specific property as well as considered dynamic changes in the economy and use of land. A variance is a grant of permission to depart from the literal enforcement of a zoning ordinance and allow the property to be used in a manner, otherwise not permitted provided that the spirit of the ordinance is observed and substantial justice is done without detrimental impacts to the community.

- 3. Such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and**

practical difficulties or unnecessary hardships, is denied the property in question.

The third prong of a Variance is if an approval is necessary to bring the property owner into parity with other properties in the same zone and vicinity. Conversely, a Variance cannot grant the applicant a special privilege. The M1 (Limited Industrial) Zone Classification does not permit a vehicle impound yard, unless specific performance standards are met. In this instance, the proposed project is not an Official Police Garage designated by the Los Angeles Police Commission, but would like to continue its use a vehicle impound yard.

However, the projects proponent's use will operate in a similar manner to an Official Police Garage storing abandoned or partially dismantled automobiles within an enclosed area. There will be no mechanical work of any kind performing on these cars. There will be no dismantling of vehicles or crushing or bailing or metal reduction on the premises. The property will be fully enclosed while the project proponent would provide towing and impound services for private companies, the California Highway Patrol and the Los Angeles Police Department.

4. **The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The proposed use would be permitted by-right except a performance standards of Section 12.17.6-A, 8, is not met including being an Official Police Garage designated by the Los Angeles Police Commission. The use is not an intrusion into the M1 Zone that would result in materially detrimental impacts. Existing site conditions and surroundings indicate the proposed use is proper in its location. In fact, similar uses have been granted Zone Variances throughout the northern area of the Valley with no evidence of adverse impacts.

The Zoning Administrator expanded the hours for public access to the weekend in order to provide greater access and convenience for the public. This would not adversely impact other surrounding land use since most operate Monday through Friday.

5. **The granting of the variance will not adversely affect any element of the General Plan.**

The Van Nuys – North Sherman Oaks Plan Map designates the property for Limited Manufacturing land uses with corresponding zones of CM, MR1, and M1. Per the corresponding zones the proposed project is not allowed by the general plan. Generally, the plan seeks to protect investments, promote good design, and ensure public safety.

The project proponent's use is not permitted in any of the corresponding the zones of the Community Plan. However, this is not a grant in perpetuity and limited to a

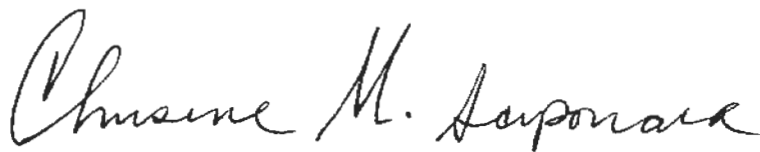
ten-year term. The Zone Variance process is intended to provide needed adjustments to the plan amendment. Therefore, the time limit of the subject grant versus a grant in perpetuity does not hamper implementation of the General Plan designation and ensures a success in meeting the intent of the designation to preserve the land for other industrial uses.

Absent any environmental impacts or other adverse impacts to the immediate surrounding properties, there is neither compelling reason nor legitimate governmental purpose for adherence to the strict application of the zoning regulation.

ADDITIONAL MANDATORY FINDINGS

6. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located outside a flood zone.

Inquiries regarding this matter shall be directed to Correy Kitchens, City Planner for the Department of City Planning at (818) 374-5034 or by email at Correy.Kitchens@lacity.org.



CHRISTINE M. SAPONARA
Associate Zoning Administrator

CMS:JP:ck

cc: Council Member Martinez
Sixth District
Adjoining Property Owners

