

PLANNING BOARD MEETING
Monday, February 12, 2024, 7:00 P.M.

Board Chair Ed Palandri called the meeting to order at 7:00 p.m. Roll Call: Present: Ed Palandri, Jay Gundersen, Kathy Dueling, Ray Pauly Robert Horan, Drew Evers are present; Tim Podraza is absent.

Pauly moved to approve the agenda, seconded by Gundersen; unanimous approval; Gundersen moved to approve the consent agenda and seconded by Dueling; unanimously approved.

New Business:

Attorney Joe Thornton appeared on behalf of Jackie Levell who owns the property located at 3030 North 5th Street in Carter Lake. At the December City Council meeting Mr. Joseph Thornton, asked for a zoning compliance letter from the City Council as they are applying for a state salvage permit and the state requires a letter from the city verifying the zoning compliance.

The City Council voted to have this item reviewed by the Planning and Zoning Commission.

The Inspector issued the following staff report to the Planning Board: This property is currently zoned C-1 (Limited Commercial District). Any existing salvage services use is only allowed within Industrial zoned districts.

Unified Land Development Ordinance Being Addressed:

2306 Supplemental Use Regulations: Industrial Uses

a. Salvage Services

1. Screening:

(a) The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be eight feet. Any such enclosure shall be constructed behind required landscaped buffer yards.

(b) Each existing salvage services facility shall be screened as provided above within one year of the effective date of this Ordinance.

2. Storage of materials within any salvage services facility shall not be higher than the height of the surrounding screen fence or wall.

3. No new Salvage Services use may be established within the city limits.

Attorney Thornton's request states that Mr. Levell has requested a Salvage Permit and the State of Iowa requires a letter from the City indicating the business property is in compliance with all required zoning provisions. The garage on the property will be used to repair and salvage cars and those vehicles that are not salvageable are scraped or taken to a junk yard.

This matter went to court, the original decision was overturned on appeal in court case CLCIMG173247 in District Court of Pottawattamie County and that decision stated: *Jack Levell's property located at 3030 N. 5th in the city of Carter Lake is zoned as commercial property and not residential. The residential ordinances do not apply to commercially zoned property but even if they did apply, Levell's property is considered grandfathered property, and any nonconforming use remains legal. The order entered on October 29, 2021, is reversed and the judgment on that date is vacated. The citation for all violations, namely parking commercial vehicles on residential property, parking unlicensed vehicles. parking without permits and parking on non-hard service., is dismissed. Judgment is entered in favor of Defendant Jack Levell III. Costs taxed to Plaintiff, City of Carter Lake.*

Upon the advice of City Attorney David Levy the inspector issued the following statement:

The new proposed salvage use exceeds the scope and intensity of the uses existing at the time of the Court's decision. A non-conforming use such as the current salvage use may not be enlarged or intensified and allowed to continue. See Perkins v. Madison County Livestock & Fair Ass'n, Supreme Court of Iowa, July 06, 2000, 613 N.W.2d 264. Accordingly, this office's determination is that the proposed auto salvage use is not allowed on this property within the C-1 zoning district because it exceeds the use the court decision mentioned above allows.

Gundersen moved to deny the request because it does not meet the current zoning requirements, seconded by Dueling. Unanimously approved.

Gundersen moved to appoint Ed Palandri as Chairman and Drew Evers as Vice Chair, seconded by Dueling; unanimously approved.

There was some discussion to clarify what the Planning Board expects to be brought before them on commercial projects. The Board Chair and Vice Chair will receive emails and make the call on behalf of the board going forward.

Evers moved to adjourn seconded by Horan.

Adjourn at 8:40 p.m.