

LICENSE HEARING
Duke's Cars & Towing, 323 Maria Avenue
Thursday, May 3, 2012
Suite 330 City Hall/Courthouse, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 1:33 p.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Applicant: Duqueiro Cano, Owner

Others Present: Justin Hosking, Property Owner, and James Wardlaw, 699 Fourth Street East

Type of Business: Auto Body Repair/Painting Shop

Ms. Vang stated that this was an informal legislative hearing for a Class N license application. This particular license required neighborhood notification which means the neighborhood was notified and people had the chance to voice their concerns. The City received one (1) letter of concern regarding this license application. There were three possible results from this hearing: 1) she may recommend that the City Council issue this license without any conditions; 2) she may recommend that the City Council issue this license with agreed upon conditions; or 3) she may recommend that the City Council not issue this license but refer it to the city attorney to take an adverse action on the application, which could involve review by an administrative law judge. The applicant will be required to sign a Conditions Affidavit demonstrating the understanding of the conditions.

DSI staff will explain their review of the application and state their recommendation. Ms. Vang will then ask the applicant to talk about the business plan. At the end of the hearing, she will make a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

Mr. Fischbach, DSI, presented the department's review of the application and recommendation. He stated that because the space for this business had been vacant for more than a year and the use was discontinued, the applicant had to go back to the Planning Commission for a nonconforming use permit. The business is surrounded by residential. Normally, establishing a new auto body repair shop would not be permitted, but because this location had a prior use that was established and then discontinued, the applicant could re-establish this use if they got permission from the Planning Commission.

The Planning Commission added conditions #1-5 to the applicant's license and are also included below:

LICENSE CONDITIONS #1-5 ARE PER NONCONFORMING USE PERMIT #11-299856

1. The applicant applies for and receives any necessary building and/or mechanical permits associated with renovations or upgrades to the building.
2. The applicant receives a Fire Certificate of Occupancy prior to opening the business.
3. No auto sales are permitted on the property.
4. No more than eight (8) automobiles shall be stored or parked outdoors on the parking lot at a time, and no auto parts or partially-dismantled automobiles shall be stored outdoors at any time.
5. Customer and/or employee repaired vehicles shall be parked onsite and not on surrounding streets.

ADDITIONAL LICENSE CONDITIONS

6. All customer and employee vehicles must be parked in the area designated on the site plan on file with the Department of Safety and Inspections (DSI) (per nonconforming use permit - reestablishment 11-299856, dated December 16, 2011, subject to condition #4) Licensee agrees to maintain the striping of parking spaces in accordance with the approved plan.
7. There shall be no exterior storage of vehicle parts, tires, oil or any other similar materials associated with the business. Trash will be stored in a covered dumpster. Storage of vehicle fluids, batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste regulations.
8. At no time shall any vehicles associated with this business be parked in the driveway or in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.). This includes vehicles awaiting repair, or that have been repaired and are awaiting pick-up by their owner.
9. The storage of vehicles for the purpose of salvaging parts is expressly forbidden. Vehicle salvage is not permitted.
10. No repair of vehicles may occur on the exterior of the lot or in the public right-of-way. All repair work must occur within an enclosed building.
11. Customer vehicles may not be parked longer than ten (10) days on the premises. It shall be the responsibility of the licensee to ensure that any vehicle not claimed by its owner is removed from the lot as permitted by law.
12. General auto repair is not permitted.
13. Provide maneuvering space on the property to allow vehicles entering and exiting the site to proceed forward. Backing from the street onto the property, or onto the street from the property is prohibited.
14. Licensee must comply with all federal, state, and local laws.

Ms. Vang asked about these conditions staying with property if the owner were ever to sell their auto body repair/painting shop business. Fischbach stated affirmatively that the new applicant would have to get a new license. Conditions #6-14 are the standard

conditions applied to this type of business. Conditions #1-5 were placed by the Planning Commission.

Vang asked about the meaning of minor repair. Fischbach stated that the applicant can perform minor things that go along with auto body repair. The applicant cannot advertise to the general public to drop the car off for auto repair. Dayton's Bluff District 4 Community Council issued a letter of support. Environmental Health is not applicable. Fire inspection has gone through the building and are ready to certify it. The license and the fire certificate of occupancy will be issued simultaneously. Zoning has approved with conditions. License has approved with conditions. DSI recommends approval with conditions.

Duqueiro Cano stated that he is from Columbia. He is seeking this license so that he provide for his family. He indicated that there was one opposition e-mail from a neighbor opposing for toxicity and contamination. Mr. Cano believes that she may be unaware of what EPA standards that his business would have to go through for approval. Ramsey County conducted a review standard and Mr. Cano has met the requirement which they approved. He uses an infiltration system which means that nothing goes into the air. The other issue raised by the neighbor's letter was about traffic. She lives east of the building on the street where there is no through traffic. He wanted to reassure the neighbor that he is conscientious of the environment since he has five children. Also, he is aware that there are children who live in the area and would like to build his business so that he has something pass on.

Ms. Vang asked what Mr. Cano about noncompliance with the EPA. Mr. Cano responded that if he fails the EPA standard, the County would not allow him to continue with his business and that would impact his license. Also, the County conducts reviews about three (3) times per year for compliance. The County can also assess a fine or penalty.

Discussion continued about traffic raised by the contested email and Mr. Cano stated that there is a mechanic shop next door to his business so traffic in the area are not all contributed to him.

Justin Hosking, 8281 Parell Avenue, Elk River, stated that there is an auto business east of the business and across the street from the Duke's is a place called Phoenix Market and about fifteen (15) years ago, there was a business next door to the Phoenix Market that had a major gas explosion and three people died near Maria Avenue. Also, right on Third Avenue at the same intersection, there used to be more businesses and Housing Development bought the land around the area and rezoned it for residential. Third Avenue is a heavily traveled street and Maria cuts right through Third Avenue so it's also well-traveled.

Ms. Vang asked about Mr. Hosking's relationship to the business. Mr. Hosking said that he is the co-owner of the property and has nothing to do with the operation of the business.

Ms. Vang asked Mr. Cano again regarding his understanding of the conditions placed on his license and he affirmatively answered that understood. Also, he has been in this type of business for 15 years so he understands the requirements. In addition, he also has a similar business in Minneapolis of which his wife will manage it while he manages the St. Paul business. Mr. Cano indicated that he is hoping to hire two employees from within the neighborhood who will help him with the business. They may be working for him on a part-time basis. His business hours would be from Mondays to Saturdays from 8AM to 8PM. In the winter, he may close the business an hour earlier. Based on the floor plan submitted, there are two bays. There is also a paint booth that is completely enclosed. The area would fit about two cars comfortably and the applicant hopes to install a lift when he has money. There are two entry points and customers would enter the business on Maria.

Ms. Vang asked for clarification regarding allowable parking spaces and Mr. Hosking indicated the nonconforming use permit which caps it at 8 cars per Condition #4 and also how Mr. Cano would handle the overflow. Mr. Cano hopes that his business would flourish but he knows that he can only manage a certain number of cars at any one time. The space allows for only five cars. Mr. Cano does have the business in Minneapolis that could absorb some of the overflow since it has more room than the business at Maria. Also if his business flourishes, he would explore the option of leasing space for that situation.

Ms. Vang also asked about contact information in case he was not present at the shop if there were complaints from the neighborhood and Mr. Cano stated that he was reachable by phone.

Ms. Vang then asked about certificate of occupancy, trash, snow removal, etc. The applicant will talk with the auto business next door to enquire about trash pick up days so that neighbors would not be overly disturbed by the noise. Mr. Cano also indicated that once they open, he intends to contact a recycling company that would pick up materials such as metal and other rubbish. The dumpster will be located in one of the corners of the map for garbage collection. Also, trash would be picked up once a week. Since his business is enclosed by a fence, he would likely keep the fences closed. He plans to add LED lights so the business is lit properly and would like to explore camera installation when he has more money.

James Wardlaw, 699 Fourth Street East, stated he has been a resident of Dayton's Bluff for 22 years. He knew the previous owners, who ran it like a precision machine and he had no problem with toxic chemicals and noise pollution. His neighbors are concerned about repairing cars, junk cars, and overflowing cars. They do not need an auto repair shop. His interest is auto body. The concerns of the neighbors are noise pollution, air, and toxicity. This is a high population of residential area. (Mr. Wardlaw also spoke about the history of the area and affirms the previous gas explosion.)

Mr. Wardlaw said his major concern is the business hours of 8:00 a.m. to 8:00 p.m. Three generations of auto repair has been plagued with overflow parking. He suggested a surveillance system for Mr. Cano given the area and Mr. Cano said that he would take that advice and explore it further. Ms. Vang suggested that he works with the district council in the area for their suggestion and also for Mr. Cano to contact the police department regarding camera placements.

Mr. Wardlaw stated that the district council approved the business. He is present to speak only on his behalf and not the neighbors. The Kelly's (who wrote the letter in opposition) are concerned about toxicity, repair of cars on the street, and noise pollution. He would like Mr. Cano to work with the neighbors and hope that they all get along since his business is in a residential.

Mr. Hosking asked whether minutes from this meeting would be available for the public and reiterated that by Mr. Cano's agreeing to the conditions placed on his license, he would be subjected to fines, penalties, etc. so he believes that Mr. Cano has every intention of complying and of being a good neighbor since the City can shut Mr. Cano's business down for noncompliance.

Mr. Wardlaw also stated the City recently purchased eight of the properties in the area and are rehabbing each house right now so the area is growing. He also said that while his not opposing to the license application, he is concern since some of his neighbors may not be so friendly in terms of the crime in the area.

Ms. Vang read the letter from Linda and Patrick Kelly, 654 Fourth Street East, into the record and noted that their concerns were discussed and responded by the applicant.

Ms. Vang also asked about advertising for general repair and Mr. Cano responded that he is advertising through business cards and that he will be replacing the Dave signs with Duke signs. He was asked to consult with DSI regarding signage permit.

Ms. Vang stated that she will recommend to the City Council that they approve the license with the conditions proposed by DSI and agreed to by Mr. Cano. The City Council has the final authority to issue the license.

The hearing adjourned at 2:24 p.m.

The Conditions Affidavit was signed on May 3, 2012.

*Submitted by:
Racquel Naylor*