

TO: PLANNING COMMISSION

FROM: BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR
JANET REESE, PLANNER II

APPLICATION: DEVELOPMENT APPLICATION NO. 13-13

LOCATION: 792 WEST GRAND AVENUE (APN 060-225-011)

SUBJECT: Request for approval of a Use Permit to continue the operation of an automotive repair business in the Central Business Open (CBO) Zone.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the resolution approving the Use Permit.

BACKGROUND

Existing Conditions:

The subject parcel is developed with an automotive repair building and a fenced storage area behind the building. In 1979, the Planning Commission approved a Use Permit to operate a tire repair business. Then, in 1982, the Planning Commission approved a Use Permit to operate an automotive repair business. Subsequently, the Zoning Code was amended to not allow automotive repair uses in the zone the property is located. Therefore, automotive repair use became legal non-conforming and the use may continue to operate in compliance with the Use Permit.

In 2009, a code enforcement complaint was received regarding the operation of the business in the public right of way and in public view. In September 2009, the Planning Commission held a public hearing to discuss the issues raised. After discussion with the applicant, the Planning Commission continued the hearing in order for staff and the applicant to identify alternate work areas in order to address the issues.

In October 2009, the Commission rescinded the 1982 Use Permit and approved a four-year Use Permit, which permitted flat-tire repair to occur in front of the building and other repair work to occur behind the building in a fenced area. The four year time limit was placed on the Use Permit because the Land Use Element and Zoning Code were in the process of being updated.

Please Review for the Possibility of a Potential Conflict of Interest:

- None Identified by Staff
- | | | |
|-------------------------------------|-------------------------------|---------------------------------|
| <input type="checkbox"/> Laferriere | <input type="checkbox"/> Alex | <input type="checkbox"/> Rodman |
| <input type="checkbox"/> Blum | <input type="checkbox"/> Long | |

Data Summary:

Applicant: Jose Jaime Medina
Property Owner: Gallagher Exemption Trust
General Plan Designation: Central Business District – Mixed Use
Zoning: Central Business Open (CBO) Zone

Surrounding Zoning & Existing Uses:

North: Central Business Open – restaurant, retail
East: Central Business – liquor store
West: Central Business Open – restaurant, automotive repair business
South: Public Facilities – City Hall

DISCUSSION

The applicant is requesting a Use Permit to allow the continued operation of the legal non-conforming use. Since 2009, the Land Use Element and Development Code were updated, and the West Grand Avenue Master Plan was adopted. In summary, all of these documents designated the site as a pedestrian-oriented area with a mix of retail, commercial services, restaurants, professional offices, civic, entertainment and residential uses. Automotive repair uses are not permitted and continue to be a non-conforming use.

Since 2009, the City has not received any additional complaints. However, the site is easily observed from City Hall and staff has noted that at times work occurs outside of the designated work areas. Staff recognizes that automotive repair services serve a need in the community for residents and visitors to the State Park. However, the Development Code has limited this use to the Retail Commercial, Industrial and Coastal Industrial Zones.

Although this site is not the only automotive repair business on West Grand Avenue that is legal non-conforming, it is located on the smallest lot. The small lot size and work area appears to be the primary reason for the business to be unable to accommodate the current volume of customers and perform work outside of the designated areas.

Conditions of Approvals

The applicant has not complied with the conditions of approval at all times. Staff has observed work performed in areas that violate the conditions listed below. However, staff has not documented these violations with photographs.

CDD-3. Tire storage shall be within the garage structure or within the tire storage area. Tires within the storage area shall not be stacked higher than the surrounding 6-foot high fence as depicted in sketch form on Exhibit A attached hereto.

At times tires are moved from inside the building to outside, adjacent to the door, during business hours.

CDD-6. Any other tire service, other than flat tire repair services, shall be rendered within the garage or within the fenced tire storage area. Prior to servicing vehicles in this area, a fence and gate, matching the height of the perimeter fence and gate, not to exceed 6 feet, shall be installed within the existing storage area so that the easterly portion is a minimum of 20 feet deep to allow for servicing of vehicles. The remainder shall be used for the storage of tires.

A fence and gate were installed to obscure the view from vehicles being serviced. Although services do occur in this area, services also occur outside of the area due to the lack of space.

CDD-9. No inoperable vehicles shall be left outside of the building except during normal business hours.

Vehicles that are being serviced outside the service area have been left overnight.

CDD-10. Parking spaces shall be used to park the vehicles waiting for service or for employee parking. Services shall not be rendered in the parking spaces.

After re-striping, parking is occurring to the east of the building versus the previous location along the westerly property line in front of the building. Due to the lack of space, vehicles have been serviced to the east of the building in the parking area.

CDD-11. All work performed by the business shall be performed on-site. Vehicles and any trailer, camper, vehicle or any other towed accessory, shall not be parked so that it encroaches into the public sidewalk or street area on either the Grand Avenue or 8th Street frontage. Should a vehicle be of a length that the site cannot accommodate, the owner/operator and/or employees of the establishment shall inform the customer that they cannot accommodate their needs.

Due to the small site, the major issue raised in 2009 dealt with vehicles parking across the lot and sidewalk, blocking pedestrian access. The site was restriped and it seems to have helped in reducing the number of vehicles pulling in haphazardly. The servicing of vehicles within the sidewalk/street area has been noted on occasion.

Alternatives

Staff believes that compliance with the conditions of approval has improved, but that the business continues to operate at times in violation of the conditions. Staff is providing the Planning Commission with three alternatives as follows:

1. Approve a two-year extension of the Use Permit and direct staff to document all violations and immediately schedule a public hearing for revocation of the Use Permit when staff believes the documentation is sufficient; or
2. Approve a two-year extension of the Use Permit and direct staff to monitor any violations and provide a periodic update to the Planning Commission; or
3. Approve the Use Permit indefinitely and direct staff to monitor any violations and provide a periodic update to the Planning Commission.

Conclusion

Staff is recommending that the Planning Commission adopt alternative No. 2 which would approve a two-year extension of the Use Permit and direct staff to monitor any violations and provide a periodic update to the Planning Commission.

ENVIRONMENTAL REVIEW

The project qualifies for a Class 1 Categorically Exempt in accordance with the California Environmental Quality Act (CEQA). A Class 1 exemption (Section 15301) consists of projects involving existing structures.

ALTERNATIVES

The Planning Commission has the following alternatives to consider:

1. Adopt the resolution approving the Use Permit for two-years and direct staff to monitor any violations and provide a periodic update to the Planning Commission; or
2. Adopt the resolution approving the Use Permit for two-years and direct staff to document all violations and immediately schedule a public hearing for revocation of the Use Permit when staff believes the documentation is sufficient; or
3. Modify the resolution approving the Use Permit indefinitely and direct staff to monitor any violations and provide a periodic update to the Planning Commission; or
4. Provide alternative direction to staff.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the resolution approving the Use Permit for two-years and direct staff to monitor any violations and provide a periodic update to the Planning Commission.

PUBLIC NOTIFICATION

On February 28, 2014, the public hearing notice was mailed to all property owners within 300 feet of the property and posted as required by City code and published in the Times Press Recorder. In addition, the agenda was posted in accordance with the Brown Act.

ATTACHMENTS

1. Draft Resolution
Exhibit A: Site Plan

PLANNING COMMISSION RESOLUTION NO. 14-

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GROVER BEACH,
APPROVING A USE PERMIT FOR DEVELOPMENT APPLICATION NO. 13-13
(792 WEST GRAND AVENUE)**

WHEREAS, the Planning Commission for the City of Grover Beach has received for its review and consideration a Staff Report and presentation in connection with Development Application No. 13-13, requesting approval for a Use Permit for the operation of an automotive repair business at 792 West Grand Avenue (APN 060-225-011) in the Central Business Open (CBO) Zone; and

WHEREAS, the notice of Public Hearing was sent to adjoining property owners and advertised in the manner required by law; and

WHEREAS, the project is categorically exempt from the California Environmental Quality Act (CEQA), Class 1: Existing Facilities; and

WHEREAS, the Planning Commission of the City of Grover Beach has reviewed and considered Development Application No. 13-13 at a Public Hearing on March 11, 2014; and

WHEREAS, the Planning Commission for the City of Grover Beach makes the following findings in accordance with Grover Beach Municipal Code (GBMC) Article IX, Section 7.40 Nonconforming Uses, Structures and Lots as follows:

1. The existing vehicle repair use was legally established in 1982 with approval of a Use Permit and the findings made at that time. There has been no lapse in the operations since its establishment. The use may continue in compliance with Development Code Section 7.40 Nonconforming Uses, Structures and Lots.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission for the City of Grover Beach **DOES HEREBY APPROVE** the Use Permit associated with Development Application 13-13, subject to the following conditions:

CONDITIONS OF APPROVAL:

GENERAL

- G-1. This Development Permit will not take effect until the Applicant and Property Owner sign the Planning Commission Resolution agreeing to the terms and Conditions of Approval. Failure to sign within thirty (30) calendar days of Planning Commission approval shall constitute non-compliance with said conditions resulting in an automatic withdrawal of the approval.
- G-2. Failure to appeal the Planning Commission action or a specific condition imposed as provided in GBMC Article IX, Section 6.30.020 within 10 working days of Planning Commission action shall be deemed as agreement to all conditions of approval.
- G-3. The Applicant agrees, as a condition of approval of this resolution, to indemnify, defend and hold harmless, at Applicant's expense, City and City's agents, officers and employees from and against any claim, action or proceeding commenced within the time period provided in Government Code Section 66499.37 to attack, review, set aside, void or annul the approval of this resolution or to determine the reasonableness, legality or

validity of any condition attached hereto. City shall promptly notify Applicant of any such claim, action or proceeding to which City receives notice, and City will cooperate fully with Applicant in the defense thereof. Applicant shall reimburse the City for any court costs and attorney's fees that the City may be required to pay as a result of any such claim, action or proceeding. City may, in its sole discretion, participate in the defense of any such claim, action or proceeding, but such participation shall not relieve Applicant of the obligations of this condition. Applicant's acceptance of this resolution or commencement of construction or operations under this resolution shall be deemed to be acceptance of all conditions contained in this resolution.

G-6. The project shall comply with all Federal, State, Local and City codes, regulations, and standards.

G-7. A City Business Tax Certificate shall be maintained for the business location.

COMMUNITY DEVELOPMENT DEPARTMENT

- CDD-1. This approval authorizes the operation of a vehicle repair and service business in substantial conformance with the project plans attached as Exhibit A for a two-year period expiring on March 10, 2016. The applicant shall submit a Use Permit application prior to the expiration date and staff shall schedule a public hearing to consider if the business is operating in compliance with the Use Permit.
- CDD-2. Tire storage shall be within the garage structure or within the tire storage area. Tires within the storage area shall not be stacked higher than the surrounding 6-foot high fence.
- CDD-3. There shall be no outside storage of parts, material, or refuse except within the existing fenced area in the rear of the parcel.
- CDD-4. Flat tire repair services may be performed in front of the garage in addition to within the garage or within the fenced tire storage area.
- CDD-5. Any other repair service, other than flat tire repair services, shall be rendered within the garage or within the fenced area.
- CDD-6. No electrical extension cords shall be run from the building to the outdoor work area.
- CDD-7. No welding or open flame devices shall be used in the outdoor work area due to the proximity of stored tires.
- CDD-8. No inoperable vehicles shall be left outside of the building except during normal business hours.
- CDD-9. Parking spaces shall be used to park the vehicles waiting for service or for employee parking. Services shall not be rendered in the parking spaces.
- CDD-10. All work performed by the business shall be performed on-site. Vehicles and any trailer, camper, vehicle or any other towed accessory, shall not be parked so that it encroaches into the public sidewalk or street area on either the Grand Avenue or 8th Street frontage. Should a vehicle be of a length that the site cannot accommodate, the owner/operator and/or employees of the establishment shall inform the customer that they cannot accommodate their needs. The owner/operator shall also inform

customers where there is not adequate area available to service their vehicle and that they need to go elsewhere.

CDD-11. To reduce visual impacts to Grand Avenue, additional landscaping shall be installed in the planter areas. The types and extent of materials shall be approved by the Community Development Department.

CDD-12. Violations of any of these conditions shall be a violation of the Use Permit and the City may issue a citation for each violation or revoke the Use Permit, resulting in closure of the auto repair facilities on-site.

The following abbreviations reflect the agency or departmental requirements for the conditions stated above:

- G- General Condition
- CDD- Community Development Department

On motion by _____, seconded by _____, and on the following roll-call vote, to wit:

- AYES: Commissioners -
- NOES: Commissioners -
- ABSENT: Commissioners -
- ABSTAIN: Commissioners -

the foregoing RESOLUTION NO. 14- was **PASSED, APPROVED**, and **ADOPTED** at a Regular Meeting of the City of Grover Beach Planning Commission on this 11th day of March, 2014.

JOHN LAFERRIERE, CHAIR

Attest:

BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR
SECRETARY TO THE PLANNING COMMISSION

ACCEPTANCE OF CONDITIONS

This permit is hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the Applicant and Property Owner or Authorized Agent. The undersigned hereby acknowledges the approved terms and conditions and agrees to fully conform to and comply with said terms and conditions within the recommended time frames approved by the City Planning Commission.

Applicant

Date

Property Owner or Authorized Agent

Date

Exhibit A

