



PLANNING COMMISSION STAFF REPORT

TO: Honorable Chair & Planning Commission **DATE:** November 14, 2018

FROM: Bruce Buckingham, Community Development Director

PREPARED BY: Janet Reese, Planner II

SUBJECT: Development Application 18-48 – Request for a Use Permit to allow a Hookah Bar Located at 1523 West Grand Avenue (Applicant: Susan Kurdi)

RECOMMENDATION

Staff recommends that the Planning Commission adopt a resolution approving Development Application 18-48.

BACKGROUND

Existing Site Conditions

The subject address is a 1,140 square foot unit within a multi-tenant commercial building. The property is approximately 26,362 square feet in size and developed with a building that is approximately 10,893 square feet in size and 31 parking spaces.

Data Summary:

Property Owner: Guadalupe Alvarez

APN: 060-251-013

Applicant: Susan Kurdi

General Plan Designation: Retail and Commercial Services

Zoning: Retail Commercial (RC)

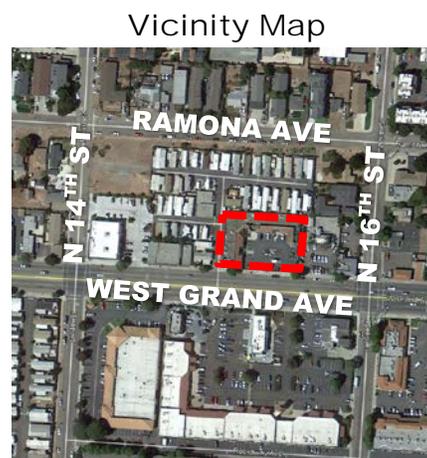
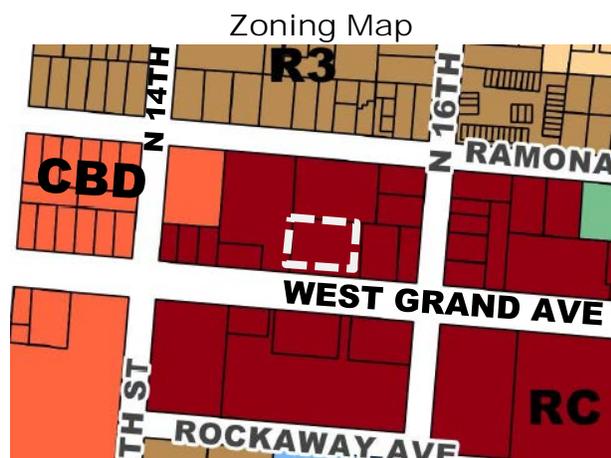
Surrounding Zones and Uses:

North: Retail Commercial; mobile home park

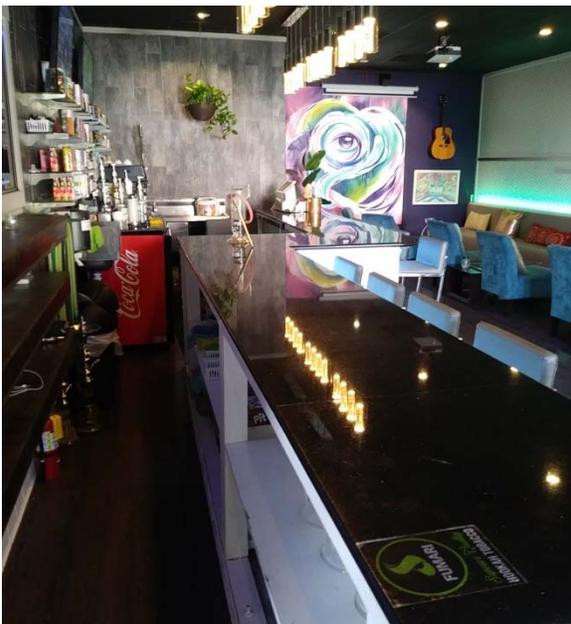
South: Retail Commercial; multi-tenant commercial development

West: Retail Commercial; mobile home park

East: Retail Commercial; commercial building



Site Photos



Proposed Project

The applicant is requesting an after the fact Use Permit to operate a hookah bar that serves non-alcoholic beverages from 5:00 p.m. to midnight seven days a week located at 1523 West Grand Avenue. The applicant operates a retail tobacco store in the adjacent unit, 1519 West Grand Avenue. In 2015, the applicant commenced operation of a coffee shop in the subject

unit. Subsequently, a doorway was created between the two units and a hookah lounge was commenced without obtaining a Use Permit.

State law classifies a hookah lounge as a private smoking lounge, which is a separate, enclosed area in or attached to a retail tobacco shop that is dedicated to the use of tobacco products. Private smoker's lounges, along with retail tobacco shops, are exempt from the State's Clean Indoor Air Law (Labor Code 6404.5(e)), which prohibits smoking in most enclosed workspaces.

The Development Code classifies hookah bars as a "Personal Service-Restricted" use, which requires the approval of a Use Permit. In addition, retail uses that operate between the hours of 10:00 p.m. and 7:00 a.m. require a Use Permit, due to the reduced allowable noise level during that time frame. The approval of a Use Permit requires the following findings be made in the affirmative:

1. The proposed amendment is consistent with the General Plan, this Development Code, and other City goals, policies, and standards, as applicable.
2. The subject site is physically suitable in terms of design, location, operating characteristics, shape, size, and topography.
3. The type, density, and intensity of use being proposed will not constitute a hazard to the public interest, health, safety, or welfare.

The use is similar to a coffee shop and would not generate more noise than a typical commercial use in a commercial zone. The site is only from West Grand Avenue, and not from behind the building. In order to mitigate second hand smoke from exiting the building, staff has added a condition that an odor control system be installed. In addition, due to the use of coals, a mechanical exhaust hood system is required to be installed.

As previously mentioned, this is an after the fact permit and is still an active code enforcement case until such time that a Use Permit is approved and the conditions of approval have been completed. As a result, staff has added a condition requiring that the ventilation and exhaust systems be completed and operational within 60 days.

Conclusion

Staff is of the opinion that the project is consistent with the General Plan and Development Code and the findings can be made for the use as conditioned.

Environmental Review

The proposed project is Categorically Exempt (Class 1) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines Section 15301 (Title 14 California Code of Regulations §§ 15000, et seq.) because the proposed project involves a commercial use within an existing commercial building.

ALTERNATIVES

The Planning Commission has the following alternatives to consider:

1. Adopt the resolution to approve Development Application 18-48; or
2. Provide alternative direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act. A copy of this staff report and the meeting agenda was provided to the applicant. A legal ad was published in *The Tribune* on October 26, 2018. A public hearing notice was posted on the subject property and mailed to property owners within 300 feet of the subject property.

ATTACHMENTS

1. Draft Resolution

PLANNING COMMISSION RESOLUTION NO. 18-__

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GROVER BEACH
APPROVING DEVELOPMENT APPLICATION 18-48 FOR A USE PERMIT
LOCATED AT 1523 WEST GRAND AVENUE
(Applicant: Susan Kurdi)**

WHEREAS, an application has been received from Susan Kurdi (applicant) and Guadalupe Alvarez (property owner) for Development Application 18-48, establishing a hookah bar (private smoker's lounge) at 1523 West Grand Avenue (APN 060-251-013); and

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

WHEREAS, the proposed project qualifies for an Categorical Exemption consistent with CEQA Guidelines Section 15301: Existing Facilities; and

WHEREAS, the Planning Commission of the City of Grover Beach has reviewed and considered Development Application 18-48 at a Public Hearing on November 14, 2018; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Grover Beach **HEREBY** make the following findings, determinations with respect to Development Application 18-48:

SECTION 1. Findings of Environmental Exemption. The Planning Commission finds as follows:

1. The proposed project is Categorically Exempt (Class 1) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines Section 15301 (Title 14 California Code of Regulations §§ 15000, et seq.) because the proposed project involves a commercial use within an existing building.
2. The proposed project is not located in an environmentally sensitive area, nor impact an environmental resource.
3. The proposed project will not have a cumulative impact of successive projects of the same type, in the same place, over a period of time. The proposed project is located within an industrial zone with similar type of uses.
4. The proposed project will not have a significant effect on the environment based on the project record, which is on file at the City of Grover Beach Community Development Department.
5. The proposed project is not located on a designated scenic highway nor scenic resource.
6. The proposed project is not located on any hazardous waste list pursuant to Section 65962.5 of the Government Code.
7. The proposed project is not a designated historical resource.

SECTION 2. Findings for Use Permit. The Planning Commission finds as follows in accordance with Grover Beach Municipal Code (GBMC) Article IX, Section 6.20.090(F):

1. The proposed amendment is consistent with the General Plan, this Development Code, and other City goals, policies, and standards, as applicable.

Fact. The proposed project is consistent with all applicable General Plan policies and Development Code requirements for the Retail Commercial Zone.

2. The subject site is physically suitable in terms of design, location, operating characteristics, shape, size, and topography.

Fact. The site is a 26,362 square foot rectangular flat lot fully improved with an existing 10,893 square foot building with an improved area with 31 parking spaces. The site has appropriate circulation allowing for public access to parking. The project site is located in the Retail Commercial Zone.

3. The type, density, and intensity of use being proposed will not constitute a hazard to the public interest, health, safety, or welfare.

Fact. The Retail Commercial Zone allows a variety of commercial uses. As conditioned, the use will not subject the general public from secondhand smoke.

SECTION 3. Use Permit Approval. The Planning Commission of the City of Grover Beach, at a Regular Meeting on November 14, 2018 resolved to approve Development Application 18-48 for a Use Permit subject to the following:

CONDITIONS OF APPROVAL:

GENERAL

- G-1. 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 loss, liability, costs, damages, claims, action or proceeding of any kind including also any proceeding commenced 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 loss, liability, costs, damages, claims, 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-2. All Conditions of Approval shall be provided on a full size drawing sheet as part of the construction plan set. All notes and specifications as shown on the plans shall be considered Conditions of Approval. If there is a conflict between the approved plans and

the Conditions of Approval, the Conditions of Approval shall prevail. The project shall comply with all State and City codes, regulations, and standards. Construction plans shall comply with applicable California Building Codes in effect at the time of submittal.

- G-3. Prior to commencement of construction, construction plans shall be approved and applicable permits obtained. All construction traffic shall access the site utilizing the truck route(s) closest to the site as defined in the City Circulation Element and as approved by the City's Police Department.
- G-4. All operations shall comply with the City's Noise Ordinance, including mechanical equipment.

COMMUNITY DEVELOPMENT DEPARTMENT

- CDD-1. This approval authorizes Development Application 18-48 to allow the operation of a 1,140 square foot hookah bar (private smoker's lounge) in substantial compliance with Exhibit A between the hours of 8:00 a.m. and midnight. As defined by State law, private smoker's lounges are for the consumption of tobacco products. Cannabis products are prohibited.
- CDD-2. Within 30 days of approval, the applicant shall submit plans for an odor control system prepared by a licensed HVAC contractor in the State of California certifying the system is properly sized, installed and operational to prevent second hand smoke from exiting the building. The HVAC system shall be installed and operational within 60 days of the project approval.
- CDD-3. The business shall operate in compliance with all State, County and local laws for tobacco consumption as enforced by the applicable agencies.

FIVE CITIES FIRE AUTHORITY

- FD-1. Adequate ventilation is required when heating coals. Within 30 days of approval, the applicant shall submit plans for mechanical exhaust hood system that is UL listed. The plans shall be prepared by the appropriately licensed contractor in the State of California. The system shall be installed and operational within 60 days of the project approval. The mechanical exhaust hood fan shall be on at all times while coals are being prepared.
- FD-2. Whenever hot coals are removed from the preparation area, they shall be placed in a ceramic, metal, or other noncombustible container. Open mesh containers shall not be used.
- FD-3. Coal containers shall not be placed on combustible materials, such as tablecloths or furniture. All devices used to transfer coals from the container to the hookah pipe shall be of a non-combustible material.
- FD-4. Hookah pipes shall be securely fastened in place to prevent overturning. An approved clasp or hook may be used to secure the pipe to a table or other stationary object. A shield or other approved device shall be applied to the top of the pipe to prevent accidental contact of patrons to exposed coals. A protective device may be a cap constructed of aluminum foil so that the height is not less than two inches above the top

of the coals.

- FD-5. Used coals shall not be discarded in such a manner that could cause ignition of combustible materials. Used coals shall be removed and placed into a sealed metal or ceramic container with a lid (no openings other than the lid). The container shall be labeled "Hot Coals Only". The container shall not be placed within ten feet of other combustible materials, including combustible walls, partitions, or within two feet of openings of the building. If the container is placed on a non-combustible floor, ground surface, or stand, the container may be within two feet of the wall or partition. Hot ashes shall be thoroughly cooled (at least 24 hours) before being discarded.
- FD-6. The maximum number of occupants shall be 49 persons. If more than 49 occupants is desired, all requirements of the California Fire and Building Codes shall apply for an assembly occupancy. Requirements for assembly occupancies include, but are not limited to a fire suppression system for the building, a second exit from the unit, illuminated exit signs, and panic hardware.
- FD-7. 2-A:10-B:C type fire-extinguishers shall be installed in approved locations. A 2-A:20-B:C type fire-extinguisher shall be installed adjacent to the area where the coals are prepared. A sign shall be provided to indicate extinguishers to occupants.

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. 18-____ was **PASSED, APPROVED, and ADOPTED** at a Regular Meeting of the City of Grover Beach Planning Commission on this 14th day of November, 2018.

JOHN LAFERRIERE, CHAIR

Attest:

BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR
SECRETARY TO THE PLANNING COMMISSION

Exhibit A

