



Agenda Item:

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COUNCIL COMMUNICATION

City Manager's Office

GENERAL INFORMATION

Agenda Date: 6/20/2005
Agenda Item Type: Receive and File

Communication No.: 05-355
Roll Call No.:

Submitted by: Larry Hulse, Community Development Director

SUBJECT—

Review of the May 25, 2005 decision of the Board of Adjustment to approve a conditional use variance for Jerry Sale (Lessee) d/b/a Lower Beaver Conoco located at 4540 Lower Beaver Road. The subject property is owned by Greg D. Robinson of Albany, CA.

SYNOPSIS—

On May 25, 2005 the Board of Adjustment voted 7-0 to approve of a use variance to allow continued use of the property as a garage for general motor vehicle repair after discontinuing the sales of fuel subject to conditions (see background). The Board's decision was filed on June 1, 2005. Pursuant to Section 134-65 of the City Code, the City Council shall review the Board's decision within 30 days after the decision is filed. After such review, the City Council may remand the decision to the board for further study. If the City Council does not act to review the decision within 30 days after it is filed, the decision shall become effective on the 31st day (July 2, 2005). If the City Council declines to remand a decision, that decision shall become final on the date of the City Council's action (June 20, 2005).

FISCAL IMPACT—

N/A.

RECOMMENDATION—

Staff recommends that the City Council **not** remand the Board's decision.

BACKGROUND—

The subject property has historically been used as a gas station with accessory garage for general motor vehicle repair. That use was allowed as a legal non-conforming use in the R-4, Multiple Family Residential District. The property owner removed underground fuel tanks from the property thus changing the primary use of the property to general motor vehicle repair and eliminating their rights to exist as a legal non-conforming use.

After public hearing on March 28, 2005 the City Council denied a request to rezone the property by a vote of 7-0 and encouraged the applicant to pursue a use variance from the Board of Adjustment. Such decision was consistent with the February 17, 2005 recommendation from the Plan and Zoning Commission.

After public hearing on May 25, 2005 the Board of Adjustment voted 7-0 to recommend approval of a use variance to allow continued use of the property as a garage for general motor vehicle repair after discontinuing the sales of fuel subject to the following conditions:

1. Display of vehicles for sale is prohibited.
2. Outdoor repair and servicing of vehicles is prohibited.
3. Outdoor display of automobile accessories and storage of materials or equipment such as barrels, tires and tools is prohibited as well as seasonal equipment such as lawn mowers and snow blowers.
4. All refuse and trash disposal containers are contained within an enclosure that complies with the Site Plan regulations.
5. Parking of all vehicles associated with the business such as wrecking trucks outside of the required 25' front yard building setback.
6. Provision of landscaping and screening with any fencing being 100% solid construction in accordance with the Des Moines Landscape Standards for "C-2" districts as approved by the Community Development Director.
7. Submittal and review of a Site Plan in accordance with Site Plan regulations by December 31, 2005.
8. Substantial conformance with the approved site plan by July 1, 2006.
9. Automobiles shall only be parked in marked parking spaces in accordance with an approved site plan.
10. The Use Variance expires in two years with an inspection by the Zoning Officer for compliance of timely requirements at the end of year one. At the end of two years the property owner must submit application to continue the required Use Variance.
11. A copy of the Board's decision is recorded at the appellant's expense to insure that future property owners are aware of these conditions.
12. The parking lot be resurfaced within two years as part of the site plan submitted.