



Agenda Item:

Ex. Item 1

## COUNCIL COMMUNICATION City Manager's Office

### GENERAL INFORMATION

Agenda Date: 09/26/05  
Agenda Item Type: Receive and File

Communication No.: 05-549  
Roll Call No.:

Submitted by: Larry D. Hulse, Community Development Director

### SUBJECT—

Review of the August 24, 2005 decision of the Board of Adjustment to approve a Use Variance for Jorge Morales (Owner) located at 2218 E. 9<sup>th</sup> Street.

### SYNOPSIS—

On August 24, 2005, the Zoning Board of Adjustment voted 5-2 with Board members Belken and Westergaard voting in opposition, to approve an application from Jorge Morales for a use variance to allow the continued use of the property at 2218 E. 9<sup>th</sup> Street for general motor vehicle repair. The final decision and order of the Zoning Board of Adjustment of said action was executed under the signature of Chairman Bill Gray on August 30, 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. This use was allowed as a legal non-conforming use in the "C-1" Neighborhood Retail Commercial District.

After public hearing on May 9, 2005 (Roll Call #05-1200) the City Council denied a request to rezone the property by a vote of 6-0 with Mayor Cownie absent. The applicant subsequently made application for a use variance from the Board of Adjustment to allow continuance of the use.

After public hearing on August 24, 2005, the Board of Adjustment voted 5-2 to recommend approval of a use variance to allow continued use of the property for general motor vehicle repair subject to the following conditions:

1. Any display of vehicles for sale shall be prohibited;
2. Any outdoor repair and servicing of vehicles shall be prohibited;
3. Any outdoor display of automobile accessories and storage of materials or equipment such as barrels, tires and tools shall be prohibited;
4. Any refuse and trash disposal containers shall be contained within the building or an outdoor enclosure that shall comply with the Zoning Ordinance;
5. Submittal and review of a Site Plan in accordance with Site Plan regulations by October 31, 2005;
6. Install landscaping in accordance with standards in the Site Plan policies for "C-1" Districts as approved by the Community Development Director;
7. Substantial conformance with the approved Site Plan by January 31, 2006.
8. No more than five (5) automobiles may be parked on the subject property at any given time, and shall only be parked in marked parking spaces in accordance with an approved Site Plan;
9. Any use of on-street parking spaces for customer or business vehicles shall be prohibited;
10. This Use Variance shall expire 10 years from the effective date
11. A signed copy of the Board's decision and order shall be recorded at the appellant's expense as assurance that future property owners become aware of these conditions;
12. All vehicles parked on the property to be locked at all times;
13. Hours of operation from 7:00 AM to 6:00 PM on a daily basis;
14. The Board shall reconsider the Use Variance if it is found by the Zoning Officer that the appellant or their successors have not complied with all conditions of approval.