



# Council Communication

Office of the City Manager

Date

January 7, 2008

Agenda Item No. 52

Roll Call No. 08-

Communication No. 08-022

Submitted by: Larry D. Hulse, Community  
Development Director

## AGENDA HEADING:

Review the decision of the Board of Adjustment to **conditionally approve** a use variance to allow a garage for general motor vehicle repair at 4540 Lower Beaver Road. The subject property is zoned "R-4" Multiple-Family Residential District and is owned by the Greg Robinson, P.O. Box 240173, Honolulu, HI 96824.

## SYNOPSIS:

On November 28, 2007, the Zoning Board of Adjustment voted 6-0 to approve a use variance requested to allow use of a property in an "R-4" Multiple-Family Residential District as a garage for general motor vehicle repair subject to conditions. The Decision and Order of the Zoning Board of Adjustment's action was executed under the signature of Chairman Bill Gray on December 20, 2007. Pursuant to Section 135-65 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 declines to remand the decision, that decision shall become final on the date of the City Council's action (January 7, 2008). Staff recommends that the City Council **not** remand the Board's decision.

## FISCAL IMPACT: NONE

## ADDITIONAL INFORMATION:

The subject property is located in the middle of the Lower Beaver Neighborhood, which is predominately comprised of single-family dwellings with commercial uses along the Douglas Avenue corridor. The subject property is irregularly shaped, generally measures 150'x120' (0.4 acres) and contains a 51'x28' commercial building with two bays for automotive repair. A legal non-conforming convenience store is located to the south of the subject property, and an apartment complex is located to the west and north of the subject property. These properties are zoned "R-4" Multiple Family Residential District and are shown on the 2020 Community Character Plan as Medium Density Residential.

On March 28, 2005, by Roll Call 05-73, the City Council denied the appellant's request to rezone the subject property from "R-4" (Multiple Family Residential) to Limited "C-2" (General Retail and Highway Oriented Commercial) to allow the property to be used as a garage for general motor vehicle repair. The property had previously been used for gasoline sales with accessory motor vehicle repair as a non-conforming use. The appellant had removed the gasoline sales portion of the business and lost non-conforming rights.

On May 25, 2005, the Zoning Board of Adjustment conditionally granted a use variance to allow the repair garage for 2 years. On November 28, 2007, the Board conditionally granted a subsequent use variance set to expire in 5 years, 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.
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 shall be outside of the required 25-foot front yard building setback.
6. Automobiles shall only be parked in marked parking spaces in accordance with an approved site plan.
7. The owner/applicant shall submit a certification from a licensed landscape architect or certified nurseryman no later than June 1, 2008, that all landscaping on the site has been installed in the locations designated on the site plan and that all plant materials are alive and properly maintained.
8. All landscaping shall be continuously maintained or replaced in accordance with the approved site plan for the life of the certificate of occupancy.
9. The building and fence shall be entirely painted an earth tone color by June 1, 2008.
10. The Use Variance shall expire 5 years after the date the Decision and Order is signed. Any future extension of the use variance shall be subject to reconsideration by the Board of Adjustment.
11. A copy of the Board's decision and order shall be recorded at the appellant's expense to insure that future property owners are aware of these conditions.
12. In June of 2008, City staff shall inspect the premises for compliance with the conditions set forth in the Decision and Order and submit a report of the findings to the Zoning Board of Adjustment.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: March 28, 2005

Roll Call Number: 05-773

Action: On request from Lower Beaver Conoco, to rezone property at 4540 Lower Beaver Road from "R-4" (Multiple Family Residential) to Ltd. "C-2" (General Retail and Highway Oriented Commercial), to allow conversion of use to a garage for general motor vehicle repair after discontinuing gasoline sales, with accessory motor vehicle repair as a non-conforming use: ([Council Communication No. 05-157](#))

#### **BOARD/COMMISSION ACTION(S):**

Date: November 28, 2007

Docket Number: ZON2007-00185

Action: Conditional approval of appeal for a Use Variance to allow garage of general automotive repair.

Date: May 25, 2005

Docket Number: ZON2005-00054

Action: Conditional approval of appeal for a Use Variance to allow garage of general automotive repair.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**