



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: MAY 27, 2014

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ITEM NUMBER: **PH-1**

**SUBJECT: AMENDMENT TO PLANNING APPLICATION PA-90-107 TO ALLOW A TOW COMPANY (HADLEY TOW) IN CONJUNCTION WITH AN EXISTING AUTO REPAIR USE 1343 LOGAN AVENUE**

**DATE: MAY 16, 2014**

**FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: ANTONIO GARDEA, SENIOR PLANNER**

**FOR FURTHER INFORMATION CONTACT: ANTONIO GARDEA (714) 754-5692  
antonio.gardea@costamesaca.gov**

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## **PROJECT DESCRIPTION**

The applicant is requesting approval of an amendment to a conditional use permit to legalize operating a tow company in conjunction with an existing auto repair use.

## **APPLICANT**

The applicant is Mark Hassan, representing Ed Khalini, the property owner.

## **RECOMMENDATION**

Deny by adoption of Planning Commission Resolution.

## **BACKGROUND**

Conditional Use Permit PA-90-107 authorized operation of an auto shop business in 1990. The property has been occupied by "Euro American Autobody Shops Inc." since January 10, 2000. On June 13, 2013, a City business license was issued for a dispatch office for a towing company to operate in the same facility as the auto repair (Attachment 4). The approval was based on the understanding that no tow trucks or vehicles would be kept on site. The notation indicates that dispatch of trucks is only an accessory use to the existing automobile repair use. In August 2013, the City received a complaint that the towing company was towing and storing vehicles on site. An investigation was initiated; staff did not observe any stored vehicles on site. In October 2013, a follow up complaint was filed, which after investigation, confirmed that tow trucks were kept on the premises and also parked on Logan Avenue. On January 13, 2014, the applicant submitted an application to legalize the towing company at the subject site.

This item was originally scheduled for consideration by Planning Commission on May 12, 2014. However, the applicant requested a two-week continuance to submit revised plans. The plans were revised indicating that vehicle drop off after regular business hours would occur toward the front of the property, near Logan Avenue in an attempt to mitigate noise impacts. The vehicles would be moved to the rear portion of the property during regular business hours. The plans also show that a new security gate would be installed between the impound area at the rear and the parking area for the auto repair business separating the two uses. The proposed modifications do not address the aesthetic impacts and potential noise impacts.

### ***Project Site / Environs***

The property is located on the south side of Logan Avenue between College Avenue and McClintock Way. The property is zoned MG (General Industrial District) and has a General Plan land use designation of Light Industry. The lot size is 30,542 square feet and developed with a 12,020 square foot building. For this size lot, the maximum size building is 10,620 square feet. The property complies with the industrial development standards and required number of parking spaces but is nonconforming in terms of maximum floor area ratio. The building is set back 20 feet from the front property line and approximately 70 feet from the rear property line. The plans indicate that half of the existing building would be used for the proposed towing company and the remainder would continue to be used for the auto repair business.

The property is bounded by industrially-zoned property to the east, west and north and a multiple-family, residentially-zoned property to the south. The abutting drainage channel separates the subject property from the adjacent apartment buildings. As shown in the attached vicinity map, the apartment buildings are approximately 200 feet away from the proposed site and the area next to the channel is developed with parking spaces, a drive aisle and carports.

**Prior Land Use Entitlements**

Application	Description
ZE-75-27 (March 10, 1975)	Alteration of an existing building to allow motor freight and storage in an M1 zone.
PA-90-107 (November 28, 1990)	Establishment of an auto body and paint shop within 200 feet of residentially-zoned property.

The staff report for PA-90-107 notes a concern that noise generated at the site may impact the residential property to the south and included a condition of approval that the rear doors remain closed during all hours of operation. The plans submitted for the auto body repair use show office space in the front half of the building and label the remainder as garage.

**Planning Application PA-90-107 A1**

In the MG zone, tow companies require approval of a Minor Conditional Use Permit. However, the towing company is considered ancillary to the motor vehicle repair use which was previously granted a conditional use permit. The site plan submitted by the applicant shows the rear half of the building would be used for the towing company in order to demonstrate compliance with the minimum number of parking spaces required for the existing building. Because the two business would share the same site, occasionally the towing company would partner with the body shop for customer referrals. Although the applicant’s letter indicates that the hours of operation would coincide with the auto body repair use, the intention is to have the businesses operate independent of one another. The letter states that the towing business is a 24-hour operation and that vehicles would be dropped off after regular business hours. Therefore, the application is a request to modify the conditional use permit to accommodate the 24-hour towing company use in addition to the auto repair use.

**ANALYSIS**

Section 13-54 of the Zoning Code imposes additional property development standards on service and repair of motor vehicles and boats use that are within 200 feet of residentially zoned properties. The automobile service and repair operations are subject to the following standards:

- (1) All operations shall be conducted within an enclosed building.
- (2) All areas or structures in which such operations are conducted shall be so located or treated as to prevent annoyance or a detriment to any other existing on-site uses and surrounding properties.
- (3) All activities shall be confined to 7:00 a.m. to 7:00 p.m. when located within 200 feet of residentially zoned property measured from lot line to lot line.
- (4) No damaged or inoperable boats or vehicles shall be stored for purposes other than repair.

The auto body repair use operates in compliance with the above standards. Operations are conducted within the building, there have been no complaints from the surrounding neighbors; and, the hours of operation are from 8:00 a.m. to 5:00 pm. Monday through Friday. In addition, no inoperative vehicles are kept on site.

The recent complaints were strictly related to operation of the towing company. The complaint was found to be valid in October 2013, as inspection by the Code Compliance officer revealed that tow trucks and vehicles were being stored on the premises. Staff has conducted a site visit and found that the business was not being conducted in full compliance with the conditions of approval. The rear door was left open in violation of the condition mandating that it remain closed during business hours, and automobile parts are being stored outside the building.

The proposal for the towing company is contrary to the development standards noted above. The towing company would be a 24-hour operation and damaged vehicles would be stored on site. The plans indicate that the vehicle impound area would be along the rear property line in a row of tandem parking spaces. The impounded vehicles parking will reduce the on-site parking to 24 spaces; 13 spaces short of the minimum required for this size building.

### ***General Plan Consistency***

The operating characteristics of the 24-hour towing business would be detrimental and disruptive to the residential use immediately to the south. The towing business would have aesthetic impacts that would be visible from adjacent residential zone. Also, the use would likely generate night-time noise that exceed the City of Costa Mesa residential exterior noise thresholds of 50dB(A), and could disrupted the peaceful enjoyment of the adjacent residents during night time hours. The amendment to the Conditional Use Permit to allow the establishment of the towing business is inconsistent with the City's General Plan Policy to protect existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities.

### ***Zoning***

The proposed project would introduce a use that is contrary to the applicable development standards for motor vehicle repair uses within 200 feet of residentially zoned properties and would operate in a manner that is not compliant with the original approval. The Zoning Code development standards for automobile repair uses limits the hours of operation and prohibits storage of damaged or inoperative vehicles for purposes other than repair. The 24-hour operation of the towing business may be audible and disturbing to the residents of the adjacent property even though the after-hours vehicle drop-off area is located toward the front of the property against Logan Avenue. The towing company would introduce a use that is not conducive to the peaceful enjoyment of the residential property immediately to the south. Allow a 24-hour towing service and

storage of impounded vehicles is contrary to the additional development standards applicable to the existing repair use.

The subject property is located adjacent to residentially-zoned property containing two-story, multiple family dwelling units. The proposed towing company would impact the residential property in terms of aesthetics and noise. Even though, a block wall with a gate would screen the vehicles from view from Logan Avenue, the impounded vehicles would be visible from the apartments over the six-foot tall wood fence along the south property line.

### **ENVIRONMENTAL DETERMINATION**

If the request is denied, it would be exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15270 (a) for projects which are disapproved.

### **CONCLUSION**

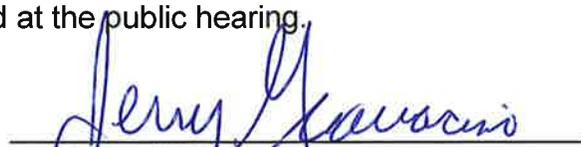
Due to the proximity to residentially zoned properties, and the operating characteristics of the towing business, there is no basis for approval of the amendment to the Conditional Use Permit as requested by the applicant. The towing business is inconsistent with General Plan Policy LU-1F.1, which protects existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities. Therefore, the recommendation is to deny the request for the amendment of the existing conditional use permit for the automotive repair to allow the towing business. If the use is denied, the applicant cannot submit the same type of application for six months.

### **ALTERNATIVES**

The Commission has the following alternatives:

1. Continue the item to allow more time for analysis or revisions to the project.
2. Request that staff bring back for consideration a Resolution for approval based on the evidence and findings expressed at the public hearing.

  
ANTONIO GARDEA  
Senior Planner

  
JERRY GUARRACINO, AICP  
Interim Assistant Director of Development  
Services

- Attachments:
1. Draft Planning Commission Resolution
  2. Applicant's Description of the Use
  3. Site Plan
  4. Business License Application
  5. Vicinity Map

cc:

Director of Economic & Development / Deputy CEO  
Sr. Deputy City Attorney  
Public Services Director  
City Engineer  
Transportation Services Manager  
Fire Protection Analyst  
Staff (4)  
File (2)

Mark Hassan  
Hadley Tow  
11819 Hadley Street  
Whittier, CA 90601

Ed Khalini  
1343 Logan Avenue  
Costa Mesa, CA 92626

**RESOLUTION NO. PC-14-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DENYING AN AMENDMENT TO CONDITIONAL USE PERMIT PA-90-107 TO ALLOW A TOWING COMPANY AT 1343 LOGAN AVENUE**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Mark Hassan, representing Ed Khalini, owner of property located at 1343 Logan Avenue, requesting an amendment to an existing Conditional Use Permit PA-90-107 to allow the legalization of a towing company.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on May 27, 2014 with all persons having the opportunity to speak for and against the proposed project.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **DENIES** PA-90-107 A1 with respect to the property described above.

**PASSED AND ADOPTED this 27<sup>th</sup> day of May, 2014.**

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Jim Fitzpatrick, Chair  
Costa Mesa Planning Commission



## EXHIBIT A

### FINDINGS

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) with regard to the amendment of the conditional use permit because:

**Required Finding:** The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area

- **Response:** The proposed legalization of the towing company as an ancillary use to the existing vehicle repair is incompatible with the residentially zoned properties to the south. Establishment of a towing company would be materially detrimental to the residentially zoned properties in terms of aesthetics and noise. Allowing the towing company would introduce a use that is not conducive to the peaceful enjoyment of the residential property immediately to the south developed with two-story, multiple family dwelling units. Even though, the applicant is proposing to construct a block wall with a gate to screen the vehicles from view from Logan Avenue and use the vehicle drop-off area on the front against Logan Avenue, the vehicles would be visible from the apartments over the six-foot tall wood fence along the south property line and the 24-hour operation of the towing business may still be audible and disturbing to the residents of the adjacent property.

**Required Finding:** Granting the conditional use permit or minor conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

**Response:** The proposed legalization of the towing company as an ancillary use to the existing vehicle repair use would be injurious to the residentially zoned properties immediately adjacent to the south. Operating a 24-hour towing company in conjunction with an auto repair use is contrary to the additional development standards of the industrial zone for motor vehicle repair uses within 200 feet of residentially zoned properties. Specifically, the storage of non-operable vehicles is prohibited and potential operation outside of standard business hours would be detrimental to the residential property to the south. In addition, the noise and aesthetic impacts are injurious to the residential property immediately to the south.

**Required Finding:** Granting the conditional use permit or minor conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

**Response:** Granting the minor conditional use permit will allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property. The proposed towing company was approved as a dispatch office only (general office use) as an ancillary use to the existing body shop. Allowing storage of vehicles and tow truck dispatching from the site after regular operating hours intensifies of the use of the property. The towing operations would require a number of vehicles to be stored on site which effectively reduces the number of parking spaces that may be necessary for the auto repair use and results in conditions contrary to standard development standards for auto repair uses.

- B. The Costa Mesa Planning Commission has denied Zoning Application PA-90-107 A1. Pursuant to Public Resources Code Section 21080(b)(5) and therefore according to CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

# HADLEY TOW

11819 E. Hadley St.  
Whittier, CA 90601  
(562)692-3793 fax (562) 692-1919

April 29, 2014

Re: Amendment to Planning Application PA-90-107 A1 for a Towing Service  
1343 Logan Avenue, Costa Mesa

Dear Antonio Gardea:

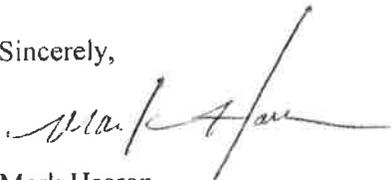
In response to your email dated April 28, 2014 our responses are as follows:

2.
  - a) Auto Repair & Tow Yard: Hours of Operation: 8:00 am -6:00 pm Monday-Friday  
8:00 am-2:00 pm Saturday and closed on Sunday.
  - b) Number and location of vehicles stored on site (including tow trucks): 25-30
  - c) Nature of vehicles stored: impounded vehicles, operative vehicles which shall be  
be tandem parked by the attendant on duty during all hours of operation and inoperative vehicles  
stored on the south side of the lot.
  - d) Does not reduce on-site parking requirement
  - e) Are stored vehicles screened from view of the street and surrounding properties?  
Yes, it is 100% screened by a rod iron fence.

To satisfy the minimum number of parking spaces we will park five additional vehicles inside the rear of building.

Hadley Tow currently does not conduct Private Property Impounds. Towing business is generally a 24 hour operation but 99% of vehicles are released during business hours. The majority of vehicles are towed from point A to point B and rarely back to the facility. Our office in Santa Ana is a 24 hour operation.

Sincerely,



Mark Hassan  
President / Owner





APPLICATION FOR

(714) 754-5235 • wx

ATTACHMENT 4

Business Name HADLEY TOW

Parent Company Name FMG INC.  
(If Corporate Owned)

Business Address 1343 LOGAN AVE. Costa Mesa CA 92626  
(Cannot be a P.O. Box) Street # Street Name Unit # City State Zip

Mailing Address 11819 hadley st. whittier CA 90601  
(Can be a P.O. Box) Street # Street Name Unit # City State Zip

Business Telephone # (714) 453-0130 Costa Mesa Business Start Date IN Costa Mesa For 10/15 No. of Employees (on average) \_\_\_\_\_

Ownership (Check One Only)  
 Sole Owner  Corporation  Partnership  Husband & Wife Co-ownership  LLC  LLP

Seller's Permit No. N/A. Contractor's State No. & Class N/A.  
(If Applicable) (If Applicable)

Federal Employer ID # or, Owner's Social Security # 954810354 Hours of Operation (M-F) 8-5 (S-SU) closed.  
(Commercial/Industrial Only)

OWNER'S OR PRINCIPAL'S NAME(S)

Name Mark Hassan Name \_\_\_\_\_  
Home Address 15929 ESCUIME DR Home Address \_\_\_\_\_  
City Chino hills CA Zip 91709 City \_\_\_\_\_ Zip \_\_\_\_\_  
Telephone # (562) 8249759 Title OWNER Telephone # ( ) Title \_\_\_\_\_  
Drivers License No 85422164 DOB 12-27-78 Drivers License No. \_\_\_\_\_ DOB \_\_\_\_\_

TYPE OF BUSINESS

Please Check One:  
 Wholesale  Retail  Manufacturing  Services  
 Non-Profit  Administrative Only  Warehouse  Other  
Fully Describe Business Operation:  
DISPATCH OFFICE - TOWING -  
Standard Industrial Class Code (SIC) 7549111  
Alcohol Beverage Control Permit No. \_\_\_\_\_ (If Applicable)  
Number of Rental Units/Rooms/Spaces \_\_\_\_\_ (If Applicable)  
Secondhand Dealers and/or Pawn Brokers License Required:  
 Yes  No

STATE MANDATED DISABILITY ACCESS AND EDUCATION REVOLVING FUND - \$1.00

On September 19, 2012 Governor Brown signed into law SB-1186 which adds a state fee of \$1 on any applicant for a local business license or similar instrument or permit, or renewal thereof. The purpose is to increase disability access and compliance with construction-related accessibility requirements and to develop educational resources for businesses in order to facilitate compliance with federal and state disability laws, as specified.

Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

- The Division of the State Architect at [www.dgs.ca.gov/dsa/Home.aspx](http://www.dgs.ca.gov/dsa/Home.aspx).
- The Department of Rehabilitation at [www.rehab.ca.gov/net.gov](http://www.rehab.ca.gov/net.gov).
- The California Commission on Disability Access at [www.ccdca.ca.gov](http://www.ccdca.ca.gov).

TAX DUE (CHOOSE ONE BELOW): 25  
STATE MANDATED FEE: \$1.00  
TOTAL AMOUNT ENCLOSED: 26.00  
Please send your check, made payable to:  
City of Costa Mesa  
Treasury Management Division  
P.O. Box 1200, Costa Mesa, Ca 92628-1200

CHOOSE ONE OF THE APPROPRIATE TAX SCHEDULES BELOW AND ENTER ABOVE

**GENERAL BUSINESS**  
(wholesale, retail, professional, etc.)  
Enter Annual Gross Receipts Amount \$ \$12500  
And Circle the corresponding category below

Annual Gross Receipts	Tax
\$0.00 to 1,000.00	\$0.00
\$1,000.01 to 25,000.00	\$25.00
\$25,000.01 to 40,000.00	\$35.00
\$40,000.01 to 75,000.00	\$45.00
\$75,000.01 to 200,000.00	\$60.00
\$200,000.01 to 500,000.00	\$100.00
Over 500,000.00	\$200.00

**SHOW, EXHIBITION, SWAP MEET** Tax on the Promoter's Gross Receipts from the Gross Receipts schedule to the left \_\_\_\_\_ Enter the tax due amount here \$ \_\_\_\_\_  
PLUS \_\_\_\_\_ (# of sellers \_\_\_\_\_ x \$5 = \$ \_\_\_\_\_)  
EQUALS \_\_\_\_\_ Total Tax Due \$ \_\_\_\_\_

**ADMINISTRATIVE OFFICES/WAREHOUSES**  
(Fees based on annual operating expenses when no receipts generated)  
Enter annual operating expenses amount \$ \_\_\_\_\_  
Use Gross Receipts schedule to the left to determine business license tax.

**VEHICLE WHEEL TOW TRUCK, BUS**  
Number of Vehicles: \_\_\_\_\_ x \$25.00 = Total Tax Due \$ \_\_\_\_\_

**CONTRACTOR**  
(California Licensed) Total Tax Due \$50.00

**TAXI CABS**  
Taxi Cab: \_\_\_\_\_ Total Tax Due \$ 50.00

**TAX EXEMPT ORGANIZATIONS**  
Attach proof of Tax Exempt Status (required for waiver of tax due)

Your Business License will be issued under the provisions of Municipal Code Section 9-1. You are cautioned that this License does not permit operation of a business in violation of other Municipal Code Sections. I declare under penalty of perjury that, to the best of my knowledge and belief, the statements made herein are correct and true and that acceptance of payment does not constitute approval of the Business License. Authorization to conduct business is not granted until issuance of the license.

Authorized Signature [Signature] Title owner Date 6/10/13

FOR CITY OFFICE USE ONLY

Planning Approval AK Date Approved 6/10/13 CUP Required? NO CUP # \_\_\_\_\_  
Dispatch of trucks only as Accessory use

ATTACHMENT 5

Vicinity Map

