



Staff Report

Agenda Item No. D-3

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: October 19, 2022

Subject: **Conditional Use Permit 22-06**
Donohue Painting – Commercial Painting with a Powder Coating Ovens

Summary:

Applicant:	Jack Donohue
Project Location:	608 E. 2nd Street
Project Description:	Conditional Use Permit and Similar Land Use Determination to allow for the operation of a powder coating oven facility within an Industrial Zone
Zoning:	Rail-Served Industrial (I-2)
General Plan:	Industrial
Environmental:	Categorically Exempt
Recommendation:	Approve, subject to conditions

Background

Applicant, Jack Donohue, owns and operates Donohue Painting, LLC and is a State licensed painting contractor located at 608 E. 2nd Street. Donohue Painting is a family owned painting company that has made the City of Imperial their home for more than five decades. The business has expanded from being a residential painting company to commercial and industrial painting company that now offers powder coating services. Powder coating is a dry finish process created by an electric charge that causes a dry powder to fuse to a metal surface. The powder is applied with a powder coating gun and baked in an oven at 200

degrees Celsius for approximately ten minutes. Once it is cured and cooled, the product is ready for its intended service. The coating provides an added layer of protection to any metal surface to add life to the product and provides a high-quality finish for functionality and overall look. The powder coating jobs Mr. Donohue currently executes are typically for commercial businesses and include gates, truck parts, signs, off-road parts, rebar anchors, manholes and pipes, but he would like to offer his services to the general public.

Donohue Painting, LLC, currently employs eleven people and operating hours are 8:00 am to 4:00 pm, Monday through Friday. Future business plans are to expand and build a new facility on N Street within the next five years.

Aerial View of Project Location



Powder Coating Ovens /Eastern View



Discussion/Analysis

The subject site and its surrounding land uses are zoned I-2 Rail Served Industrial. The Industrial Zoning designation and purpose is intended to provide for a quality working environment and to achieve a harmonious mixture of uses which might otherwise be considered incompatible when located in close proximity. Activities are intended to promote employment opportunities in manufacturing, service, research and development, engineering and wholesale trade. Section 24.07.120 of the Industrial Zoning Ordinance does not list powder coating as an allowed use, therefore staff is requesting a Similar Land Use Determination be applied. Staff consulted with the Imperial County Air Pollution Control District and the agency classifies powder coating ovens as spray booths and require powder coating facilities to comply as such. By classifying the powder coating ovens as a spray booth with a Similar Land Use Determination, the use is subject to a Conditional Use Permit.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines.

Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a Conditional Use Permit. The required findings are listed below in ***bold italics***, followed by an evaluation:

1. ***That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.***

The subject site is located within an I-2 Rail Served Industrial Zone. The powder coating ovens will not interfere or conflict with the purposes of the zone which is intended to provide general industrial uses, especially those that need rail access.

2. ***That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.***
3. The project's location is surrounded by and compatible with similar land uses. Although within an Industrial Zone, residential homes abut the project site to the East, West, and to the North of the site. The Dune Company providing crop protection and fertilizing services is located to

the South of the project. Staff has not received any comments opposing the use and has subject the powder coating ovens to comply with the mitigation measures and requirements Imperial County Air Pollution Control District impose through their permitting process in the Conditions of Approval. For further consideration, a Conditional Use Permit was issued in 2014 to an auto body shop that included a paint booth facility at this same location with no reported issues or concerns from neighboring residents.

- 3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.***

With the Conditions of Approval put in place and Imperial County Air Pollution Control District's requirements and monitoring, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site.

- 4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.***

The proposed facility complies with all provisions of the Zoning Ordinance.

Public Notification

The public hearing scheduled for October 26, 2022 was duly noticed in the Calexico Chronicle and Holtville Tribune, newspapers of general circulation on October 13, 2022 and a Notice of Public Hearing was sent to all property owners within 300-feet of the property.

Recommendation

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends that the Planning Commission approve Conditional Use Permit 22-06 to allow for the use and operation of the powder coating ovens with a Similar Land Use Determination.

Attachments

- Resolution PC2022-10 with Conditions of Approval
- Site Plan

Respectfully submitted,

Othon Mora, MCM, CBO
Community Development Director

RESOLUTION NO. PC2022-10
A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL, APPROVING A
SIMILAR LAND USE DETERMINATION FOR
CONDITIONAL USE PERMIT 22-06 FOR DONOHUE PAINTING
LOCATED AT 608 E. 2ND STREET (APN 064-174-005)

WHEREAS, Jack Donohue submitted an application to allow the operation of powder coating ovens with a Similar Land Use Determination: and

WHEREAS, the subject site is located within the Rail-Served Industrial Zone and powder coating ovens with a Similar Land Use Determination of spray paint facilities is a conditionally allowed use within that zone; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on October 26, 2022, to hear testimony for and against the proposed Conditional Use Permit; and

WHEREAS, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the project; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorically Exempt under Section 15301 of the California Environmental Quality Act; and
- E) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit 22-06** to allow the operation of powder coating ovens at 608 E. 2nd Street, subject to the Conditions of Approval outlined in Exhibit A and based on the following findings:
 - 1. The project meets all the requirements per section 24.19.340 of the Imperial Zoning Ordinance for granting said Conditional Use Permit as follows:
 - a) **That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standards of the City.**

The subject site is located within an I-2 Rail Served Industrial Zone. The powder coating ovens will not interfere or conflict with the purposes of the zone which is intended to provide general industrial uses, especially those that need rail access.

- b) That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.**
- c) The project's location is surrounded by and compatible with similar land uses. Although within an Industrial Zone, residential homes abut the project site to the East, West, and to the North of the site. The Dune Company providing crop protection and fertilizing services is located to the South of the project. Staff has not received any comments opposing the use and has subject the powder coating ovens to comply with the mitigation measures and requirements Imperial County Air Pollution Control District impose through their permitting process in the Conditions of Approval. For further consideration, a Conditional Use Permit was issued in 2014 to an auto body shop that included a paint booth facility at this same location with no reported issues or concerns from neighboring residents.
- d) That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.**

With the Conditions of Approval put in place and Imperial County Air Pollution Control District's requirements and monitoring, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site.

- e) That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.**

The proposed facility complies with all provisions of the Zoning Ordinance.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 26th day of October, 2022.

Planning Commission Chairman

ATTEST:

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT 22-06 DONOHUE PAINTING 608 EAST 2nd STREET

1. Conditional Use Permit 22-06 is valid for the operation of a powder coating facility.
2. The Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
3. The Applicant shall pay all applicable impact and capacity fees.
4. The Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
5. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the Conditional Use Permit. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional Use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
6. All conditions of approval for this Conditional Use Permit shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
7. All equipment stored on the premises shall be maintained at all times so that fire, health, law enforcement and building officials have access to and can inspect any materials within the building for the proper removal and disposal thereof.
8. All storage of materials waiting to be worked on shall be stored within the building during the time that the business is not open for business. There shall be no outdoor storage of materials.
9. Department Comments
 - A) Fire Department
 1. Fire Department Access
 - a. Minimum 20-foot unobstructed fire access lane shall be provided to the rear of the property of firefighting equipment.

- b. All gates shall meet minimum width of 20 feet (6096mm).
 - c. Gates shall be of the swinging or sliding type.
 - d. Construction of gates shall be of materials that allow manual operation by one person.
 - e. Gates shall have approved locks box or locks from KNOX (information can be obtained from Imperial County Fire Department Prevention Bureau).
2. Fire Suppression
- a. Powder coating operations shall comply with Chapter 24 section 2406 of the California Fire Code.
 - b. 2406.4 Fire Protection. Areas used for powder coating shall be protected by an approved automatic fire-extinguishing system complying with Chapter 9.
 - c. Industrial ovens shall comply with Chapter 30 of the California Fire Code.
 - d. 3006.1 Required Protection. Class A and B ovens that contain, or are utilized for the processing of combustible materials shall be protected by an approved automatic fire extinguishing system complying with Chapter 9.
 - e. Fire extinguishers shall comply with Chapter 9, Section 906 in the California Fire Code for sizing, placement, and quantity for Extra (high) Hazard Occupancy.
3. Operations
- a. Storage, use, and dispensing of combustibles and flammables shall be in accordance of Chapter 57 of the California Fire Code.
 - b. Combustible and flammable liquids shall not exceed the maximum allowable quantity stated in the California Fire Code without fire suppression installed.
 - c. Spray operations shall be in accordance with Chapter 24 section 2404 of the California Fire Code.
 - d. Storage of vehicles and inventory shall not produce conditions that will create a nuisance or hazard to the public health, safety or welfare.
 - e. Hazard material management plan and hazardous material inventory statement shall be created and reported to California Certified Unified Program Agency (CUPA) and shall follow CUPA regulations.
 - f. Applicant shall comply with all Imperial County Fire Department requirements and the California Fire Code.
 - g. Spray and industrial oven(s) shall be installed in accordance with 2019 California Fire Code Chapter 24, and the California Building, electrical and mechanical code.

B) Police Department

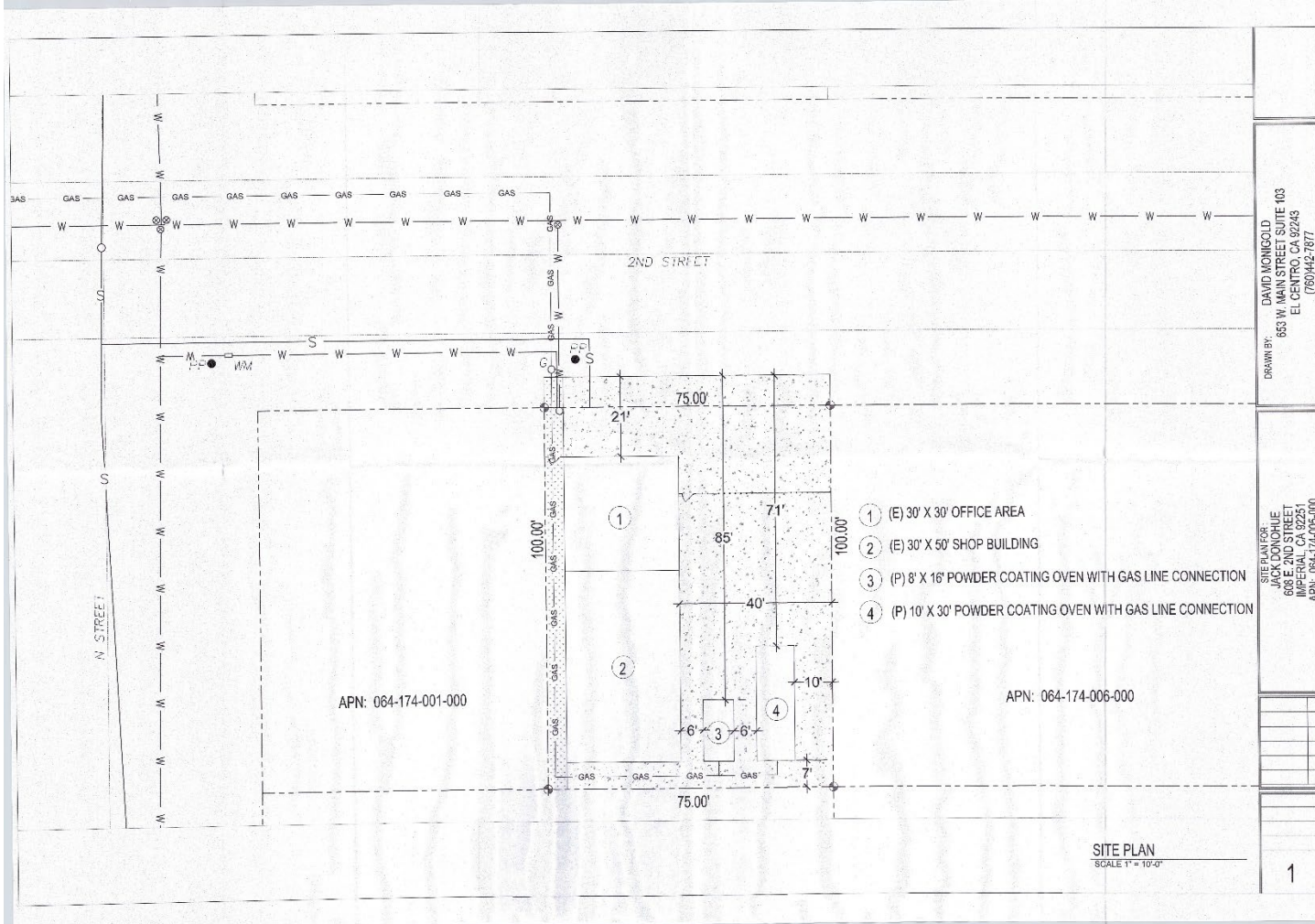
- 1. Security lights and surveillance cameras shall be installed within the entire property for crime prevention.

C) Community Development

1. The project site shall be maintained in a clean, orderly manner, free of weeds, debris or junk materials.
 2. The Applicant shall monitor the tracking of dirt from the project site onto adjacent public roadways. Excessive accumulation of dirt onto nearby and adjacent roadways fronting the project site driveways shall be mitigated by the applicant or business owner through street sweeping, installation of stabilized entrances and periodic maintenance.
 3. Light sources shall be shielded in such a manner that no light is visible from streets or adjoining properties. Freestanding lamp posts shall be no taller than eighteen (18) feet. The intensity of light at the boundary of any Industrial Zone shall not exceed seventy-five (75) foot lamberts from a source of reflected light. All exterior light shall be LED .
 4. All activities involving flammable and explosive materials shall be provided with adequate safety and fire-fighting devices to the specification of the California Fire Code. All incineration is prohibited.
 5. The applicant shall ensure noise levels meet all the requirements outlined in the City of Imperial's Noise Element. Noise levels are not to exceed 75 decibels within Industrial Zones. If complaints arise, the City of Imperial may impose noise pollution mitigation measures on the business.
 6. No use shall be permitted which creates odor in such quantities as to be readily detectable beyond the boundaries of the site.
 7. There shall be no emission of air contaminants which, at the emission point or within a reasonable distance of the emissions point, are as dark or darker in shade as that designated as No. 1 on the Ringelman Chart as published in the United States Bureau of Mines Information Circular 7718.
 8. Outdoor storage areas shall be entirely screened not less than six feet in height to adequately screen the view from the external boundaries of the property.
 9. No use shall be permitted which creates changes in temperature or direct glare, detectable by the human senses without the aid of instruments, beyond the boundaries of the site. No use shall be permitted which creates electrical disturbances that affect the operation of any equipment beyond the boundaries of the site.
 10. No use shall be permitted which generates inherent and recurrent ground vibration perceptible, without instruments at the boundary of the lot on which the use is located.
 11. Landscaping shall consist predominantly of drought tolerant, low maintenance plant materials and shall be irrigated by automatic sprinklers. All landscaping shall be permanently maintained in a clean and healthy and thriving condition, free of weeds, trash and debris.
 12. The installation of the powder coating ovens shall be subject to the requirements of the Imperial County Air Pollution Control District, Imperial County Health Department and other applicable State and Federal requirements.
10. The provisions of the permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.

11. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the Condition Use Permit, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the Conditional Use Permit, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
12. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
13. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) may include odors and fumes (2) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (3) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (4) occurs during or as a result of the re-located business.

CUP 22-06 DONOHUE PAINTING SITE PLAN



DRAWN BY: DAVID MONICCOLI
 653 W MAIN STREET SUITE 103
 EL CENTRO, CA 92243
 (760)462-7877

CHECKED BY: JACK DONOHUE
 608 E 2ND STREET
 IMPERIAL, CA 92251
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