

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> February 11, 2013
	<b>Agenda Item No.</b> 61 <b>Roll Call No.</b> <u>13-0261</u> <b>Communication No.</b> <u>13-062</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Review of the January 23, 2013 decision of the Zoning Board of Adjustment to conditionally approve a Use Variance to allow use of the property at 2324 Southwest 9th Street as a plumbing and heating shop.

**SYNOPSIS:**

On January 23, 2013, the Zoning Board of Adjustment voted 4-0-1 to conditionally approve a Use Variance to allow use of the property as a plumbing and heating shop. The subject property is in a “C-1” (Neighborhood Retail Commercial) District and is owned by Alegiant Properties LLC, (represented by Kristie Ashley), 901 Thomas Beck Road, Des Moines, Iowa 50315. The property has been sold on contract to Raymond Garneau (d/b/a Ray’s Plumbing Heating Air Conditioning), 1315 Johnson Street, Des Moines, Iowa 50315.

The Decision and Order of the Zoning Board of Adjustment’s action was executed under the signature of Chairman Bill Gray on January 29, 2013. Pursuant to Section 134-65 of the City Code, the City Council shall review the Board’s decision regarding the Use Variance 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 (February 11, 2013). Staff recommends that the City Council NOT remand the Board’s decision.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

On December 3, 2012, by Roll Call No. 12-1879, the City Council denied a request to rezone the property from “C-1” (Neighborhood Retail Commercial) to Limited “C-2” (General Retail and Highway-Oriented Commercial).

The 5,112-square foot property contains a 1,014-square foot commercial building and an off-street parking lot. It is located along the west side of Southwest 9th Street at its intersection with Kirkwood Avenue. The property had originally been developed as a vehicle service station and later converted to an office use. Single-family residential uses are located adjacent to the north and west.

The Zoning Board of Adjustment’s approval of the Use Variance is subject to the following conditions:

1. Prohibition of outside storage of materials, equipment, and trailers. This shall not preclude the parking of a company vehicle that dually functions as personal transportation for the appellant.
2. Provision of a landscaped area in the southeast corner of the parking lot.
3. Compliance with all applicable building codes with issuance of all necessary permits by the Permit and Development Center. The Use Variance shall expire 10 years after the date the Decision and Order is signed (December 4, 2022). Any future extension of the Use Variance shall be subject to reconsideration by the Zoning Board of Adjustment

**PREVIOUS COUNCIL ACTION(S):**

Date: December 3, 2012

Roll Call Number: [12-1879](#)

Action: [On](#) request from Raymond Garneau to rezone 2324 SW 9<sup>th</sup> Street from “C-1” (Neighborhood Retail Commercial) to “C-2” (General Retail and Highway Oriented Commercial) to allow conversion to a plumbing and heating shop (Plan and Zoning Commission recommends DENIAL, roll call contains alternative motions). Moved by Hensley to adopt and to DENY the proposed rezoning. Motion Carried 7-0.

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

Board: Zoning Board of Adjustment

Date: January 23, 2013

Docket Number: ZON2012-00232

Action: Conditional approval of appeal for a Use Variance to allow use of the property for a plumbing and heating shop, by a 4-0-1 vote.

Board: Plan and Zoning Commission

Date: November 1, 2012

Resolution Number: ZON2012-00181

Action: Recommended denial of request for rezoning to “C-2” (General Retail & Highway-Oriented Commercial) by an 11-0 vote.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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