

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: February 11, 2013
	Agenda Item No. 60 Roll Call No. <u>13-0260</u> Communication No. <u>13-063</u> Submitted by: 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 for outdoor junk and salvage equipment at 2135 Scott Avenue (formerly known as 607 SE 21st Street).

SYNOPSIS:

On January 23, 2013, the Zoning Board of Adjustment voted 4-0 to conditionally approve a Use Variance to allow use of the property for outdoor storage of junk and salvage equipment. The subject property is in an “M-1” (Light Industrial) District and is owned by Available Materials Handling, LLC (represented by Tony Holt), 20 East 18th Street, Des Moines, Iowa 50316.

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 17, 2012, by Roll Call No. 12-1964, the City Council denied a request to rezone the property from “M-1” (Light Industrial) to Limited “M-2” (Heavy Industrial).

The 2.2-acre subject property is located within an industrial area along the south side of Scott Avenue just west of the north/south railroad line. The proposed storage of inoperable forklifts and other equipment is determined to be a junk/salvage operation under the provisions of the Zoning Ordinance. The Use Variance would allow the property to receive and unload machinery classified as construction equipment such as forklifts, backhoes, bulldozers, scrapers, skid steers, tele-handlers, wheel loaders, etc. Dismantling and salvage would not take place at the site except by necessity for transport to and from the site. Reconditioning and salvage of the equipment would take place at other locations where it is legally permitted.

The Zoning Board of Adjustment’s approval of the use variance is subject to the following conditions:

1. Use of the property shall be limited to those uses as permitted in the “M-1” District and for the receiving and unloading of machinery classified as construction equipment such as forklifts, backhoes, dozers, scrapers, skid steers, tele-handlers, wheel loaders, etc.
2. This use shall only be permitted for so long as the property is in continuous operation in good standing by the appellant or other legal entity, as controlled by Anthony Holt or his lineal descendants, under the conditions of this decision. This use shall not be assigned to any other entity.
3. Any dismantling and salvaging is prohibited on the property except as necessary for transport to and from the property.
4. Any reconditioning and salvaging of the equipment shall take place at other locations where it is legally permitted.
5. Any inoperable machinery may only be stored on premises for a period not to exceed 6 (six) months.
6. Any storage of inoperable machinery shall be limited to a 30,000-square foot area marked on a paved surface to be located at the northeast corner of the property as designated on the submitted site sketch.

PREVIOUS COUNCIL ACTION(S):

Date: December 17, 2012

Roll Call Number: [12-1964](#)

Action: [On](#) request from Available Materials Handling, LLC to rezone 2135 Scott Avenue (formerly known as 607 SE 21st Street) from “M-1” (Light Industrial) to Ltd. “M-2” (Heavy Industrial), subject to conditions. Moved by Meyer to adopt and deny the rezoning. The City Manager will notify the Zoning Board of Adjustment that the City Council has no objection to this applicant seeking a use variance. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: January 23, 2013

Docket Number: ZON2012-00231

Action: Conditional approval of appeal for a Use Variance to allow use of the property for outside storage of junk and salvage materials by a 4-0 vote.

Board: Plan and Zoning Commission

Date: November 15, 2012

Resolution Number: ZON2012-00180

Action: Recommended denial of request for rezoning to “M-2” (Heavy Industrial) by an 8-3 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk’s Office at 515-283-4209 or visit the Clerk’s Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk’s Office on Thursday afternoon preceding Monday’s Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk’s Office or sending their request via email to cityclerk@dmgov.org.