

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> December 9, 2013
	<b>Agenda Item No.</b> 48 <b>Roll Call No.</b> <u>13-1937</u> <b>Communication No.</b> <u>13-580</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Review of Zoning Board of Adjustment decision to allow use of property at 301 and 309 Southeast 8th Street as a beverage container recycling facility.

**SYNOPSIS:**

On November 20, 2013, the Zoning Board of Adjustment voted 6-0 to conditionally approve a Use Variance to allow a beverage container recycling facility, which is a use that is not permitted in the "M-1" Light Industrial District.

The Decision and Order of the Zoning Board of Adjustment’s action was executed under the signature of Chairman Bill Gray on November 26, 2013. Pursuant to Section 134-65 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, December 9, 2013. Staff recommends that the City Council not remand the Board’s decision.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

The subject property is a 1.93-acre site at 301 and 309 Southeast 8th Street. The site is zoned “M-1” (Light Industrial) and is owned by Raccoon Street Warehouse, LLC, represented by Kurt Pagliai, 2400 86th Street Suite 24, Urbandale, Iowa 50322. The site is within the Historic East Village Neighborhood and is located 200 feet to the north of East Martin Luther King, Jr. Parkway.

The Use Variance allows a beverage container recycling facility, which requires an “M-2” Heavy Industrial District zoning designation. The use would occur within an existing 34,800-square foot warehouse and an existing 15,764-square foot warehouse. The building on the southwestern portion of the site would be removed to accommodate loading docks and off-street parking spaces.

The Board granted the Use Variance subject to the following conditions:

1. The Use Variance shall expire August 26, 2024. Any future extension of the Use Variance shall be subject to reconsideration by the Zoning Board of Adjustment.
2. Use of the property is limited to those uses permitted in the “M-1” District or a beverage container recycling facility.

3. Any use of the premise shall be in accordance with a Site Plan as reviewed and approved by the Permit and Development Center that shall conform to the standards, including paving and landscaping.
4. All buildings must demonstrate compliance with occupancy requirements. Any building conversion or modifications must be in accordance with all applicable building codes with issuance of all necessary permits by the Permit and Development Center.
5. Outside storage of materials or equipment, such as barrels, containers, pallets, and tools is prohibited.
6. All refuse and trash disposal containers are contained within an enclosure that complies with the Site Plan regulations.
7. Any vehicle on the premise shall only be parked in marked parking spaces in accordance with the approved Site Plan.
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. All operations shall be in accordance with the City's Noise Control Ordinance.
10. A copy of the Board's Decision and Order shall be recorded with the Polk County Recorder at the appellant's expense to insure that future property owners are aware of these conditions.
11. The Zoning Enforcement Officer shall bring the Use Variance back to the Zoning Board of Adjustment for reconsideration at anytime the use becomes a nuisance to surrounding properties or violates the conditions approval.

**PREVIOUS COUNCIL ACTION(S):**

Date: November 4, 2013

Roll Call Number: [13-1752](#)

Action: Items regarding property at 301 and 309 SE 8<sup>th</sup> Street, Raccoon Street Warehouse, LLC, (Plan and Zoning Commission recommends DENIAL):

- (B) [Hearing](#) on rezoning the property from "M-1" (Light Industrial) to M-2" (Heavy Industrial) and to remove the property from the "D-O" (Downtown Overlay) to allow a future request for a Conditional Use to allow a beverage container recycling business, (Roll Call contains alternative motions). Moved by Coleman to adopt and to deny the proposed rezoning. Motion Carried 6-0.

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

Board: Zoning Board of Adjustment

Date: November 20, 2013

Resolution Number: ZON2013-00173

Action: Conditionally approved a Use Variance to allow a use (beverage container recycling facility) that is not permitted in the "M-1" Light Industrial District, by a 6-0 vote.

Board: Plan & Zoning Commission

Date: October 3, 2013

Resolution Number: ZON2013-00157

Action: Recommended denial of request to rezone 301 and 309 Southeast 8th Street from "M-1" (Light Industrial) to "M-2" (Heavy Industrial) and to remove the property from the "D-O" (Downtown Overlay), by a 12-0 vote.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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