

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: January 13, 2013
	Agenda Item No. 56 Roll Call No. [] Communication No. <u>14-016</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Review of Zoning Board of Adjustment decision to grant a Use Variance to allow use of property at 6220 Grand Avenue as an amusement enterprise business that would include a go-kart track, “kiddie” go-kart track, miniature golf area, baseball/softball batting practice cages, and a new zip line structure.

SYNOPSIS:

On December 18, 2013, the Zoning Board of Adjustment voted 6-0 to conditionally approve a Use Variance to allow an amusement enterprise business, which is a use that is not permitted in the "FW" Floodway District.

The Decision and Order of the Zoning Board of Adjustment’s action was executed under the signature of Chairman Bill Gray on December 20, 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 (January 13, 2013). Staff recommends that the City Council not remand the Board’s decision.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The subject property is a 2.19-acre site at 6220 Grand Avenue. The western portion of the site is zoned FW (Floodway) and the eastern portion of the site is zoned U-1 (Floodplain). The site is owned by Oreo Junction, LLC, represented by Steve Lombardi, 1300 37th Street, Suite 4, West Des Moines, IA 50266. The business would be operated by Ofir Carmi, 932 59th Street, Des Moines, IA 50312. The site is within the Westwood Neighborhood and within 250 feet of the Waterbury Neighborhood.

The amusement enterprise business was granted a Conditional Use Permit to allow use of the portion of the site that within the U-1 (Floodplain) District. The Use Variance is necessary for the business to be able to utilize the portions of the existing concession building, batting cages, and storage sheds that are located within the FW (Floodway) District.

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

1. Prohibition of any type of shooting range or shooting gallery on the site.
2. Compliance with the City’s Flood Plain Development Regulations, including the provision of a

certification of no rise in base flood elevation by a Professional Engineer (PE) licensed in the State of Iowa.

3. Issuance of all necessary permits and completion of work certifications by the U.S. Army Corps of Engineers and the Iowa Department of Natural Resources.
4. Any use of the premise shall be in accordance with a Site Plan as reviewed and approved by the City's Permit and Development Center, which shall conform to the standards, including paving and landscaping.
5. All buildings shall demonstrate compliance with occupancy requirements. Any building modifications shall be in accordance with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center.
6. All refuse and trash disposal containers shall be contained within an enclosure that complies with the Site Plan regulations.
7. All landscaping shall be continuously maintained or replaced in accordance with the approved Site Plan for the life of the Certificate of Occupancy.
8. All operations shall be in accordance with the City's Noise Control Ordinance.
9. A copy of the Board's Decision and Order shall be recorded with the Polk County Recorder at the appellant's expense to ensure that future property owners are aware of these conditions.
10. The Zoning Enforcement Officer shall bring the Conditional Use Permits and 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: [13-1757](#)

Action: [On](#) request from Ofir Carmi to rezone 6220 Grand Avenue from "FW" (Floodway) to "U-1" (Floodplain) to allow for consideration of a Conditional Use for an amusement enterprise business to allow reuse of the existing vacant go-kart track and miniature golf amusement complex. Moved by Griess to approve the rezoning only for the portion of the site that is located outside of the federally designated floodway. Therefore, the rezoning of the portion of the site that is located within the federally designated floodway was DENIED. Motion Carried 6-0.

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: December 18, 2013

Resolution Number: ZON2013-00191

Action: Conditionally approved a Use Variance to allow a use (amusement enterprise business) that is not permitted in the FW (Floodway) District, by a 6-0 vote.

Board: Plan & Zoning Commission

Date: October 3, 2013

Resolution Number: ZON2013-00140

Action: Recommended approval of request to rezone only the portion of 6220 Grand Avenue that is located outside of the federally designated floodway from FW (Floodway) to U-1 (Floodplain), by a 12-2 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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