

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: May 5, 2014
	Agenda Item No. 47 Roll Call No. <u>14-0733</u> Communication No. <u>14-204</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Review of the Zoning Board of Adjustment’s decision to grant a Use Variance to allow use of property at 1617 Oakland Avenue as a boardinghouse with no more than eight (8) boarders and one (1) resident manager at any given time.

SYNOPSIS:

On April 23, 2014, the Zoning Board of Adjustment voted 6-0 to conditionally approve a Use Variance to allow a boardinghouse, which is a use that is not permitted in the "R1-60" One-Family Low-Density Residential District.

The Decision and Order of the Zoning Board of Adjustment’s action was executed under the signature of Chairman Mel Pins on April 28, 2014. 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 (May 5, 2014). Staff recommends that the City Council approve the Use Variance.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The subject property is a 15,840-square-foot parcel at 1617 Oakland Avenue that contains a 5,949-square-foot residential structure built circa 1880. The site is within the River Bend Neighborhood. The property was previously authorized to be a supervised group residence for Harbor of Hope Mission, which vacated the premises in August of 2012. It had since been re-occupied illegally as a correctional placement residence. Since attempts to legitimize the correctional placement residence through rezoning and a Use Variance were denied, the property owner is now pursuing a boardinghouse use of the property. The applicant’s original request was to have a boardinghouse with up to 27 boarders at any given time, but the Zoning Board of Adjustment only granted them the ability to have up to eight (8) boarders and one (1) resident manager at any given time.

The Zoning Board of Adjustment granted the Use Variance for a boardinghouse subject to the following conditions:

1. Any boardinghouse use of the existing dwelling shall not have any more than eight (8) boarders and one (1) resident manager at any given time.

2. Any conversion of the existing dwelling to a boardinghouse shall comply with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center.
3. Any boardinghouse use of the existing dwelling shall comply with the Neighborhood Inspection Rental Code set forth in Chapter 60, Article I, of the City Code.
4. Any boardinghouse shall be in accordance with a Site Plan approved by the Plan and Zoning Commission under Section 134-552(3) and Section 82-214.05 of the City Code.
5. Should any boardinghouse use of the property under this Decision and Order display a pattern of use which is contrary to the to the general health, safety, and welfare of the surrounding neighborhood, the Zoning Enforcement Officer shall have the ability to bring the Use Variance back to the Board for reconsideration.

PREVIOUS COUNCIL ACTION(S):

Date: July 15, 2013

Roll Call Number: [13-1136](#)

Action: [On](#) request from Kelli Wulfekuhle (owner) to rezone property in the vicinity of 1617 Oakland Avenue from “R1-60” (One-Family Low-Density Residential) to “R-3” (Multiple Residential) to allow the future consideration of a Conditional Use Permit for the premises for a correction placement residence use. Moved by Griess to deny the proposed rezoning. Motion Carried 7-0.

Date: October 27, 2008

Roll Call Number: [08-1869](#)

Action: [Council](#)-initiated request to rezone portion of the River Bend Neighborhood from “R-3” (Multiple-Family Residential) and “M-1” (Light Industrial) to “R1-60” (One-Family Low-Density Residential). Moved by Vlassis to approve Ordinance 14,804. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: April 23, 2014

Resolution Number: ZON2014-00043

Action: Conditionally approved a Use Variance to allow a use (boardinghouse) that is not permitted in the “R1-60” (One-Family Low-Density Residential) District, by a 6-0 vote.

Board: Zoning Board of Adjustment

Date: August 28, 2013

Resolution Number: ZON2013-00127

Action: Denied a Use Variance to allow a use (correctional placement residence) that is not permitted in the “R1-60” (One-Family Low-Density Residential) District, by a 5-0 vote.

Board: Plan & Zoning Commission

Date: October 3, 2013

Resolution Number: ZON2013-00065

Action: Recommended denial of request to rezone property in the vicinity of 1617 Oakland Avenue from “R1-60” (One-Family Low-Density Residential) to “R-3” (Multiple Residential) to allow the future consideration of a Conditional Use Permit for the premises for a correction placement residence use, by an 11-1 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.