

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> December 8, 2014
	<b>Agenda Item No.</b> 65 <b>Roll Call No.</b> <u>14-1899</u> <b>Communication No.</b> <u>14-577</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Public hearing on request from 304 15th Street LLC (owner) represented by Jake Christensen (officer) to rezone property at 304 15th Street to remove the "D-O" (Downtown Overlay) District designation and remove the prohibition of off-premises advertising signs.

**SYNOPSIS:**

On October 2, 2014 the Plan and Zoning Commission voted 7-2-1 to recommend denial of a request from 304 15th Street, LLC to rezone property located at 304 15th Street to remove the “D-O” Downtown Overlay District designation and remove the prohibition of off-premises advertising signs, to allow Board of Adjustment consideration of a 30-foot by 30-foot (900-square-foot) painted wall sign on the north side of the building to advertise for off-premise business Exile Brewing Company, which is located at 1514 Walnut Street.

Due to the Plan and Zoning Commission vote to deny the comprehensive plan amendment and rezoning, a 6/7ths vote of the City Council is required to approve the comprehensive plan amendment and a 4/5ths vote of the City Council is required to approve the rezoning request. Exile Brewing Company would also need to obtain at least five (5) Variances to the Zoning Ordinance from the Zoning Board of Adjustment to allow the proposed off-premises advertising (billboard) sign. If approved by the Board of Adjustment, City Council will also need to review the use variances and variances from separation requirements applicable to the proposed sign.

On November 3, 2014 the City Council continued the public hearing regarding this request to December 8, 2014 in order for Exile Brewing Company representatives and City Staff to continue reviewing alternatives to the proposed off-premises advertising (billboard) sign. City staff presented Exile Brewing Company with three (3) alternatives to the requested rezoning and signage plan. Those alternatives were that Exile Brewing seek approval for additional “on-premises” signage to be affixed to their existing business at 1514 Walnut Street subject to review and approval by the State Historic Preservation Office; that Exile Brewing seek approval for a “mural” on the exterior of the building at 304 15th Street (defined by staff as art with no corporate name, logo, product or likeness); and/or that Exile Brewing establish a business presence within the building 304 15th Street in a manner that would earn an “on-premises” signage allowance. To date, Exile Brewing Company has not indicated an intent to proceed with any of the alternatives that were presented by City staff.

Staff believes that the City’s opposition to new/additional off-premise advertising (billboards) in the downtown has been clearly articulated in the City Code, and in the Plan and Zoning Commission recommendation. City staff recommends denial of the zoning request.

**FISCAL IMPACT: NONE****ADDITIONAL INFORMATION:**

The rezoning request, as presented to date, is for the installation of a 30-foot by 30-foot (900-square-foot) painted wall sign on the north side of the building at 304 15th Street to advertise for off-premises business Exile Brewing Company, which is located at 1514 Walnut Street. The proposed sign is not consistent with the “D-O” Downtown Overlay District, which prohibits all off-premises advertising signs in the District, and thus the rezoning is required if the sign is to be approved.

In addition, the proposed sign violates the following City requirements:

- No off-premises advertising sign may be located within 500 feet from any public park: The proposed sign would be within 265 feet of, and visible from, the John and Mary Pappajohn Sculpture Park in Western Gateway. (Ordinance No. 13,627; City Code Section 134-1278(5));
- No off-premises advertising sign may be located within 500 feet from any National Register Historic District: The proposed sign would be located within the “Fitch, F.W., Company Historic District”, listed with the National Park Service on April 9, 2013. (Ordinance No. 13,627; City Code Section 134-1278(5));
- No off-premises advertising sign that is over 300-square-foot in area may be within 1,000 feet from any other such sign: The proposed sign is 900-square-foot in area, and is within 814 feet of the existing billboard at 1500 Ingersoll Avenue. (Ordinance No. 13,863; City Code Section 134-1278(6));
- Off-premises advertising signs within the “C-3A” District are limited to 300-square-foot in area: The proposed sign, as presented to date, would be 900-square-foot in area. (City Code Section 134-1278(9)(a)); and
- No off-premises advertising sign may be a sign painted on a building wall in any zoning district: The proposed sign is to be painted on the side of the building at 304 15th Street. (City Code Section 134-1276(j)(6)).

If the current rezoning is approved by Council, the applicant will be required to also seek Zoning Board of Adjustment relief as to the five (5) above-listed Code requirements. If approved by the Board of Adjustment, City Council will also need to review the use variances and variances from separation requirements applicable to the proposed sign.

An October 10, 2014 letter from Community Development Department to the City Council is attached which includes the staff report to the Plan and Zoning Commission, a summary of discussion at the public hearing held by the Plan and Zoning Commission on October 2, 2014, and the recommendation of the Plan and Zoning Commission for denial of the zoning request.

**PREVIOUS COUNCIL ACTION(S):**

Date: November 3, 2014

Roll Call Number: [14-1731](#)

Action: [On](#) request from 304 15th Street LLC (owner), represented by Jake Christensen (Officer), to rezone property at 304 15th Street, to remove the “D-O” (Downtown Overlay) District designation and remove the prohibition of off-premises advertising signs and to continue to December 8, 2014 at 5:00 PM. Moved by Hensley to adopt. Motion Carried 7-0.

Date: October 20, 2014

Roll Call Number: [14-1629](#)

Action: [On](#) request from 304 15th Street LLC (owner), represented by Jake Christensen (Officer), to rezone property at 304 15th Street to remove the “D-O” (Downtown Overlay) District designation and remove the prohibition of off-premises advertising signs, (11-3-14). Moved by Hensley to adopt. Motion Carried 7-0.

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

Board: Plan and Zoning Commission

Date: October 2, 2014

Resolution Number: ZON2014-00174

Action: Voted 7-2-1 to recommend denial of a request to remove the “D-O” Downtown Overlay District designation and remove the prohibition of off-premises advertising signs, to allow Board of Adjustment consideration of a 30-foot by 30-foot (900-square-feet) painted wall sign on the north side of the building located at 304 15th Street to advertise for an off-premise business Exile Brewing Company, which is located at 1514 Walnut Street.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

If the zoning is approved, the City Council would need to review any future decisions by the Board of Adjustment to approve use variances and variances from separation requirements applicable to the proposed sign.

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](mailto:cityclerk@dmgov.org).