

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	November 9, 2015
	<b>Agenda Item No.</b>	<b>52</b>
	<b>Roll Call No.</b>	<b><u>15-1911</u></b>
	<b>Communication No.</b>	<b><u>15-599</u></b>
	<b>Submitted by:</b>	<b>Phillip Delafield, Community Development Director</b>

**AGENDA HEADING:**

Review of Zoning Board of Adjustment decision granting a Use Variance to allow a manufacturing use that involves preparing, bottling, packaging, and distributing salad dressing (Bisignano Salad Dressing) at 3601 6th Avenue.

**SYNOPSIS:**

On October 28, 2015, the Zoning Board of Adjustment voted 7-0 to conditionally approve a Variance of the permitted uses in “C-2” (General Retail and Highway-Oriented Commercial), to allow use of the property at 3601 6th Avenue for a manufacturing use that involves preparing, bottling, packaging, and distributing salad dressing.

The Decision and Order of the Zoning Board of Adjustment’s action was executed under the signature of Chairman Mel Pins on November 4, 2015. 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 (November 9, 2015). Staff recommends that the City Council not remand the Board’s decision.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

The subject property is located at the northeast corner of the intersection of 6th Avenue and Euclid Avenue in the Highland Park Neighborhood. The site includes a commercial building that covers the entire parcel. The subject property is zoned “C-2” (General Retail and Highway-Oriented Commercial). It is owned by William (Bill) Wheeler, 3613 6th Avenue, Des Moines, IA 50313. The business is operated by Bisignano Salad Dressing, represented by Sarah Bisignano, 3601 6th Avenue, Des Moines, IA 50313.

Since the property is zoned “C-2” (General Retail and Highway-Oriented Commercial), it was required to first seek a rezoning to a zoning district, such as “M-1” (Light Industrial), that allows a light manufacturing use, such as a business that involves preparing, bottling, packaging, and distributing salad dressing. On September 14, 2015, the City Council denied a request to rezone the property to “M-1” District. Thus, the appellant was eligible to seek the Use Variance.

On October 28, 2015, the Zoning Board of Adjustment granted the Use Variance subject to the following conditions:

- 1) No use other than salad dressing production, bottling, packaging and distribution is hereby granted by this Use Variance.
- 2) The maximum area to be dedicated within the subject building to this use is 7,932-square-feet.
- 3) Any conversion of space to the proposed use shall be in compliance with all applicable Building and Fire Codes with issuance of all necessary permits by the City's Permit and Development Center.
- 4) There shall be no outside storage or operation related to the business.

**PREVIOUS COUNCIL ACTION(S): NONE**

Date: September 14, 2015

Roll Call Number: [15-1558](#) and [15-1559](#)

Action: Items regarding property located at 3601 6th Avenue (Plan and Zoning Commission recommends DENIAL):

- (A) Amend the Des Moines' 2020 Community Character Plan future land use designation from Commercial: Pedestrian-Oriented, Commercial Corridor to General Industrial. Moved by Mahaffey to adopt and DENY the proposed amendment. Motion Carried 7-0.
- (B) Hearing on request from William H. Wheeler to rezone from "C-2" (General Retail and Highway-Oriented Commercial) to "M-1" (Light Industrial) to allow conversion of the building to a manufacturing use, preparing bottling, packaging and distributing salad dressing. Moved by Mahaffey to adopt and DENY the proposed rezoning, and to make the following findings of fact regarding the proposed rezoning: a. The City Plan and Zoning Commission voted 11-0 to recommend denial of the requested rezoning of the property to Ltd. "M-1" Light Industrial District to allow conversion of the building to a manufacturing use. b. The Highland Park Neighborhood Plan contemplates that the property will remain in the character of the surrounding pedestrian-oriented commercial area. c. The character of the surrounding area is best suited by occupancies which serve pedestrian retail traffic, and thus the proposed rezoning is not consistent with the character of the surrounding commercial area. d. If the application of the existing zoning regulations has the effect of denying the owner all economic use of the property, then the appropriate remedy is to seek relief from the Zoning Board of Adjustment. Motion Carried 7-0.

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

Board: Zoning Board of Adjustment

Date: October 28, 2015

Resolution Number: ZON2015-00194

Action: Motion to conditionally grant a Use Variance to allow use of the property for a manufacturing use that involves preparing, bottling, packaging, and distributing salad dressing, approved by a 7-0 vote.

Board: Plan & Zoning Commission

Date: August 6, 2015

Resolution Number: ZON2015-00130

Action: Motion to recommend denial of a request to rezone the property from “C-2” (General Retail and Highway-Oriented Commercial) to “M-1” (Light Industrial), approved by a 11-0 vote.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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