


| | |
|--|--|
|  <p style="text-align: center;">Council Communication Office of the City Manager</p> | Date: November 9, 2015 |
| | Agenda Item No. 53 Roll Call No. <u>15-1912</u> Communication No. <u>15-600</u> Submitted by: Phillip Delafield, Community Development Director |

AGENDA HEADING:

Review of Zoning Board of Adjustment decision granting a Use Variance to allow expansion of an existing auto body repair shop use (Action Auto Body) in the vicinity of 1157 15th Street.

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) and “R-3” (Multiple-Family Residential), to allow expansion of an existing auto body repair shop use (Action Auto Body) to include a new structure measuring 78 feet by 80 feet (6,240-square-feet). The Board also granted an Exception of 12 feet less than the minimum required 30-foot front yard setback, an Exception of 11 feet less than the minimum required 35-foot rear yard setback, and an Exception of seven (7) parking spaces less than the minimum 18 off-street parking spaces required for 10,923-square-feet of auto body repair use.

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 along the east side of 15th Street just to the north of Keosauqua Way in the Cheatom Park Neighborhood. The site includes a 4,558-square-foot commercial building occupied by an auto body repair shop known as Action Auto Body. The southern portion of the subject property is zoned “C-2” (General Retail and Highway-Oriented Commercial) and the northern portion of the subject property is zoned “R-3” (Multiple-Family Residential). The subject property and business are owned and operated by ASA, LLC, represented by Chad Ogle, 920 East Diehl Avenue, Des Moines, IA 50315.

Since the property is zoned “C-2” (General Retail and Highway-Oriented Commercial) and “R-3” (Multiple-Family Residential), it was required to first seek a rezoning to a zoning district, such as “M-1” (Light Industrial) that allows an auto body repair use. 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 and Exceptions subject to the following conditions:

- 1) Any new auto-body repair shop shall comply with all applicable Building and Fire Codes as well as Site Plan requirements, with issuance of all necessary permits by the Permit and Development Center.
- 2) Any new auto-body repair shop shall provide a minimum 4-foot brick, decorative block, or stone wainscot along the entire south and west facades exclusive of door openings.
- 3) Any new paint spray booth on the premises shall be of a water borne, non-flammable technology.

PREVIOUS COUNCIL ACTION(S):

Date: September 14, 2015

Roll Call Number: [15-1555](#) and [15-1556](#)

Action: Items regarding property located at 1157, 1185 and 1187 15th Street (Plan and Zoning Commission recommends DENIAL):

- (A) Amend the Des Moines’ 2020 Community Character Plan future land use designation from Low-Density Residential to General Industrial. Moved by Hensley to adopt and DENY the proposed amendment. Motion Carried 7-0.
- (B) Hearing on request from Chad Ogle to rezone from “C-2” (General Retail and Highway-Oriented Commercial) and “R-3” (Multiple-Family Residential) to “M-1” (Light Industrial) to allow expansion of an existing auto-body repair operation. Moved by Hensley 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 7-4 to recommend denial of the requested rezoning of the property to “M-1” Light Industrial District to allow expansion of an existing auto-body repair operation.
 - b. The proposed rezoning is not compatible with the Low-Density Residential future land use designation in the Des Moines’ 2020 Community Character Plan and an amendment to General Industrial designation is not appropriate given the close proximity of residential uses to the north and east and potential for higher levels of noise, traffic and other impacts for adjoining areas.
 - c. 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: Plan & Zoning Commission

Date: August 6, 2015

Resolution Number: ZON2015-00131

Action: Motion to recommend denial of a request to rezone the property from “C-2” (General Retail and Highway-Oriented Commercial) and “R-3” (Multiple-Family Residential) to “M-1” (Light Industrial), approved by a 7-4 vote.

Board: Zoning Board of Adjustment

Date: October 28, 2015

Resolution Number: ZON2015-00187

Action: Motion to conditionally grant a Use Variance and Exceptions to allow expansion of an existing auto body repair shop use, approved by a 7-0 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.