

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: June 12, 2017
	Agenda Item No. 55 Roll Call No. <u>17-1012</u> Communication No. <u>17-467</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Review of Zoning Board of Adjustment decision granting an amendment to a Use Variance for 2301 SW 9th Street to allow a restaurant use in a “C-O” Commercial-Residential District to have a patio for outdoor service along the north side of the building.

SYNOPSIS:

Staff recommends that the Council decline to remand the decision of the Zoning Board of Adjustment granting an amendment to the Use Variance of the permitted uses in the “C-0” Commercial-Residential District.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

- On May 24, 2017, the Zoning Board of Adjustment voted 6-0 to approve a request to amend the conditions of approval for a Use Variance of the permitted uses in the “C-0” Commercial-Residential District (restaurant use). The amendment allows the restaurant to have a patio for outdoor service along the north side of the building instead of along the west side of the building.
- The conditions imposed by the Zoning Board of Adjustment in the approval of the patio include prohibiting use of the patio after 10:00 PM, prohibiting outdoor speakers or amplified sound on the patio, and requiring the patio to be completely removed immediately if the property is no longer used as a restaurant.
- The Use Variance was initially granted on March 25, 2015. It allowed the property to be used as a restaurant, so long as conditions regarding site improvements and business operations were satisfied.
- The site is located at the southeast corner of Southwest 9th Street and Davis Street. It measures 11,865 square feet and contains a 2,532-square-foot commercial structure occupied by “The Angry Goldfish”. It was previously occupied by “Rockstar Bistro”.

- The site is owned by SWD, LLC, represented by Stephanie White, 1661 Q Avenue, Madrid, IA 50156. The business is now operated by Clark Way, 2301 Southwest 9th Street, Des Moines, IA 50315. Previous businesses in this location were operated by Nick Iaria and Jennifer Wilson.
- 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 (June 12, 2017).

PREVIOUS COUNCIL ACTION(S):

Date: January 9, 2017

Roll Call Number: [17-0066](#)

Action: [Review](#) of Zoning Board of Adjustment decision granting an amendment to a Use Variance to allow a restaurant use selling alcoholic liquor, wine and beer at 2301 SW 9th Street, ([Council Communication No. 17-002](#)) Moved by Gatto to receive and file the staff report and comments received, and to adopt alternative C. (C) The City Council declines to remand the decision to the Zoning Board of Adjustment. The decision of the Board becomes final on this date. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: May 24, 2017

Resolution Number: ZON2017-00078

Action: Motion to conditionally grant an amendment to the Use Variance to allow a restaurant use in a "C-0" Commercial-Residential District to have a patio for outdoor service along the north side of the building, approved by a 6-0 vote.

Board: Zoning Board of Adjustment

Date: December 21, 2016

Resolution Number: ZON2016-00195

Action: Motion to conditionally grant an amendment to the Use Variance to allow a restaurant use in a "C-0" Commercial-Residential District, approved by a 7-0 vote.

Board: Zoning Board of Adjustment

Date: April 27, 2016

Resolution Number: ZON2015-00040

Action: Motion to revise conditions of approval in response to Council's remand of the Use Variance to allow a restaurant use in a "C-0" Commercial-Residential District, approved by a 6-0 vote.

Board: Zoning Board of Adjustment

Date: March 23, 2016

Resolution Number: ZON2015-00040

Action: Motion to grant an amendment to the Use Variance to allow a restaurant use in a "C-0" Commercial-Residential District, approved by a 7-0 vote.

Board: Zoning Board of Adjustment

Date: March 25, 2015

Resolution Number: ZON2015-00026

Action: Motion to conditionally grant a Use Variance to allow a restaurant use in a "C-0" Commercial-Residential District, approved by a 5-2 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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