

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: January 8, 2018
	Agenda Item No. 52 Roll Call No. <u>18-0077</u> Communication No. <u>18-010</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Review of Zoning Board of Adjustment decision granting a Variance to a separation distance requirement that allows for a business (Pinot's Palette) at 900 42nd Street to sell wine and beer.

SYNOPSIS:

Staff recommends that the City Council not remand the Zoning Board of Adjustment decision granting a Variance to a separation distance requirement that allows for a business (Pinot's Palette) at 900 42nd Street to sell wine and beer.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

- On December 20, 2017, the Zoning Board of Adjustment voted 4-3 to grant a Variance to a separation distance requirement (150 feet) that allows for a business (Pinot's Palette) at 900 42nd Street to sell wine and beer. The premise is within 64 feet of a parcel that contains Hubbell Elementary School and athletic fields for Roosevelt High School.
- The Variance and accompanying Conditional Use Permit were granted with multiple conditions. Any business selling wine and/or beer must operate as a business where patrons have pre-registered to gather for painting and/or creating art in an instructor-led group setting. Any alcohol sales must be limited to wine and beer only (no alcoholic liquor) and cannot occur while the nearby school is in session.
- The property is owned by RSC Partners, LLC, represented by Rick Krause, PO Box 71618, Clive, IA 50325. The business is operated by Pinot's Palette, represented by Sarah Murdock, 900 42nd Street, Des Moines, IA 50312.
- The property was rezoned from "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District on September 11, 2017.
- 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 (January 8, 2018).

PREVIOUS COUNCIL ACTION(S):

Date: September 11, 2017

Roll Call Number: [17-1601](#), [17-1602](#), and [17-1603](#)

Action: [On](#) request from RSC Partners, LLC to rezone 900 42nd Street from "C-1" (Neighborhood Retail Commercial) to Ltd. "NPC" (Neighborhood Pedestrian Commercial) to allow the ability to request a Conditional Use Permit that would allow sale of alcohol as part of the existing art instruction business operating as "Pinot's Palette". Moved by Hensley to adopt. Motion Carried 7-0.

(A) [First](#) consideration of ordinance above. Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

(B) [Final](#) consideration of ordinance above (waiver requested by the applicant), requires six votes. Moved by Hensley that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#15,610](#). Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: August 17, 2017

Resolution Number: ZON2017-00126

Action: Recommended approval of a request to rezone the property from "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District by a 14-1 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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