


COUNCIL COMMUNICATION

 CITY OF DES MOINES OFFICE OF THE CITY MANAGER	Number:	23-028	Meeting:	January 9, 2023
	Agenda Item:	53	Roll Call:	23-0077
	Submitted by:	Michael Ludwig, Interim Development Services Director		

AGENDA HEADING:

Review of Zoning Board of Adjustment decision conditionally granting a Use Variance to allow use of the property at 1626 East Park Avenue for a “Vehicle Maintenance/Repair, Minor” use in a “N3a” Neighborhood District.

SYNOPSIS:

Staff recommends that the Council decline to remand the decision conditionally granting a Use Variance to allow use of the property at 1626 East Park Avenue for a “Vehicle Maintenance/Repair, Minor” use in a “N3a” Neighborhood District.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

- On August 22, 2018, the Board of Adjustment temporarily granted a Special Permit to allow use of an accessory structure for a general motor vehicle repair. This Special Permit expired on August 31, 2021.
- On December 16, 2019, the City enacted a new zoning ordinance, which does not allow a use that falls into the “Vehicle Sales and Service – Vehicle Maintenance/Repair, Minor” category to be considered as a Home Occupation. Therefore, in order for a motor vehicle repair business to be permitted, the property needs to be rezoned to a district that allows the “Vehicle Sales and Service – Vehicle Maintenance/Repair, Minor” use category, such as the “MX3” Mixed Use District, or the property needs to obtain a Use Variance in an “N3a” District.
- On October 20, 2022, the Plan and Zoning Commission made a motion to recommend a request to rezoning the property to “MX3” Mixed Use District be found not in conformance with the existing PlanDSM future land use designation of Low Density Residential, to deny the request to amend the PlanDSM Creating Our Tomorrow Plan Future Land Use designation for the subject property from Low Density Residential to Community Mixed, and to deny the proposed rezoning to “MX3” Mixed Use District.
- On November 21, 2022, by Roll Call Number 22-1839 the City Council denied the request to rezone the property from “N3a” Neighborhood District to “MX3” Mixed Use District. Therefore, the appellant is eligible to request a Use Variance from the Board that would allow them to continue operating the existing “Vehicle Maintenance/Repair, Minor” use.
- On December 21, 2022, the Board of Adjustment conditionally granted a Use Variance to allow a “Vehicle Maintenance/Repair, Minor” use in a “N3a” Neighborhood District.

- The Board of Adjustment's Decision & Order includes the following conditions to ensure that the impacts of a "Vehicle Maintenance/Repair, Minor" use are minimal.
 1. There shall be no more than four (4) vehicles associated with the business that are parked outside on the premise at any given time. Any vehicle parked outside shall be located on the existing paved area behind a privacy fence.
 2. The business shall be clearly incidental to or secondary to the residential use of the premises.
 3. No more than two (2) non-resident individuals shall be engaged or employed in the business upon the premises.
 4. Hours of operation must not infringe on the residential atmosphere of the neighborhood. All outside activity related to the business must cease between the hours of 9:00 p.m. and 7:00 a.m.
 5. One (1) sign advertising the business is allowed, attached to the residence. Such sign is not to exceed one (1) square foot in total area. Freestanding signs are not permitted.
 6. The occupation shall not cause or produce noise, vibration, smoke, dust, odor, or heat or any other impact of a type or quantity not in keeping with the residential character of the neighborhood.
 7. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted material of a type or quantity not ordinarily used for household purposes shall be used or stored on the premises, and the applicant must identify the proper disposition of any hazardous waste. No activity will be allowed which is hazardous to the public health, safety or welfare.
 8. There are no outside operation, storage or display of materials or products.
 9. Vehicles awaiting repair or pick-up shall not occupy parking spaces required for employee parking.
 10. All vehicles shall have current license tags.
 11. Outdoor storage of junk, debris, tires, or vehicle parts shall be prohibited.
 12. All repairs, installation, or other services shall only occur within a completely enclosed building.
 13. Any reuse of the site shall be in accordance with all applicable Site Plan regulations and Building and Fire Codes, with issuance of any necessary permits by the City's Permit and Development Center.
- The 1.47-acre is located along the north side of East Park Avenue to the east of Southeast 14th Street. It consists of a 1-household dwelling, a 24-foot by 24-foot (576 square foot) detached garage, and a 32-foot by 48-foot (1,536 square foot) accessory structure.
- The property and business are owned and operated by Sheldon D. Roney, 1626 East Park Avenue, Des Moines, IA 50320.
- Pursuant to City Code Section 134-6.7.8.D., 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 9, 2023).

PREVIOUS COUNCIL ACTION(S):

Date: November 21, 2022

Roll Call Number: [22-1839](#)

Action: On request from Sheldon Roney (Owner) for property located at 1626 E. Park Avenue to amend PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential Use to Community Mixed Use, and to rezone the property from “N3a” Neighborhood District to “MX3” Mixed Use District to allow the use of an accessory structure for a motor vehicle repair business. Moved by Gatto and Second by Mandelbaum to DENY the proposed amendment to the PlanDSM Creating Our Tomorrow Comprehensive Future Land Use Plan designation and to DENY the rezoning. Motion carried 6-1. Absent: Sheumaker.

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: December 21, 2022

Resolution Number: ZBOA-2022-000129

Action: Voted 5-0 to conditionally grant a Use Variance to allow use of the property at 1626 East Park Avenue for a “Vehicle Maintenance/Repair, Minor” use in a “N3a” Neighborhood District.

Board: Plan & Zoning Commission

Date: October 20, 2022

Resolution Number: ZONG-2022-000058 & ZONG-2022-000084

Action: Voted 12-0 to recommend a request to rezone the property to “MX3” Mixed Use District be found not in conformance with the existing PlanDSM future land use designation of Low Density Residential, to recommend denial of a request to amend the PlanDSM Creating Our Tomorrow Plan Future Land Use designation for the subject property from Low Density Residential to Community Mixed, and to recommend denial of a request to rezone the property to “MX3” Mixed Use District.

Board: Zoning Board of Adjustment

Date: August 22, 2018

Resolution Number: ZON 2018-00157

Action: Voted 4-1 to temporarily grant a Special Permit for a Home Occupation to allow use of an accessory structure for a general motor vehicle repair business for a 3-year period.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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