

★ Roll Call Number

12-0246

Agenda Item Number

59

February 13, 2012

Date

WHEREAS, at its January 25, 2012 hearing, with a subsequent Decision and Order entered into the record on January 31, 2012, the City of Des Moines Zoning Board of Adjustment ("Board") approved an application from Pomerantz Realty Co. for a variance for use of property located at 1235 Thomas Beck Road as a brewery and outdoor patio area with accessory uses consisting of a tasting/tap room (tavern) and retail sales of package beer (a liquor store as defined in Municipal Code Section 134-954); and

WHEREAS, pursuant to Municipal Code Section 134-954(a), a conditional use permit for sale of alcoholic liquor, wine and beer at a liquor store in an M-1 district requires at least 150 feet of separation from any church, school, public park or licensed child care center; and

WHEREAS, the property is adjacent to land owned by the City of Des Moines that is designated as Gray's Lake Park and is therefore located within 150 feet of a public park; and

WHEREAS, in accordance with Municipal Code Section 134-65(d), if the Board grants a variance to a separation requirement, the Decision and Order shall be referred to the City Council for its review pursuant to Iowa Code Section 414.7. The City Council may review such 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 does not act to review the decision within 30 days after it is filed, the decision shall become effective on the 31<sup>st</sup> day. If the City Council declines to remand the decision, the decision shall become final on the date of the council's action. If the City Council remands a decision to the Board, the effective date of the decision is delayed for 30 days from the date of remand.

(Continued on Page 2)

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

\_\_\_\_\_ The City Council remands the Decision and Order to the Zoning Board of Adjustment for further study. The effective date of the Zoning Board of Adjustment's decision will be deferred for 30 days from the date of remand.

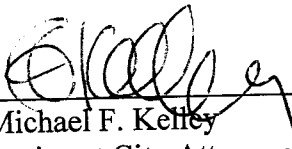
\_\_\_\_\_ The City Council takes no action to review the Decision and Order. The decision of the Zoning Board of Adjustment will become final on March 2, 2012.

X The City Council declines to remand the decision to the Zoning Board of Adjustment. The decision will become final on the date of the Council's action.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

(Council Communication No. 12-053)

  
 Michael F. Kelley  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE				✓
TOTAL	6			1

MOTION CARRIED

APPROVED

T. M. Franklin Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Diane Rauh City Clerk