

★ Roll Call Number

13-0261

Agenda Item Number

61

February 11, 2013

Date

WHEREAS, at its January 23, 2013 hearing, with a subsequent Decision and Order entered into the record on January 29, 2013, the City of Des Moines Zoning Board of Adjustment ("Board") approved an application from Alegiant, LLC for a use variance for use of property located at 2324 Southwest 9<sup>th</sup> Street for variance of the principal permitted uses in the C-1 Neighborhood Retail Commercial District to allow reuse of the property for a plumbing and heating shop with an office; and

WHEREAS, the Zoning Board of Adjustment's findings, decision and order are attached hereto and incorporated herein as if set forth in full; and

WHEREAS, in accordance with Municipal Code Section 134-65(d), if the Board grants a variance to a use 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, i.e. January 29, 2013. 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; and

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 1, 2013.

✓ \_\_\_\_\_ 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.

APPROVED AS TO FORM:

Moved by Dunsley to adopt.

Michael F. Kelley, Assistant City Attorney

(Council Communication No. 13-062)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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