



**Roll Call Number**

25-0230

**Agenda Item Number**

48

**Date** February 10, 2025

**REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION CONDITIONALLY GRANTING A USE VARIANCE FOR AN “OFFICE: BUSINESS OR PROFESSIONAL” USE IN A “F” FLOOD DISTRICT, ON PROPERTY AT 414 61<sup>ST</sup> STREET OWNED BY 414 61<sup>ST</sup> STREET, LLC**

**WHEREAS**, the real property locally known as 414 61<sup>st</sup> Street (“Property”), owned by 414 61<sup>st</sup> Street, LLC (“Owner”) measures approximately 1.16 acres and contains a vacant 4,868 square foot building, and is located along the west side of 61<sup>st</sup> Street to the north side of Grand Avenue, adjacent to Walnut Creek; and

**WHEREAS**, the Property is located within the FEMA-designated 100-year Floodplain and is, therefore, zoned “F” Flood District; and

**WHEREAS**, Des Moines Municipal Code sections 134-6.7 requires the Owner to obtain a variance from the Zoning Board of Adjustment in order to build or use the property for certain uses, including, but not limited, to “Office: Business or Professional” use; and

**WHEREAS**, the Owner made such application and on January 22, 2025, the Zoning Board of Adjustment voted 7-0 to approve an application from 414 61<sup>st</sup> Street for a use variance to allow the Owner/Occupant to use the property for “Office: Business or Professional” use subject to the following conditions to which the Owner has agreed:

1. Any site improvements shall be in accordance with applicable standards of Chapter 50 of the Municipal Code.
2. Any design and use of the existing building shall not impede emergency access to the subject property or surrounding neighborhood.
3. Any use of the existing buildings shall be in accordance with all Building Codes and Fire Codes, with issuance of all necessary permits by the City’s Permit and Development Center.
4. A copy of the Board’s Decision and Order shall be recorded at the appellant’s expense to ensure that any future property owners are aware of these conditions.
5. The Zoning Enforcement Officer shall bring the Use Variance back to the Zoning Board of Adjustment for reconsideration at any time that the use becomes a nuisance to surrounding properties or violates the conditions approval.

; and



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WHEREAS, Iowa Code § 414.7 and Section 134-6.7.8(C) require that any use variance granted by the Board be forwarded to the City Council for its review, and the City Council may remand the variance of the separation requirement back to the zoning Board of Adjustment for further study if the Council believes the variance was improperly granted

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

ALTERNATIVE RESOLUTIONS

(Choose One)

- A. The City Council remands the Decision and Order to the Zoning Board of Adjustment for further study. The effective date of the Board's decision will be deferred for 30 days from the date of this remand.
B. The City Council takes no action to review the Decision and Order. The decision of the Board will become final on February 27, 2025.
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.

(Council Communication No. 25- 058 )

Moved by Mandelbaum to adopt Second by Matto alternative C.

APPROVED AS TO FORM:

/s/ Gary D. Goudeock Jr. Gary D. Goudeock Jr. Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

**CERTIFICATE**

I, LAURA BAUMGARTNER, 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.

*Connie Boesen*  
 \_\_\_\_\_ Mayor

*Laura Baumgartner*  
 \_\_\_\_\_ City Clerk