

Date June 11, 2012

WHEREAS, at its May 23, 2012 hearing, with a subsequent Decision and Order entered into the record on May 29, 2012, the City of Des Moines Zoning Board of Adjustment (“Board”) approved an application for a temporary use variance from F&J Mobile Homes, Inc. for a temporary five-year use of a 3.07-acre property in the vicinity of 7500 Bloomfield Road for a commercial business involving outdoor storage of recreational vehicles; and

WHEREAS, the Board approved a temporary five-year use variance for a use not permitted in the C-2 and R-5 zoning districts; and

WHEREAS, granting the use variance to allow permanent retention of a commercial business that involves outdoor storage of recreational vehicles would not be consistent with the intended spirit and purpose of the Zoning Ordinance. The land in question can produce a reasonable return since the site can continue to be used as a storage yard utilized by residents of the mobile home park. Furthermore, allowing the use in perpetuity would not be within the essential character of the locality of the land in question. The outdoor storage of recreational vehicles requires an “M” Industrial zoning designation. A permanent industrial use at this site is not appropriate given its highly visible location along Southridge Boulevard, which functions as a gateway to the City of Des Moines; and

WHEREAS, allowing the business to continue to operate on a conditional basis for up to and no more than five (5) years is reasonable since development on the surrounding properties is not immediately imminent. Therefore, a temporary five-year use variance is appropriate in this instance so long as the business operates in accordance with the following conditions set forth below:

1. Any use of the property for a commercial business that involves outdoor storage of recreational vehicles shall cease within five (5) years or no later than May 29, 2017.
2. Vehicles shall be stored on crushed asphalt surfaces. All maneuvering aisles shall be hard-surfaced.
3. Provision of a 20-foot wide landscape area along Southridge Boulevard, either on the subject property or within an easement on adjoining DOT right-of-way that is landscaped with at least four overstory trees and eight evergreen trees per 100 lineal feet. (Note: this is the bufferyard requirement contained in the City’s Landscape Standards for parking lots over 100,000 square feet in area.)
4. All required landscaping shall be planted by August 31, 2012.
5. Prohibition of any signage.
6. All vehicles stored on the property shall be licensed and operable.
7. All vehicles stored on the property shall be arranged in an orderly manner along paved drive aisles.
8. The Use Variance shall be subject to amendment or revocation if the Zoning Enforcement Officer determines that any condition established in the Zoning Board of Adjustment’s Decision and Order is violated or determines that the operation of the business becomes a nuisance.

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Date June 11, 2012

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 31st 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.

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 June 28, 2012.

_____ 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 _____ to adopt.

APPROVED AS TO FORM:



 Michael F. Kelley
 Assistant City Attorney

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

MOTION CARRIED

APPROVED

 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.

 City Clerk



**ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER**

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within **two years** or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM	:	DOCKET: ZON 2012-00068
	:	
F&J MOBILE HOMES, INC.	:	
	:	PUBLIC HEARING: MAY 23, 2012
ON PROPERTY LOCATED AT	:	
	:	
VICINITY OF 7500 BLOOMFIELD ROAD	:	

SUBJECT OF THE APPEAL

Proposal: Use of a 3.07-acre area for a commercial business that involves outdoor storage of recreational vehicles.

Appeal(s): Variance of the permitted uses in the "C-2" District and the "R-5" District.

Required by City Code Section 134-64(2)

FINDING

Granting the Use Variance to allow permanent retention of a commercial business that involves outdoor storage of recreational vehicles would not be consistent with the intended spirit and purpose of the Zoning Ordinance. The land in question can produce a reasonable return since the site can continue to be used as a storage yard utilized by residents of the mobile home park. Furthermore, allowing the use in perpetuity would not be within the essential character of the locality of the land in question. The outdoor storage of recreation vehicles requires an "M" Industrial zoning designation. A permanent industrial use at this site is not appropriate given its highly visible location along Southridge Boulevard, which functions as a gateway to the City of Des Moines.

However, allowing the business to continue to operate for up to five (5) years is reasonable since development on the surrounding properties is not immediately eminent. Therefore, a temporary Use Variance is appropriate in this instance so long as the business operates in accordance with the conditions established in the Decision and Order.

DECISION AND ORDER


WHEREFORE, IT IS ORDERED that the appeal for a Variance of the permitted uses in the "C-2" District and the "R-5" District, to allow use of a 3.07-acre area for a commercial business that involves outdoor storage of recreational vehicles, is **temporarily granted subject to the following conditions:**

1. Any use of the property for a commercial business that involves outdoor storage of recreational vehicles shall cease within five (5) years or no later than May 29, 2017.
2. Vehicles shall be stored on crushed asphalt surfaces. All maneuvering aisles shall be hard-surfaced.
3. Provision of a 20-foot wide landscape area along Southridge Boulevard, either on the subject property or within an easement on adjoining DOT right-of-way that is landscaped with at least four overstory trees and eight evergreen trees per 100 lineal feet. (Note: this is the bufferyard requirement contained in the City's Landscape Standards for parking lots over 100,000 square feet in area.)
4. All required landscaping shall be planted by August 31, 2012.
5. Prohibition of any signage.
6. All vehicles stored on the property shall be licensed and operable.
7. All vehicles stored on the property shall be arranged in an orderly manner along paved drive aisles.
8. The Use Variance shall be subject to amendment or revocation if the Zoning Enforcement Officer determines that any condition established in this Decision & Order is violated or determines that the operation of the business becomes a nuisance.

VOTE

The foregoing Decision and Order was adopted by a vote of 5-2 with Board members Christensen, Clarke, Gray, Rosenberg, and Smith voting in favor thereof, Board members Pins and Westergaard voting in opposition thereto.

Signed and entered into record on May 29, 2012.



Bill Gray, Chair



Bert Drost, Secretary