



MINUTES

Zoning Board of Adjustment

December 21, 2023



By this reference all reports, documents, presentations, videos and the hearing's video recording are incorporated into the minutes.
See the following link: <https://www.youtube.com/user/DavenportToday/videos>

I. Call to Order:

Chairman Darland called the Zoning Board of Adjustment (ZBA) meeting to order in City Hall Council Chambers, Davenport, Iowa at approximately 4:05 p.m.

Members present: Boyd-Carlson, Gallart, Bloemker, Darland

Excused: None.

Staff present: Koops, Berkley

II. Secretary's Report:

Minutes were approved for the 2023-12-12 ZBA Hearing by voice-vote (4-0).

III. Old Business:

None.

IV. New Business:

A. Request SU23-02 of 53rd Luxury LLC at 2021 (& 1911, 2131) East 53rd Street to operate a Vehicle Dealership with Outdoor Storage/Display. Table 17.08-1 requires a Special Use for a Vehicle Dealership with Outdoor Storage/Display on property zoned C-3 General Commercial District. [Ward 8]

Koops presented the staff report.

Findings: (supported by the previous analysis)

1. The petitioner's proposed location/design meets Special Use requirements
2. This use is compatible with adjacent land uses and type of development
3. The proposed Special Use is in accordance with the criteria for Special Use approval.

Recommendation:

Staff recommends that the Board adopt staff's findings and approve request SU23-02 subject to the following conditions:

1. The extent of 'Exhibit "A" – Site Plan' as emailed to Planning staff on November 29, 2023, shall be binding; no auto dealer uses shall be allowed outside that designated area, and use of additional land to the south and southeast (or any land areas not shown on the proposed concept plan) shall be prohibited without a modification to the Special Use, as per code requirements in §17.14.50.
2. Prior to occupancy, parking lot landscaped islands, consistent with 1777 E. 53rd Street, shall be installed per the approved site plan as submitted into Davenport ePlan requiring full-sized islands with landscaping at the end of five (5) rows in front of the buildings extended, per Exhibit "B";
3. Prior to occupancy an approved full site plan review shall be completed and approved;
4. The use of flags, pennants, tinsel, balloons or other similar attention-getting devices shall be prohibited;
5. All conditions of Davenport rezoning REZ23-03, City Council Ordinance 2023-436 (labeled Exhibit "C" in the ZBA Packet), shall remain in full force and effect, including but not limited to the location

of the car wash facility at least 125' from residential zoning districts, stipulated buffer yard along the north property line of the Stonegate development, prohibition of billboards, and Dark Sky complainant light fixtures; and

6. Should complaints arise due to non-compliance of these conditions, and/or if staff is aware of infractions to these conditions and/or any other code violations, or if ownership or management companies change (more than 50%), a rehearing of the Special Use shall be scheduled per Davenport Municipal Code specifications for Zoning Board of Adjustment Special Use public hearings; at which the Special Use may be modified, re-approved or revoked.

Board Questions for Staff: The Board discussed some clarification questions for staff. Chairman Darland asked questions about the timing of the rezoning of the land concerning the Special Use request. Gallart asked about the depth of the existing buffer south of the prior approved auto dealer. Staff indicated that the buffer depth, approved by a previous rezoning case, is 80 feet in depth from north to south.

The applicant, John Hofmeyer addressed the Board and explained the request.

Darland asked the applicant if they had any concerns about meeting the recommended staff conditions. Mr. Hofmeyer stated that their only concern was regarding ownership change. The reason is that if the site continued to be used as a franchise auto dealership, that wording would be detrimental to any future sale of the property to another auto franchise auto dealership.

Darland asked staff about the ownership change condition, and if that is in the code. Staff member Berkley stated that it was language suggested by the legal department, but that the Board is not necessarily tied to that language.

Gallart asked if these were new or just relocated dealership brands. Mr. Hofmeyer stated that they did not own the land where the current brands are located on Harrison Street.

Chairman Darland asked for comments in favor of the request. (none provided)

Chairman Darland asked for comments in opposition to the request.

Richard Pausch of 1800 Stonegate CIR spoke against the request. He was concerned over the possible loss of property value. The required 80' buffer was not watered properly and has some dead trees/bushes in that area. Boyd-Carlton asked about the berm location.

Jim Davis of 1744 Stonegate CIR spoke against the request. He wanted to make sure the car wash would be 125 feet from the property line and he stated that the existing vegetative buffer was not maintained well enough.

Gallart had questions about the landscaping buffer and if staff is satisfied with what is provided.

Bloemker asked about the ownership requirements in condition #6. Mr. Hofmeyer stated their preference for this condition to allow a change of ownership if the site continues to be used as a franchise dealership without having to have the Special Use "re-approved" by the Board.

Chairman Darland suggested that condition #6 be split into two conditions. Staff member Berkley suggested the following, that condition #6 should be about complaisance issues, and that a new condition #7 related be written to address a new use or the exiting use not being used by a franchise dealership.

Motion to Amend

Gallart moved, seconded by Boyd-Carlson, an amendment to condition #6 of the staff report and the addition of condition #7, with each condition reading as follows:

6. Should complaints arise due to non-compliance with these conditions, and/or if staff is aware of infractions to these conditions and/or any other code violations, a rehearing of the Special Use shall be scheduled per Davenport Municipal Code specifications for Zoning Board of Adjustment Special Use public hearings; at which the Special Use may be modified, re-approved or revoked.
7. Should the ownership no longer be affiliated with a franchised auto dealership, the Special Use shall be reviewed regarding this change by the Zoning Board of Adjustment.

The motion carried unanimously (4-0).

Bloemker, yes; Gallart, yes; Boyd-Carlson, yes; and Darland, yes;

Motion

Boyd-Carlson moved to approve request SU23-02 with staff conditions as amended; the motion was seconded by Gallart, and it carried unanimously (4-0). The amended conditions read:

1. The extent of 'Exhibit "A" – Site Plan' as emailed to Planning staff on November 29, 2023, shall be binding; no auto dealer uses shall be allowed outside that designated area, and use of additional land to the south and southeast (or any land areas not shown on the proposed concept plan) shall be prohibited without a modification to the Special Use, as per code requirements in §17.14.50.
2. Prior to occupancy, parking lot landscaped islands, consistent with 1777 E. 53rd Street, shall be installed per the approved site plan as submitted into Davenport ePlan requiring full-sized islands with landscaping at the end of five (5) rows in front of the buildings extended, per Exhibit "B";
3. Prior to occupancy an approved full site plan review shall be completed and approved;
4. The use of flags, pennants, tinsel, balloons, or other similar attention-getting devices shall be prohibited;
5. All conditions of Davenport rezoning REZ23-03, City Council Ordinance 2023-436 (labeled Exhibit "C" in the ZBA Packet), shall remain in full force and effect, including but not limited to the location of the car wash facility at least 125' from residential zoning districts, stipulated buffer yard along the north property line of the Stonegate development, prohibition of billboards, and Dark Sky complainant light fixtures; and
6. Should complaints arise due to non-compliance with these conditions, and/or if staff is aware of infractions to these conditions and/or any other code violations, a rehearing of the Special Use shall be scheduled per Davenport Municipal Code specifications for Zoning Board of Adjustment Special Use public hearings; at which the Special Use may be modified, re-approved or revoked.
7. Should the ownership no longer be affiliated with a franchised vehicle dealership, the Special Use shall be reviewed regarding this change by the Zoning Board of Adjustment.

Boyd-Carlson, yes; Gallart, yes; Bloemker, yes; and Darland, yes.

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 5:20 p.m.