



MINUTES
Zoning Board of Adjustment
February 11, 2021



By this reference all reports, documents, presentations, videos and the hearing's video recording are incorporated into the minutes.

I. Call to Order:

Board member Reistroffer called the Zoning Board of Adjustment meeting to order in City Hall Council Chambers, Davenport, Iowa at 4:05 p.m.

Board Members present: Loebach, Quinn, and Darland.

Board Members excused: None.

Staff present: Koops, Berkley, and Attorney Hoyt.

II. Secretary's Report:

Minutes were approved for the 12-10-20 and 1-14-21 Hearing by voice-vote.

III. Old Business:

Request SU20-08 of Jonathon Carstens on behalf of Atomic Coffee at 3919 W. Locust St. for a special use to approve a drive-through facility. The property is zoned "C-1" Neighborhood Commercial District. Section 17.08.020, Table 17.08-1 of the Davenport Municipal Code requires a special use for drive-through facilities on property zoned "C-1". [Ward 1]

Koops presented the staff report to the Board.

One protest letter representing three (3) properties was received by staff from Chris McAlister owner of the three lots to the east of the subject property.

At the Dec. 10th 2020 ZBA meeting request SU20-08 was tabled by the Board so that the petitioner could:

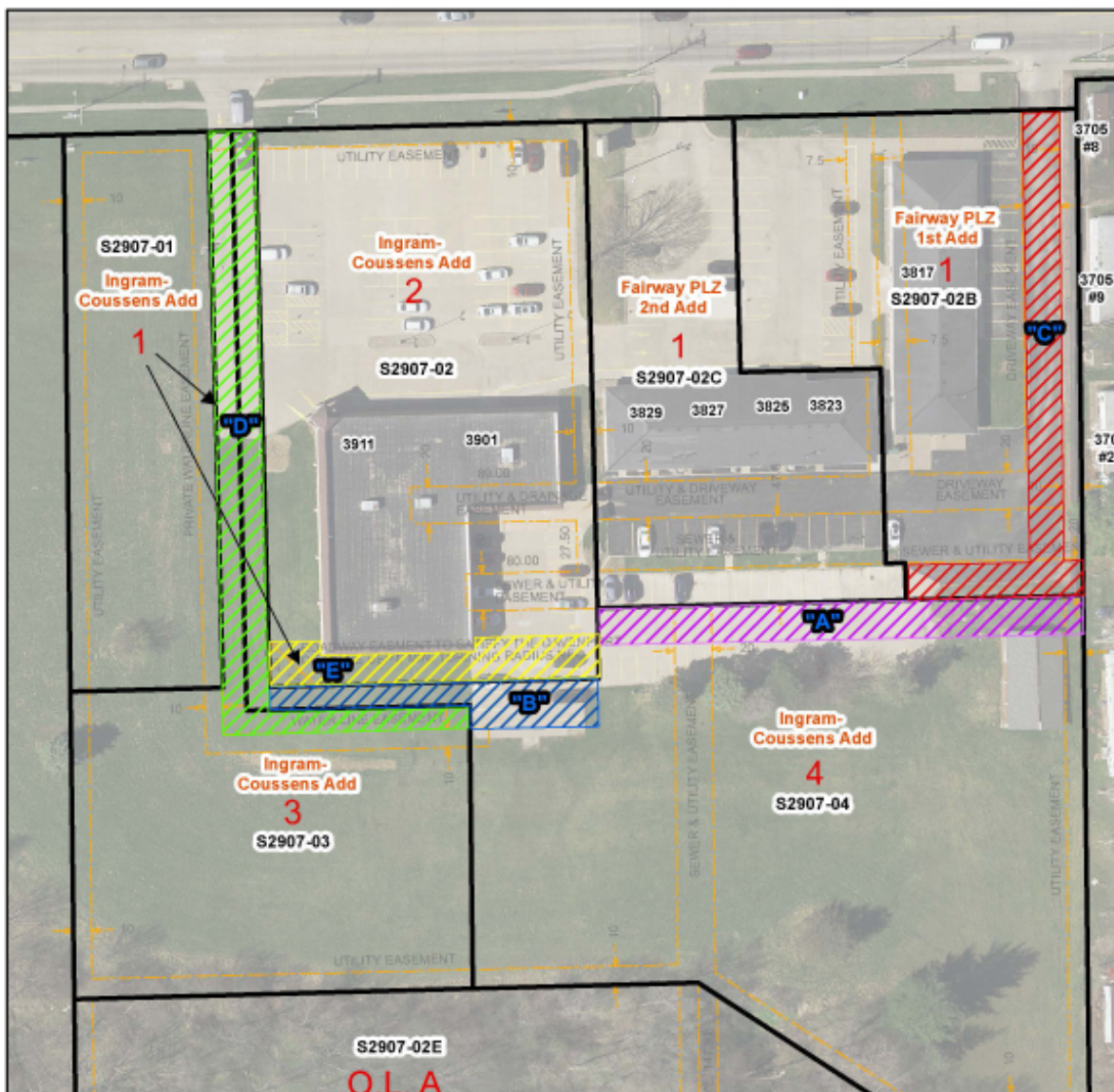
1) revise their request to include the use of the existing parking lots to the east (PIN S2907-02 & PIN S2907-2C; addressed 3911, 3901, 3829 & 3827 W Locust, owned by McAlister Properties of Durant Iowa) and to provide written agreement for such use, or to provide an easement granting the use of the parking lots for stopping and standing vehicles in the course of business from the coffee shop proposed for Lot 1 Ingram-Coussens Addition, PIN S2907-1; and

2) provide a traffic study/ more detailed information on the peak demand/stacking requirements for customer vehicles from the proposed coffee shop and a contingency plan for handling traffic that exceeds levels that can be accommodated on the subject property (PIN S2907-01/3919 W Locust)

As seen by the revised request description in the application, the petitioner has not changed the request to include the parking areas to the east of the subject property. Easement information has been provided for the subject property and the properties to the east, and has associated easements (as demonstrated in the attached Easement Exhibit). The submitted documents grants the owner of the subject property the ingress and egress rights to access said lot via two 12.5 foot strips of land (PINS2907-03 & S2907-04). The owner of Lot 1 Ingram-Coussens Addition (the

subject property) does NOT have the right to utilize the parking lots on PIN S2907-02 and S2907-02C as shown in the petitioner's submittal document "ICE2Junis.W.Easements.PDF". The attached Easements Exhibit shows all the easements mentioned in the recorded FILE 2007-00035655 for the parking lot parcels and for the subject property (lot 1 Ingram-Coussens Addition). There are no easements that provide any use of the parking lots for the subject property 3919 W. Locust/PINS2907-01.

Easements of Recorder File 2007-00035655 (ICE2Janis.W.Easements.PDF)



**Lot 1 Ingram-Coussens Addition has
two (2) easements recorded per
File 2007-00035655:**

Cross-hatched areas "D" & "E"

**All easements are for ingress and egress only, except for area "E"
which is for utilities only.**

Private parties utilizing City GIS data do so at their own risk.
The City of Davenport will not be responsible for any costs or
liabilities incurred due to any differences between information
provided and actual physical conditions.



0 100 200 Feet

EXHIBIT "D"

STAFF REQUEST FOR ADDITIONAL INFORMATION AS A RESULT OF THE TABLING BY THE ZONING BOARD OF ADJUSTMENT

See the email below:

Koops, Scott E.

From: Koops, Scott E.
Sent: Tuesday, December 22, 2020 10:27 AM
To: 'Jonathon Carstens'; 'peterschillaci@gmail.com'
Cc: Oswald, Richard; Hoyt, Mallory; Berkley, Laura; Schadt, Brian
Subject: SU20-13 W Locust Atomic Coffee Drive-Through

Mr. Carstens and Mr. Schillaci:

Jonathon, in response to your earlier phone call, here are some items to address in response to the ZBA's motion to table:

Legal Documents

1. Proof of ownership
 - a. Business ownership of Atomic Coffee is not tied to the land ownership
 - b. Peter Schillaci, listed as owner of the Special Use Application, is not tied to the land or the coffee business
 - c. 3931 L Locust LLC Certificate of Organization has not been filed correctly (no persons are identified)
2. Easements for all properties (Parcels [S2907-03](#), [S2907-04](#), [S2907-02](#); 2 owners/3 lots)
 - a. If access easement is provided, the access/parking easement shall be recorded
 - b. If obtained, a access agreement should be tied to a specific legally defined area and the activity to occur that described
 - c. If, obtained, an agreement should state standing or stopped vehicles will be stacked in a que for the coffee to be located at 3919 W. Locust St (PIN [S2907-02](#))

Traffic Data

The City Engineer shall require the follow for each existing Atomic Coffee site, include the sites at 4707 Brady Street and 3235 Ridge Point, Bettendorf IA;

1. Number of stacking spaces and linear distance utilized (on-site and off-site) during peak demand times (7:30AM to 8:30 AM and 3:30PM to 6:00PM)
2. Number of stacking spaces and linear distance utilized (on-site and off-site) during average demand times (times outside of the peak times).

Revised SU Application

Amend the application to mention the changes made from the original request.

1. east service window will now meet drive isle lane width requirements; drive lane and exit/bail out lane width corrected (19' total); provide both a narrative and a diagram/revised site plan.
2. explain why a second drive-through window in each lane not a viable option.
3. explain why orders cannot be taken remotely prior to the 1st or 2nd drive through window
4. Are 'pull ahead parking spaces utilized at either site? If yes, how many linear feet or spaces are available? If not, explain why.
5. Provide the required letter from the Eplan review which states "The developer shall submit a letter from the Scott County Health Department stating that they approve the connection shown between the sand filter, detention basin, and City storm sewer, and that the County agrees to do monthly inspections of conformance to water quality and functionality of the install measures.

Thank you!

Staff has not received 1) an access agreement or a copy of an existing easement agreement which allows for the use of the parking lots adjacent to the east, 2) peak demand data (only drone photos which represent one instance in time), not average number vehicles at peak and non-peak times, for an indication of demand/traffic/standing vehicles. 3) Scott County Letter for approval of the sewer system/method has also not been received.

In addition to the use standard deficiencies list above there are other extenuating circumstance that will impact this use.

1. The business model for the proposed Atomic Coffee, as situated in at least two other locations (3235 Ridge Point, Bettendorf IA and 4707 Brady Street in Davenport IA), has created adverse traffic impacts due the long wait times and a high volume of traffic.
Each of these locations has significantly more traffic volumes than what has been stated by the petition in their statement regarding potential traffic impact. See Exhibit "A" – Traffic Statistics and the response to the submittal by Traffic Engineering staff.
2. Exhibit "B" – 3235 Ridge Point Bettendorf shows the traffic impact at this site located near Pleasant Valley HS. Bettendorf PD photos show the traffic back up for 330 feet from the drive-through window and on to the collector street Belmont RD.
3. Exhibit "C" – 4707 Brady Street shows 27 vehicles total stacked in drive-through lanes.

Each of these three sites, the subject property at 3919 W Locust Street, 3235 Ridge Point, and 4707 Brady Street are very near local public high schools which results in two peak traffic counts for each of these sites, one in the morning and one in the afternoon. To date Planning staff has not been provided information about the ~~morning~~ peaks. The City Traffic Engineer drives past the proposed location on West Locust on a commute to Public Works, and is therefore aware of the morning high school traffic generation.

The petitioner has stated that peak traffic generation will be likely 10 vehicles at any given time, with a maximum of 13 vehicles. Each of the two operating Atomic Coffee sites have photographic evidence that 13 vehicles during peak demand is not an accurate estimation considering the other two sites have 27 and 23 vehicles stacked in drive-through lanes at those times. (These are not COVID impacted as the date of the photos are pre-COVID, 2018 or earlier.)

The 13 stacking spaces is simply not enough to accommodate the demand for this proposed site, and approval of the drive-through will result in Atomic customer vehicles blocking access drives to adjacent lots. Additionally, drivers choosing the shortest line will likely result in vehicles standing on West Locust Street while the occupants wait in line.

Findings/Approval Standards

1. The establishment, maintenance, and operation of the proposed special use will not endanger the public health, safety, or welfare.

If operated as proposed and in a similar fashion to the two existing Atomic coffee sites, which have smaller high schools populations, the proposed drive-through will result in adverse traffic impact on adjoining property and streets as shown in Exhibits "B" and "C". The proposed use shall have a detrimental impact on adjacent properties and will result in standing vehicles on W. Locust Street, which will greatly increase the likelihood of additional traffic collisions, personal injury, and vehicle property damage.

2. The proposed special use is compatible with the general land use of adjacent properties and other property within the immediate vicinity.

While in general a drive-through coffee shop could potentially be compatible at this site, the scale of this site and the precedent of similar business operations elsewhere will have a detrimental

impact on adjoining property. The planned business operation would have a detrimental impact on adjacent property and public facilities/streets.

3. The special use in the specific location proposed is consistent with the spirit and intent of this Ordinance and adopted land use policies.

The proposed drive-through does meet the bailout lane requirement, the stacking requirement specific to this business model's needs. The use creates a public hazard to public safety and welfare due to the high likelihood of standing vehicles occurring on West Locust Street as there are no easements or authorizations for allowing use of the adjacent parking areas to the east.

Recommendation

Findings:

The location/design/construction of the proposed use does not meet the approval criteria for a Special Use as noted in the Discussion section and Approval Standards section of this report.

The City Engineer has recommended denial for this use as proposed due to congestion and potential safety hazards.

A letter from the Scott County Health Department has not been provided per the EPlan Site Plan Review Comments from the City Engineering Department to the applicant.

Recommendation:

Staff recommends this request be denied **based on staff findings above and per the Findings/Approval Standards of the SU20-08 Staff Report.**

Michael Meloy spoke for the petitioner. During the discussion with the petitioner three (3) additional Exhibits (drone photos, traffic numbers, and another stacking diagram).

The Board heard testimony from Jon Carstens, Scott Ward, Peter Schillaci, Jeff Hoyer, and Tuvi Mendel.

After Board questions of staff and the petitioner the board asked for a motion.

Motion

Darland moved to approve the request of SU20-08, seconded by Quinn. Roll call vote was called.

Loebach, no; Darling, no, Quinn, no; and Reistroffer, yes.

The motion failed (1-3).

Motion

The board moved to delete items HV20-12 and HV20-13 at the petitioner's request; the motion carried unanimously.

IV. New Business:

Request SU21-01 of Rich Clewell on behalf of Humility Homes & Services for a special use to approve a Neighborhood Commercial Establishment (retail sales) at 522 Fillmore Street. Municipal Code 17.08.030.U. allows for Neighborhood Commercial Establishments in existing nonresidential structures in residential districts (excluding R-1) with the granting of a special use. [Ward 3]

Koops presented the staff report.

Recommendation & Findings

Findings: Location/design/construction of the proposed use meets the Special Use requirements.

Recommendation: Staff recommends approval of the request.

No comment letter or calls were submitted.

No one spoke in-favor or against the request.

Ashley Velez spoke on behalf of the petitioner and explained the request.

Motion

Quinn, seconded by Loebach, moved to approve request SU21-01. The motion carried unanimously (4-0).

Loebach, yes; Darland, yes; Quinn, yes; Reistroffer, yes.

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 5:36 p.m.