

**CITY OF WEST DES MOINES  
BOARD OF ADJUSTMENT COMMUNICATION**

**Meeting Date:** December 2, 2015

**Item:** The Picker Knows Event Venue, 1208 Prospect Avenue – Approval of Permitted Conditional Use Permit to allow an event venue – A to Z 4 You LLC d/b/a the The Picker Knows Antiques and Collectibles – PC-002888-2015

**Requested Action:** Approval of a Permitted Conditional Use Permit

**Case Advisor:** Kara Tragesser, AICP 

**Applicant's Request:** The applicant, Brad Brody, is requesting approval of a Permitted Conditional Use permit to operate a 5,000 sq. ft. event venue in an existing building at 1208 Prospect Avenue with a principal use of an antique and collectible store (formerly a Dahl's grocery store) in a Neighborhood Commercial zoning district (see Attachment B – Location Map). The application indicated that the event venue was for functions such as receptions and gatherings. No exterior building or site improvements are proposed.

**City Council Subcommittee:** This item was presented to the Development and Planning City Council Subcommittee on November 5, 2015. The Subcommittee was supportive of the request.

**Staff Review and Comment:** This request was distributed to other City departments and other agencies for their review and comment. Staff notes the following:

**Event Venues:** Staff had received inquiries from places of business desiring to use assembly space for events not related to the principal use. This issue was discussed with the Development and Planning Subcommittee at two meetings with the result being an amendment to the City Code allowing event venues in certain zoning districts based upon size of the venue and placing performance standards relating to parking, building and fire regulations for assembly uses, and outdoor activity.

**Size of Event Venue:** The newly adopted regulations allow 5,000 sq. ft. or less of event space in the Neighborhood Commercial zoning district, either stand-alone or as part of a principal use. Event Venues larger than 5,000 sq. ft. are not allowed in Neighborhood Commercial, but have been allowed in other commercial and office districts. The total square footage of the building at 1208 Prospect is approximately 36,000 sq. ft., but only 5,000 sq. ft. can be used to hold the events. The principal use is an antiques and collectibles business.

**Parking:** The proposed ordinance requires that parking for the event venue be calculated at 1 space per 50 sq. ft. of venue space. This site has 132 spaces, a 5,000 sq. ft. event space requires 100 spaces. The ordinance provides that if the event is to take place during business hours of the principal use, the event parking is to be in addition to that parking required for the principal use. In this case, if that situation occurs, only 1,900 sq. ft. of the event area can be used. For this property and business no event that uses the 5,000 sq. ft. can occur at the same time the principal use is open for business. Staff realizes that there may be a short overlap of time while transitioning between uses occurs. Staff is comfortable that if the principal use and the event center use operate separately, that the parking should meet the requirements. If parking at the site becomes an issue due to overflow parking on neighboring properties or the public streets are being used to accommodate parking for the business, the permitted conditional use permit may be reviewed in the future.

**Additional Right-of-Way, additional easement widths, and street light agreement:** As a part of this case review, additional street right-of-way along Grand Avenue was determined to be necessary to provide consistency with the standards identified in the currently adopted Comprehensive Plan. The Comprehensive Plan Land Use Map identifies Grand Avenue as a major arterial roadway which requires 120 feet of total right-of-way or 60 feet from the center of the right-of-way adjacent to the subject property. It appears the existing right-of-way adjacent to this site is 50 feet, therefore staff recommended the property owner provide a deed for 10 feet to the City to bring the right-of-way into consistency with the Comprehensive Plan standards.

Also, as a matter of form for Permitted Conditional Use permits, Staff recommends that the easements on the property be revised so that the width meets current standards and that a street light agreement for replacing the light poles to steel poles when the overhead electric is moved underground in this area be executed.

The property owner is requesting that the Board of Adjustment remove the conditions of approval for a deed for 10 feet of right-of-way adjacent to Grand Avenue, the street light agreement and the revised utility easements (see Attachment C – Property Owner Communication). Mr. Brody notes that there are no site improvements being contemplated with this request and that it's a use-only request.

The Board of Adjustment has previously removed conditions of approval such as these due to a lack of nexus between the use-only application and the requests for site improvements.

**Permitted Conditional Use Permit Findings:** Brad Brody's application for a Permitted Conditional Use Permit to operate a 5,000 sq. ft. event venue at 1208 Prospect Avenue was reviewed by various City departments. Based upon that review and any conditions of approval, the following findings have been made on the proposed project:

1. The proposed development and use is consistent with the West Des Moines Comprehensive Plan in that the project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan. *The use of the property for an event venue is consistent with the goals and policies of the Comprehensive Plan. The existing public street right-of-way for Grand Avenue does not meet the minimum right-of-way width requirements stated in the Comprehensive Plan. The right-of-way dedication recommended as a condition of approval is needed in order for the standard to be met.*
2. The proposed development and use does assure compatibility of property uses within the zone and general area in that this project was reviewed by various City Departments for compliance with the Zoning Ordinance. *The project was reviewed by various City Departments for compliance with the Zoning Ordinance and appears to be compatible with the property uses within the zone and general area.*
3. All applicable standards and conditions have been imposed which protects the public health, safety and welfare in that this project was reviewed by various City Departments and public agencies for compliance with the various state and local regulations. Based upon that review a finding is made that the project has been adequately conditioned to protect the health, welfare, and safety of the community. *The project has been reviewed by various City Departments and public agencies for compliance with state and local regulations which protect the public health, safety, and welfare and has been conditioned appropriately to meet those regulations.*
4. There is adequate on-site and off-site public infrastructure to support the proposed development in that this project was reviewed by various public agencies and City Departments and public utilities to ensure that either the petitioner will construct or the project has been conditioned to construct adequate public infrastructure to serve the development. *This project was reviewed by various public agencies and City Departments and public utilities to ensure the adequate on-site and off-site public infrastructure is in place or will be in place. The streetlights adjacent to the subject property are currently powered by overhead electric and located on wood poles. Over time, for aesthetics and longevity, City practice is to place the overhead lines underground and place lights on more durable steel poles. Implementation of street lights adjacent to a developing parcel are typically the responsibility of the developer. Also, the City's requirements for public utility easements is a minimum of 30 feet for twice the depth of the improvement, whichever is greater. A condition of approval has been added to provide the adequate easement width for any public utility located on the site and for provision of a Street Light Agreement for the placement on steel poles in the future.*
5. The proposed development and use has met the requirements contained in the City Code in that this project was reviewed by various City Departments and public agencies and the project has complied with or has been conditioned to comply with all City Code requirements. *The project was reviewed by various City*

*Departments and public agencies and has met the code requirements or has been conditioned to comply with code requirements.*

6. The proposed development and use is in keeping with the scale and nature of the surrounding neighborhood in that the proposed project is consistent with the Zoning regulations and the Comprehensive Plan which designates this site as suitable for development such as that proposed by this project. *The proposed development appears to be in keeping with the scale and nature of the surrounding neighborhood and the site appears to be suitable for this development proposal.*

**Staff Recommendations and Conditions of Approval:** Based upon the review of the proposal, a finding of consistency with the goals and policies of the Comprehensive Plan, and compliance with the findings necessary for approval, staff recommends the Board of Adjustment adopt a resolution to approve the Permitted Conditional Use Permit to allow the operation of a 5,000 sq. ft. event venue at 1208 Prospect Avenue, subject to meeting all City Code requirements, regulations, and the following:

1. That the property owner provide a deed for 10 feet of new right-of way adjacent Grand Avenue, prior to any event being allowed at the site.
2. That the property owner execute an easement for the public sanitary sewer located within the site that is twice as wide as the depth of the sewer, prior to any event being allowed at the site.
3. That the property owner execute a Street Light Agreement, prior to any event being allowed at the site.
4. If the event is to take place during business hours of the principal use, only 1,900 sq. ft. of the event area can be used due to parking constraints.
5. If parking at the site becomes an issue due to overflow parking on neighboring properties or the public streets are being used to accommodate parking for the business, the permitted conditional use permit will be re-reviewed by the Board of Adjustment.

**Noticing Information:** On November 13, 2015, notice of the December 2, 2015, Board of Adjustment Public Hearing on this project was published in the Des Moines Register. Notice of this public hearing was also mailed to surrounding property owners within 370 feet of the subject property on November 12, 2015.

**Applicant:** Brad Brody  
A to Z 4 You, LLC d/b/a The Picker Knows Antiques and Collectibles  
1208 Prospect Avenue  
West Des Moines IA 50265  
515-229-2467  
[brody@sgccapital.com](mailto:brody@sgccapital.com)

**Property Owners:** 1515 Management Company, Inc.  
1208 Prospect Avenue  
West Des Moines IA 50265  
515-457-9333  
[brody@sgccapital.com](mailto:brody@sgccapital.com)

**Attachments:**

Attachment A	-	Permitted Conditional Use Resolution
Attachment B	-	Location Map
Attachment C	-	Property Owner Communication

Prepared by: KTragesser City of West Des Moines PO Box 65320 West Des Moines, IA 50265-0320 515-222-3620  
When Recorded Return to: City Clerk City of West Des Moines PO Box 65320, West Des Moines, IA 50265-0320

**RESOLUTION**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING THE PERMITTED CONDITIONAL USE PERMIT (PC-002888-2015) FOR THE PURPOSE OF OPERATING AN EVENT VENUE IN AN EXISTING BUILDING AT 1208 PROSPECT AVENUE**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Brad Brody, has requested approval for a Permitted Conditional Use Permit to operate an event venue in an existing building at 1208 Prospect Avenue and legally described as:

**Legal Description of Property**

(Except the South 129 Feet) the North ½ of the West 335 feet of the East ½ of the Southwest ¼ of the Northeast ¼ of Section 19, Township 78 North Range 25 West of the 5<sup>th</sup> P.M., Polk County, Iowa, subject to legally established highways.

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on December 2, 2015, the Board of Adjustment held a duly-noticed public hearing to consider the application for Permitted Conditional Use Permit;

**NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The findings, for approval, in the staff report, or as amended orally at the Board of Adjustment hearing, are adopted.

**SECTION 2.** The PERMITTED CONDITIONAL USE PERMIT (PC-002888-2015) is approved, subject to compliance with all the conditions in the staff report including conditions added at the Hearing, and attached hereto as Exhibit "A", if any. Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on December 2, 2015

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Erik Christiansen, Chair, Board of Adjustment

ATTEST:

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Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on December 2, 2015, by the following vote:

AYES:  
NAYS:  
ABSTAIN:  
ABSENT:

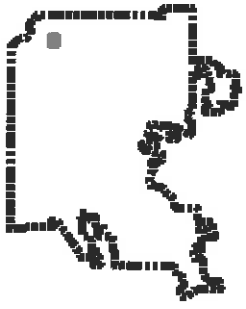
ATTEST:

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Recording Secretary

## EXHIBIT A

1. That the property owner provide a deed for 10 feet of new right-of way adjacent Grand Avenue, prior to any event being allowed at the site.
2. That the property owner execute an easement for the public sanitary sewer located within the site that is twice as wide as the depth of the sewer, prior to any event being allowed at the site.
3. That the property owner execute a Street Light Agreement, prior to any event being allowed at the site.
4. If parking at the site becomes an issue due to overflow parking on neighboring properties or the public streets are being used to accommodate parking for the business, the permitted conditional use permit will be re-reviewed by the Board of Adjustment.
5. If the event is to take place during business hours of the principal use, only 1,900 sq. ft. of the event area can be used due to parking constraints.



- Legend**
- Parcels
  - Parks
  - Greenways

# 1208 Prospect Avenue



1: 2,104



Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



**Tragesser, Kara**

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**From:** Brad Brody <brody@sgccapital.com>  
**Sent:** Wednesday, November 11, 2015 3:53 PM  
**To:** Tragesser, Kara  
**Subject:** Permitted Conditional Use Permit Letter

Kara,

I am in receipt of your letter dated November 6th 2015 regarding the Permitted Conditional Use Permit for the Picker Knows Antique and Collectibles business at 1208 Prospect Avenue in West Des Moines.

Of the eleven items you had comments on, I am fine with all of them except the following:

Item #2- City's request of additional right-of-way on Grand Avenue. I don't feel this request is appropriate as my request does not involve any site improvements and is for use only.

Item #3- City's request for us to execute a Street Light Agreement- I don't feel this request is appropriate as my request does not involve any site improvements and is for use only.

Item #5- City's request to have our easement widths meet the DSM Metro Design Standards and WDM Addendums- I don't feel this request is appropriate as my request does not involve any site improvements and is for use only.

I sincerely appreciate your efforts on our behalf and would welcome any thoughts you may have with respect to my concerns.

Thanks,

Brad Brody  
President  
Strategic Growth Capital, Inc.  
1208 Prospect Avenue  
West Des Moines, Iowa 50265  
Phone- 515-457-9333  
Fax- 515-457-9444