



Legislation Text

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File #: 21-0442, Version: 1

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**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Pass the ordinance granting a four-year extension to the temporary use approved through Ordinance 17-059 and approving an amended Owner's Acknowledgement and Acceptance Agreement for the property located at 433-435 Spring Avenue

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Allison Laff, AICP, Deputy Director

**BOARD/COMMISSION REVIEW:**

N/A

**BACKGROUND:**

The petitioner, Kramer Restoration of DuPage County L.L.C., is the owner of the property located at 433-435 Spring Avenue. The petitioner is requesting approval of a four-year extension to the temporary use approved through Ordinance 17-059 and an amended Owners' Acknowledgement and Acceptance Agreement (OAA) for the subject property. Said approval would allow for an insurance contractor (Paul Davis Restoration), specializing in remediation and reparation of fire and water damage to residential and commercial structures, to continue to operate at the subject property through April 18, 2025, subject to certain conditions and requirements.

**Ordinance 17-059**

In 2008 the subject property was rezoned (Ordinance 08-005) from I (Industrial District) to R2 (Single-family and Low-density Multiple-family Residence District), in accordance with the recommendation of the Spring Avenue Study. The rezoning ordinance permitted the "product assembly facility" operating at that time (DuPage Precision) to continue in accordance with the provisions of Municipal Code [Section 6-10 \(Nonconforming Uses\)](https://www.municode.com/library/il/naperville/codes/code_of_ordinances?nodeId=TIT6ZORE_CH10NOUS)  [<https://www.municode.com/library/il/naperville/codes/code\\_of\\_ordinances?nodeId=TIT6ZORE\\_CH10NOUS>](https://www.municode.com/library/il/naperville/codes/code_of_ordinances?nodeId=TIT6ZORE_CH10NOUS).

In 2017, Kramer Restoration requested approval to permit Paul Davis Restoration to operate on the subject property. Because Paul Davis Restoration was not substantially similar to the product assembly facility, it could not operate on the subject property under the Nonconforming Uses provisions of the Naperville Municipal Code. Accordingly, Kramer Restoration sought approval a temporary use to allow for the operation of his restoration company at the subject property.

On April 18, 2017 the City Council approved Ordinance 17-059 (Ordinance Approving a Temporary Use and Owner's Acknowledgement and Acceptance Agreement (OAA) for 433-435 Spring Avenue). The Council found that the potential for the subject property to be redeveloped in compliance with the

R2 zoning district regulations will be severely limited while the Ozinga concrete plant continues operating next door. The OAA attached to Ordinance 17-059 included significant conditions pertaining to the terms by which Paul Davis Restoration was permitted to operate on the subject property throughout the term of the temporary use.

It is important to note that while Kramer Restoration originally sought approval of a temporary use to permit Paul Davis Restoration to operate on the subject property for eight years (ending on April 18, 2025), the City Council reduced the term of the temporary use to four years (ending on April 18, 2021) with their approval.

**DISCUSSION:**

The Petitioner is seeking approval to extend the temporary use to April 18, 2025 or within six months of the expiration or termination of Ozinga's lease of the property at 515 Spring Avenue, whichever occurs first. All terms and conditions required in conjunction with Ordinance 17-059 will be maintained and the Petitioner will be required to sign an amended OAA.

The City has not received any complaints regarding Paul Davis Restoration's use of the subject property since 2017. In addition, Ozinga continues to operate their concrete plant at the neighboring property. At the City's request, the Petitioner provided notice to property owners within 300' of the subject property advising of the requested extension to the temporary use.

**FISCAL IMPACT:**

N/A