

**TO: Mayor Angelo and Members of the Board of Trustees**  
**FROM: Philip Strom, Director of Community Development**  
**ITEM: Discussion/Direction Regarding 431 4<sup>th</sup> Ave Agreement**

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ORDINANCE  
 MOTION / RESOLUTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

The property owner of 431 4<sup>th</sup> Avenue, Mr. Steve McCain, has requested vehicular access from 4<sup>th</sup> Avenue to his property. Previously a roll curb existed adjacent to the property on 4<sup>th</sup> Avenue. The 4<sup>th</sup> Avenue Safe Routes To School Project (SRTS) proposes the construction of a vertical curb and removal of the existing driveways that would restrict vehicular access.

Additionally, a 6-foot privacy fence was required to be completed by March 7, 2022, and Mr. McCain has requested an extension from the Town due to the frozen ground conditions that prevented fence post installation.

**II. RECOMMENDED ACTION / NEXT STEP:**

Staff recommends denial of vehicular access to the property by 4<sup>th</sup> Avenue and installing the vertical curb as planned by the project. Additionally, an extension is recommended for the 6-foot fence installation to be completed no later than Friday, May 27, 2022 (Memorial Day Weekend).

**III. FISCAL IMPACTS:**

None.

**IV. BACKGROUND INFORMATION:**

On September 7, 2021, the Board of Trustees (BOT) held the 2<sup>nd</sup> Reading and Public Hearing of Ordinance 1108 Approving an Application for the Rezoning of 431 4<sup>th</sup> Avenue from the Commercial Zoning District to the General Industrial Zoning District. At the meeting, the applicant presented (see attachment 5) and proposed (as a condition of approval) the termination of the driveway use along 4<sup>th</sup> Avenue due to the safety concerns of the proposed Safe Route to School adjacent to the property running along the west side of 4<sup>th</sup> Avenue.

Additionally, the sketch provided in the presentation confirmed the vehicular access points on Railroad Avenue and Park Drive. Ordinance 1108 was passed by the BOT and staff was directed to work with the applicant to provide conditions of approval. On September 20, 2021, the Ordinance came back to the BOT with the conditions of

approval and a more detailed sketch (see attachment 6) showing the vehicular access points with pedestrian access gates added to the 4<sup>th</sup> Avenue and Park Drive sides of the property. Ordinance 1108 was ratified by the BOT with the following conditions to protect surrounding properties from the impact of the rezoning:

1. Heavy equipment access to the Subject Property shall be limited to the Railroad Avenue entry to the Subject Property.
2. Applicant shall install a 6-foot privacy screen in compliance with 16-6-70(c) along Railroad Ave and Park Drive to be completed within 6 months of rezoning approval.
3. Applicant shall install a 36-to-42-inch fence along 4th Ave in compliance with 16-6-70(a) along 4<sup>th</sup> Avenue to be completed within 3 months completion the Town installed sidewalk along 4<sup>th</sup> Avenue. The Town shall give 3 months' notice to the Applicant prior to starting the sidewalk install.
4. All fencing shall be installed within property lines of the Subject Property and outside of the Town right of way.

Note the conditions of approval limited only heavy equipment access to Railroad Avenue and did not specify light vehicular access. However, staff believes this was an oversight, and the intent of the property owner was to improve safety on 4<sup>th</sup> Avenue and restrict vehicular access, and no vehicular access from 4<sup>th</sup> Avenue was shown on plans or discussed at the hearings.

As discussed earlier, the 6-foot privacy fence was required to be completed by March 7, 2022. Mr. McCain has demonstrated an effort to install the required fence by purchasing the materials in early January 2022 and has begun installing fence posts the week of March 14, 2022. The shorter fence on the 4<sup>th</sup> Avenue side of the property is required to be completed within three months after the completion of the SRTS Project, which is currently under construction and should be completed in the next two weeks.

**V. LEGAL ISSUES:**

None.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None.

**VII. SUMMARY AND ALTERNATIVES:**

1. Deny all vehicular access to 431 4<sup>th</sup> Avenue from 4<sup>th</sup> Avenue
2. Allow light vehicular access to 431 4<sup>th</sup> Avenue from 4<sup>th</sup> Avenue
3. Grant an extension for the 6-foot privacy fence installation.
4. Determine the General Industrial Zoning District as not in effect because conditions of approval for rezoning were not met as agreed to.

**VIII. ATTACHMENTS:**

1. Ordinance 1108
2. August 16, 2021, Board of Trustees Meeting Minutes (1<sup>st</sup> Reading)
3. September 7, 2021, Board of Trustees Meeting Minutes (2<sup>nd</sup> Reading & Approval)
4. September 20, 2021, Board of Trustees Meeting Minutes (Ordinance Ratification)
5. Applicant Presentation from September 7, 2021, Public Hearing
6. Applicant Exhibit A