

Date March 8, 2010

An Ordinance entitled, " AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines; Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 2801 Fleur Drive from the from the C-O Commercial-Residential District to Limited C-2 General Retail and Highway Oriented Commercial District classification",

which was considered and voted upon under Roll Call No. 10-_____of February 22, 2010; again presented.

Moved by _____ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

_____ Mayor

_____ City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 2801 Fleur Drive from the from the C-O Commercial-Residential District to Limited C-2 General Retail and Highway Oriented Commercial District classification.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, be and the same is hereby amended by rezoning and changing the district classification of certain property located in the vicinity of 2801 Fleur Drive, more fully described as follows, from the C-O Commercial-Residential District to Limited C-2 General Retail and Highway Oriented Commercial District classification:

Parcel "E", being a part of Lot 16, Casady's Druid Hill Park, an Official Plat; Parcel "E" beginning at the Northeast corner of the West 327 feet of said Lot 16; thence East 21 feet, South 110.04 feet, West 17.59 feet to East line of the West 327 feet of said Lot 16; thence South 120.53 feet, Southwest 51.04 feet, West 28.26 feet, Northwest 67.46 feet, Southwesterly 106.69 feet, West 86.58 feet, North 255.06 feet to the North Line of said Lot 16; thence East 319.68 feet to the Point of Beginning of said Lot 16, as shown on the Plat of Survey recorded in Book 8142, Page 422 of the Polk County Recorder's Office; all now included in and forming a part of the City of Des Moines, Polk and Warren County, Iowa

Sec. 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

1. Any modifications to the site, including any building additions, building demolition, or parking lot expansions, shall be in accordance with a site plan as approved by the City's Plan & Zoning Commission and shall, to the extent feasible, respect the historic character of the building.

2. Any additional parking constructed shall be set back at least 10 feet from the northern and eastern boundaries, 25 feet from the southern boundary of the property, and 35 feet from the western boundary.
3. Any additional parking constructed shall be landscaped in accordance with the Landscape Standards applicable to the "C-2" District.
4. Signage shall be limited to a single monument sign constructed with a brick base to complement the structure and shall not exceed 8 feet in height or 32 square feet in area.
5. Use of the property shall be limited to the following uses:
 - a) Any use as permitted and limited in the "C-0" Commercial-Residential District, except:
 - i. Communication towers.
 - ii. Correctional placement residences.
 - iii. Shelters for the homeless.
 - iv. Agricultural uses.
 - b) Specialty retail, restaurant, and hospitality uses up to 15,000 square feet in gross floor area, such as:
 - i. Antique shops.
 - ii. Apparel shops.
 - iii. Art studios with gallery.
 - iv. Bookstores.
 - v. Camera stores.
 - vi. Confectionary stores, include ice cream or snack bars.
 - vii. Florist shops.
 - viii. Furniture stores.
 - ix. Gift shops.
 - x. Hobby shops.
 - xi. Hotels
 - xii. Jewelry stores.
 - xiii. Leather goods stores.
 - xiv. Music stores.
 - xv. Restaurants
 - xvi. Specialty food stores.
 - c) Music studios.
 - d) Photographic studios, including film developing and retail sales of photographic equipment and supplies.
 - e) Banks, savings and loan associations and similar financial institutions, except those whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - f) Business, secretarial or other commercially operated schools for adults, but not including commercial trade schools, such as gasoline, diesel, or marine engine mechanics schools, or truck driving schools.

- g) Ballrooms, dancehalls, and events center, including those with alcohol service in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
- h) Physical culture or health establishments.
- i) Auction businesses except for auto auctions.

Sec. 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 4. The City Clerk is hereby authorized and directed to cause a certified copy of the Acceptance of Rezoning Ordinance, this ordinance, a vicinity map, and proof of publication of this ordinance, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:



Michael F. Kelley
Assistant City Attorney

Date _____

Agenda Item 38

Roll Call # _____

March 5, 2010

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held March 4, 2010, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Joel Huston	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Jim Martin	X			
Brian Millard				X
William Page	X			
Mike Simonson				X
Kent Sovern	X			

APPROVAL of a request from Hubbell Realty Company that the rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan Land Use Map designation of Commercial: Auto-Oriented Small-Scale Strip Development pursuant to Roll Call 10-303; and recommending approval of the requested rezoning subject to the following conditions that the applicant has agreed to in writing: ZON2009-00220

1. Any modifications to the site, including any building additions, building demolition, or parking lot expansions, shall be in accordance with a site plan as approved by the City's Plan & Zoning Commission and shall, to the extent feasible, respect the historic character of the building.
2. Any additional parking constructed shall be set back at least 10 feet from the northern and eastern boundaries, 25 feet from the southern boundary of the property, and 35 feet from the western boundary.
3. Any additional parking constructed shall be landscaped in accordance with the Landscape Standards applicable to the "C-2" District.



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

4. Signage shall be limited to a single monument sign constructed with a brick base to complement the structure and shall not exceed 8 feet in height or 32 square feet in area.
5. Use of the property shall be limited to the following uses:
 - a) Any use as permitted and limited in the "C-0" Commercial-Residential District, except:
 - i. Communication towers.
 - ii. Correctional placement residences.
 - iii. Shelters for the homeless.
 - iv. Agricultural uses.
 - b) Specialty retail, restaurant, and hospitality uses up to 15,000 square feet in gross floor area, such as:
 - i. Antique shops.
 - ii. Apparel shops.
 - iii. Art studios with gallery.
 - iv. Bookstores.
 - v. Camera stores.
 - vi. Confectionary stores, include ice cream or snack bars.
 - vii. Florist shops.
 - viii. Furniture stores.
 - ix. Gift shops.
 - x. Hobby shops.
 - xi. Hotels
 - xii. Jewelry stores.
 - xiii. Leather goods stores.
 - xiv. Music stores.
 - xv. Restaurants
 - xvi. Specialty food stores.
 - c) Music studios.
 - d) Photographic studios, including film developing and retail sales of photographic equipment and supplies.
 - e) Banks, savings and loan associations and similar financial institutions, except those whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - f) Business, secretarial or other commercially operated schools for adults, but not including commercial trade schools, such as gasoline, diesel, or marine engine mechanics schools, or truck driving schools.
 - g) Ballrooms, dancehalls, and events center, including those with alcohol service in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
 - h) Physical culture or health establishments.
 - i) Auction businesses except for auto auctions.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan Land Use Map designation of Commercial: Auto-Oriented Small-Scale Strip Development pursuant to Roll Call 10-303.

Part B) Staff recommends approval of the requested rezoning subject to the following conditions that the applicant has agreed to in writing:

1. Any modifications to the site, including any building additions, building demolition, or parking lot expansions, shall be in accordance with a site plan as approved by the City's Plan & Zoning Commission and shall, to the extent feasible, respect the historic character of the building.
2. Any additional parking constructed shall be set back at least 10 feet from the northern and eastern boundaries, 25 feet from the southern boundary of the property, and 35 feet from the western boundary.
3. Any additional parking constructed shall be landscaped in accordance with the Landscape Standards applicable to the "C-2" District.
4. Signage shall be limited to a single monument sign constructed with a brick base to complement the structure and shall not exceed 8 feet in height or 32 square feet in area.
5. Use of the property shall be limited to the following uses:
 - a) Any use as permitted and limited in the "C-0" Commercial-Residential District, except:
 - i. Communication towers.
 - ii. Correctional placement residences.
 - iii. Shelters for the homeless.
 - iv. Agricultural uses.
 - b) Specialty retail, restaurant, and hospitality uses up to 15,000 square feet in gross floor area, such as:
 - i. Antique shops.
 - ii. Apparel shops.
 - iii. Art studios with gallery.
 - iv. Bookstores.
 - v. Camera stores.
 - vi. Confectionary stores, include ice cream or snack bars.
 - vii. Florist shops.
 - viii. Furniture stores.
 - ix. Gift shops.
 - x. Hobby shops.
 - xi. Hotels
 - xii. Jewelry stores.
 - xiii. Leather goods stores.
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 - xv. Restaurants
 - xvi. Specialty food stores.
 - c) Music studios.
 - d) Photographic studios, including film developing and retail sales of photographic equipment and supplies.
 - e) Banks, savings and loan associations and similar financial institutions, except those whereby a majority of loans are made based on collateral of future payroll or vehicle titles.

- f) Business, secretarial or other commercially operated schools for adults, but not including commercial trade schools, such as gasoline, diesel, or marine engine mechanics schools, or truck driving schools.
- g) Ballrooms, dancehalls, and events center, including those with alcohol service in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
- h) Physical culture or health establishments.
- i) Auction businesses except for auto auctions.

STAFF REPORT

On January 21, 2010 the Plan and Zoning Commission recommended denial of a request to amend the Des Moines 2020 Community Character Plan future land use designation from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development and denial of the proposed rezoning from "C-0" District to "Limited C-2" District by a vote of 9-0. The Commission expressed concern regarding the number of speculative uses that could be permitted on the property and suggested that the applicant request zoning for a specific use when that use was known.

In response to the Plan and Zoning Commission's concerns, Hubbell Realty Company voluntarily agreed to reduce the number of permitted uses for the property while still allowing flexibility of permitted uses to market the subject property.

On February 22, 2010, the City Council amended the 2020 Community Character Land Use Plan Map designation from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development. At that time, the City Council also approved the first consideration of an ordinance for a "Limited C-2" District and requested input from the Plan & Zoning Commission regarding the following conditions for a "Limited C-2" District that the applicant has agreed to in writing:

1. Any modifications to the site, including any building additions, building demolition, or parking lot expansions, shall be in accordance with a site plan as approved by the City's Plan & Zoning Commission and shall, to the extent feasible, respect the historic character of the building.
2. Any additional parking constructed shall be set back at least 10 feet from the northern and eastern boundaries, 25 feet from the southern boundary of the property, and 35 feet from the western boundary.
3. Any additional parking constructed shall be landscaped in accordance with the Landscape Standards applicable to the "C-2" District.
4. Signage shall be limited to a single monument sign constructed with a brick base to complement the structure and shall not exceed 8 feet in height or 32 square feet in area.
5. Use of the property shall be limited to the following uses:
 - a) Any use as permitted and limited in the "C-0" Commercial-Residential District, except:
 - i. Communication towers.
 - ii. Correctional placement residences.
 - iii. Shelters for the homeless.
 - iv. Agricultural uses.

- b. Specialty retail, restaurant, and hospitality uses up to 15,000 square feet in gross floor area, such as:
 - i. Antique shops.
 - ii. Apparel shops.
 - iii. Art studios with gallery.
 - iv. Bookstores.
 - v. Camera stores.
 - vi. Confectionary stores, include ice cream or snack bars.
 - vii. Florist shops.
 - viii. Furniture stores.
 - ix. Gift shops.
 - x. Hobby shops.
 - xi. Hotels
 - xii. Jewelry stores.
 - xiii. Leather goods stores.
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 - xvi. Specialty food stores.
- c. Music studios.
- d. Photographic studios, including film developing and retail sales of photographic equipment and supplies.
- e. Banks, savings and loan associations and similar financial institutions, except those whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
- f. Business, secretarial or other commercially operated schools for adults, but not including commercial trade schools, such as gasoline, diesel, or marine engine mechanics schools, or truck driving schools.
- g. Ballrooms, dancehalls, and events center, including those with alcohol service in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
- h. Physical culture or health establishments.
- i. Auction businesses except for auto auctions.

I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant is seeking to rezone the property in order to market the structure for commercial uses, such as retail, office, or a medical clinic. The current "C-0" Commercial-Residential District zoning classification limits use of the property to a professional office or a residential use. A portion of the structure (approximately 5,000 square feet) currently contains an office use. Any future commercial reuse of the property or expansion of the existing office space must comply with off-street parking requirements.

The subject property is listed on the National Register of Historic Places but is not designated as a Local Landmark. Therefore, modifications to the building are not subject to the review of the City's Landmark Review Board.

- 2. Size of Site:** 81,021 square feet (1.86 acres).
- 3. Existing Zoning (site):** "C-0" Commercial-Residential District.

4. **Existing Land Use (site):** The site contains the historic Rollins Mansion. Approximately 5,000 square feet of the 18,000-square foot structure has been converted to commercial office space. The site also contains a circular parking lot in front of the structure with approximately 13 spaces, an area in front of the garage with 3 spaces, and a parking lot behind the structure with approximately 20 spaces.
5. **Adjacent Land Use and Zoning:**

North – “C-0”, Use is the Butler Mansion, which is used as office space for the Integer Group.

South – “PUD”, Use is the Druid Hills townhome development.

East – “PUD”, Use is the Druid Hills townhome development.

West – “R-3”, Uses are multiple-family residential and AIB College of Business.
6. **General Neighborhood/Area Land Uses:** The subject property is located on the Fleur Drive corridor in an area that includes a mix of residential, educational, and commercial uses.
7. **Applicable Recognized Neighborhood(s):** Gray’s Lake Neighborhood.
8. **Relevant Zoning History:** The property was rezoned on April 22, 1996 by Ordinance 13,331 to a Limited “C-0” District with the following limitations:
 - a) The design of any building addition upon the Property shall be complimentary to the existing structure.
 - b) Any parking along the northern and eastern boundary of the Property shall be set back at least 10 feet from the property line and meet the ordinance requirements for screening and landscaping.
 - c) Any parking area along the south boundary line of the Property shall maintain a 25 foot setback with the required screening and/or landscaping.
 - d) Any parking area along the western boundary line of the Property shall be set back 35 feet from the property line and maintain the required screening / landscaping pursuant to the Zoning Ordinance.
9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. Urban Design:** The subject property is listed on the National Register of Historic Places but is not designated as a Local Landmark. Therefore, modifications to the building are not subject to the review of the City's Landmark Review Board. Given the historic character of the property, staff recommends that the rezoning be conditional upon any modifications to the site, including any building additions, building demolition, or parking lot expansions, shall be in accordance with a site plan as approved by the City's Plan & Zoning Commission and shall, to the extent feasible, respect the historic character of the building.
- 2. Landscaping & Buffering:** The subject property contains several mature trees in the in the front yard area along Fleur Drive. Any site development for parking improvements may require site landscaping and buffering for the adjoining properties. In addition, any site development that would remove mature trees will require mitigation plantings in accordance with the recently adopted ordinance as part of the Site Plan.
- 3. Parking:** The site contains a circular parking lot in front of the structure with approximately 13 spaces, an area in front of the garage with 3 spaces, and a parking lot behind the structure with approximately 20 spaces. Any future commercial reuse of the property is subject to compliance with the off-street parking requirements unless the Zoning Board of Adjustment grants a Variance or Exception to the requirement.

The existing zoning conditions (adopted April 22, 1996 by Ordinance 13,331) require any off-street parking to provide a 10-foot setback from the north and east property lines, a 25-foot setback from the south property line, and a 35-foot setback from the west (front) property line.

- 4. 2020 Community Character Plan:** In order to find the requested rezoning in conformance with the comprehensive plan, the future land use designation must be amended from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development. The 2020 Community Character Plan defines this designation as small-to-moderate commercial that serves the passing motorist. Staff believes this designation is appropriate given its location along Fleur Drive so long as use of the property is restricted to those listed in the Section III (Staff Recommendation) of this report.

On February 22, 2010, the City Council amended the 2020 Community Character Plan Land Use Map designation from Low Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development pursuant to Roll Call 10-303.

- 5. Additional Information:** Given the historic character of the property, staff recommends signage on the property be limited to a monument sign constructed with a brick base to complement the structure and shall be no greater than 8 feet in height or 32 square feet in area.

SUMMARY OF DISCUSSION

Mike Ludwig presented staff report and recommendation.

Jacqueline Easley asked if the Gray's Lake Neighborhood had submitted any comments.

Mike Ludwig stated there were no comments from the neighborhood association.

Larry Hulse stated Council passed first reading and at the same time asked if the ordinance addresses the Plan and Zoning's concerns.

Kent Sovern complimented staff. The ordinance is a significant improvement from what was originally proposed.

Dann Flaherty stated that he would like to commend staff as well for working with Hubbell development to resolve issues.

Joe Pietruszynski representing Hubbell Realty Company, 6900 Westown Parkway, West Des Moines stated that he wanted to extend kudos to staff for working with them on such short order on the amended use list. Hubbell Realty listened to the concerns of the Commissioners and worked very hard with staff on the list of permitted uses. The reason why they needed to proceed is because they have some very good ideas in the works and time is of the essence to work through those issues. Hubbell meant no ill intent to the Commission. That is why Hubbell took the Plan and Zoning's concerns and worked very hard with staff to come up with a solution.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one in the audience to speak in opposition

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page stated that the improvement to the request is considerable and he will vote for it. However, he still has a real concern about the interior of the building and would like to call to the public's attention to this as a metropolitan treasure if not a statewide treasure and would feel very badly if this were pieced out as salvage. Hope that Hubbell Realty Company can find a buyer that will respect both the exterior integrity of the building and interior as well.

COMMISSION ACTION

JoAnne Corigliano moved staff recommendation that the requested rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan Land Use Map designation of Commercial: Auto-Oriented Small-Scale Strip Development pursuant to Roll Call 10-303; and approval of the requested rezoning subject to the following conditions that the applicant has agreed to in writing:

1. Any modifications to the site, including any building additions, building demolition, or parking lot expansions, shall be in accordance with a site plan as approved by the

City's Plan & Zoning Commission and shall, to the extent feasible, respect the historic character of the building.

2. Any additional parking constructed shall be set back at least 10 feet from the northern and eastern boundaries, 25 feet from the southern boundary of the property, and 35 feet from the western boundary.
3. Any additional parking constructed shall be landscaped in accordance with the Landscape Standards applicable to the "C-2" District.
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- g) Ballrooms, dancehalls, and events center, including those with alcohol service in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
- h) Physical culture or health establishments.
- i) Auction businesses except for auto auctions.

Motion passed 12-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw