

Date May 18, 2009

WHEREAS, on May 4, 2009 by Roll Call No. 09-731 the City Council duly resolved that the request from Easter Lakes, Inc. (owner) to rezone property located at 1670 East County Line Road, excluding the southern 140 feet thereof, from R1-60 One-Family Low-Density Residential District to a Limited C-2 General Retail and Highway Oriented Commercial District classification to allow for future commercial development shall be heard at 5:00 p.m. on May 18, 2009 in Council Chambers, City Hall, Des Moines, Iowa. The subject property is more specifically described as follows:

Southeast 1/4 Southwest 1/4 (Except West 20 Rods North 50 Rods) & (Except the South 140 feet) Less 9.2A Road
SEC 35-78-24

WHEREAS, the proposed rezoning is subject to the following conditions:

1. Prohibition of the following uses:
 - a. Adult entertainment businesses.
 - b. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - c. Mobile home parks.
 - d. Off-premise advertising signs.
 - e. Package goods stores for the sale of alcoholic beverages.
 - f. Pawnshops.
 - g. Taverns and night clubs.
 - h. Vehicle display, hire, rental and sales.
2. Submission of a tree preservation plan locating all trees greater than 6 inches in diameter on the site for review and approval by City staff at the time of platting and prior to the commencement of any tree removal, grading or construction activity.
3. Provision of a traffic study that provides trip generation estimates for any new development and existing traffic volumes on adjacent streets with a capacity analysis.
4. All commercial development shall comply with the following design standards.
 - a. The exterior of all building facades, excluding windows and doors, that face any public street or private circulation drive must be 100% covered with stone, brick, Dryvit or similar synthetic stucco treatment, architectural tilt-up concrete panels, tile, or architectural block such as split-face block, or a combination of such materials.
 - b. No part of any street facing exterior façade shall consist of metal except for accent and trim elements.
 - c. The building materials of the street facing façade(s) must wrap around the sides of the building in either a wainscot application across the entire side

Date May 18, 2009

or extend the entire height of the side façade a distance of at least four feet back from the street façade. The Community Development Director may approve alternate exterior materials that provide an exterior appearance and durability equivalent to the permitted materials.

- d. All outside trash containers must be enclosed with an enclosure that matches the primary building materials of the primary structure and must have steel gates.

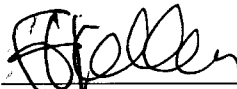
WHEREAS, due notice of the hearing was published on April 6, 2009 setting forth the time and place for the proposed rezoning; and

WHEREAS, pursuant to the published notice, those interested in the proposed rezoning have been given the opportunity to be heard and have presented their views to the City Council.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Des Moines that upon due consideration of the facts and statements of interested persons and arguments of counsel, the objections to the proposed rezoning are hereby overruled, the hearing is closed, and the application to rezone the above-described property to a Limited C-2 General Retail and Highway Oriented Commercial District is hereby APPROVED.

Moved by _____ to approve and adopt.

APPROVED AS TO FORM:



Michael F. Kelley
Assistant City Attorney

\\edmgov.org\CDMFS\USERS\CRNoah\MFK\Rezoning\1670 E County Line Rd - closing hearing rc.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED		APPROVED		
_____ Mayor				

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.

City Clerk

Date _____

Agenda Item 68B

Roll Call # _____

May 1, 2009

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 April 16, 2009, 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			
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson	X			
Kent Sovern	X			

APPROVAL of staff recommendation to find the requested rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 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			
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson	X			
Kent Sovern	X			



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

APPROVAL of the request to amend the Des Moines's 2020 Community Character Plan Land Use Map Designation from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development excluding the southern 140 feet of the subject property and to approve the proposed rezoning excluding the southern 140 feet of the subject property located at 1670 East County Line Road subject to the following conditions:

1. Prohibition of the following uses:
 - a. Adult entertainment businesses.
 - b. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - c. Mobile home parks.
 - d. Off-premise advertising signs.
 - e. Package goods stores for the sale of alcoholic beverages.
 - f. Pawnshops.
 - g. Taverns and night clubs.
 - h. Vehicle display, hire, rental and sales.
2. Submission of a tree preservation plan locating all trees greater than 6 inches in diameter on the site for review and approval by City staff at the time of platting and prior to the commencement of any tree removal, grading or construction activity.
3. Provision of a traffic study that provides trip generation estimates for any new development and existing traffic volumes on adjacent streets with a capacity analysis.
4. All commercial development shall comply with the following design standards.
 - a. The exterior of all building facades, excluding windows and doors, that face any public street or private circulation drive must be 100% covered with stone, brick, Dryvit or similar synthetic stucco treatment, architectural tilt-up concrete panels, tile, or architectural block such as split-face block, or a combination of such materials.
 - b. No part of any street facing exterior façade shall consist of metal except for accent and trim elements.
 - c. The building materials of the street facing façade(s) must wrap around the sides of the building in either a wainscot application across the entire side or extend the entire height of the side façade a distance of at least four feet back from the street façade. The Community Development Director may approve alternate exterior materials that provide an exterior appearance and durability equivalent to the permitted materials.
 - d. All outside trash containers must be enclosed with an enclosure that matches the primary building materials of the primary structure and must have steel gates.

Written Responses

4 In Favor

0 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of an amendment to the Des Moines's 2020 Community Character Plan Land Use Map Designation from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development excluding the southern 140 feet of the subject property.

Part C) Staff recommends approval of the proposed rezoning excluding the southern 140 feet of the subject property subject to the following conditions:

1. Prohibition of the following uses:
 - a. Adult entertainment businesses.
 - b. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - c. Mobile home parks.
 - d. Off-premise advertising signs.
 - e. Package goods stores for the sale of alcoholic beverages.
 - f. Pawnshops.
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2. Submission of a tree preservation plan locating all trees greater than 6 inches in diameter on the site for review and approval by City staff at the time of platting and prior to the commencement of any tree removal, grading or construction activity.
3. Provision of a traffic study that provides trip generation estimates for any new development and existing traffic volumes on adjacent streets with a capacity analysis.
4. All commercial development shall comply with the following design standards.
 - a. The exterior of all building facades, excluding windows and doors, that face any public street must be 100% covered with stone, brick, Dryvit or similar synthetic stucco treatment, architectural tilt-up concrete panels, tile, or architectural block such as split-face block, or a combination of such materials.
 - b. No part of any street facing exterior façade shall consist of metal except for accent and trim elements.
 - c. The building materials of the street facing façade(s) must wrap around the sides of the building in either a wainscot application across the entire side or extend the entire height of the side façade a distance of at least four feet back from the street façade. The Community Development Director may approve alternate exterior materials that provide an exterior appearance and durability equivalent to the permitted materials.
 - d. All outside trash containers must be enclosed with an enclosure that matches the primary building materials of the primary structure and must have steel gates.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The subject property is located in the southeast portion of the City. The property has frontage on Highway 69 to the north and East County Line Road to the south. The applicant is proposing to speculatively rezone most of the property to a Limited "C-2" District. The southern 125 feet of the property would remain as "R1-60" to act as a transition from nearby residential development. The applicant is proposing the following zoning conditions.
 - All commercial buildings shall comply with the design standards of the SE 14th Street – Army Post Road Area Additional Tax Abatement Requirements for Commercial Development.

- Prohibition of adult entertainment businesses, vehicle display lots and taverns uses.
- Provision of mitigation for tree removal.

2. **Size of Site:** 24.55 acres.

3. **Existing Land Use (site):** Undeveloped land.

4. **Adjacent Land Use and Zoning:**

North – “C-1” & “C-2”; *Uses are a medical clinic, undeveloped land, a single-family dwelling and a mobile home park.*

South – (Warren County) “R-2” Single Family Residential District & “A-1” Agricultural District; *Uses are single-family dwellings and undeveloped land.*

East – “R1-60”; *Uses are a single-family dwelling and undeveloped land.*

West – “R1-60”; *Uses are single-family dwellings and undeveloped land.*

5. **General Neighborhood/Area Land Uses:** This area generally consists of a mix of undeveloped land and large lot single-family residences.

6. **Applicable Recognized Neighborhood(s):** None.

7. **2020 Community Character Land Use Plan Designation:** Low-Density Residential.

8. **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, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Natural Site Features:** The subject property is heavily wooded. The proposed rezoning is speculative and the impact on natural features of the site is unknown. The application states that the developer is willing to provide mitigation for removed trees. The staff recommendation in Section III of this report includes tree mitigation language that staff recommends be incorporated as a zoning condition.

2. **Utilities and Drainage:** Development of the site will require approval of a grading and soil erosion control plan and storm water management improvements in accordance with City standards.

Sanitary sewer and water are available near the site in the East County Line Road right-of-way. The developer is responsible for the extension of these lines to and throughout the site.

3. **Access & Street System:** The application indicates that Iowa DOT staff have indicated that the developer will be allowed to have a single access point to Highway 69. The applicant has also indicated that access to East County Line Road should not be necessary to serve any development of the proposed “C-2” portion of the property.

The City's Traffic and Transportation Division has indicated that a traffic study will be required for any proposed development of the site. The developer will be required to contribute to any necessary improvements to the adjoining streets.

The width of the adjoining portion of County Line Road right-of-way is not adequate to support the anticipated future traffic needs of the street. Traffic and Transportation staff estimate that an additional 12 to 15 feet of right-of-way is need on the north side East County Line Road. A final amount will be determined when the property is developed.

4. **2020 Community Character Plan:** The subject property's current Future Land Use Map designation is Low Density Residential. The proposed rezoning cannot be approved unless the future land use designation is changed to General Retail and Highway Oriented Commercial.

The subject property is located on an entry corridor into the City and is highly visible. The property is also near existing single-family residential development. Staff believes the following uses should be prohibited.

- a. Adult entertainment businesses.
- b. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
- c. Mobile home parks.
- d. Off-premise advertising signs.
- e. Package goods stores for the sale of alcoholic beverages.
- f. Pawnshops.
- g. Taverns and night clubs.
- h. Vehicle display, hire, rental and sales.

Staff also believes that a total of 140 feet along the southern edge of the property should remain zoned "R1-60" District. The applicant is proposing 125 feet. The additional 15 feet will compensate for the land that will need to be dedicated as right-of-way for East County Line Road as the property is developed in the future.

5. **Urban Design:** The subject property is located on an entry corridor into the City and is highly visible. It is important that buildings on the site be constructed with quality materials. The applicant is proposing to comply with the SE 14th Street – Army Post Road Area Additional Tax Abatement Requirements for Commercial Development design standards as a zoning condition. The guidelines consist of the following language.

- The improvements must be in the C-0, C-1, C-2 or C-4 commercial zoning districts and each habitable building upon the property must have one hundred percent of its exterior façade facing any public street, excluding windows and doors, covered with stone, brick, Dryvit or similar synthetic stucco treatment, architectural tilt-up concrete panels, tile, or architectural block such as split-face block, or a combination of such materials.
- No part of the exterior façade facing any public street shall be metal except that metal materials may be used as an accent or trim. The façade requirements shall apply to both street facades of habitable buildings on corner lots.
- The primary building material must also wrap around the sides of the building in either a wainscot application across the entire side or extend the entire elevation of the side façade a distance of at least four feet back from the street façade. The Community Development Director may, upon application, approve alternate exterior materials that provide an exterior appearance and durability equivalent to the permitted materials.

- Landscaping must be installed for all parking areas serving the uses on the property. Such landscaping must satisfy the Landscaping Standards in the adopted Site Plan Policies for development in the C-1 and C-2 Districts regardless of the current zoning of the property.
- All outside trash containers must be enclosed with an enclosure matching the primary building materials of the habitable structures.

The staff recommendation in Section III of this report includes recommended design criteria based on these standards.

- 6. Landscaping & Buffering:** Development of the subject property will require compliance with the Des Moines Landscape Standards. The "C-2" District standards generally require the provision of open space, bufferyard and parking lot plantings. The exact planting and screening requirements are dependent on the size and scope of a specific development and cannot be determined until specific projects are proposed.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

David Churchill - 20701 Kirkwood Street Milo, IA. Stated there is support from the South Des Moines Chamber, the South Side Revitalization Partnership, and the City Council initiated a rezoning process directing staff. We met with IDOT twice and understand there is a minimum standard for cross over intersection spacing on Highway 65/69 and there is required IDOT permitting and access. We agree with all of the stipulations that staff has suggested.

Dann Flaherty asked what is being proposed for this property.

David Churchill stated there is no proposal other than to make this property marketable similar to what the adjacent properties are zoned.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in favor:

Joe Henry 2463 E. Highview Drive, member of the South Side Revitalization Partnership (SSRP) stated that the south side needs more commercial property that provides the opportunity to get businesses that make sense to come over to help us grow; and I ask that the Commission approve this rezoning.

There was no one to speak in opposition.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Brian Millard asked why we are not requiring durable material on all sides of the building.

Larry Hulse stated that the same criteria used on other projects were being used on this one. The concern is that the property is very deep and we don't understand what the layout may end up.

Brian Millard stated it would be good to see this come back as a Site Plan review.

Larry Hulse stated very seldom do you find staff recommending in favor of a rezoning that you don't have a clue of what might happen. You could review a Site Plan when they are ready to

develop. This potential project and many commercial projects of this size often come to the City needing some type of assistance, and when they do, they automatically go through Urban Design Review Board, which catches a lot of the design issues.

Bruce Heilman stated there is a provision under the staff recommendations that not only the front but any façade that faces the street. Would the developer be willing to extend that to any façade that would face an adjoining property, when they come back with their design?

Dave Churchill stated that they would be willing to stipulate to any façade that would face an adjoining property.

JoAnne Corigliano stated there probably will be no big issue when it comes to the back side because the part to the south is really a distance from Highway 65/69. So I do not see any issue.

Mike Simonson asked if there is a requirement for the developer to bring a Site Plan before the Commission, to assure proper architecture. If not then he asked that a friendly amendment to the motion that the architecture also be fronted on private streets because so many times private drives act as a street and there should be an equivalent quality of design.

Larry Hulse stated that private drives act as a street and if we are having that as being a public street side then the friendly amendment is a reasonable thing to do.

Bruce Heilman asked if it was acceptable to add public streets and/or private drives.

Erik Lundy pointed out that it should be qualified as drives used for circulation because they could have a loading drive that is behind the building.

Dave Churchill stated that as long as it is not for loading and off loading, but certainly if it looks like a public street, the façade should match.

COMMISSION ACTION

Bruce Heilman moved Part A) to find the requested rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan.

Motion passed 12-0.

Bruce Heilman moved Part B) to approve the amendment to the Des Moines's 2020 Community Character Plan Land Use Map Designation from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development excluding the southern 140 feet of the subject property and Part C) to approve the proposed rezoning excluding the southern 140 feet of the subject property subject to the following conditions:

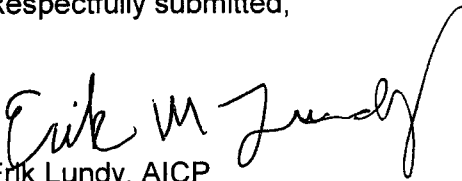
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 - f. Pawnshops.
 - g. Taverns and night clubs.
 - h. Vehicle display, hire, rental and sales.

68B

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 - d. All outside trash containers must be enclosed with an enclosure that matches the primary building materials of the primary structure and must have steel gates.

Motion passed 12-0.

Respectfully submitted,


Erik Lundy, AICP
Senior Planner

EML:clw

Attachment

Item ZON2009-034 Date APRIL 10-2009

I (am) (am not) in favor of the request.

RECEIVED

APR 13 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name GEO. D. FISCHER
Signature GEO. D. FISCHER
Address 2880 - R63 - HWY VERWALK LA 50211

Reason for opposing or approving this request may be listed below:

I AM IN FAVOR OF THE C-2 ZONING ONLY IF IT DOESN'T ALLOW MOBIL HOMES ON THE LAND. WOODS IN THE TRAILER PARK BUSINESS

Item ZON2009-034 Date 4/8/2009

I (am) (am not) in favor of the request.

(Circle One)
RECEIVED

APR 13 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name PETER WITYK
Signature Peter Wityk
Address 1613 NW 120th

Reason for opposing or approving this request may be listed below:

I AM IN FAVOR OF THE ZONING AS LONG AS THERE IS NO FINANCIAL IMPACT TO ME IN THE FORM OF ASSESSMENTS FOR ROAD TRAVEL, SEWER, ETC. ON MY PROPERTY.

Item ZON2009-034

Date 8-9-2009

(am) (am not) in favor of the request.

cell 249-3666

RECEIVED

Print Name

Easter Lohy Estate Inc

APR 13 2009

Signature

By Ronald L Woods President

COMMUNITY DEVELOPMENT DEPARTMENT

Address

204 SE Hartford Blvd Suite 27
Wim, Iowa 532

Reason for opposing or approving this request may be listed below:

Item ZON2009-034

Date 4-9-09

(am) (am not) in favor of the request.

RECEIVED

Print Name

Joyce A Fargo

APR 13 2009

Signature

Joyce A Fargo

COMMUNITY DEVELOPMENT DEPARTMENT

Address

1990 E County Line Rd.

Reason for opposing or approving this request may be listed below:

68B