

Date November 9, 2009

WHEREAS, on August 7, 2000, by Roll Call No. 00-3381 the City Council adopted the Des Moines 2020 Community Character Land Use Plan; and

WHEREAS, the City Plan and Zoning Commission has advised in the attached letter that at a public hearing held October 15, 2009, the members voted 8-0 in support of a motion to recommend **APPROVAL** of a request from ROK Investments, LC (owner) represented by Erazm Rokitnicki (officer) to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node for property located at 2134 East Grand Avenue as more specifically shown by the accompanying map.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposed amendment to the Des Moines 2020 Community Character Land Use Plan described above, is hereby approved and adopted.

MOVED by _____ to adopt, and approve the proposed amendment.

FORM APPROVED:



 Michael F. Kelley
 Assistant City Attorney

(21-2009-4.08)

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

October 16, 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 October 15, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing regarding a request from ROK Investments, LC (owner) represented by Erazm Rokitnicki (officer), for property located at 2134 East Grand Avenue the members voted 8-0 as follows:



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

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Dann Flaherty	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 a motion, to find the requested rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 8-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Dann Flaherty	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 the request to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node; and to approve the requested rezoning subject to the applicant agreeing to the condition that use of the land is prohibited from being used for: ZON2009-00167 & 21-2009-4.08

1. Off-premises advertising signs,
2. Taverns and night clubs,
3. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles; and
4. Pawn shops.

Written Responses

- 5 In Favor
- 4 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found not in conformance with the approved Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Mixed-Use and Density Residential.

Part C) Staff recommends approval of the requested rezoning subject to the applicant agreeing to the condition that use of the land is prohibited from being used for:

1. Off-premises advertising signs,
2. Taverns and night clubs,
3. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles; and
4. Pawn shops.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to renovate approximately 5,900 square feet of the existing book bindery building into an assembly hall venue to be rented as a banquet hall for special events. The remaining 10,990 square feet of the building will be kept as office and warehouse storage for the existing book bindery use.
2. **Size of Site:** 31,127 square feet.
3. **Existing Zoning (site):** R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Book bindery warehouse and offices.

5. Adjacent Land Use and Zoning:

North – “R1-60”, Uses are single-family dwellings.

South – “R1-60”, Uses are single-family dwellings.

East – “R1-60”, Uses are single-family dwellings.

West – “R1-60”, Uses are single-family dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located on the East Grand Avenue corridor within the predominantly residential Fairground Neighborhood. This area generally consists of single-family dwellings but has scattered commercial and industrial uses.

7. Applicable Recognized Neighborhood(s): Fairground Neighborhood.

8. Relevant Zoning History: N/A.

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. Natural Site Features: The subject property contains mature trees in the northwest corner and in the front yard area along East Grand Avenue. Any site development for parking improvements that may remove mature trees will require mitigation plantings in accordance with the recently adopted Ordinance as part of the Site Plan.

2. Drainage/Grading: Future development of the subject property will require a storm water management plan and a soil erosion protection and grading plan as part of the Site Plan review. Within the NPC Districts, the allowable storm water run-off rate is equal to that of a 5-year return frequency storm on the site considering existing development. Temporary storm water storage must be provided for the difference between the allowable run-off and the run-off from a 100-year frequency storm on the site after the proposed development takes place. Developers are advised to consider use of alternative or low impact design methods for storm water management.

3. Landscaping & Buffering: Development of the property will require site landscaping and buffering for the adjoining properties. The “NPC” District Design Guidelines state that an emphasis of trees, shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the building, parking area and any pedestrian areas.

The “NPC” District is not specifically addressed in the City’s Landscaping Standards. However, it is generally recommended that landscaping similar to “C-2” District standards be considered as a starting point with regard to parking lot areas. The NPC Design guidelines, as a reference in Sec. 82-214(b)(7) to off-street parking requirements in the Zoning Ordinance in Sec. 134-

1377(f)(2)(b)(1 & 2), would require a 10 foot setback from parking in a commercial district to “R” District Boundaries to north and a five foot setback from street right-of-way property lines on the south along East Grand Avenue.

- 4. Parking:** The proposed off-street parking improvements are subject to Site Plan review by the Plan and Zoning Commission under design guidelines within “NPC” Districts. The “NPC” District allows for the number of off-street parking spaces to be reduced to 60% of the normal requirement and gives credit for available on-street parking stalls on the street side adjoining the subject property.

In this instance on-street parking is not allowed on the north side of East Grand Avenue to the south. There also appears to be limited opportunity for shared parking with any neighboring uses. The concept provided by the applicant indicates development of approximately 14 spaces west of the building and retention and improvement of 10 existing non-conforming head-in spaces on East 22nd Street that maneuver onto East 22nd Street.

The proposed banquet hall, office and warehouse uses would typically require a minimum total of 36 spaces. However, the 40% reduction would require only 22 spaces under “NPC” design guidelines. With 24 spaces to be provided the proposed site development satisfies the minimum off-street parking count.

- 5. 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: Pedestrian-Oriented Neighborhood Node. The 2020 Community Character Plan defines this designation as “Small-scale commercial serving primarily adjacent neighborhood. Cumulative building total of 25,000 to 50,000 square feet.”

The area surrounding the subject property primarily consists of single-family residential dwellings with a small scattering of commercial and industrial uses. The proposed amendment to the land use designation is appropriate given the fact that the building was historically built for commercial purposes within the surrounding low-density residential setting.

The “NPC” District allows for both commercial and residential uses. Staff believes some commercial uses allowed in “NPC” would not be appropriate at this location. Therefore staff recommends that if the property is rezoned it should be on the condition that off-premises advertising signs, taverns and night clubs, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, and pawn shops be prohibited uses.

- It is important to note that an amendment to revise the property “NPC” District zoning will not bring the remaining existing book bindery warehousing use into conformance with the Zoning Ordinance. That use will remain subject to the non-conforming provisions of the code.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

JoAnne Corigliano asked if the proposed parking is adequate and would it infringe on neighboring properties.

Erik Lundy stated that if they were using the entire building for assembly use then parking would be an issue but with 24 spaces to be provided the proposed site development satisfies the minimum off-street parking count.

JoAnne Corigliano asked if there is historical significance to this building.

Erik Lundy stated there is no historical significance that the City has documented.

Brian Millard asked if they could continue to operate their book binding business if this is not approved.

Erik Lundy stated yes the use is ongoing.

Doug Saltsgaver 2413 Grand Avenue stated that they had a neighborhood meeting where they provided drawings to scale; the owners were present as well. He explained what they want to do with the parking and noted that the applicant is seeking to renovate part of the existing book bindery building into an assembly hall venue to rent as a banquet hall for special events and with remaining of the building to be kept as office and warehouse storage for the book bindery use.

Greg Jones asked if the parking connects to the alley.

Doug Saltsgaver stated parking only connects to Grand Avenue.

Renatta Bolen gave a brief history about the building. It had been a book binding company before they bought it. She also stated that they had rented out the building but the tenants trashed it, and were evicted. She thinks that this will be a community asset and thinks that if it is occupied it might prevent vandalism. They are going to talk to MidAmerican about getting lights in the alley and they are going to talk to the church about being able to use some of the church parking in their lot if necessary.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in favor

Paul Ohlerking 2109 E. Grand stated that he welcomes any positive changes that can happen with this building. The only caveat is if there is going to be after-hour activities that they deal with security issues by providing off duty police and they don't over park the area.

Eric Rokitnicki 1631 E. Aurora Avenue stated if their request is granted it will stop vandalism, dumping, and graffiti and look forward to improving the neighborhood.

Larry Overton 2914 E. Grand, Fairground Neighborhood Association board of director stated that they met with the owners and the owners assured the neighborhood that there will be police present at all parties. The neighborhood welcomes this business.

The following spoke in opposition

Ted Cozad 2127 Des Moines Street stated that he agreed that the business will improve the area. However, one of his concerns is adequate parking cannot be provided without interfering with the neighborhood. If some of the concerns on the petition could be solved and addressed then he and others on the petition would not be opposed.

Rebuttal

Doug Saltsgaver noted that the parking spaces would not interfere with the neighborhood. They are asking to reestablish parking on the north side of Grand to improve parking. He also noted that this will not be an everyday occurrence and does not think that they are out of line with what they are trying to accomplish here.

Brian Millard asked Mr. Saltsgaver if he has seen the petition with the list of concerns.

Doug Saltsgaver stated he had not. (a copy was given to him) He went through the list and addressed the concern about the noise level and noted that this is a brick building which will shield the noise; a liquor license is required for such functions; Vandalism and littering, the owners will be out policing the area and if proper clean up is not done the leasee will lose their security deposit.

Brian Millard asked if there is something in writing about the security.

Doug Saltsgaver stated that in the lease agreement security be present at that event.

Jim Martin asked about the stormwater control.

Doug Saltsgaver stated that currently it drains down to Grand Avenue the same function since 1920.

Dann Flaherty stated that he expects down-directional lighting to prevent light pollution on neighboring properties. He also ask if the applicant investigated any financial benefit through the City, County or State funding.

Doug Saltsgaver stated not that he was aware of any City, County or State funding.

Erik Lundy stated while staff did not indicate shared parking arrangements as a zoning condition. It could be a zoning condition in addition to a requirement for security at events. He pointed out that NPC site planning guidelines provide a shared parking arrangement. Stormwater management will be reviewed with the site plan along with the lighting. The site plan will come to the Commission. If the business wants to permanently have a liquor use they will have to go to the Board of Adjustment for a conditional use.

CHAIRPERSON CLOSED THE PUBLIC HEARING

JoAnne Corigliano stated that she is pleased that they want to redo the area and thinks that it is a plus.

COMMISSION ACTION

Ted Irvine moved staff recommendation to find the proposed rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

Motion passed 8-0.

Ted Irvine moved to approve an amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low-Density Residential to Commercial: Pedestrian Oriented Neighborhood Node to approve requested rezoning subject to the applicant agreeing to the condition that use of the land is prohibited from being used for:

1. Off-premises advertising signs,
2. Taverns and night clubs,
3. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles; and
4. Pawn shops.

48A

Motion passed 8-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig". The signature is stylized and cursive.

Michael Ludwig, AICP
Planning Administrator

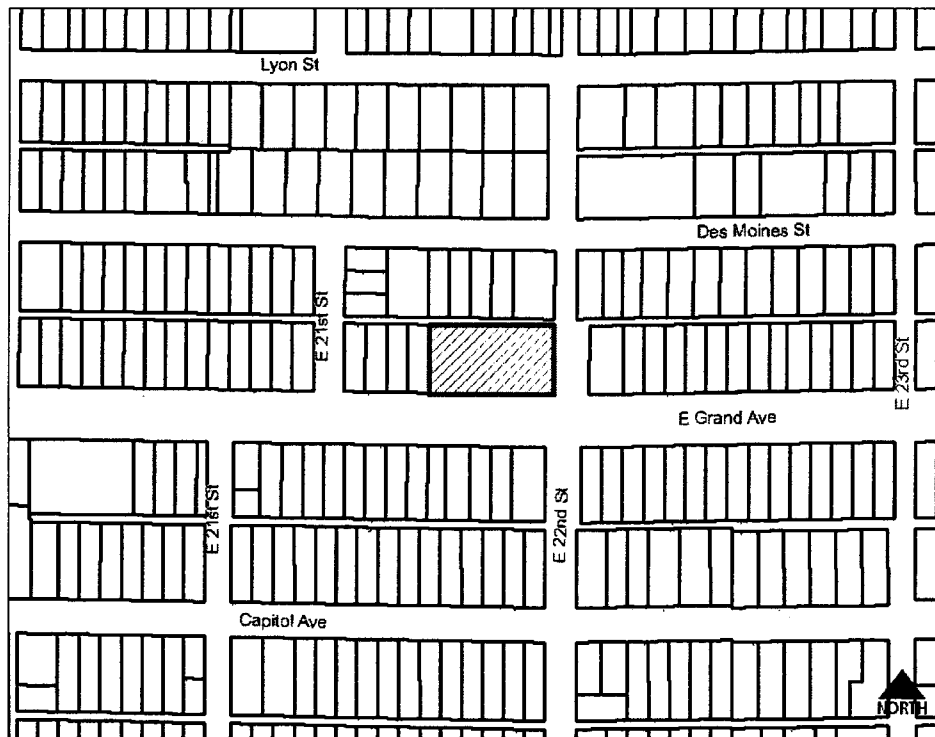
MGL:clw

Attachment

Request from ROK Investments, LC (owner) represented by Erazm Rokitnicki (officer) to rezone property located at 2134 East Grand Avenue.				File # ZON2009-00167	
Description of Action	Rezone property from "R1-60" One-Family Low Density Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, to allow conversion of legal non-conforming book bindery office use to an event/assembly hall.				
2020 Community Character Plan	Low-Density Residential				
Horizon 2025 Transportation Plan	No Planned Improvements				
Current Zoning District	"R1-60" One-Family Low Density Residential District				
Proposed Zoning District	Limited "NPC" Neighborhood Pedestrian Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	5	4			
Outside Area					
Plan and Zoning Commission Action	Approval	8-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

ROK Investments LC - 2134 E Grand Avenue

ZON2009-00167



Regarding proposal by ROK Investments (owner) represented by Erazm Rokitnicki (officer) and re-zoning of property at 2134 East Grand Ave. Des Moines.

The following property owners would like to express extreme opposition to the proposed re-zoning for above stated property. Property owners listed below would respectfully request that Des Moines City Council leaders vote No to the proposed re-zoning. As stated in the mailed letter dated Oct 5, 2009 the "...in the event of a written protest filed with the City Clerk duly signed by 20% or more of property owners within 200 feet of building"; we are informing the City Council that this is unfavorable to the following property owners and respectfully request that you take our opinions into consideration when considering the above proposal.

Main concerns including but not limited to the following reasons:

- 1) We are concerned about noise levels increasing with party room rental. This is a residential neighborhood and the building is within just a very few feet of many of the properties surrounding it.
- 2) We are concerned with the possibility persons engaging in alcohol and tobacco intake and the possibility of an undesirable example to the children in the neighborhood.
- 3) We are concerned with the possibility of vandalism and litter to the adjoining properties and the lack of accountability for damage to adjoining properties.
- 4) We are concerned with parking issues: It was proposed that the room would hold around 200 persons. Where will the cars be parking?

Thank you for your time and consideration with regards to the above,
Neighborhood Property owners.

✓ Beverly A. Thomas
owner 2123 Des Moines St.

CARD ALSO } ✓ Marilyn Copad
✓ Robert Copad

owner 2127 Des Moines St.

OUTSIDE 200' ✓ Shawn Kinnison *Shawn Kinnison*
owner 2130 Des Moines St.

✓ EVERETT CARPENTER OWNER 45 YEARS
2105 Des Moines St.

NOT OWNER OF RECORD (BUT OWNER SENT CARD OPPOSED)
✓ LARRY LYNCH
2131 Des Moines St. OWNER

✓ Andy Cator Jr.
511 E. 21ST

CITY CLERK
DES MOINES, IOWA

2009 OCT 13 PM 12:08

FILED

✓ Alejandro Bohena

2204 E. Grand Ave. Des Moines, IA.

CARD ALSO ✓ Ethel L. Weaver

2119 E. Grand Ave.
owner

Item 2009 00168 R Date

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

(Circle One)

Print Name

Paul Ohleckins

Signature

2109 E Grand Av

Address

OCT 14 2009

"UNITY DEVELOP"

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

Only if there is a mandated requirement for an off duty DM Police officer for and event out side of normal business hours (M-Fri 0800-1700) when any Alcohol is present.

NOT OWNER OF RECORD

Item 2009 00168 R Date 10-07-09

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

(Circle One)

Print Name

George Garvis

Signature

[Signature]

Address

1603 Eucclid

OCT 14 2009

"UNITY DEVELOP"

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

Item 2009 00168 R Date 10-9-09

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

RECEIVED (Circle One)

OCT 15 2009

"UNITY DEVELOP"

Print Name

BK.P, LC Harry F. Wertz Wgr.

Signature

[Signature]

Address

6125 Crescent Phase Johnston, Va 50131

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

48A

Item 2009 00167-1 Date 10-13-09

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

(Circle One) **RECEIVED**

Print Name Kenneth Winebrenner

OCT 15 2009

Signature Kenneth Winebrenner

Address 2209 Des Moines Street

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

We are concerned about the type of meetings to be held here.

Also we will NOT allow any parking in our private parking lot.

Kenneth Winebrenner
Homeowner - Trustee

Item 2009 00167 Date 10/17/09

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

(Circle One) **RECEIVED**

Print Name Leokadia Rokitnicki

OCT 14 2009

Signature Leokadia Rokitnicki

Address 2134 E Grand Ave

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

will increase leakage of leakage neighborhood will create some potholes

they will be in line and therefore will distract gangs and other negative activities

SUBJECT PROPERTY

Item 2009 00167 Date 10-7-09

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

(Circle One) **RECEIVED**

Print Name Steven L Wolens MS

OCT 14 2009

Signature Steven L Wolens MS

UNITY DEVELOP

Address 2814 East Capitol Ave
MS 101

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

Item 2009 00167 Date 10-8-09

USA
I (am) in favor of the request.
RECEIVED
OCT 14 2009
UNITY DEVELOPMENT

Print Name Ted & Marilyn Cozad
Signature Ted & Marilyn Cozad
Address 2127 Des Moines St

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

Not enough parking available
Too close to residential homes to
allow liquor
Noise level and hours of operation
not compatible with residential living
Also on petition

Item 2009 00167 Date 10-8-09

I (am) in favor of the request.

(Circle One)
RECEIVED
OCT 14 2009
UNITY DEVELOPMENT
Print Name Ethel Lee Beaver
Signature Ethel Lee Beaver
Address 2119 E. Grand Ave.

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

Parking and noise concerns with
ten many other uncertainties.
Not optimistic about chances of
plans!

Also on petition

Date 10/9/09

Item 2009 00167
I (am) in favor of the request.

RECEIVED
OCT 14 2009
UNITY DEVELOPMENT
Print Name Linda S Hesselton
Signature Linda S Hesselton
Address 2131 Des Moines St

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

Parking is a big concern. They only have parking for 25
cars and we were told the buildings capacity would be
200 people, (street parking is already a problem on
our street). We are also concerned with the noise level
and we want to be assured that police have to be on duty
while the building is rented. Smoking not allowed in the
building we want to be assured no activity will be allowed
in the alley which is adjacent to our property.