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Date..... December 18, 2006

WHEREAS, on December 4, 2006, by Roll Call No. 06-2373, it was duly resolved by the City Council that the application of Burlington Auto Finance, represented by Russ Larson, to rezone certain property it is purchasing from Margaret A. Kotz and located in the vicinity of 2426 SE 14th Street, more fully described below, be set down for hearing on December 18, 2006, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on December 6, 2006, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

The West 57.00 feet of the East 73.00 feet of the South 1/2 of Lot 21, Tallmadge's Subdivision, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

from a Limited "C-1" Neighborhood Retail Commercial District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

- A. 10 foot wide buffer yard shall be installed along the west boundary of the Property in accordance with the Des Moines Landscape Standards prior to any commercial use of the Property, or as soon thereafter as weather permits, and shall thereafter be maintained for as long as the Property continues to be used for any commercial use and the adjoining property to the west continues to be vacant or used for residential use. The required 10 foot buffer yard may be located upon the adjoining land by easement or agreement with the owner of that land, provided however that if for any reason the required buffer yard ceases to be provided on the adjoining land, the required buffer yard shall be replaced on the Property within 30 days, or as soon thereafter as weather permits..
- B. Provision of a vehicular access easement through the Property serving any permitted commercial use of the adjoining property to the west.

(continued)

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 Date December 18, 2006

- C. The following uses of land and structures shall be prohibited on the Property:
1. All residential use, excepting use as a single-family residential dwelling which shall be permitted.
 2. Packaged goods liquor stores
 3. Pawn shops
 4. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity
 5. Adult entertainment business
 6. Billiard parlors, pool halls, and game rooms
 7. Taverns and nightclubs
 8. Freestanding garages for general motor vehicle repair and automobile washing establishments when not accessory to a permitted vehicle display use.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited "C-2" General Retail and Highway Oriented Commercial District are hereby overruled, and the hearing is closed.

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

MOVED by _____ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

Roger K. Brown
 Roger K. Brown, Assistant City Attorney
 G:\SHARED\LEGAL\BROWN\WORK\REZONING\Kotz.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

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.

 Mayor

 City Clerk

December 18, 2006

Agenda Item 66

Roll Call # _____

Honorable Mayor and City Council
City of Des Moines, Iowa

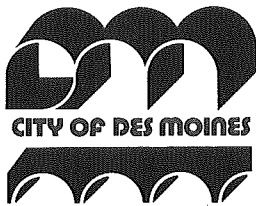
Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held December 7, 2006, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels				X
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz	X			
Kaye Lozier	X			
Brian Meyer				X
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson				X
Kent Sovern				X
Tim Urban	X			
Marc Wallace	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 a request from Burlington Auto Finance (purchaser), represented by Russ Larsen (officer) to rezone property located at 2426 SE 14th Street from Limited "C-1" Neighborhood Retail Commercial District to Limited "C-2" General Retail and Highway-Oriented Commercial District subject to the owner agreeing to the following conditions: (ZON2006-00177)

1. Installation of a 10' wide buffer yard along the west boundary of any commercial development of the subject property, all in accordance with the Des Moines Landscape Standards for buffer yards planting and screening to adjoining residential use.
2. Provision of a vehicular access easement through the subject property serving any permitted commercial use of the adjoining property to the west.

3. Prohibit the following uses of the property:
 - a. All residential use, excepting single-family residential which shall be permitted
 - b. Packaged goods liquor stores
 - c. Pawn shops
 - d. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity
 - e. Adult Entertainment business
 - f. Billiard parlors, pool halls, and game rooms
 - g. taverns and nightclubs
 - h. Freestanding garages for general motor vehicle repair and automobile washing establishments when not accessory to a primary vehicle display use.

The subject property is owned by Margaret A. Kotz.

Written Responses

6 In Favor
0 In Opposition

This item would not require a 6/7 vote at City Council.

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Part A) Staff recommends that the Commission find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan future land use designation.

Part B) Staff recommends approval of the requested rezoning subject to the owner agreeing to the following conditions:

1. Installation of a 10' wide buffer yard along the west boundary of any commercial development of the subject property, all in accordance with the Des Moines Landscape Standards for buffer yards planting and screening to adjoining residential use.
2. Provision of a vehicular access easement through the subject property serving any permitted commercial use of the adjoining property to the west.
3. Prohibit the following uses of the property:
 - a. All residential use, excepting single-family residential which shall be permitted
 - b. Packaged goods liquor stores
 - c. Pawn shops
 - d. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity
 - e. Adult Entertainment business
 - f. Billiard parlors, pool halls, and game rooms
 - g. taverns and nightclubs
 - h. Freestanding garages for general motor vehicle repair and automobile washing establishments when not accessory to a primary vehicle display use.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to purchase the subject property in combination with additional property to the east already zoned "C-2", for development of a vehicle display lot. This land is being sought to provide the amount of land necessary for a

secure vehicle storage area associated with the proposed vehicle display lot. The property would be considered split-zoned under the provisions of the Zoning Ordinance without the requested rezoning, and therefore could not be included in a site dedicated to a use requiring a "C-2" District designation.

2. **Size of Site:** Approximately 17,100 square feet for rezoning, to be included in a proposed site of approximately 2.27 acres for development under "C-2" District regulations.

3. **Existing Zoning (site):** Limited "C-1" Neighborhood Retail Commercial District with the following conditions:

A. The following uses of land and structures shall not be permitted on the Property:

1. All residential use, excepting single-family residential which shall be permitted.
2. Packaged goods liquor stores.
3. Pawn shops
4. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.

B. The following uses of land and structures otherwise permitted in the "C-1" District shall be permitted on the Property only if the Property is developed in combination with the adjoining property fronting SE. 14th Street:

1. Drug stores
2. Gas stations / convenience stores
3. Grocery stores
4. Department stores

C. Primary access to the property must be provided by shared access with adjoining property fronting SE. 14th Street, with the primary access drive being no further than 325 feet west of SE. 14th Street. Secondary commercial access is permitted directly from the Property. Exclusive access to the property from East Bell Avenue is permitted only for single-family residential uses.

4. **Existing Land Use (site):** Vacant land.

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

North – "R1-60", Uses are single-family residential.

South – "C-2", Use is Budget Storage mini-warehousing.

East – "C-2", Use is vacant land with off-premises advertising sign.

West – Limited "C-1", Use is vacant land.

6. **General Neighborhood/Area Land Uses:** The subject property is within a transition area for land use between the SE 14th Street commercial corridor to the east and a neighborhood with mixed densities of residential to the west.

7. **Applicable Recognized Neighborhood(s):** Indianola Hills Neighborhood

8. **Relevant Zoning History:** On June 18, 2001, the City Council rezoned the subject property to a limited "C-1".

9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented Small-Scale Strip Development.
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. **Drainage/Grading:** The subject property drains generally to the west and north into an open drainage way. All site development is subject to compliance with all storm water management and soil erosion protection requirements as part of any site plan and/or grading permit approval.
2. **Landscaping & Buffering:** The submitted rezoning sketch demonstrates general compliance with the Des Moines landscaping standards for buffer yards, perimeter, and interior lot landscaping. In addition, the sketch proposes a buffer yard planting and screening scheme along the western edge next to the remaining vacant Limited "C-1" property. While this is not typically a minimum requirement, the applicant is proposing this to better protect residential property further to the west. Staff recommends that the applicant agree to provide this west buffer yard as a condition of the rezoning. Staff would note that the submitted rezoning sketch indicates a screen fence within the front yard setback along East Bell Avenue. The Zoning Ordinance would limit this fence to a maximum of three feet (3') in height.
3. **Access or Parking:** A zoning condition of the remaining Limited "C-1" property to the west requires that any commercial use of that property be subject to primary access being provided through commercially developed property along SE 14th Street, with only secondary access permitted directly to the property from East Bell Avenue. Exclusive access to this remaining property to west from East Bell Avenue can only occur if it is developed for single-family residential purposes. In order to ensure that the remaining property to the west has future access for commercial development, staff recommends that the applicant agree to provide a cross access easement through the subject property as a condition of the rezoning.
4. **2020 Community Character Plan:** The requested "C-2" General Retail & Highway Oriented Commercial District allows for uses that are in conformance with the existing Commercial: Auto-Oriented, Small-Scale Strip Development future land use designation. However because of the proximity to existing residential development, staff recommends that the applicant agree to prohibit the following uses, which are all normally permitted in the "C-1" District, as a condition of the rezoning: all residential use, excepting single-family residential which shall be permitted; packaged goods liquor stores, pawn shops; financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity. In addition staff recommends that the following uses, normally permitted in "C-2" Districts, also be prohibited as a condition of the rezoning: Adult Entertainment business; automobile washing establishments; Billiard parlors, pool halls, and game rooms; taverns and nightclubs; and freestanding garages for general motor vehicle repair when not accessory to a vehicle display use.
5. **Urban Design:** The subject property is within the SE 14th Street Urban Revitalization Area, which provides a tax abatement incentive for use of quality building materials. Any future development of the subject property as proposed for vehicle display is subject to a review of a site plan by the Plan and Zoning Commission under design guidelines for vehicle display contained in the Site Plan Ordinance.

SUMMARY OF DISCUSSION

There was no one in the audience to speak on this item.

Brian Millard moved staff recommendation for approval of the requested rezoning subject to the owner agreeing to the following conditions:

- 1. Installation of a 10' wide buffer yard along the west boundary of any commercial development of the subject property, all in accordance with the Des Moines Landscape Standards for buffer yards planting and screening to adjoining residential use.*
- 2. Provision of a vehicular access easement through the subject property serving any permitted commercial use of the adjoining property to the west.*
- 3. Prohibit the following uses of the property:*
 - a. All residential use, excepting single-family residential which shall be permitted*
 - b. Packaged goods liquor stores*
 - c. Pawn shops*
 - d. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity*
 - e. Adult Entertainment business*
 - f. Billiard parlors, pool halls, and game rooms*
 - g. taverns and nightclubs*
 - h. Freestanding garages for general motor vehicle repair and automobile washing establishments when not accessory to a primary vehicle display use.*

Motion passed 10-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

Item 2006 00177

Date 12-5-06

66

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

(Circle One)

RECEIVED

DEC 07 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name WARREN M ADAIR

Signature Warren M Adair

Address 1209 E LACONIA

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

IN FAVOR OF CHANGE AS LONG AS THERE IS PROPER DRAINAGE FROM THE PARKING LOT SLAB RUNOFF.

Item 2006 00177

Date 11-29-06

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

(Circle One)

RECEIVED

DEC 01 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name BUDGET STANNING ASSOC. I, L.P.

Signature WILLIAM H. JINKS

Address 2500 SE. 14th ST.

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

Item 2006 00177

Date 11-31-06

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

RECEIVED ✓

DEC 04 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Joseph M Keul

Signature J Malorni Keul

Address 1009 E Luccana

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

Item 2006 00177

Date 11-31-06

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

RECEIVED ✓

DEC 04 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Joseph M Keul

Signature J Malorni Keul

Address 1009 E Luccana

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

Item 2006 00177

Date 11-28-06

66

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

(Circle One)

RECEIVED

DEC 01 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name FRANCO, A. TANZIARI

Signature Franco, A. Tanziari

Address 1105 E LACONA

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

I'm in favor of this zoning only if the remaining lot that resides behind my property stays C-1 with restrictions

Item 2006 00177

Date 12-1-06

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

(Circle One)

RECEIVED

DEC 06 2006

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Marva Huizar

Signature Marva Huizar

Address 1101 E LACONA AVE

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

Per conversations with other individuals on this subject it would be OK to be in favor of this request.