

January 28, 2013

Date.....

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on January 3, 2013, its members voted 13-0 in support of a motion to recommend **DENIAL** of a request from Kent Lehs (owner) to rezone property located at 2425 Euclid Avenue from C-2 General Retail and Highway-Oriented Commercial District to M-1 Light Industrial District;

WHEREAS, on January 14, 2013 by Roll Call No. 13-0030, the City Council set a public hearing on the proposed rezoning for January 28, 2013 at 5:00 p.m. in Council Chambers, City Hall, Des Moines, Iowa;

The subject property is more specifically described as follows (the "Property"):

(Except South and West of line beginning 203.77 feet East of the Southwest corner of Lot 2, Euclid Heights, an Official Plat, thence Northwesterly 124.4 feet to West line of said Lot 2, Euclid Heights) and (Except beginning 122.88 feet North of Southwest corner, thence North 112.27 feet, thence Southeast 113.02 feet, thence Northwest 11 feet to Point of Beginning) West 50 feet vacated Interurban Railroad Right-of-Way lying North of Euclid Avenue and East and adjacent to Lot 2, Euclid Heights and Lot 2, Euclid Heights, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

WHEREAS, notice of the public hearing was published in the Des Moines Register according to law on January 17, 2013, setting forth the time and place for hearing on the proposed rezoning; and

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

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January 28, 2013

Date

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

Alternative A

\_\_\_\_\_ Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the property from C-2 General Retail and Highway-Oriented Commercial District to M-1 Light Industrial District are accepted, the hearing is closed and the proposed rezoning is hereby DENIED.

Moved by \_\_\_\_\_ to adopt and to DENY the proposed rezoning.

Alternative B

\_\_\_\_\_ Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the property from C-2 General Retail and Highway-Oriented Commercial District to M-1 Light Industrial District are overruled, the hearing is closed and the proposed rezoning is hereby APPROVED.

Moved by \_\_\_\_\_ to adopt and to APPROVE the proposed rezoning.

FORM APPROVED:



Michael F. Kelley  
Assistant City Attorney

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

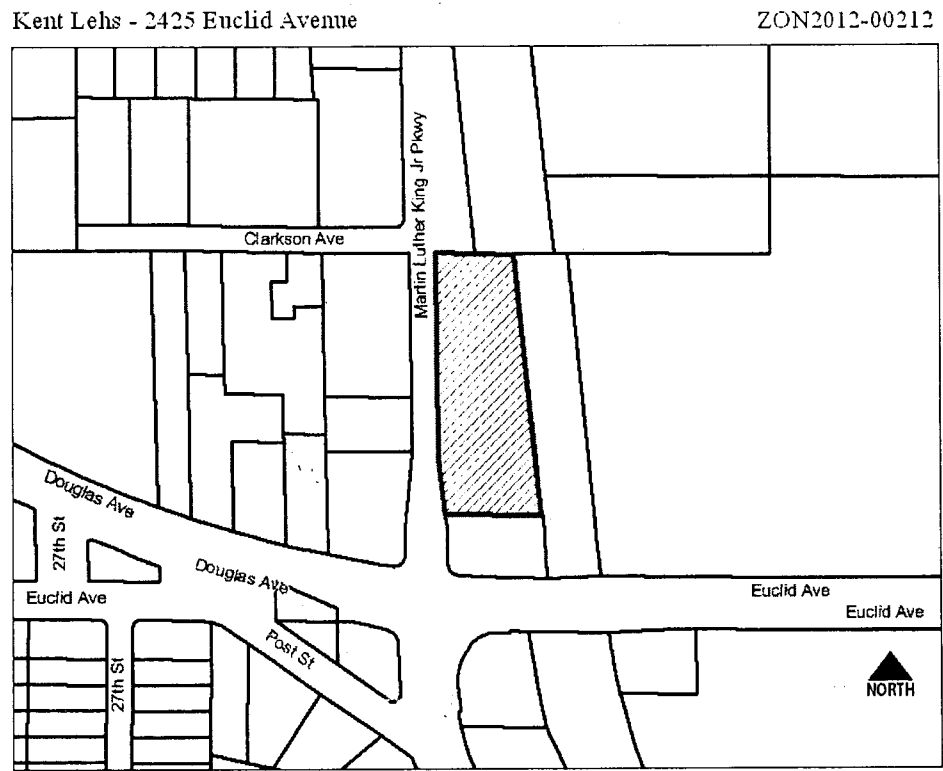
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

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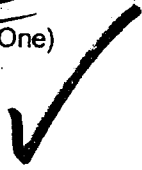
Request from Kent Lehs (owner) to rezone property located at 2425 Euclid Avenue.		File #		
		ZON2012-00212		
<b>Description of Action</b>	Denial of request to rezone from "C-2" General Retail and Highway Oriented Commercial District to "M-1" Light Industrial District, to allow reuse of the former lumberyard property for warehousing and contractor storage.			
<b>2020 Community Character Plan</b>	Commercial: Auto-Oriented Community Commercial			
<b>Horizon 2035 Transportation Plan</b>	M.L.King Jr Parkway from Euclid Avenue to I35/80 add 4 lanes			
<b>Current Zoning District</b>	"C-2" General Retail and Highway Oriented Commercial District			
<b>Proposed Zoning District</b>	"M-1" Light Industrial District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area		1		
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial	13-0		No
				N/A



Item 2012 0212 Date 12-12-12

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

(Circle One)



Print Name RANDY THOMPSON

Signature [Handwritten Signature]

Address 2701 Douglas Ave

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

We have spent countless hours trying to beautify the area, making people want to live in our area, plus some of us spend \$ millions trying to make our building & properties look great - And all people want is warehouses. Nowby!



December 19, 2012

Plan & Zoning Commission  
400 Robert D Ray Drive  
Des Moines, IA 50309

RE: 2425 Euclid Rezoning request

Honorable Commissioners,

On Saturday, December 15, 2012, the Lower Beaver Neighborhood Association Board met with the applicant, Ken Lehs, and his representatives at 2425 Euclid to hear their proposal and tour their facility. We are very impressed with the applicant's improvements to the property and believe he will be a good neighbor for all our area.

Immediately after the tour, we met as a board to discuss the ramifications of this property being zoned M-1. Our vote was unanimous to ask you to DENY this request to change the zoning from C-2 to M-1 knowing the zoning goes with the land, not the current owner.

We have advised the applicant that if he is denied the rezoning by both this body and the City Council, that he can then apply for a Variance from the Zoning Board of Adjustment. We have advised we would support this with conditions that the applicant has advised he would accept. We also offered to sponsor a beautification project along MLK on the west side of his property.

We would also request the Plan & Zoning Commissioners send on a recommendation to the City Council that they also vote to DENY the rezoning and encouraging the applicant go for a variance for his property.

Thanks for your consideration,

*Brian L. Millard*

Brian L. Millard  
President, Lower Beaver Neighborhood Association  
3920 Lynner Drive  
Des Moines, IA 50310  
515-202-2788

Cc: LBNA Board  
City Staff

January 9, 2013

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 January 3, 2013, the following action was taken regarding a request from Kent Lehs (owner) to rezone property located at 2425 Euclid Avenue.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdill	X			

**APPROVAL** of Part A) to find the requested rezoning **not** in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Commercial: Auto-Oriented Community Commercial; of Part B) to **deny** the request to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Commercial: Auto-Oriented, Community Commercial to General Industrial; and Part C) to **deny** the rezoning from "C-2" General Retail and Highway-Oriented Commercial District to "M-1" Light Industrial District.

(ZON2012-00212 & 21-2012-4.17)

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the Commission find the proposed rezoning is not in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Commercial: Auto-Oriented Community Commercial.

Part B) Staff recommends denial of the request to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation



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

from Commercial: Auto-Oriented, Community Commercial to General Industrial.

Part C) Staff recommends denial of the request to rezone the site from "C-2" General Retail and Highway-Oriented Commercial District to "M-1" Light Industrial District.

Written Responses

- 0 In Favor
- 1 In Opposition

**STAFF REPORT**

**I. GENERAL INFORMATION**

**1. Purpose of Request:** The rezoning would allow retention of outdoor storage related to a contractor's storage yard and warehousing business. Such use requires an "M" Industrial zoning designation within the City of Des Moines. The property contains a mix of one-story commercial buildings that were developed for as a lumberyard use. The buildings include office space, completely enclosed storage space, and partially enclosed storage space. The site is separated from Euclid Avenue by a vehicle display lot and is accessed by a drive approach from Martin Luther King, Jr. Parkway.

Should the rezoning be denied, the applicant could apply for a Use Variance for consideration by the City's Zoning Board of Adjustment. While staff is not prepared to make a recommendation on such at this time, potential benefits of a Use Variance instead of a rezoning include that a sunset date (time limit) could be established and that the Use Variance could be revoked by the Zoning Board of Adjustment if the use creates a nuisance for surrounding property owners.

- 2. Size of Site:** 89,023 square feet (2.044 acres).
- 3. Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District
- 4. Existing Land Use (site):** Vacant commercial buildings totaling approximately 25,474 square feet of gross floor area and surface parking.
- 5. Adjacent Land Use and Zoning:**

**North** – "U-1", Uses include a recreational trail and undeveloped floodplain along the Des Moines River

**South** – "C-2", Use is a vehicle display lot known as "Auto Outlet".

**East** - "C-4, Uses include a recreation trail and the Polk County's River Place office use.

**West** – "C-2", Uses include Martin Luther King, Jr. Parkway, Saigon Market (limited food sales establishment), a single-family dwelling, and a multiple-family complex known as "Birchwood Apartments" with 48 dwelling units within two (2) 3-story buildings.

6. **Applicable Recognized Neighborhood(s):** The subject property is located within the Lower Beaver Neighborhood and within 250 feet of the Prospect Park Neighborhood. These neighborhoods were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood on November 30, 2012. Additionally, separate notifications of the hearing for this specific item were mailed on November 30, 2012 (20 days prior) and December 10, 2012 (10 days prior to the scheduled hearing) to the Lower Beaver Neighborhood Association, Prospect Park Neighborhood Association, and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on December 14, 2012.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Lower Beaver Neighborhood Association mailings were sent to Brian Millard, 3920 Lynner Drive, Des Moines, IA 50310. The Prospect Park Neighborhood Association mailings were sent to Chas Jones, 2704 Boston Avenue, Des Moines, IA 50310.

The applicant is responsible for conducting a neighborhood meeting inviting representatives of the Union Park Neighborhood Association and surrounding property owners within 250 feet. The applicant will provide a summary of the meeting at the public hearing.

7. **Relevant Zoning History:** On April 11, 2012, the City's Zoning Enforcement Division issued a notice of violation to the property for having outside storage of vehicles and equipment on the site, which was a change in use from the previous lumberyard use. When no remedial action was taken by the property owner, the City filed a petition in Polk County District Court on July 10, 2012 for enforce compliance. The appellant has since applied for this rezoning to "M-1" District in order to legitimize the use.
8. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented Community Commercial. The proposed "M-1" Light Industrial District zoning requires a General Industrial Designation.
9. **Applicable Regulations:** The Commission reviews all proposals to amend zoning boundaries or regulations 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 Chapter 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Neighborhood Action Plan:** The subject property is within the Lower Beaver Neighborhood Association. This neighborhood is currently partnering with the City of Des Moines' Neighborhood Development Division to draft a neighborhood action plan to guide future development and redevelopment in the neighborhood. A component of this planning process is to analyze the desired future land uses in the area and to amend the City's 2020 Community Character Land Use Map upon adoption of the plan to align with the desired development pattern. While the Lower Beaver Neighborhood Association has not yet drafted this plan, it is unlikely that the plan will call for an



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industrial designation for this site, which is necessary to allow the proposed warehousing and outdoor contractor storage yard use.

- 2. **2020 Community Character Plan:** The subject property is within an area currently designated Commercial: Auto-Oriented, Community Commercial by the Des Moines 2020 Community Character Plan. This designation is described as areas developed in a fashion that is "primarily focused on the needs and convenience of the motorist. In the future, developments will have a strong orientation to motorists with necessary accommodations on site for pedestrians." These developments are "large-scale commercial located on or at the crossroads of a major transportation corridor. Parcel size may be up to twenty five acres with 150,000 to 250,000 square feet of building coverage."

The 2020 Community Character Plan also states the following with regard to land use transition (Chapter 4, Page 74).

*"The co-existence of dissimilar land uses directly adjacent to each other has the potential to create nuisances. There are currently many situations in Des Moines where a lack of careful site planning for infill commercial development and institutions adjacent to, or within a neighborhood has resulted in serious nuisance issues for residences. The consequence of these conflicts may be a disinvestment in the residential property.*

*This plan promotes a healthy mix of commercial and residential land uses for Des Moines and recognizes the importance of institutions, such as churches and schools, as important components of a neighborhood. However, there is an accepted level of privacy associated with the immediate environment of one's home. The yard area of residence is private, not public space, and interventions to it such as light, noise, or people is an infringement of one's privacy. On the other hand, undesirable views of parking lots, and service areas, from a residential property is also an infringement.*

*New commercial development and expansion of existing commercial along major corridors should front upon and have primary access from the major corridor and not from an adjacent residential side street. It is inappropriate to introduce commercial traffic into or through a residential area. The impacts of such commercial expansion upon the adjacent residential neighborhood should be a primary consideration in determining the appropriateness of the development request."*

Staff believes that the subject property is too close to residential uses to provide adequate separation for the intensity of uses allowed in the "M-1" District, including the proposed use. This is contrary to the 2020 Community Character Plan's goals for proper land use transition.

The applicant has the ability to request a Use Variance from the Zoning Board of Adjustment if the rezoning is denied by the City Council. Use Variance requests cannot be consider by the Board until after a rezoning has been denied.

- 3. **Site Plan Requirements:** Any use of the property must be in accordance with a Site Plan as approved by the City's Permit & Development Center. This Site Plan must comply with all City requirements, including those pertaining to stormwater

management, off-street parking, and landscaping.

The City's Landscaping Standards would require the following.

- *Open Space* equal to 20% of the site with 1 overstory tree, 1 evergreen tree and 1 shrub per 2,500 square feet of required open space.
- *Bufferyard* with a minimum width of 10 feet with a 6-foot tall opaque fence/screen, and 2 overstory trees and 6 evergreen trees per 100 lineal feet.
- *Parking & Maneuvering Perimeter Planting Area* with a minimum width of 7 feet with 1 overstory tree and 3 shrub per 50 lineal feet.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation.

Kent Lehs 4026 Beaver Avenue stated he bought this property a couple of years ago. It is a family-based company. Before it was purchased it had been abandoned for a about three years prior. They have a rental property business, mostly single-family homes. They are operating with storage out of that facility and have put some rental areas in that. They have used the existing building. They are not planning on moving or changing any direct view and look from the street. Over the last two years they have complied with the beautification standards, they have had the Lower Beaver Neighborhood Association to tour the grounds to make sure they are on track with being a part of the neighborhood. They are not dirty and they do not have a lot of traffic. They help maintain the bike trail along their property. Their request would allow them to have the ability to store their equipment and materials outside as it has been in the past.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one to speak in favor of the applicant's request.*

*The following spoke in opposition of the applicant's request:*

Brian Millard 3920 Lynner Drive, representing the President of the Lower Beaver Association. The Board did vote against the rezoning because the zoning goes with the land. Mr. Lehs has shown that he is a good neighbor and has made improvements to the property. The Board would like for the Commission to recommend denial of the rezoning and encourage the applicant to pursue a variance for this property. Mr. Lehs is first class and they wish he had something to do with the apartments in the area. He is a good guy and the Board would like to keep him in the neighborhood.

As an individual he urges the Commission to think really hard about their decision. Mr. Lehs is a good guy and he would like to see a recommendation come from the Commission that if they do vote to deny the applicant's request a recommendation to Council is sent that the ultimate use should be a use variance.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Ted Irvine asked the applicant if he understands what is next.

Mr. Lehs stated that he does understand.

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**COMMISSION ACTION:**

Mike Simonson moved staff recommendation Part A) to find the proposed rezoning is not in conformance with the Des Moines' 2020 Community Character Plan future land use designation of Commercial: Auto-Oriented Community Commercial; Part B) to deny the request to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Commercial: Auto-Oriented, Community Commercial to General Industrial; and Part C) to deny the request to rezone the site from "C-2" General Retail and Highway-Oriented Commercial District to "M-1" Light Industrial District.

Motion passed 13-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment