



Date May 6, 2013

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 18, 2013, its members voted 11-2 in support of a motion to recommend **APPROVAL** of a request from FD Des Moines Iowa SW 9th, LLC (purchaser) represented by Mitch Phillips (agent), Dawn Cooper and by Muto Company (owner), represented by Nancy Turner to rezone property at 3911 Southwest 9th Street and 3915 Southwest 9th Street from "R1-60" One-Family Low-Density Residential District to a Limited "C-1" Neighborhood Retail Commercial District subject to the owner of the property agreeing to the following conditions:

1. Any commercial site development shall be located away from existing residential uses to the extent feasible, given existing topography, by minimizing parking setbacks along the public street sides and reducing on-site maneuvering aisles to the extent possible while still providing adequate maneuvering for delivery trucks.
2. Provision of 75% brick, stone, or masonry block material within the first floor on all four exterior walls of any commercial building.
3. Any freestanding sign shall be a monument sign.
4. A sidewalk connection be provided from the public sidewalk to the store entrance.
5. Use of any retaining walls shall be minimized.
6. Any Site Plan for development of the property shall be reviewed by the P&Z.

The subject property is more specifically described as follows:

The East 150.31 feet of Lot 47, Bloomfield Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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

1. That the meeting of the City Council at which the proposed rezoning from "R1-60" One-Family Low-Density Residential District to a Limited "C-1" Neighborhood Retail Commercial District is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on May 20, 2013, at which time the City Council will hear both those who oppose and those who favor the proposal.



Roll Call Number

Agenda Item Number


25

Date May 6, 2013

- 2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED by _____ to adopt.

FORM APPROVED:



 Michael F. Kelley
 Assistant City Attorney

(ZON2013-00038)

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

April 29, 2013

Date May 6, 2013

Agenda Item 25

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 April 18, 2013, the following action was taken regarding a request from FD Des Moines Iowa SW 9th, LLC (purchaser) represented by Mitch Phillips (agent), to rezone property at 3911 Southwest 9th Street and 3915 Southwest 9th Street.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
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			
Greg Wattier	X			

APPROVAL of Part A) to find the proposed rezoning is **not** in conformance with the Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 11-2 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
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			



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
Christine Pardee				X
Mike Simonson	X			
CJ Stephens		X		
Vicki Stogdill	X			
Greg Wattier	X			

APPROVAL of Part B) to amend the Des Moines' 2020 Community Character Plan future land use designations from Low Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development; and Part C) to approve the request to rezone the property to a Limited "C-1" District subject to the owner of the property agreeing to the following conditions:

1. Any commercial site development shall be located away from existing residential uses to the extent feasible, given existing topography, by minimizing parking setbacks along the public street sides and reducing on-site maneuvering aisles to the extent possible while still providing adequate maneuvering for delivery trucks.
2. Provision of 75% brick, stone, or masonry block material within the first floor on all four exterior walls of any commercial building.
3. Any freestanding sign shall be a monument sign.
4. A sidewalk connection be provided from the public sidewalk to the store entrance.
5. Use of any retaining walls shall be minimized.
6. Any Site Plan for development of the property shall be reviewed by the P&Z.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

Part B) Staff recommends approval of the 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.

Part C) Staff recommends approval of the request to rezone the property to the "C-1" District subject to the owner of the property agreeing to the following conditions:

1. Any commercial site development shall be located away from existing residential uses to the extent feasible, given existing topography, by minimizing parking setbacks along the public street sides and reducing on-site maneuvering aisles to the extent possible while still providing adequate maneuvering for delivery trucks.
2. Provision of 75% brick, stone, or masonry block material within the first floor on all four exterior walls of any commercial building.
3. Any freestanding sign shall be a monument sign.

Written Responses

3 In Favor

9 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant proposes to redevelop the subject property for retail use. The applicant has submitted a development concept that includes an 8,321-square foot Family Dollar retail store. The subject parcels are currently split zoned.
2. **Size of Site:** 31,480 square feet (0.72 acres) for the subject property of the rezoning. The overall site area would be 61,687 square feet (1.42 acres)
3. **Existing Zoning (site):** "R1-60" One-Family Low Density Residential District.
4. **Existing Land Use (site):** Vacant undeveloped property and a single-family dwelling.
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* – "C-1", Use is an auto-repair shop.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the Southwest 9th Street Commercial Corridor where it intersects with Watrous Avenue, which is a collector street from the surrounding residential neighborhoods. Southwest 9th Street has a narrow depth of commercial development which is also scattered with mixed densities of residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not within a recognized neighborhood area but is within 250 feet of the Grays Lake and Watrous South neighborhoods. These neighborhoods were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on March 29, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on March 29, 2013 (20 days prior) and April 8, 2013 (10 days prior to the scheduled hearing) to the Grays Lake and Watrous South Neighborhood Association contacts 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 April 12, 2013.

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 Grays Lake Neighborhood Association mailings were sent to Evan Shaw, 2615 Druid Hill Drive, Des Moines, IA 50315. The Watrous South Neighborhood Association mailings were sent to James Spiller, PO Box 35845, Des Moines, IA 50315.

The applicant is required to schedule a neighborhood meeting prior to the hearing which includes invitation to Grays Lake and Watrous South neighborhood contacts and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. The applicant scheduled and held their meeting on April 3, 2013 at the South Side Library. The applicant will provide a summary of the meeting at the public hearing.

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 Features:** The subject property has a four or more mature trees that will likely be impacted by development. Any trees preserved or removed for commercial development are subject to protection and mitigation requirements as part of the Site Plan review.
- 2. Utilities, Drainage and Grading:** The site drains mostly to the northeast. However, there are significant slopes down at the western edge of the site toward Southwest 9th Street. The overall grade of the site has been built up from the level of the street in the past. The public storm sewer available is within the Southwest 9th Street right-of-way. Sanitary sewer is available in Watrous Avenue.

Any commercial development of the site will be subject to storm water management for both flood control rain events and for water quality detention of more frequent rain events, in accordance with the storm water management site plan policies. In addition, because the site would be over an acre, the developer will have to file a Stormwater Pollution Protection Plan with the Iowa DNR. The submitted development concept proposes storm water detention at the eastern portion of the property.

- 3. Landscaping & Buffering:** The proposed occupancy of the site would be subject to a Site Plan in accordance with the landscaping standards for the "C-1" District if the requested rezoning is approved. While a portion of the property to the north of the proposed site would be commercially zoned, it would still be occupied by residential use requiring a bufferyard landscaping protection. This bufferyard would also be required to the east. Perimeter Lot landscaping would be required along Southwest 9th Street and Watrous Avenue. The overall site would also be required to comply with minimum open space (20% of the site area) and plantings.

- 4. Access or Parking:** Traffic Engineering staff have indicated any Site Plan for commercial development would require public sidewalks within both Southwest 9th Street and Watrous Avenue rights-of-way adjoining the subject property. Any abandoned access drives must be restored.

The minimum required off-street setbacks would only be 7 feet along both public streets. The submitted concept indicates approximately a 25-foot setback from both streets. In order to keep the site development away from existing residential properties as much as possible, staff recommends that the site development be shifted forward to the minimum setbacks from Southwest 9th Street and Watrous Avenue to the extent that the topography will permit. Staff also recommends that the proposed maneuvering aisles be re-evaluated with the required site plan to see if they can be reduced. The requirements would only dictate a 24-foot minimum drive aisle width. The submitted concept shows aisles as wide as 40-50 feet.

- 5. Urban Design:** The blocks to north and south of the subject property have a narrow depth of commercially zoned property. The average building setback for commercial structures along the block to the north is a zero setback and the average commercial setback is about 75 feet. Staff believes that the proposed rezoning enables the commercial development on the site to be brought deeper into the residentially developed neighborhood to the east than is typical along the Southwest 9th Street corridor. Therefore it is recommended that any commercial building and parking be shifted west away toward the intersection to the extent possible by minimizing the required off-street parking setbacks and reducing maneuvering widths to the extent feasible given the existing topography.

The submitted concept shows a brick exterior on the first floor of the street facing facades. To reduce the impact of the facades facing the residential neighborhood, it is recommended that all four walls have at least 75% brick, stone or masonry block material exclusive of openings. This would also be consistent with minimum requirements to be given commercial tax abatement.

The Southwest 9th Street corridor is characterized as a neighborhood retail scale commercial corridor with a substantial amount of residential development interspersed. Therefore staff recommends that any free-standing signage should also be an appropriate scale for a neighborhood retail corridor by providing monument signs. This would also be consistent with the commercial tax abatement criteria.

- 6. 2020 Community Character Plan:** The "C-1" District designation requested by the applicant requires the Des Moines' 2020 Community Character Plan's future land use designation for the property to be amended to Commercial: Auto-Oriented, Small-Scale Strip Development. Staff believes that the scale of the developed site is within the neighborhood scale intended by this designation. Staff recommends that the Low Density Residential designated portion of the property be amended to the Commercial: Auto-Oriented, Small-Scale Strip Commercial designation, which would allow for the site to be rezoned as proposed.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation and pointed out that the Commission is not reviewing the site plan. The amount of opposition shown on the consent map will trigger a 6/7th vote of the City Council.

Mitch Phillips 70 W Madison Street, Suite 4500, Chicago, IL stated that he represents FD Des Moines Iowa SW 9th, LLC (purchaser). They have shifted the building about 20 feet south to move away from the residential area and closer to the street corner. The reason the applicant did not go any further due to the existing grade of the property. The applicant agrees with #2 and #3 of staff recommendation. They held their neighborhood meeting on April 3, 2013. The representative from Family Dollar, an employee of the purchaser, and Joel Templeman were in attendance and from what he understands the people who showed up were in support of the project.

Ted Irvine left the meeting @ 6:43 p.m.

Greg Wattier asked to see the site plan even though he realizes the Commission is not voting on the site plan. He asked how the grading gets handled with their western edge of parking and southern edge of parking up to the streets. Are they keeping the grass berm or does it become a big masonry wall to hold up their parking lot?

Mitch Phillips stated that he believes there will be some grading there; he will have to defer to their engineer. They will work with the City on that.

CJ Stephens stated in the natural features section of the staff report it points out that there are four or more mature trees that will be impacted by the development but yet in staff recommendations there is no mention of that. The mitigation in the City is a very, very weak plan and she would like for Mr. Phillips to encourage his client to save some of those trees because of the urban canopy is quickly disappearing.

Mitch Phillips stated he will encourage his client.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in favor of the applicant's request:

Joel Templeman Lillis O'Malley Law Firm 317 6th Avenue, Suite 300 stated he represents the 2 current property owners at 3511 and 3915 SW 9th Street. At the neighborhood meeting his impression was the neighbors in attendance were in support and excited about this proposed rezoning and development.

Will Page stated according to staff there is 38% opposition within the 250 feet perimeter. Did something happen to change the people minds since the meeting?

Joel Templeman stated that he could not answer that. He can only state what he saw and heard at the neighborhood meeting.

CHAIRPERSON CLOSED THE PUBLIC HEARING

JoAnne Corigliano stated that is a big issue for her. This development looks like it will be okay.

Greg Wattier asked that a friendly amendment be added that a pedestrian connection to the sidewalks be provided for the neighbors to access the building. Right now by the proposal of the building being so far set back and across all of the parking lot he believes that those connections could be enhanced. Also, because he is concerned about the intersection he would hate to see a massive retaining wall like at the Walgreens at Douglas and Beaver.

Mike Ludwig stated that the reason the retaining wall was constructed at the Walgreens on Douglas is because the City of Des Moines widened that street and rebuilt that intersection.

Dann Flaherty asked if the site plan will be coming back to the Commission.

Erik Lundy stated it would not. He cautions the Commission on asking that the site plan come back. He believes that the things that Mr. Wattier is asking can be achieved administratively. Staff is sensitive to having the applicant push the building further west because that would create a condition that would require a retaining wall.

Will Page asked that staff point out the mature trees.

Vicki Stogdill asked if the neighborhood association voted to support the applicant's request.

Erik Lundy explained that Grays Lake and Watrous South Neighborhood Associations are located to the west of the property. This development does not sit within an actual recognized neighborhood.

Vicki Stogdill asked about semi delivery and where they will enter the site.

Erik Lundy stated that because of semi delivery the applicant is leaving the maneuvering aisle at 40 feet (the City only requires 24 feet) because they are not doing a loading function at the back of the building.

JoAnne Corigliano asked for a friendly amendment requiring a sidewalk connection.

Mike Ludwig stated an option would be to install the sidewalk along the edge of the parking lot so customers don't cross the actual drive aisle.

Tim Fitzgerald stated that he could not support the applicant's request without seeing the site plan.

Vicki Stogdill stated she agreed with Mr. Fitzgerald and would like to see the site plan come back to the Plan and Zoning Commission.

