



Date May 6, 2013

WHEREAS, on April 22, 2013, by Roll Call No. 13-0646, the City Council duly resolved that a public hearing to be held on May 6, 2013, at 5:00 p.m., in the Council Chambers at City Hall, 400 Robert D. Ray Drive in Des Moines, to consider a proposal from Hy-Vee, Inc. (lessee) represented by John Brehm (officer), to amend the approved Southgate C-4 Development Plan to allow a gas station/convenience store use at the northwest corner of the site for property located at 3221 Southeast 14th Street; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on April 25, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the approved PUD Conceptual Plan; and

WHEREAS, at a public hearing on April 4, 2013, the Plan and Zoning Commission recommended by a vote of 10-1-1 that the proposed amendment to the approved Southgate C-4 Development Plan be approved, subject to the following conditions and subject to the development plan being first amended as set forth in the attached letter from the Planning Administrator:

- 1. Compliance with all administrative review comments by the Permit and Development Administrator.
- 2. Extension of the proposed fueling area median to eliminate the western-most access point near the SE 14th Street drive approach.
- 3. The C-4 Development Plan and the Site Plan shall be updated to reflect the parking calculations identified in the staff report.
- 4. Compliance with the minimum open space requirement by the installation of additional parking lot islands along the western north/south drive aisle as approved by the Planning Director.
- 5. Relocation of the proposed ice chest and propane exchange unit to the area east of the convenience store building.
- 6. Provision of transom windows on the west and north facades that utilize clear or lightly tinted glass as approved by the Planning Administrator.
- 7. Provision of a note on the Building Elevations and Site Plan that states all rooftop mechanical equipment shall be screened from street view.

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8. All utility meters shall be located on the east side of the convenience store building.
9. Fuel canopy columns shall be completely wrapped with masonry material that matches the primary building.
10. Identification of any proposed areas for outdoor display of seasonal merchandise.
11. Provision of a Site Plan note that states any free-standing sign shall be a monument type.
12. Provision of a Site Plan note that states "all lighting installed under the fuel canopy shall be recessed or flush-mounted with the canopy ceiling to prevent light spillover to adjoining properties.

WHEREAS, in accordance with the published notice those interested in the proposed amendment to the approved Southgate C-4 Development Plan, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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 amendments to the approved Southgate C-4 Development Plan for the property in the vicinity of 3221 Southeast 14th Street, and more specifically described below, are hereby overruled and the hearing is closed.

SOUTHGATE SHOPPING CENTER LOT 1; LOT 2 (EXCEPT THE NORTH 195.00 FEET OF THE EAST 131.40 FEET THEREOF); THE NORTH 330.00 FEET OF LOT 16; LOT 17; AND LOT 18 ALL IN THE OFFICIAL PLAT OF THE NORTHWEST QUARTER OF SECTION TWENTY-THREE (23), TOWNSHIP SEVENTY-EIGHT (78), RANGE TWENTY-FOUR (24) WEST OF THE 5TH P.M., DES MOINES, POLK COUNTY, IOWA; EXCEPT THE FOLLOWING:

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THE NORTH 330.00 FEET OF THE EAST 215.00 FEET OF LOT 16, AND THE SOUTH 70.00 FEET OF THE EAST 375.00 FEET OF LOT 16 EXCEPT THE EAST 215 FEET THEREOF, OF THE OFFICIAL PLAT OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 78, RANGE 24 WEST OF THE 5TH P.M., DES MOINES, POLK COUNTY, IOWA.

2. The proposed amended Southgate C-4 Development Plan is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan, subject to the conditions identified above.

3. The amended Southgate C-4 Development Plan for the Property described above, which is on file in the Community Development Department, is hereby APPROVED, subject to the plan being first amended to satisfy the conditions recommended by the Plan and Zoning Commission as set forth in the attached letter from the Planning Administrator, and subject to approval of such amendments by the Community Development Director.

MOVED by _____ to adopt and to approve the proposed amendment to the Southgate C-4 Development Plan.

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.

 City Clerk

 Mayor

April 15, 2013

Date _____

Agenda Item 47

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 4, 2013, the following action was taken regarding a request from Hy-Vee, Inc. (lessee) represented by John Brehm (officer) to amend the Southgate C-4 Development Plan for property at 3221 Southeast 14th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0-1 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 in conformance with the Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 10-1-1 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 & C) to approve the proposed amendment to the Southgate "C-4" Development Plan and the submitted Site Plan subject to the following conditions:
(ZON2013-00035 & 10-2013-7.89)

1. Compliance with all administrative review comments by the Permit and Development Administrator.
2. Extension of the proposed fueling area median to eliminate the western most access point near the SE 14th Street drive approach.
3. The "C-4" Development Plan and the Site Plan shall be updated to reflect the parking calculations identified in the staff report.
4. Compliance with the minimum open space requirement by the installation of additional parking lot islands along the western north/south drive aisle as approved by the Planning Director.
5. Relocation of the proposed ice chest and propane exchange unit to the area east of the convenience store building.
6. Provision of transom windows on the west and north facades that utilize clear or lightly tinted glass as approved by the Planning Administrator.
7. Provision of a note on the Building Elevations and Site Plan that states all rooftop mechanical equipment shall be screened from street view.
8. All utility meters shall be located on the east side of the convenience store building.
9. Fuel canopy columns shall be completely wrapped with masonry material that matches the primary building.
10. Identification of any proposed areas for outdoor display of seasonal merchandise.
11. Provision of a Site Plan note that states any free standing sign shall be a monument type.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends the Plan and Zoning Commission find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan.

Part B & C) Staff recommends approval of the proposed amendment to the Southgate "C-4" Development Plan and the submitted Site Plan subject to the following conditions:

1. Compliance with all administrative review comments by the Permit and Development Administrator.
2. Extension of the proposed fueling area median to eliminate the western most access point near the SE 14th Street drive approach.
3. The "C-4" Development Plan and the Site Plan shall be updated to reflect the parking calculations identified in the staff report.
4. Compliance with the minimum open space requirement by the installation of additional parking lot islands along the western north/south drive aisle as approved by the Planning Director.
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Written Responses

2 In Favor

0 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would bring the entire property under common zoning. Any future use or development on the property must be in accordance with a Site Plan as approved by the Permit and Development Center.
2. **Size of Site:** 15,370 square feet.
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.

4. **Existing Land Use (site):** The subject property contains a paved parking lot area that is within 10 feet of the adjoining residentially zoned property to the north and from the commercially zoned property to the east. It is setback five feet from the property line along Southwest 12th Street.

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

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

South – “C-2”, Uses are a commercial building on the subject parcel with office, retail, and repair shop uses and Ft. Des Moines Church of the Open Bible.

East – Limited “C-2”, Uses is undeveloped private open space supporting a site for an AutoZone automotive parts retail store.

West – “R-2” and “R1-60”, Uses are single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located behind a commercial building that sits along the Army Post Road major commercial corridor and a low-density residential neighborhood. It is within a transition area between the corridor and the low density residential neighborhood to the north.

7. **Applicable Recognized Neighborhood(s):** The subject property is within the Watrous South Neighborhood. This neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on February 1, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on February 1, 2013 (20 days prior) and February 11, 2013 (10 days prior to the scheduled hearing) to the Watrous South 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 was mailed to the neighborhood associations on February 15, 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 Watrous Neighborhood Association mailings were sent to James Spiller, PO Box 35845, Des Moines, IA 50315.

The applicant is required to hold a neighborhood meeting. The public hearing on the rezoning was deferred from the February 21, 2013 and March 7, 2013 agendas so that this neighborhood meeting could be held on March 21, 2013. The appellant will provide a summary of this meeting at the 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. **Site Plan Requirement:** Any future development upon the subject property would be subject to City's site plan requirements with regards to stormwater, paving material, landscaping, screening, etc. There is an approved Site Plan on file with the City. It was originally approved on January 13, 1982 and then amended to extend the paved parking area to the north on June 17, 1987. The Zoning Ordinance at that time allow for extension of paved parking areas up to 100 feet into adjoining residentially zoned property. The current approved site plan amendment has 10-foot paving setbacks from all residentially zoned properties with a six-foot screen fence. There were no minimum plant material requirements at the time of approval.
2. **2020 Community Character Plan:** The proposed "C-2" District would not be consistent with the current Low Density Residential future land use designation. It would require amendment to a Commercial: Auto-Oriented, Small-Scale Strip Development land use designation, the same as the balance of the subject parcel along Army Post Road. The automotive parts store property to the east has a similar depth of property with Limited "C-2" zoning that allows only uses as permitted in the "R-2" District, as well as business and profession offices as permitted in the "C-2" District.

Staff believes the request to amend the existing future land use designation from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development would be appropriate so long as permitted uses upon the property are limited to residential uses as permitted in the "R-2" District or commercial uses those as permitted in the "C-0" District, and accessory parking lots used for the temporary placement of operable motor vehicles as part of a permitted use in the adjoining "C-2". This would be similar with the limitations on property to the east

3. **Landscaping/Screening:** Given the close proximity of residential uses, any portion of property being rezoned should be brought into conformance with the City's current landscaping requirements. The City of Des Moines' Landscape Standards would require the following:

Perimeter Landscaping for 46 feet of frontage along Southwest 12th Street

- 7-foot paving setback (must remove about 2 feet of paving)
- Provide 1 overstory tree along SW 12th Street (1 per 50 lineal feet)
- Provide 3 shrubs along SW 12th Street (3 per 50 lineal feet)

Bufferyard Landscaping Requirements for 398 lineal feet of property line

- 10-foot wide paving setback (must remove 10 foot wide strip along west, north, and east)
- Provide 8 overstory trees (2 per 100 lineal feet)
- Provide 24 evergreen trees (6 per 100 lineal feet)

4. **Zoning Enforcement:** There is an active Zoning Enforcement case for the subject property initiated in 2010 that requires removing inoperable vehicles and portable accessory structures from the property and all vehicles parked within the 10-foot setbacks from adjoining residentially zoned property. The requested rezoning will not mitigate these violations.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

David Bailie 5820 Westown Parkway with Hy-Vee representing the applicant stated that they have been at this site since 1994 and is coming up on the end of their 20 year lease. This gave them the opportunity to approach their landlord with this plan for a convenience store at this location. The hours of operation would be 5:00 a.m. to 11:00 p.m. with an option of 24 hour pay at the pump if it is allowed by the City of Des Moines. They would offer the typical items that many of the other convenience stores offer. However, they will be offering something more. The fuel saver program is designed to reward their loyal customers. Therefore, the majority of the traffic stopping at our store will be the already existing traffic.

On March 21, 2013 they did hold a neighborhood meeting. They sent out 42 invitations and only 4 households were represented at the meeting. The concerns that were raised were the operation, condition and age of the grocery store. They agreed that the store is old and in need of remodeling. However, they pointed out that there has been some remodeling done to the store that the neighbors may have not been aware of, such as the customer service department. They added a postal substation, all new checkout lanes, new cash register system, new kitchen dining area, updated the lighting throughout the store, painted the interior walls on the sale floors, purchased 250 new carts and have added a dietitian to their staff. They also increased the fresh food offering and put a brand new roof on the store. They believe this demonstrates the intent of staying in this location and continue to invest in this property. They have updated the camera system and plan to install an underground cart containment system that will keep carts onsite. This request for a convenience store is a very important part of Hy-Vee. Subject to approval from the City of Des Moines remodeling of the grocery store would be scheduled for 2014.

Randy Downs with Hy-Vee Engineering Department 5820 Westown Parkway in West Des Moines went over the site plan. They worked with staff and agree to all of staff's recommendations. However, he would like to some clarification of condition #6 regarding the windows. Originally, at the site plan meeting staff told them that windows were required on street frontage. Asked if this requirement was an architectural guideline for a c-store or a requirement for tax abatement. He went on to explain the type of windows they are proposing that are double glass, sealed with argon gas, they paint the backside and then a drywall or plywood wall goes over that. Then the coolers are constructed along those windows inside the store.

Mike Ludwig explained that is a tax abatement standard for the windows to be on the street side and the additional information proposed at this meeting will be taken into consideration.

Will Page asked if Hy-Vee is proposing to implement only one sign as shown on the south building elevation and not on the north, west, or east elevations.

Randy Downs stated they have a new layout that they have worked on with their sign vendor and operation team and their understanding through staff that the signage is a separate permit process. If allowable by code they would like to put a fuel pricing sign on the west end of the north building elevation.

