

Date June 24, 2013


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 May 16, 2013, the members voted 10-1-1 to recommend **APPROVAL** of a request from Rich Eychaner (owner) to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development for property located at 3629 59<sup>th</sup> Street.

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 denied/approved.

MOVED by \_\_\_\_\_ to deny or approve the proposed amendment.

FORM APPROVED:

  
 Michael F. Kelley  
 Assistant City Attorney

(21-2013-4.12)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
<b>TOTAL</b>				
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

May 20, 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 May 16, 2013, the following action was taken regarding a request from Rich Eychaner (owner) to rezone property at 3629 59<sup>th</sup> Street.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 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			
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 existing Des Moines' 2020 Community Character Plan; Part B) to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development; and Part C) to approve the rezoning from "R-3" Multiple Residential District to a limited "C-2" General Retail and Highway Oriented Commercial District, to incorporate off-street parking area developed as part of the commercial center that was approved as an extension into the residentially zoned property, subject to the owner agreeing to the following conditions:

1. The following uses of the land and structures shall not be permitted upon the Property:
  - a. Adult entertainment business.
  - b. Delayed deposit services businesses.
  - c. General motor vehicle repair.
  - d. Liquor stores.



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

- e. Off premises advertising signs.
- f. Pawnbroker
- g. Taverns and nightclubs.
- h. Vehicle display lot.

2. No building shall be constructed on the southern 25 feet of the subject property so long as the adjoining property to the south is within an "R" District.

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

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

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development.

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

1. The following uses of the land and structures shall not be permitted upon the Property:
  - a. Adult entertainment business.
  - b. Delayed deposit services businesses.
  - c. General motor vehicle repair.
  - d. Liquor stores.
  - e. Off premises advertising signs.
  - f. Pawnbroker
  - g. Taverns and nightclubs.
  - h. Vehicle display lot.
2. No building shall be constructed on the southern 25 feet of the subject property so long as the adjoining property to the south is within an "R" District.

### **STAFF REPORT**

#### **I. GENERAL INFORMATION**

**1. Purpose of Request:** The owner is seeking a common zoning district for the entire property for a commercial center. The Site Plan for the commercial center was approved by the Plan and Zoning Commission on October 4, 2012 under design guidelines for extension of off-street parking into a more restrictive zoning district.

The commercial project, which is currently under construction, will include a 9,350-square foot commercial center and 64 off-street parking spaces for the Shops at Douglas that would access an existing driveway to 59<sup>th</sup> Street. A portion of the off-street parking would extend 85 feet into the current "R-3" district area that is the subject of the rezoning. This area would include approximately 16 off-street parking spaces.

**2. Size of Site:** 9,085 square feet.

3. **Existing Zoning (site):** "R-3" Multiple-Family Residential District.
4. **Existing Land Use (site):** A commercial center is currently being constructed on the subject property. There is an existing access drive from 59<sup>th</sup> Street to commercial property fronting Merle Hay Road.
5. **Adjacent Land Use and Zoning:**
  - North* – "C-2" & "C-4", Uses are Merle Hay Mall and restaurant pad sites.
  - South* – "R-3", Uses are two-family dwellings.
  - East* – "C-2" and Limited "C-2", Uses are off-street parking spaces, a commercial center, and a McDonald's restaurant.
  - West* – "C-2", Use is an Earl May garden center.
6. **General Neighborhood/Area Land Uses:** The subject property is located on the south side of the Douglas Avenue commercial corridor across from the Merle Hay Mall regional commercial center, and west of the Merle Hay Road commercial corridor.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Merle Hay Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on April 26, 2013. Additionally, separate notifications of the hearing for this item were mailed to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the rezoning on April 26, 2013 (20-days prior) and May 6, 2013 (10-days prior). A Final Agenda was mailed to the neighborhood association on May 10, 2013. All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Merle Hay Neighborhood Association notices were mailed to Steve Berry, 2743 53<sup>rd</sup> Street, Des Moines, IA 50310.
8. **Relevant Zoning History:** On March 26, 2001 the City Council rezoned the existing off-street parking lot to the east to a Limited "C-2" District with the following conditions:
  - A) The following uses of the land and structures shall NOT be permitted upon the property:
    1. Adult entertainment business.
    2. Used car sales lot.
    3. Taverns and nightclubs.
    4. Package goods store for the sale of alcoholic beverages.
  - B) No building shall be constructed upon the portion of the property located south of a line located 282 feet south of the current Douglas avenue right-of-way. No building shall be constructed on the west 50 feet of the property.
  - C) Commercial semi-trailer truck access to the site is restricted to Douglas Avenue right-of-way and Merle Hay Road. Owner will construct a height limitation bar at 11 feet in height on the east end of the drive to 59th Street to restrict semi-trailer truck access between the development and 59th Street.



- D) Limitation of semi-trailer deliveries to between the hours of 7:00 a.m. and 10:00 p.m.
- E) At the Site Plan approval stage, the Site Plan shall allow for a shared frontage access along Merle hay Road with the adjoining land to the south.

On October 4, 2012 the Commission approved a Site Plan which included the subject property and was subject to the following conditions:

1. Compliance with all administrative review comments by the Permit and Development Center.
2. Provision of a three-foot solid wooden screen fence adjoining the front yard of the two-family dwelling.
3. Provision of easements for permanent maintenance of buffer yard setbacks, plantings, and screen fencing for the proposed buffer yards on the adjoining residentially zoned property to the south.
4. Installation of a height limitation bar at the southwest drive entrance from 59th Street to prevent large trucks from passing in conformance with the zoning condition for the primary portion of the site. The bar may be removed at such time the property is rezoned and the condition is eliminated.

**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. **Drainage/Grading:** With the approved Site Plan, the developer's proposed stormwater management and grading/erosion control plans were also approved administratively. All storm water is proposed to drain into a commercial parking lot collection system and into the public storm sewer in 59<sup>th</sup> Street, with no new paved surfaces draining toward adjoining residences. The primary strategy for stormwater management includes underground storage beneath the paved parking lot.
2. **Landscaping & Buffering:** The approved Site Plan currently under development included extension of the screen fence along the south property line at a height of three feet along the front yard for the two-family dwelling. Also, easements were secured for maintaining landscaping and buffer yards within the adjoining residential property. The remainder of the Site Plan was approved by the Commission in accordance with the Des Moines Landscape Standards.
3. **Traffic/Street System:** Access to the site will be provided via cross access drive connections from existing commercial properties to the east as well as from the existing driveway on 59<sup>th</sup> Street and a new driveway to be developed onto 59<sup>th</sup> Street. Based on the previous zoning condition on the property to the east and the approved Site

Plan, an 11-foot height limitation bar is to be installed at the southwest drive entrance as part of the ongoing project.

4. **Parking:** The subject property will accommodate approximately 16 off-street parking spaces as part of the 64 space minimum necessary for the commercial center under development.
5. **2020 Community Character Plan:** The Des Moines' 2020 Community Character Plan identifies a narrow strip of Low-Density Residential for the area requested for rezoning. Amending the Plan to include the subject property within the Commercial, Auto-Oriented, Small-Scale Strip Development designation already along Douglas Avenue is appropriate as it is a minimal extension. This would not extend the designation further south than the same land use designation on the west side of 59<sup>th</sup> Street.

However, because the future commercial designation would become closer to the residential neighborhood to the south, conditions limiting the zoning would then be appropriate for its protection. Staff would recommend that the property not be used in support of the uses of adult entertainment businesses, delayed deposit services businesses, general motor vehicle repair, liquor stores, off-premises advertising signs, pawnbrokers, taverns/nightclubs, and vehicle display lots. Also, buildings should not be built any closer than 25 feet of the south property line. This would give approximately a 35-foot separation from the nearest residential dwelling to the south. The approved Site Plan conforms to this recommendation.

## **SUMMARY OF DISCUSSION**

JoAnne Corigliano asked if there was any neighborhood opposition.

Erik Lundy stated no.

JoAnne Corigliano stated then she is in favor of the applicant's request.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

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

## **COMMISSION ACTION:**

Greg Jones moved staff recommendation Part A) that the rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan; Part B) to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development; and Part C) to approve the rezoning from "R-3" Multiple Residential District to a limited "C-2" General Retail and Highway Oriented Commercial District, to incorporate off-street parking area developed as part of the commercial center that was approved as an extension into the residentially zoned property, subject to the owner agreeing to the following conditions:

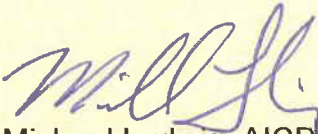
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- c. General motor vehicle repair.
- d. Liquor stores.
- e. Off premises advertising signs.
- f. Pawnbroker
- g. Taverns and nightclubs.
- h. Vehicle display lot.

2. No building shall be constructed on the southern 25 feet of the subject property so long as the adjoining property to the south is within an "R" District.

Motion passed 10-1-1 (Dann Flaherty voted in opposition and Mike Simonson abstained)

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

Request from Rich Eychaner (owner) to rezone property at 3629 59 <sup>th</sup> Street.				<b>File #</b>	
				<b>ZON2013-00059</b>	
<b>Description of Action</b>	Approval of a request to rezone property from "R-3" Multiple Residential District to a limited "C-2" General Retail and Highway Oriented Commercial District, to incorporate off-street parking area developed as part of the commercial center that was approved as an extension into the residentially zoned property subject to conditions.				
<b>2020 Community Character Plan</b>	Low- Density Residential (current) Commercial: Auto-Oriented Small-Scale Strip Development (proposed)				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"R-3" Multiple Residential District				
<b>Proposed Zoning District</b>	"C-2" General Retail and Highway Oriented Commercial 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>10-1-1</b>	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	<b>X</b>

Rich Eychaner - 3629 59th Street

ZON2013-00059





Item ZON2013-00059

Date May

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

(Circle One)

Print Name

Cindy + Wilma Brownbridge

Signature

Wilma Brownbridge

Address

3609-59th

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

I am in favor of such action  
with stipulation that parking  
only will be on such zoning floors

