

Date June 24, 2013

WHEREAS, on May 20, 2013 by Roll Call No. 13-0798, it was duly resolved by the City Council that the application of Scott Hartsook and Dennis Groenenboom (purchasers), Parker Street Foundation and Harold Wells (owners) to rezone certain property located in the vicinity of 3500 Kingman Boulevard from the R1-60 One-Family Low-Density Residential District to a Limited NPC Neighborhood Pedestrian Commercial District classification, more fully described below, be set down for hearing on June 10, 2013, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on May 30, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, at its noticed hearing on June 10, 2013, the City Council opened and continued the public hearing until June 24, 2013 at 5:00 p.m. in the Council Chambers at City Hall; and

WHEREAS, in accordance with the notice those interested in the 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:

Lots 1 and 2, Knox Place Plat 2, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from the R1-60 One-Family Low-Density Residential District to a Limited NPC Neighborhood Pedestrian Commercial District classification, subject to the following conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and are binding upon the owners and their successors, heirs and assigns as follows:

- (1) The use of the property shall be limited to the following:
 - (a) Any use as allowed and limited in the R1-60 District.
 - (b) Office space.
 - (c) Events center for meeting, reception, or assembly space.
- (2) Any use of the site and any future site modifications shall be in accordance with a Site Plan under the Design Guidelines for the NPC District as approved by the Plan & Zoning Commission.

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- (3) Any use of the building must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities.
- (4) In order to comply with minimum parking requirements, any use of the premises for an office and/or events center use shall occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.
- (5) The existing structure shall not be expanded and shall not be modified to alter the existing residential character.
- (6) The property shall not be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. However, caterers, residents, renters, and guests may serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements.
- (7) Hours of operation shall be limited to between 7:00 AM to 11:00 PM Sunday through Thursday and 7:00 AM to 12:00 Midnight Friday and Saturday, with all events ending by 10:00 PM Sunday through Thursday and 11:00 PM Friday and Saturday.
- (8) A 6-foot tall solid wood fence shall be provided along the west property line within the rear yard area, located on either the subject property or the adjoining property.
- (9) Signage on the premises shall be limited to one monument sign not to exceed 24 square feet.
- (10) The Site shall operate in compliance with article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).
- (11) Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City's Neighborhood Inspections Division.
- (12) Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.
- (13) Outdoor restroom facilities shall be prohibited unless otherwise required by law.

Date June 24, 2013

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property from R1-60 One-Family Low-Density Residential District to a Limited NPC Neighborhood Pedestrian Commercial District classification are hereby overruled, the hearing is closed, and the proposed rezoning to the Limited NPC Neighborhood Pedestrian District classification is hereby APPROVED.

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

FORM APPROVED:


 Michael F. Kelley
 Assistant City Attorney

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

CONDITIONS REQUESTED BY KNAPP 6/17/2013

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1. The use of the property shall be limited to the following:
 - a) Any use as allowed and limited in the "R1-60" District.
 - b) Office space.
 - c) Events center for meeting, reception, or assembly space for assemblies limited to 50 people.
2. Any use of the site and any future site modifications shall be in accordance with a Site Plan under the Design Guidelines for the "NPC" District as approved by the Plan & Zoning Commission.
3. Any use of the building must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities.
4. In order to comply with minimum parking requirements, any use of the premises for an office and/or events center use shall occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.
5. The existing structure shall not be expanded and shall not be modified to alter the existing residential character.
6. The property shall not be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. However, alcoholic liquor, wine, and/or beer may be served on the property by caterers for consumption by; residents, renters, and guests may serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements. Security personnel shall be present onsite at all times alcoholic liquor, wine, and/or beer are being served and consumed on the property.
7. Hours of operation shall be limited to between 7:00 AM to 9:00 PM Sunday through Thursday and 8:00 AM to 12:00 AM Friday and Saturday, with all events ending by 8:00 PM Sunday through Thursday and 11:00 PM Friday and Saturday.
8. A 6-foot tall solid wood fence shall be provided along the west property line within the rear yard area, located on either the subject property or the adjoining property.
9. Signage on the premises shall be limited to a monument sign not to exceed 24 square feet.
10. The Site shall operate in compliance with Article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).
11. Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City's Neighborhood Inspections Division.
12. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates. All trash must be enclosed in the conforming trash enclosure(s).
13. A buffer be provided that is deemed suitable by the applicant, neighbor and staff.
14. Outdoor restroom facilities shall be prohibited.
14. Assemblies greater than 30 people shall be limited to no more than two (2) events per month and twenty four (24) events per calendar year.
15. Property shall revert to R1-60 zoning as a result of any change in ownership, unless otherwise approved by Planning and Zoning and City Council.

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Scott Hartsook
Dennis Groenenboom
1134 38th Street
Des Moines, IA 50311
June 19, 2013

RECEIVED
COMMUNITY DEVELOPMENT
JUN 19 2013
DEPARTMENT

Mr. Michael Ludwig
Planning Administrator
602 Robert D. Ray Drive
Des Moines, IA 50309

Re: Rezoning of the Thoreau Center at 3500 Kingman Blvd.

Dear Mr. Ludwig:

Our application for rezoning the Thoreau Center at 3500 Kingman Blvd so that it can continue to be used as an event center for the Drake and surrounding neighborhoods as it has been for the past 35 years was the subject of a public hearing before the City Council on June 10, 2013. Our request for rezoning is supported by the Drake Neighborhood Association, the Plan and Zoning Commission, almost everybody who has heard that we have purchased the Center, and by most of the immediate neighbors of the Center.

At the City Council's hearing, Alicia and Eric Knapp, the neighbors who live immediately to the west of the Thoreau Center, made numerous comments about past problems. They had not reviewed the twelve restrictions on the rezoning that were recommended by the City's staff and the Plan and Zoning Commission, so the Council continued the public hearing for two weeks to allow us a chance to resolve any differences with the Knapps.

We met with you and the Knapps on Monday to discuss their concerns, and the changes in the restrictions that they wanted. It was unfortunate that we were not able to agree to all of their demands. As we said at the meeting, however, the restrictions recommended by the staff and the Plan and Zoning Commission, which include restrictions on hours of operation, noise and occupancy, should take care of the Knapps' legitimate concerns. Their other demands are unreasonable and will not allow the Thoreau Center to continue as a convenient and affordable community center where people in the Drake and surrounding neighborhoods can celebrate the important milestones in their lives, just as they have for 35 years.

As we have told many people, our intent is not to turn the Thoreau Center into a bustling event center that is in constant use. Our purpose in taking on this venture is to maintain an important, neighborhood institution, not manage a property that causes problems for our neighborhood or for us. We hope that the continuation of the Thoreau Center helps the neighborhood, rather than cause problems for it.

We have made a lot of concessions to the Knapps during the last several months to address their concerns. We first talked with the Knapps on the telephone in February. Their concerns at that

time were people parking on Kingman too close to their driveway, noise from the Thoreau Center, parties lasting until after midnight, and the Center being used for meetings of Alcoholics Anonymous and Narcotics Anonymous. We met with the Knapps by ourselves in April to discuss their concerns. They were also at the neighborhood meeting that we had with all of the neighbors, and at the Plan and Zoning Commission meeting. We subsequently agreed to the 12 restrictions that the staff recommended to address their concerns. The restrictions require events to end by 11:00 p.m., compliance with the city's noise ordinance, and limits on occupancy. We also told the Knapps that the AA and NA groups moved their meetings to another location and that we would not try to get them back to the Thoreau Center. We could not think of any way to address the parking close to their driveway other than to call the police when it occurs.

In prior years, there have been no limits on the hours of events at the Thoreau Center. Harold Wells, the previous owner, generally gave people access to the property and let them do whatever they wanted. He would then go to the property within the next day or two to check for damage. We will not operate in that manner. We will have specific rules about hours, noise and use of the property and we will require substantial damage deposits to make sure that the rules are followed. We will also make sure that one of us, or somebody we hire and trust, is at the property at the times that the events are to end to ensure that the events are ended on time and that the property is secured. We will also provide our telephone number to the Knapps, as well as to other nearby neighbors, almost all of whom are supportive of the Thoreau Center continuing as an events center. This management, along with the zoning restrictions regarding the hours of operation, size of events and noise should address most of the legitimate concerns raised by the Knapps.

Knapps would like events during weeknights to end at 8:00 p.m.. We do not think that is workable since many weeknight events would not even begin until 6:30 or 7:00, and would normally run for 2-3 hours. The weeknight events would normally be fundraisers, receptions connected with a business event, or some type of cultural event. One of the restrictions recommended by the staff and the Plan and Zoning Commission is that events end every night by 11:00 p.m., which is a much earlier ending time than at other event centers, even those that are in residential areas. This ending time, which we fully support and will enforce, should eliminate any noise, intoxication, fighting and other problems that have occurred in the past since those types of problems usually arise later at night. At our meeting on Monday, however, we agreed to again reduce the hours that the Thoreau Center can operate by agreeing to have the ending time of events be 10:00 p.m. on Sundays through Thursday.

In May, when the prior owners still owned the property, there was a weekend when a porta pottie was there all weekend. It was ordered by the people who were having a Saturday evening event. The prior owners told renters that they had to have a porta pottie if they were going to have more than fifty people. We will not continue that practice since the building department staff has told us that the restrooms inside the building are sufficient. The Knapps requested that we add a restriction that outdoor restroom facilities shall be prohibited. We have agreed to add this restriction, with the addition of the words "unless otherwise required by law." Our addition will allow us to be in compliance with city or county porta pottie restrictions in case construction laws would require them, or if the Drake Neighborhood Association would want to hold another outdoor event like the Kingman Island Cruise at the Thoreau Center. The city or county might

require a porta pottie for that type of event

Knapps mentioned some garbage piling up. That occurred in May when the prior owners did not pay their garbage collection bill and they were apparently unable to get collection started for 3-4 weeks. The excess garbage was outside for a couple of days until we noticed it and moved it into the garage. The garbage collection is now on a regular weekly basis and there should be no problems in the future.

Knapps mentioned that we might sell the property and it could then be used for all types of other commercial uses. As you know, this is not correct. Although the NPC zoning does allow lots of different uses, under the staff's first restriction, this rezoning limits the property to being used for uses allowed in a single-family residential R1-60 district, for office space, and as an events center. The restrictions apply to us and to anybody who owns the property in the future unless the property is rezoned again. We have to provide a written consent to the restrictions and the consent is recorded with the County Recorder so that future owners also know that they are bound by the restrictions.

Knapps mentioned parking problems. With the NPC zoning, we have sufficient parking on the property and on the street in front of the property to comply with the required parking under the zoning ordinance. We have also discussed parking with the Des Moines Fellowship Church which is our neighbor to the south. The Church supports the rezoning and will continue to allow our guests to use the church lot, just as it has in the past. The Church does not want us to use the lot on Sunday mornings or on Wednesday evenings, or when they have other church activities, so we will work with them so that we do not interfere with their parking. The lot has more than 100 parking spaces. The Knapp's other parking concern is that sometimes people park too close to their driveway and it is difficult for them to get in their drive. We do not know how we can address that other than to tell them to call the police if that happens.

At the Council meeting, the Knapps said an additional buffer between our properties would not help anything. We agree totally with them, mainly because there are already lots of trees, bushes and a fence that separates the two properties. Their home is also higher than our property, so additional fencing would not provide any benefit. Additionally, the west half of the Thoreau Center is basically a two-story brick house that already buffers the Knapps from the east part of the building where the events occur.

Several weeks ago there was a birthday party at the Thoreau Center on a Saturday night. We went over at 10:30 and parked in the church parking lot to the south. We thought the event must be winding down since we could not hear any music. We then got out and walked around the building. On the sidewalks along 35th and Kingman, music could be heard, although it was not loud enough to decipher the words. When we walked up into the yard between the Knapps house and the Thoreau Center, nothing could be heard. In short, the two-story portion of the house and the two-car garage to the west of the house act as a good sound barrier to prevent noise from going to the Knapp property. We have offered to agree to a requirement that a six-foot, wooden fence be erected along our properties in the side yard area, but the Knapps have not said that they want the fence, so we think the restriction requiring an additional buffer as agreed to by the staff, the Knapps and us should be eliminated.

Knapps also contend that since we will not have somebody living upstairs, and since we will have a big mortgage, that we will need to have more events than in the past to pay the bills. Although we do not intend to have people residing upstairs, we are going to rent the three upstairs rooms as office space in order to generate some income. We also will not have a mortgage on the property. Therefore, we will not need an excessive number of events in order to pay our expenses of maintaining this important neighborhood institution.

The Knapps' main demand now seems to be to require caterers and police to be present whenever alcohol is served. Since we are trying to keep this an affordable place for our neighbors, this is not a workable solution. It would cost our neighbors more to hold their events, or would be an added expense for us which would require us to hold more events to cover the extra costs. Other event centers, including those in residential areas, are not required to hire security for events, so that should not be required for the Thoreau Center.

Most people who hold events at the Thoreau Center go to Dahls or Hy-Vee to get some veggie and meat trays, along with various types of drinks. They can have a nice event for 75-100 relatives and friends for less than \$200 for food and drinks. If they had to hire a caterer and provide security because alcohol is served, they would be looking at an expense of \$1,000 or more, in addition to the cost of the space. This is not an affordable solution for our neighbors.

The Center is also used for a whole range of events at which alcohol will be served. There will be such things as business receptions, small art shows on Sunday afternoons, and fundraisers for various non-profits and other organizations. There will probably be wine or beer at those events, but we do not see any need for a police officer or a caterer at such events. We understand that the alcohol laws require caterers when hard liquor, but not wine and beer, is to be served, and one of the recommended restrictions require us to comply with all city and state alcohol laws. We do not think that a one-size-fits-all restriction makes sense. Since we, as the property owners, want to protect our property and ensure that the property has the support of the neighborhood, we should be allowed to use our best business judgment to decide when security measures are appropriate. We do not think that police security is necessary for most events and should not be a condition of the rezoning. Even the larger events probably do not need security people because of the early ending times that we have agreed to and since we will have people present at the end of the events. We are, however, thinking about requiring security for weddings that involve younger people.

Knapps have mentioned a shooting and other criminal activity. Prior to the Plan and Zoning Commission meeting, the staff obtained a report from the police department about police reports involving 3500 Kingman. During the one-year period prior to May, 2013, there were 12 police reports within a 500-foot radius of the property, none of which were attributed to activities or people at the Thoreau Center.

Finally, at our meeting on Monday, the Knapps wanted restrictions that would limit the events to 50 people and that would limit events with more than 30 people to 24 events per year. Occupancy limits are already regulated by the building code, and by restriction 4, which limits the building to 1,950 square feet of assembly space. We cannot agree to additional restrictions that would not allow the Thoreau Center to pay its expenses, or would require event fees to be so high that it would no longer be an affordable place for our neighbors.

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Again, we believe that the restrictions recommended by the staff and the Plan and Zoning Commission, which include restrictions on hours of operation and noise, take care of the Knapps' legitimate concerns. Their other demands are unreasonable and would not allow the Thoreau Center to continue as a convenient and affordable community center where people in the Drake and surrounding neighborhoods can celebrate the important milestones in their lives, just as they have for 35 years. Our request for rezoning is supported by the Drake Neighborhood Association, the Plan and Zoning Commission, almost everybody who has heard that we have purchased the Center, and by most of the immediate neighbors of the Center. We hope that the City Council will also support our rezoning application.

We appreciate the opportunity to provide this information to you. Please let us know if you need any additional information.

Sincerely,

Scott Hartsook
Dennis Groenenboom

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June 13, 2013

Michael Ludwig
City of Des Moines
Community Development department

Dear Mike,

This is just a short note to respond to your initial request for the rezoning of the Thoreau Center and our feelings regarding such rezoning.

The Thoreau Center has been a good neighbor for all the years we have been here and we strongly support the rezoning request.

I have lived across the street-directly east- of the center for the past 18 years and have never had a problem with noise or litter. I hope that this approval of what has been in existence for over 30 years will be approved.

I had responded favorably to your initial request but it apparently never made it to your office.

Thank you.



Sharon Sickles
1017 35th ST
DES MOINES IA 50311
515-971-4446