



Date September 9, 2013

WHEREAS, on August 26, 2013 by Roll Call No. 13-1322, it was duly resolved by the City Council that the application of Jake Christensen (developer) to rezone certain property located in the vicinity of 600 East 5<sup>th</sup> Street from the R-4 Multiple-Family Residential District to Limited C-3B Central Business Mixed Use District classification, more fully described below, be set down for hearing on September 9, 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 August 29, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, on August 15, 2013, the Plan and Zoning Commission recommended by a vote of 10-0 that the proposed rezoning be approved, subject to the conditions identified in the attached letter from the Planning Administrator; 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:

(except triangular piece on West side, being all West of line beginning in Northwest corner thence Southerly 419.20 feet to a point 65.34 feet East of Southwest corner) Lot 6, Block D, River Hills Plat 3, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from the R-4 Multiple-Family Residential District to Limited C-3B Central Business Mixed Use 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 following uses shall be prohibited:
  - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
  - b. Auction businesses.
  - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
  - d. Lumberyards, retail and wholesale.
  - e. Machine shops.
  - f. Freestanding package goods stores for the sale of alcoholic beverages.



Roll Call Number

Agenda Item Number

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Date September 9, 2013

- g. Pawnshops.
  - h. Printing, publishing houses and lithographing shops.
  - i. Plumbing and heating shops.
  - j. Miniwarehouse uses.
  - k. Freestanding taverns and night clubs.
  - l. Warehousing.
- (2) Any development or site modifications shall be in accordance with a Site Plan that satisfies the design guidelines for the C-3B District and Downtown Overlay District.
- (3) Any development or expansion of a multiple-family residential use shall be in accordance with a Site Plan that satisfies the design guidelines the Design Guidelines for Multiple-Family Residential use.

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 the R-4 Multiple-Family Residential District to Limited C-3B Central Business Mixed Use District classification have been considered, the hearing is closed, and the proposed rezoning to the Limited C-3B 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				

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.

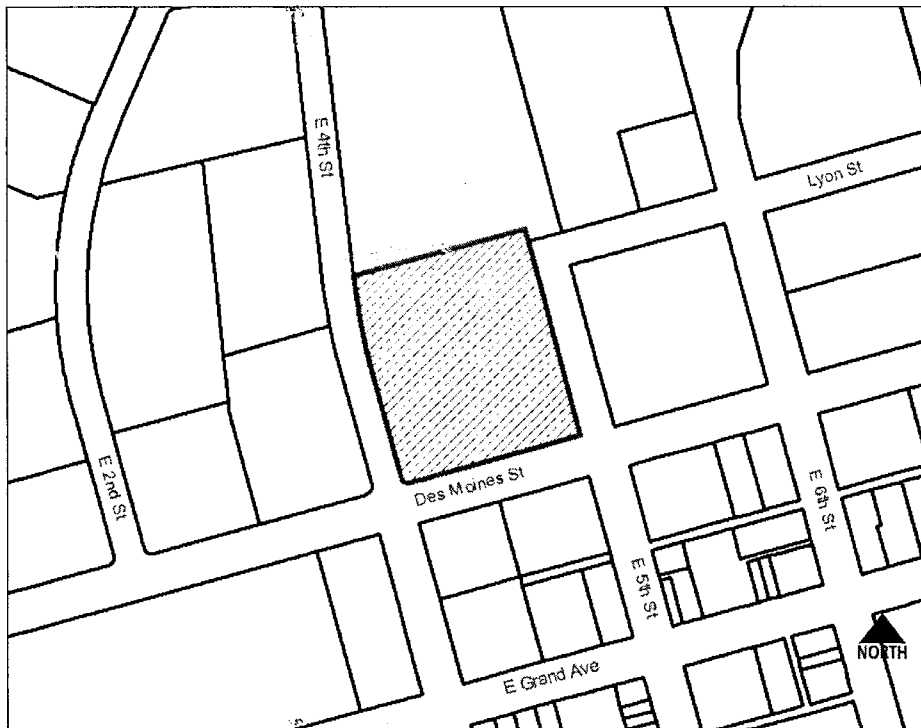
\_\_\_\_\_  
 City Clerk

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Request from Jake Christensen (developer) to rezone property at 600 East 5 <sup>th</sup> Street. The subject property is owned by LBA60, Inc.		<b>File #</b> ZON2013-00109		
<b>Description of Action</b>	Approval to rezone property from "R-4" Multiple-Family Residential District to "C-3B" Central Business Mixed Use District to allow use of the property for 103 multiple-family dwelling units, 19,433 square feet of area for a skilled nursing facility, and 4,392 square feet of area for a restaurant use subject to conditions.			
<b>2020 Community Character Plan</b>	High-Density Residential (current) Downtown Retail/Office Core/Core Fringe (proposed)			
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	"R-4" Multiple-Family Residential District			
<b>Proposed Zoning District</b>	"C-3B" Central Business Mixed Use District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	12-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No X

LBA 60 Inc. (Jake Christensen) - 600 East 5th Street

ZON2013-00109





August 21, 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 August 15, 2013, the following action was taken regarding a request Jake Christensen (developer) to rezone property at 600 East 5<sup>th</sup> Street. The subject property is owned by LBA60, Inc.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0 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			
CJ Stephens	X			
Vicki Stogdill				X
Greg Wattier	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

**APPROVAL** of Part A) to find the proposed rezoning is **not** in conformance with Des Moines' 2020 Community Character Plan future land use designation of High Density Residential; Part B) to approve an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from High Density Residential to Downtown Retail/Office Core/Core Fringe and Part C) to approve the rezoning to a Limited "C-3B" District subject to the following conditions: (21-2013-4.18 & ZON2013-00109)

1. The following uses shall be prohibited:
  - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
  - b. Auction businesses.
  - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
  - d. Lumberyards, retail and wholesale.
  - e. Machine shops.
  - f. Freestanding package goods stores for the sale of alcoholic beverages.

- g. Pawnshops.
  - h. Printing, publishing houses and lithographing shops.
  - i. Plumbing and heating shops.
  - j. Miniwarehouse uses.
  - k. Freestanding taverns and night clubs.
  - l. Warehousing.
2. Any development or site modifications shall be in accordance with a Site Plan that satisfies the design guidelines for the "C-3B" District and Downtown Overlay District.
  3. Any development or expansion of a multiple-family residential use shall be in accordance with a Site Plan that satisfies the design guidelines the Design Guidelines for Multiple-Family Residential use.

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

Part A) Staff recommends that the proposed rezoning be found not in conformance with the Des Moines' 2020 Community Character Plan future land use designation of High Density Residential.

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from High Density Residential to Downtown Retail/Office Core/Core Fringe.

Part C) Staff recommends the subject property be rezoned to a Limited "C-3B" District subject to the following conditions:

1. The following uses shall be prohibited:
  - a. Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
  - b. Auction businesses.
  - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
  - d. Lumberyards, retail and wholesale.
  - e. Machine shops.
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  - k. Freestanding taverns and night clubs.
  - l. Warehousing.
2. Any development or site modifications shall be in accordance with a Site Plan that satisfies the design guidelines for the "C-3B" District and Downtown Overlay District.
3. Any development or expansion of a multiple-family residential use shall be in accordance with a Site Plan that satisfies the design guidelines the Design Guidelines for Multiple-Family Residential use.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning to "C-3B" District would allow portions of the existing residential structure to be converted to commercial use. The applicant intends to convert 4,392 square feet of area within the existing building to a restaurant use. The balance of the building would be contain 103 multiple-family dwelling units and a skilled nursing facility within 19,433 square feet of area.

The "C-3B" District regulations and design guidelines are intended to establish a lively pedestrian-scaled, urban setting and assure that redevelopment is pedestrian-oriented and compatible with a mixed-use neighborhood. If rezoned to "C-3B" District, any redevelopment or site modifications would require future approval of a Site Plan and building elevations by the Plan and Zoning Commission in accordance with the "C-3B" Design Guidelines, as well as the design guidelines applicable in the Downtown Overlay District. Furthermore, any multiple-family residential development would be subject to the multiple-family residential design guidelines.

2. **Size of Site:** 3.35 acres.

3. **Existing Zoning (site):** "R-4" Multiple-Family Residential District and "DO" Downtown Overlay District.

4. **Existing Land Use (site):** The site contains an 11-story building that contains apartments for senior citizens and a parking lot. The westernmost 85 feet of the site is undeveloped. While this area significantly slopes down to the west, it could potentially be developed in the future.

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

*North* – "R-4"; Use is multiple-family residential (River Hills apartments).

*South* – "C-3B"; Use is off-street parking.

*East* – "R-3"; Use is multiple-family residential (Regency View Manor Houses townhomes).

*West* – "D-R"; Use is industrial/warehouse (Graybar Electric).

6. **General Neighborhood/Area Land Uses:** The surrounding area generally contains a mix of industrial, residential, and commercial uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Historic East Village Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on July 26, 2013. A Final Agenda was mailed to the neighborhood association on August 9, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on July 26, 2013 (20 days prior to the hearing) and August 5, 2013 (10 days prior to the hearing) to the Historic East Village Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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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 Historic East Village Neighborhood Association notices were mailed to Josh Garrett, PO Box 1782, Des Moines, IA 50305.

The applicant held their required neighborhood meeting on August 7, 2013. The applicant will present a summary of the neighborhood meeting at the Plan & Zoning Commission hearing.

8. **Relevant Zoning History:** NA.

9. **2020 Community Character Land Use Plan Designation:** High 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. **2020 Community Character Plan:** The Des Moines 2020 Community Character Plan Future Land Use Map designates the subject property as High Density Residential. Therefore, the appellant requested an amendment to Downtown Retail /Office Core/Core Fringe. The proposed "C-3B" District conforms to the intent of this future land use designation, which is described as follows:

*Downtown Retail /Office Core/Core Fringe: Intended to serve as an extension of the high density, compact, pedestrian-oriented shopping, office and financial area in the heart of downtown Des Moines.*

2. **Permitted Uses:** The following is the list of uses permitted in the "C-3B" District:

**Sec. 134-1006. Principal permitted uses.**

*Only the uses of structures or land similar to those that follow shall be permitted in the C-3B Central Business Mixed Use District:*

*(1) Any use permitted in and as limited in the C-2 district except the following uses which are prohibited:*

- a. Automobile, trailer, motorcycle, boat, and farm implement establishments for display, rental, and sales (including sales lots).*
- b. Mobile home parks.*
- c. Vehicle display lots.*
- d. Garage for general motor vehicle that includes major body and fender work or overall painting.*
- e. Automobile washing establishments unless all bays are normally enclosed and an attendant is on duty during all hours of operation.*
- f. Adult entertainment business.*
- g. Monument sales yards.*
- h. Sheet metal shops.*
- i. Sign painting shops.*



j. Off-premises advertising signs.

- (2) Assembly and packaging of small components from previously prepared materials within a fully enclosed building.
- (3) Manufacture or treatment of products within a fully enclosed building incidental to the conduct of a retail business carried out on the premises.
- (4) Printing and publishing houses.
- (5) Warehousing.
- (6) Machine shops.
- (7) Retail lumberyards.
- (8) Electrical substations and gas regulator facilities upon land held by the utility for that purpose on the date the land was placed within the C-3B District. Any new electrical substation or gas regulator facility, or expansion thereof, upon land not held by the utility for that purpose when the land was placed within the C-3B District, may be allowed only by special permit under the provisions of section 134-1326.
- (9) Combinations of the uses in subsections (1) through (8) of this section.

Staff believes that some of the uses allowed in the "C-3B" District are not appropriate for this specific location given the existing residential uses in close proximity. Uses that staff believes should be prohibited include assembly and packaging of small components from previously prepared materials within a fully enclosed building, auction businesses, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, retail and wholesale lumberyards, machine shops, freestanding package goods stores for the sale of alcoholic beverages, pawnshops, printing and publishing houses, plumbing and heating shops, miniwarehouse uses, freestanding taverns and night clubs, and warehousing.

- 3. **Parking & Access:** No off-street parking is required for any use in the "C-3B" Central Business Mixed-Use District. However, the applicant intends to retain the existing parking lot along the west side of the building and add off-street parking along the east side of the building. Any off-street parking that is provided must comply with City Code Section 134-1377 and all site plan regulations.
- 4. **"C-3B" District Design Guidelines:** If rezoned to "C-3B" District, any redevelopment or site modifications would require future approval of a Site Plan and building elevations by the Plan and Zoning Commission. A Site Plan has not been submitted for consideration at this time.
- 5. **Downtown Overlay District Design Guidelines:** The site is within the Downtown Overlay District. In acting upon any future site plan application for the site, the Plan and Zoning Commission shall apply the Downtown Overlay District design guidelines. A Site Plan has not been submitted for consideration at this time.
- 6. **Multiple-Family Residential Design Guidelines:** In acting upon any future site plan application that includes a multiple family dwelling, boardinghouse or roominghouse, the Plan and Zoning Commission shall apply the Multiple-Family Residential design guidelines. A Site Plan has not been submitted for consideration at this time.

**SUMMARY OF DISCUSSION**

There was no discussion.

**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) the proposed rezoning be found **not** in conformance with the Des Moines' 2020 Community Character Plan future land use designation of High Density Residential; Part B) to approve an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from High Density Residential to Downtown Retail/Office Core/Core Fringe; and Part C) to approve the rezoning of the subject property to a Limited "C-3B" District subject to the following conditions:

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Respectfully submitted,

  
 Michael Ludwig, AICP  
 Planning Administrator

MGL:clw

Attachment