



Date January 13, 2014

RESOLUTION SETTING HEARING ON A REQUEST FROM C&S PROPERTIES II, LC REPRESENTED BY CHRIS RISEWICK (OFFICER) TO REZONE PROPERTY LOCATED 4140 EAST 14TH STREET, TO ALLOW EXPANSION OF A LEGAL NON-CONFORMING LIGHT INDUSTRIAL USE WITH OUTDOOR STORAGE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 19, 2013, a motion was passed on a vote of 13-0 to recommend **APPROVAL** of a request from C & S Properties II, LC (owner) represented by Chris Risewick (officer) to rezone property located at 4140 East 14th Street from "C-2" General Retail and Highway-Oriented Commercial District to "Limited M-1" Light Industrial District, to allow expansion of a legal non-conforming light industrial use with outdoor storage subject to the applicant agreeing to the following conditions:

1. Only the following uses of land and structures shall be permitted on the property:
 - a) Any use allow in and as restricted in the "C-2" District, except the following uses which shall be prohibited upon the Property:
 - 1) Adult entertainment businesses.
 - 2) Taverns and nightclubs.
 - 3) Off-premises advertising signs additional to one existing 672-square foot off-premises sign with two faces which is to remain.
 - 4) Liquor stores/package goods store for the sale of alcoholic beverages.
 - 5) Pawn brokerages.
 - 6) Delayed deposit services.
 - b) Warehousing and outdoor contractor storage yard.
2. The existing non-conforming outdoor storage occurring on the property shall be relocated to be outside of any required front yard setback.
3. All overhead doors on any principal or accessory building shall not face residentially zoned property, unless determined by the Community Development Director that no other reasonable location for the overhead doors exist and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
4. Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.



Date January 13, 2014

WHEREAS, the subject property is more specifically described as follows:

Lots 21 and 22 (except the South 130.85 feet of Lots 21 and 22); Lot 23 (except the south 130.85 feet thereof); and all of Lots 24, 25, 26, 27, 28, 29 and 30, in SHAWNEE ACRES, 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 is to be considered shall be held in the Council Chambers at City Hall, at 5:00 p.m. on January 27, 2014, at which time the City Council will hear both those who oppose and those who favor the proposal.
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:

Roger K. Brown (signature)

Roger K. Brown
Assistant City Attorney

(ZON2013-00197)

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Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRAY, HENSLEY, MAHAFFEY, MOORE, VOSS, and 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

Date January 13, 2014

Agenda Item 29

Roll Call # _____

January 7, 2014

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 December 19, 2013, the following action was taken regarding a request from C & S Properties II, LC (owner) represented by Chris Risewick (officer) to rezone property located at 4140 East 14th 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				
Tim Fitzgerald	X			X
Dann Flaherty	X			
Jann Freed				
John "Jack" Hilmes	X			X
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

APPROVAL of a motion to find the proposed rezoning is not in conformance with the existing Des Moines' 2020 Community Character Plan future land use designations of Commercial: Auto-Oriented Small-Scale Strip Development, **APPROVAL** of the requested amendment to the Des Moines' 2020 Community Character Plan existing future land use designation from Commercial: Auto-Oriented Small-Scale Strip Development to General Industrial, and **APPROVAL** of the requested rezoning to "Limited M-1" Light Industrial District subject to the applicant agreeing to the following conditions:
(21-2013-4.24 & ZON2013-00197)

1. The only uses permitted in an "M-1" District shall be warehousing and outdoor contractor storage yard.
2. The following uses permitted within a "C-2" District shall be prohibited upon the Property:
 - a) Adult entertainment businesses.



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

- b) Taverns and nightclubs.
 - c) Off-premises advertising signs additional to one existing 672-square foot off-premises sign with two faces which is to remain.
 - d) Package goods store for the sale of alcoholic beverages.
 - e) Pawn brokerages.
 - f) Delayed Deposit services.
3. Existing non-conforming outdoor storage on the premises shall be relocated to be outside of any required front yard setback.
 4. All overhead doors on any principal or accessory building shall not face residentially zoned property, unless determined by the Community Development Director that no other reasonable location for the overhead doors exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
 5. Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" 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 future land use designations of Commercial: Auto-Oriented Small-Scale Strip Development.

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan existing future land use designation from Commercial: Auto-Oriented Small-Scale Strip Development to General Industrial

Part C) Staff recommends approval of the requested rezoning to "Limited M-1" Light Industrial District subject to the applicant agreeing to the following conditions:

1. The only uses permitted in an "M-1" District shall be warehousing and outdoor contractor storage yard.
2. The following uses permitted within a "C-2" District shall be prohibited upon the Property:
 - a) Adult entertainment businesses.
 - b) Taverns and nightclubs.
 - c) Off-premises advertising signs additional to one existing 672-square foot off-premises sign with two faces which is to remain.
 - d) Package goods store for the sale of alcoholic beverages.
 - e) Pawn brokerages.
 - f) Delayed Deposit services.
3. Existing non-conforming outdoor storage on the premises shall be relocated to be outside of any required front yard setback.

4. All overhead doors on any principal or accessory building shall not face residentially zoned property, unless determined by the Community Development Director that no other reasonable location for the overhead doors exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
5. Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.

Written Responses

- 2 In Favor
- 3 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to allow their tenant (Seneca Companies) to construct additional warehouse buildings on the property and to bring the existing use involving outdoor storage more in conformance with the intent of the Zoning Ordinance.
2. **Size of Site:** 4.9 acres.
3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District and "VDL" Vehicle Display Lot Overlay District.
4. **Existing Land Use (site):** The site contains a 30,454-square foot building with commercial offices and warehouse uses, and a 6,000-square foot repair shop building. The property also includes 136,600-square feet of paving for off-street parking, loading, and outdoor storage. There is an existing off-premise sign with two (2) 672-square foot faces located at the southeastern portion of the site.
5. **Adjacent Land Use and Zoning:**
 - North* - "C-2", Uses are vehicle display lot and a mobile home park.
 - South* - "C-2" & "R1-60", Uses are trailer display lot and single-family dwellings.
 - East* - "C-2", Use is a vehicle display lot.
 - West* - "R1-60", Uses are vacant open space and single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The site is located at the intersection of Aurora Avenue and East 14th Street (U.S. Hwy 69).
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Highland Park Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on December 2, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on November 27, 2013 (20 days prior) and December 9, 2013 (10 days prior to the originally scheduled hearing) 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 September 27, 2013.

The Highland Park Neighborhood mailings were sent to Trudy McCormick, 1226 East Oak Park Avenue, Des Moines, IA 50313.

The applicant held a neighborhood meeting on December 11, 2013. The applicant will provide a summary of the meeting at the public hearing.

8. Relevant Zoning History: None.

9. 2020 Community Character Land Use Plan Designation: Commercial: Auto-Oriented, Small-Scale Strip Development.

10. Applicable Regulations: The Commission reviews all proposals to amend zoning boundaries or regulations 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 make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. Landscaping & Buffering: Any development of the site is subject to administrative approval of a Site Plan by the City's Permit & Development Center. The Site Plan must be in compliance with the Des Moines Landscape Standards. Because of the location of the subject property on a landscape enhancement corridor, all landscaping must be in accordance with standards applicable in "C-2" Districts. The "C-2" standards increase the required number of plantings as compared to the "M-1" standards. Entire site conformance with the landscape standards will likely not be triggered with the proposed warehouse development. However, proposed paving, building and outdoor storage areas will be subject to open space and bufferyard planting requirements.

The existing site provides a solid wood screen fence on the west and south sides where the site adjoins residential zoned property. Additional property owned by the applicant outside of the rezoning area to the west and south is zoned "R1-60". Surrounding this property is a 6 to 7-foot chain-link fence topped with triple-strand barbed wire. It has been determined that this fence was in place when the applicant acquired the property in 2000. However, there is no evidence of any special zoning relief that would have allowed this fence. Based on a review and determination of the Zoning Enforcement Officer, retention of the fence within the residentially zoned portion of the property may be subject to an appeal to be considered by the Zoning Board of Adjustment.

2. Drainage/Grading: The applicant is required to demonstrate compliance with the City's stormwater management requirements to the satisfaction of the Permit & Development Center. All grading is subject to an approved grading permit and soil erosion control plan. Any tree removal is subject to compliance with the City's Tree Preservation and Mitigation Ordinance.

3. Access and Parking: Access to the site would continue to be provided from the existing access drives approaches, including two from East 14th Street and two from Aurora Avenue. The submitted site sketch shows the parking lot between the building and the frontage road in the same general configuration as it currently exists.

4. **Outdoor Storage:** The site currently has outside storage related to remediation staging located within the front yard setback along Aurora Avenue. The proposed site sketch submitted with the rezoning application proposes to shift this storage outside of the front yard setback. Staff recommends that this be a condition of the rezoning agreed to by the applicant. There is also an area on the northwest side of the site that has been used for parking or outside storage, which has a gravel surface. This area will require paving for any off-street parking, loading, or maneuvering or a dustless material for any storage.
5. **2020 Community Character Plan:** While the site is located on a high-volume commercial corridor, it is also located in close proximity to residential development to the north, west, and south. In order to determine that the proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan, the future land use designation must be amended from Small-Scale Strip Development to General Industrial. The site is contiguous to industrial development in Polk County to the northeast across East 14th Street. However, in order to protect the nearby residential district staff believes that only the existing contractor office and storage use should be permitted. In addition to that limitation, the owner has also agreed to prohibit used car sales lots, taverns and night clubs, adult entertainment businesses, and additional off-premises advertising signs over the one existing. Used car lots are already prohibited by the VDL Overlay District. Additionally, staff recommends prohibiting the following uses in order to protect the nearby residential areas: package goods liquor store for the sale of alcoholic beverages, pawn brokerages, and delayed deposit services businesses.
6. **Urban Design:** Given the high visibility of the site and its proximity to residential uses, staff recommends that as a condition of the requested rezoning that any developed overhead doors on any principal or accessory building shall not face residentially zoned properties. It is recommended that this be required unless no other reasonable location for the overhead doors exists, as determined by the Community Development Director, and so long as they are adequately screened and designed in such a manner that their visual impact would be minimal.

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.

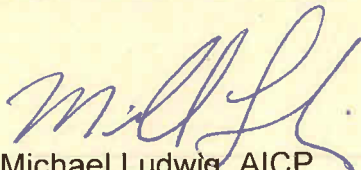
COMMISSION ACTION:

Greg Jones moved staff recommendation for approval to find the requested rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan future land use designations of Commercial: Auto-Oriented Small-Scale Strip Development, **APPROVAL** of the requested amendment to the Des Moines' 2020 Community Character Plan existing future land use designation from Commercial: Auto-Oriented Small-Scale Strip Development to General Industrial, and **APPROVAL** of the requested rezoning to "Limited M-1" Light Industrial District subject to the applicant agreeing to the following conditions:

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 - d) Package goods store for the sale of alcoholic beverages.
 - e) Pawn brokerages.
 - f) Delayed Deposit services.
- 7. Existing non-conforming outdoor storage on the premises shall be relocated to be outside of any required front yard setback.
- 8. All overhead doors on any principal or accessory building shall not face residentially zoned property, unless determined by the Community Development Director that no other reasonable location for the overhead doors exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
- 5. Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.

Motion passed 13-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

