



Date February 24, 2014

RESOLUTION SETTING HEARING ON REQUEST FROM TIM THELEN,
TO REZONE PROPERTY LOCATED AT 1159 24TH FROM “C-1”
NEIGHBORHOOD RETAIL COMMERCIAL DISTRICT TO LIMITED “NPC”
NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT, TO ALLOW
USE OF THE PREMISES AS A CARPENTER SHOP FOR GUITAR MAKING

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on February 6, 2014, its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from Tim Thelen (owner) to rezone property located at 1159 24th Street from “C-1” Neighborhood Retail Commercial District to limited “NPC” Neighborhood Pedestrian Commercial District, to allow use of the premises as a carpenter shop for guitar making subject to the owner agreeing to prohibit the following uses of the property.

1. Taverns and nightclubs;
2. Billiard parlors/game rooms;
3. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
4. Delayed deposit service businesses;
5. Pawn brokers;
6. Gas stations/convenience stores;
7. Off premises advertising signs; and,
8. Liquor stores and package goods stores for the sale of alcoholic beverages.

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

Lot 22, DRAKE UNIVERSITY 3RD ADDITION, 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, City Hall, Des Moines, Iowa at 5:00 p.m. on March 10, 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.



Roll Call Number

Agenda Item Number

25

Date February 24, 2013

-2-

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
Assistant City Attorney

(ZON2013-00203)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GRAY | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| MOORE | | | | |
| VOSS | | | | |

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

2-24-14

February 14, 2014

Honorable Mayor and City Council
City of Des Moines, Iowa

Agenda Item 25

Roll Call # _____

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held February 6, 2014, the following action was taken regarding a request from Tim Thelen (owner) to rezone property located at 1159 24th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:

| Commission Action: | Yes | Nays | Pass | Absent |
|--------------------|-----|------|------|--------|
| Dory Briles | | | | X |
| JoAnne Corigliano | X | | | |
| Jacqueline Easley | | | | X |
| Tim Fitzgerald | X | | | |
| Dann Flaherty | | | | X |
| Jann Freed | 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 |

APPROVAL of staff recommendation to find the proposed rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan designations of Low-Density Residential; **APPROVAL** of an amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low/Medium Density Residential to Commercial: Pedestrian-Oriented, Commercial Corridor; and **APPROVAL** of the request to rezone from "C-1" Neighborhood Retail Commercial District to limited "NPC" Neighborhood Pedestrian Commercial District, to allow use of the premises as a carpenter shop for guitar making subject to the owner agreeing to prohibit the following uses of the property:

(21-2013-4.27 & ZON2013-00203)

1. Taverns and nightclubs;
2. Billiard parlors/game rooms;

3. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
4. Delayed deposit services;
5. Pawn brokers;
6. Gas stations/convenience stores;
7. Off premises advertising signs; and,
8. Liquor stores.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan designations of Low-Density Residential.

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low/Medium Density Residential to Commercial: Pedestrian-Oriented, Commercial Corridor.

Part C) Staff recommends approval of the requested rezoning subject to the owner agreeing to prohibit the following uses of the property.

1. Taverns and nightclubs;
2. Billiard parlors/game rooms;
3. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
4. Delayed deposit services;
5. Pawn brokers;
6. Gas stations/convenience stores;
7. Off premises advertising signs; and,
8. Liquor stores.

Written Responses

9 In Favor

1 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The subject property is currently occupied by the Sonic Factory music recording studio, the Lutherie Shop instrument repair, and empty retail space formerly a video rental/sales store. These uses are considered permitted uses under the existing zoning. The applicant is seeking to expand guitar making as a more predominant element of the music instrument repair business. Guitar making is considered to be carpenter and cabinetmaking shops which are not considered a "C-1" District permitted use.

The proposed rezoning would allow the property to continue to be used for the existing commercial uses while allowing the building to be reconfigured to allocate more space for the guitar making business as a primary use. If the property is rezoned to "NPC"

District, any future site modifications or redevelopment would require approval of a Site Plan and building elevations by the City's Plan and Zoning Commission in accordance with the "NPC" Design Guidelines.

2. **Size of Site:** 40 feet by 160 feet (6,400 square feet).
3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District.
4. **Existing Land Use (site):** The site contains a 40-foot by 160-foot (6,400 square feet) building that has been occupied as The Lutherie Shop, Sonic Factory music studios, and Best Place Ever video store.
5. **Adjacent Land Use and Zoning:**
 - North* – "C-1"; Uses are professional offices and fitness/dance studio.
 - South* – "C-1"; Use is offices for Drake University Army ROTC.
 - East* – "NPC"; Uses are multiple-family row house residential units.
 - West* – "PUD"; Use is off-street parking for both Holiday Inn Express hotel and Drake Legal Clinic.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the east side of 24th Street just south of University Avenue. The site is in an area that includes a mix of residential and commercial uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Drake Neighborhood. This neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on December 30, 2013 and a Final Agenda on January 6, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2013 (20 days prior to public hearing) and January 6, 2014 (10 days prior to the public hearing) to the Drake Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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 Drake Neighborhood Association notices were mailed to Deric Gourd, 2422 Drake Park Avenue, Des Moines, IA 50311.

The applicant held their neighborhood meeting on January 6, 2014. The applicant will report on their neighborhood meeting at the hearing.
8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** The subject property is located within an area designated on the Des Moines' 2020 Community Character Plan future land use map as Low/Medium Density Residential. The applicant has requested an amendment to the Commercial: Pedestrian-Oriented Commercial Corridor

designation to allow for the proposed rezoning.

- 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 Land Use Plan:** The proposed “NPC” District requires the Des Moines’ 2020 Community Character Plan to be amended to revise the future land use designation for the property from Low/Medium Density Residential to Commercial, Pedestrian-Oriented Commercial Corridor.

In 2011, the City adopted the Drake Neighborhood Action Plan to guide future development and redevelopment within the neighborhood. That Plan proposes preserving the low/medium density character of the residential areas that are not located along the major corridors, such as University Avenue and Forest Avenue. The subject property is within a small node of properties which have been developed for commercial use, are zoned commercially, and adjoin the properties fronting the University Avenue commercial corridor where it transitions to a residential neighborhood.

Because of the physical form and character of the zero setback commercial buildings, staff believes that an “NPC” District is more appropriate for potential future redevelopment in this location than the alternative “C-2” District, which is more suited for highway commercial corridor development. Due to the transition to a neighborhood, staff further believes that certain uses permitted in “NPC” Districts would not be appropriate for the subject property to include: taverns and nightclubs, billiard parlors/game rooms, communication towers/antennas (excluding an extension of 20 feet or less from an existing structure, delayed deposit services, pawn brokers; gas stations/convenience stores, off premises advertising signs and liquor stores.

- 2. Parking & Access:** Any intensification of use of the property must comply with current off-street parking requirements. The parking standards for the “NPC” District do allow for a 40% reduction to the required off-street parking and allow for on-street parking spaces to be counted towards meeting the parking requirement if they adjoin the subject property. At the current time the building covers the entire property and no parking is provided. The applicant currently leases parking and has easement to access the building from the parking through property to the north. In this instance the proposal does not add area devoted to any use which would increase the parking requirement. If this were to occur in the future, a Site Plan review by the Commission would be necessary to determine the parking requirement.

- 3. Permit & Development Center Comments:** Any renovation of the building must be in compliance with applicable Building and Fire Codes, with issuance of any necessary permits by the Permit and Development Center.

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:

Ted Irvine moved **APPROVAL** of staff recommendation to find the proposed rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan designations of Low-Density Residential; **APPROVAL** of an amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low/Medium Density Residential to Commercial: Pedestrian-Oriented, Commercial Corridor; and **APPROVAL** of the request to rezone from "C-1" Neighborhood Retail Commercial District to limited "NPC" Neighborhood Pedestrian Commercial District, to allow use of the premises as a carpenter shop for guitar making subject to the owner agreeing to prohibit the following uses of the property:

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4. Delayed deposit services;
5. Pawn brokers;
6. Gas stations/convenience stores;
7. Off premises advertising signs; and,
8. Liquor stores.

Motion passed 9-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

| | | | | |
|--|--|--------------------------------|--|--------------|
| Tim Thelen (owner) for property located at 1159 24th Street. | | File # ZON2013-00203 | | |
| Description of Action | Approval of request to rezone from "C-1" Neighborhood Retail Commercial District to limited "NPC" Neighborhood Pedestrian Commercial District, to allow use of the premises as a carpenter shop for guitar making subject to conditions. | | | |
| 2020 Community Character Plan | Low/Medium Density Residential. (current) Commercial: Pedestrian-Oriented, Commercial Corridor. (Proposed) | | | |
| Horizon 2035 Transportation Plan | No Planned Improvements. | | | |
| Current Zoning District | "C-1" Neighborhood Retail Commercial District. | | | |
| Proposed Zoning District | "NPC" Neighborhood Pedestrian Commercial District. | | | |
| Consent Card Responses | In Favor | Not In Favor | Undetermined | % Opposition |
| Inside Area | 9 | 1 | | |
| Outside Area | | | | |
| Plan and Zoning Commission Action | Approval | 9-0 | Required 6/7 Vote of the City Council | Yes |
| | Denial | | | No |

Tim Thelen, 1159 24th Street

ZON2013-00203



