

Date..... March 10, 2014.....

RESOLUTION CLOSING HEARING ON APPLICATION OF TIM THELEN TO REZONE PROPERTY IN THE VICINITY OF 1159 24th STREET FROM THE "C-1" NEIGHBORHOOD RETAIL COMMERCIAL DISTRICT TO A LIMITED "NPC" NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT AND CONDITIONALLY APPROVING SAME

WHEREAS, on February 24, 2013, by Roll Call No. 14-0283, it was duly resolved by the City Council that the application of Tim Thelen to rezone certain property he owns in the vicinity of 1159 24th Street, more fully described below, be set down for hearing on March 10, 2014, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on February 27, 2007, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

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

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.

from the "C-1" Neighborhood Retail Commercial District to a Limited "NPC" Neighborhood Pedestrian Commercial District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

The following uses of land and structures shall be prohibited upon 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;

(continued)

Date

 March 10, 2014

- 7. Off premises advertising signs; and,
- 8. Liquor stores and package goods stores for the sale of alcoholic beverages.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited "NPC" Neighborhood Pedestrian Commercial District are hereby overruled, and the hearing is closed.

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

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

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

G:\SHARED\LEGAL\BROWN\REZONING\Thelen\Ltd Rezoning.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
GATTO				
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

34B

CITY OF DES MOINES PLAN & ZONING COMMISSION
STAFF REPORT AND RECOMMENDATION
Thursday, February 6, 2014

AGENDA ITEMS #6A – #6C

21-2013-4.27 & ZON2013-00203

Applicant: Tim Thelen (owner).

Location: 1159 24th Street.

Requested Action: Part A) Determination as to whether the proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan.

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

Part C) Rezone from "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District, to allow use of the premises as a carpenter shop for guitar making.

This item was continued from the January 16, 2014 Plan & Zoning Commission meeting.

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.

III. STAFF RECOMMENDATION

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.

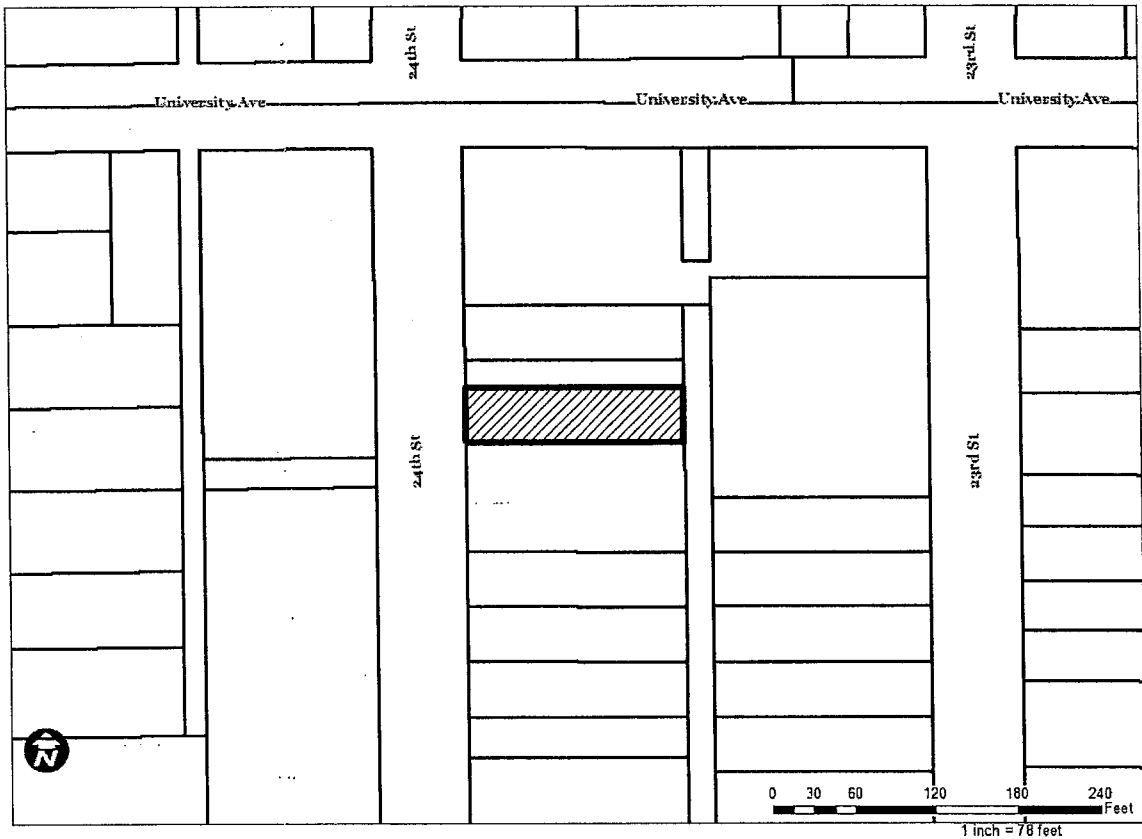
1. Taverns and nightclubs;
2. Billiard parlors/game rooms;
3. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
4. Delayed deposit services;
5. Pawn brokers;
6. Gas stations/convenience stores;
7. Off premises advertising signs; and,
8. Liquor stores.

34B

Tim Thelen (owner) for property located at 1159 24th Street.				File #	
				21-2014-4.27	
Description of Action		Amend the Des Moines' 2020 Community Character Plan future land use designation from Low/Medium Density Residential to Commercial: Pedestrian-Oriented, Commercial Corridor.			
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					
Outside Area					
Plan and Zoning Commission Action		Approval		Required 6/7 Vote of the City Council	
		Denial			
				Yes	
				No	

Tim Thelen, 1159 24th Street

21-2013-4.27



34B

Tim Thelen (owner) for property located at 1159 24th Street.			File #	
			ZON2013-00203	
Description of Action	Rezone from "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District, to allow use of the premises as a carpenter shop for guitar making.			
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				
Outside Area				
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes
	Denial			No

Tim Thelen, 1159 24th Street

ZON2013-00203

