



Date May 5, 2014

HEARING ON REQUEST FROM ARIK PETERSON, D/B/A AS A DAD, LLC, FOR AN AMENDMENT TO THE SAWYERS LANDING PUD CONCEPTUAL PLAN ON PROPERTY AT 4820 SAWYERS DRIVE, TO ALLOW ACCESSORY USE OF THE SINGLE-FAMILY DWELLING PROPERTY FOR A HOME OCCUPATION CONSISTING OF BICYCLE RENTAL

WHEREAS, on April 21, 2014, by Roll Call No. 14-0614, it was duly resolved by the City Council, that a public hearing to be held on May 5, 2014, at 5:00 p.m., in the Council Chambers at City Hall, to consider a proposal from Arik Peterson (owner) d/b/a As a Dad, LLC , to amend the approved Sawyers Landing "PUD" Planned Unit Development District Conceptual Plan for property he owns in the vicinity of 4820 Sawyers Drive, to allow accessory use of the single-family dwelling property for a home occupation business consisting of bicycle rental; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on April 25, 2014, as provided by law, setting forth the time and place for hearing on said proposed amendment to the approved "PUD" Conceptual Plan; and,

WHEREAS, the Plan and Zoning Commission has recommended that the proposed amendment to the approved "PUD" Conceptual Plan be approved, subject to the amendment being first modified to incorporate the following conditions:

1. No more than four (4) bicycles shall be leased from the premises.
2. Any home occupation shall uphold the intent and spirit of the standards in Section 134-1326(10) of the Zoning Ordinance and applicable to home occupations in other zoning districts.
3. Hours of operation of the bicycle rental business shall occur only between the hours of 7:00 am and 9:00 pm on Fridays, Saturdays, Sundays and recognized holidays.
4. Any business shall only be in effect for so long as the premises are owned and occupied by the applicant.
5. Should the business be determined to be operating detrimentally to the surrounding neighborhood area, the Zoning Enforcement Officer may initiate the process to repeal the amendment.

WHEREAS, in accordance with the published notice those interested in said proposed amendment to the approved "PUD" Conceptual Plan, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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 said proposed amendments to the approved "PUD" Conceptual Plan for



Roll Call Number

Agenda Item Number

44

Date May 5, 2014

the property in the vicinity of 4820 Sawyers Drive, and more specifically described below, are hereby overruled and the hearing is closed.

Lot 93, Sawyer's Landing Plat 1, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

2. The proposed amendment to the approved "PUD" Conceptual Plan is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan, subject to the conditions identified above.

3. The proposed amendment to the Sawyers Landing "PUD" Planned Unit Development District Conceptual Plan for the Property described above, which is on file in the Community Development Department, is hereby approved, subject to the amendment being first amended to incorporate the conditions listed above, and subject to approval of such amendments by the Community Development Director.

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown

Assistant City Attorney

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

Peterson, 4820 Sawyer's Drive

ZON2014-00022A





April 15, 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 April 3, 2014, the following action was taken regarding a request from Arik Peterson (owner) d/b/a As a Dad, LLC for review and approval of an amendment to the Sawyers Landing PUD Conceptual Plan on property at 4820 Sawyers Drive.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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 an amendment to the Sawyer's Landing PUD to allow a home occupation at 4820 Sawyers Drive to operate a bicycle rental business, subject to the following conditions: (ZON2014-00022)

1. No more than four (4) bicycles shall be leased from the premises.
2. Any home occupation shall uphold the intent and spirit of standards applicable to other Zoning District found in Section 134-1326(10) of the Zoning Ordinance.

3. Hours of operation of the bicycle rental business shall occur between the hours of 7:00 am and 9:00 pm on Friday, Saturday, Sunday and recognized Holidays.
4. Any business shall only be in effect for so long as the premises are owned and occupied by the applicant.
5. Should the business be determined to be operating detrimentally to the surrounding neighborhood area, the Zoning Enforcement Officer may initiate the process to repeal the amendment.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the rezoning in conformance with the Commercial: Auto-Oriented Small-Scale Strip Development future land use designation in the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends denial of the requested rezoning to "C-2" on the basis that the surrounding commercial corridor in the vicinity is predominantly zoned "C-1".

Written Responses

- 3 In Favor
- 1 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The subject property is a single-family residence within the Sawyers Landing single-family residential Planned Unit Development.

The applicant is proposing to rent four (4) "fat-tire", year-round bicycles for use by the general public. It is indicated that there would be no sales, maintenance or repair of bicycles or accessories as part of this business. The proposed hours of operation are Friday 4:00 pm – 9:00 pm, and Saturday & Sunday 7:00 am – 9:00 pm. The applicant would be the sole employee and proprietor.

2. **Size of Site:** 66 feet by 225 feet irregular shaped (14,850 square feet).
3. **Existing Zoning (site):** "PUD" Planned Unit Development (Sawyer's Landing).
4. **Existing Land Use (site):** The property contains a 1,398-square foot one-story single-family dwelling.

5. Adjacent Land Use and Zoning:

North – “PUD”; Uses are single-family dwellings.

South – “PUD”; Uses are single-family dwellings.

East – “PUD”; Uses are single-family dwellings.

West – “R1-60”; Uses are single-family dwellings.

6. General Neighborhood/Area Land Uses: The subject property is located within a predominantly single-family residential neighborhood area.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Lower Beaver Neighborhood. This neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on March 14, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on March 14, 2014 (20 days prior to public hearing) and March 24, 2014 (10 days prior to the public hearing) to the Lower Beaver Neighborhood Association and 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 March 28, 2014.

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 Lower Beaver Neighborhood Association notices were mailed to Brian Millard, 3920 Lynner Drive, Des Moines, IA 50310.

The applicant will report a summary of their neighborhood engagement at the hearing.

8. Relevant Zoning History: The Sawyer’s Landing PUD zoning was approved on May 7, 2007. The Conceptual Plan did not provide for home occupation uses which would not be considered by-right accessory use for single-family dwellings.

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 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.

The Commission further reviews any amendments to Planned Unit Development proposed after its approval by the City Council in the same manner as the original rezoning in accordance with Section 134-700 of the Zoning Ordinance.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Parking & Access:** The applicant is projecting that 70% of the renters will pick up the bicycles and take them to another location within a 30 miles radius. Maps would be provided in order to encourage riders use approved and clearly marked trails in the metro area. It is further anticipated there would be 2-6 rentals per weekend with renters coming in pairs typically. Parking would occur on the street or in the private driveway. With four bikes the worst case scenario would be four vehicles parked near the residence for a few hours. Staff does not believe that the business as proposed would cause undue parking congestion on the surrounding streets.
2. **Permit & Development Center Comments:** The business is proposed to use a 4-foot by 10-foot area within the attached garage for the storage of bikes. Renters would not enter the house. This minor level of use would not drive any requirements under the adopted Building and Fire Codes. The premises would therefore maintain its residential character.
3. **Staff Rationale:** In a standard residentially zoned district, this type of request would be review by the Board of Adjustment under the standards listed in Section 134-1326(10) of the Zoning Ordinance as follows:

Sec. 134-1326. Uses allowed by special permit.

(10) Home occupations, subject to the following requirements:

- a. *The occupation shall be clearly incidental to or secondary to the residential use of the premises.*
- b. *No more than two non-resident individuals shall be engaged or employed in the business upon the premises.*
- c. *One sign advertising the business is allowed, attached to the residence. Such sign not to exceed one square foot in total area. Free-standing signs are not permitted.*
- d. *The occupation shall not cause or produce noise, vibration, smoke, dust, odor, or heat or any other impact of a type or quantity not in keeping with the residential character of the neighborhood.*
- e. *No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted material of a type or quantity not ordinarily used for household purposes shall be used or stored on the premises, and the applicant must identify the proper disposition of any hazardous waste. No activity will be allowed which is hazardous to the public health, safety or welfare.*
- f. *There are no outside operation, storage or display of materials or products.*
- g. *Not more than one-half of the area of one floor level of the dwelling or accessory building shall be used for such business, including the storage of materials or products.*
- h. *No alteration of the residential appearance of the premises shall occur.*

- i. *Hours of operation must not infringe on the residential atmosphere of the neighborhood. All outside activity related to the business must cease between the hours of 9:30 p.m. and 7:00 a.m.*
- j. *The home occupation, including any business storage, shall not displace or impede use of parking spaces required by this chapter. The home occupation shall not displace, interfere with or impede access to public parking.*
- k. *The home occupation shall not cause the congregation of business employees at the site or congestion in the availability of on-street parking.*
- l. *The business must be of a type that would be permitted anywhere in the C-2 general retail and highway oriented commercial district without approval from the board of adjustment.*
- m. *Any special permit for a home occupation shall be in effect only for so long as the premises are owned and occupied by the applicant.*
- n. *Any special permit for a home occupation shall be subject to reconsideration by the board if at any time the zoning enforcement officer determines that the conduct of the occupation has become detrimental to the neighborhood.*

After reviewing these standards, staff believes that the requested PUD amendment would also comply with these criteria if they are to be used as a guideline for reviewing a home occupation use in a PUD. One of the provisions that should be a condition of any approval would be that the Zoning Officer could initiate an action to repeal the amendment in a situation where the business became detrimental to the neighborhood.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Arik Peterson 4820 Sawyers Drive stated he wants to bring some fun to Des Moines. He wants to provide access to fat tire bikes. Fat tire bikes have 4 inches wide tires that can be used in sand, any kind of trail and can also be used in the winter. He does not want to be a bike shop or maintenance or any of those things. He just wants to have a couple of bikes available for people to ride on occasions. He believes that it will mostly be a pick up and go off to another trail situation. There might be some people in the area that will want to rent it and ride out the door. There is a paved trail that is very close to the neighborhood and also Sycamore trail which is a dirt trail and 3 miles long. He believes the biggest concern with the opposition is the parking. His driveway is available for parking and there is street parking on one side of the street.

JoAnne Corigliano asked if there will be bike repair on this property.

Arik Peterson stated there will not be any bike repair on his property. He has talked with a local bike shop that will be able to take care of any maintenance.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor or in opposition to the applicant's request.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Wattier asked the applicant if he was in agreement with staff recommendation.

Arik Peterson stated yes he is in agreement with staff recommendation.

COMMISSION ACTION:

Greg Wattier moved staff recommendation and Dory Briles seconded for approval of an amendment to the Sawyer's Landing PUD to allow a home occupation at 4820 Sawyers Drive to operate a bicycle rental business, subject to the following conditions:

1. No more than four (4) bicycles shall be leased from the premises.
2. Any home occupation shall uphold the intent and spirit of standards applicable to other Zoning District found in Section 134-1326(10) of the Zoning Ordinance.
3. Hours of operation of the bicycle rental business shall occur between the hours of 7:00 am and 9:00 pm on Friday, Saturday, Sunday and recognized Holidays.
4. Any business shall only be in effect for so long as the premises are owned and occupied by the applicant.
5. Should the business be determined to be operating detrimentally to the surrounding neighborhood area, the Zoning Enforcement Officer may initiate the process to repeal the amendment.

Motion passed 10-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Arik Peterson (owner) d/b/a As a Dad, LLC for property located at 4820 Sawyers Drive		File #		
		ZON2014-00022		
Description of Action	Approval of an amendment to the Sawyers Landing PUD Conceptual Plan, to allow accessory use of the single-family dwelling property for a home occupation business consisting of bicycle rental subject to conditions.			
2020 Community Character Plan	Low-Density Residential (current & no change proposed).			
Horizon 2035 Transportation Plan	No planned improvements.			
Current Zoning District	Sawyers Landing PUD.			
Proposed Zoning District	Amended Sawyers Landing PUD			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	3	1		
Outside Area				
Plan and Zoning Commission Action	Approval	10-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Peterson, 4820 Sawyer's Drive

ZON2014-00022



Item ZON2014-00022A

Date 4/8/14

I (am) (am not) in favor of the request.

RECEIVED

(Circle One)

COMMUNITY DEVELOPMENT

Print Name Liz Krause

APR 14 2014

Signature [Signature]

DEPARTMENT

Address 4805 Sawyers Dr

Reason for opposing or approving this request may be listed below:

[Empty lined area for reasons]

Item ZON2014-00022A

Date 3-26-2014

I (am) (am not) in favor of the request.

RECEIVED

(Circle One)

COMMUNITY DEVELOPMENT

Print Name Donald W DAVIS JR

MAR 28 2014

Signature [Signature]

DEPARTMENT

Address 4823 Lyndale dr

Reason for opposing or approving this request may be listed below:

This AREA is a residential area of Des Moines Not Commercial!

Item ZON2014-00022A Date 3-31-14

44

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT

APR 04 2014

DEPARTMENT

Print Name Nancy Bodakman

Signature Nancy Bod

Address 6390-Beechtree Dr
WDM FA 52246

Reason for opposing or approving this request may be listed below:

Item ZON2014-00022A Date 3-28-14

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT

MAR 31 2014

DEPARTMENT

Print Name Nermin Alusufovic

Signature Nermin Alusufovic

Address 4812 Sawyers Dr.

Reason for opposing or approving this request may be listed below:

