

Date January 11, 2021

RESOLUTION SETTING HEARING ON REQUEST FROM CAMPBELL’S HOLDINGS, LLC TO REZONE PROPERTY LOCATED AT 3104 EAST COURT AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 17, 2020, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Campbell’s Holdings, LLC (owner), represented by Eric Campbell (officer), to rezone the real property locally known as 3104 East Court Avenue (“Property”) from ‘N5’ Neighborhood District to ‘I1’ Industrial District, to allow the property to be used for industrial uses such as outdoor storage, subject to the following condition:

1. That there shall be no residential use upon the Property; and

WHEREAS, the Property is legally described as follows:

THE WEST 419.4 FEET OF LOT TWO (2) OF THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 6, TOWNSHIP 78 NORTH, RANGE 23, WEST OF THE 5TH P.M., POLK COUNTY, IOWA.

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

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning is to be considered, and at which time the City Council will hear both those who oppose and those who favor the proposal, shall be held at 5:00 p.m. on January 25, 2021, by electronic means to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location.
3. 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. The City Clerk is instructed to provide this notice including information about participation in the electronic meeting as indicated above.

MOVED BY _____ TO ADOPT.

FORM APPROVED: Judy K. Parks-Kruse (ZON2020-00150)
 Judy K. Parks-Kruse, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

 Mayor

CERTIFICATE

I, P. Kay Cmelik, 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



December 29, 2020

Date January 11, 2021
 Agenda Item 13
 Roll Call # _____

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their December 17, 2020 meeting, the following action was taken regarding a request from Campbell's Holdings, LLC (owner) represented by Eric Campbell (officer) to rezone property located at 3104 East Court Avenue from "N5" Neighborhood District to "I1" Industrial District to allow the property to be used for industrial uses such as outdoor storage.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page				X
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			
Emily Webb				X

APPROVAL of Part A) the proposed rezoning to "I1" Industrial District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial and Part B) **APPROVAL** of rezoning the subject property from "N5" Neighborhood District to "I1" Industrial District, subject to the condition that there shall be no residential use upon the property. (ZON2020-00150)

Written Responses

1 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning to "I1" Industrial District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial.

Part B) Staff recommends approval of rezoning the subject property from "N5" Neighborhood District to "I1" Industrial District, subject to the condition that there shall be no residential use upon the property.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant is proposing to rezone the property to allow industrial uses, such as outdoor storage.

Sometime after April 2018, significant vegetation was removed from the property and a large graveled parking lot was constructed.

Any development must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance

- 2. Size of Site:** 41,382 square feet (0.95- acre).
- 3. Existing Zoning (site):** "N5" Neighborhood District.
- 4. Existing Land Use (site):** The triangular-shaped property contains a one-household residential building and a graveled parking area, which extends on the property adjacent to the south that is zoned "I1" District.
- 5. Adjacent Land Use and Zoning:**
- North** – "I1"; Uses are a railroad and an undeveloped lot.
- South** – "I1" & "F"; Use is a graveled parking lot.
- East** – "I1"; Use is an undeveloped lot.
- West** – "I1"; Uses are a railroad and an undeveloped lot.
- 6. General Neighborhood/Area Land Uses:** The subject property is in an area to east of Southeast 30th Street where uses transition from residential to the north to industrial to the south.
- 7. Applicable Recognized Neighborhood(s):** The subject property is within 250 feet of the Fairground Neighborhood. The neighborhood association was notified of the

hearing by mailing of the Preliminary Agenda on November 30, 2020 and by mailing of the Final Agenda on December 11, 2020. Additionally, separate notifications of the hearing for this specific item were mailed November 25, 2020 (20 days prior to the hearing) and December 7, 2020 (10 days prior to the hearing) to the Fairground 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 on the date of the mailing. The Fairground Neighborhood Association mailings were sent to Laura Mundy, PO Box 473, Pleasant Hill, IA 50327.

Due to the COVID-19 pandemic, the applicant was unable to hold a neighborhood meeting. The applicant mailed a letter to surrounding property owners on November 17, 2020. The applicant will provide a summary of any communications with neighboring property owners prior to the public hearing.

8. **Relevant Zoning History:** On December 16, 2019, the subject property was rezoned from "M-1" Light Industrial District to "N5" Neighborhood District, as part of the Citywide rezoning established by Ordinance 15,818.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, 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. **Zoning Enforcement:** On March 12, 2020, a notice of zoning violation was issued for the subject property after it was discovered that, "Upon inspection there was found to be trucking & transportation terminal use and/or outdoor equipment & material storage use in the areas of property zoned N5 and F, which are not principal or accessory allowed uses in the N5 zoning district and F zoning district", and that, "Upon inspection there was found to be a change in use (changed from use of single family dwelling to use(s) of trucking & transportation terminal and/or outdoor equipment & material storage) and changes made to property and adjacent areas without first obtaining a certificate of zoning compliance." The rezoning is the first step that is required to remedy the zoning violation. Staff notes that the applicant has only requested rezoning of their property that is zoned "N5" District, and has not requested rezoning of their property to the south that is zoned "F" Flood District.
2. **Planning and Design Ordinance:** Any development or outdoor storage area must comply with all applicable Site Plan and Design regulations contained in Chapter 135 Planning and Design Ordinance.

3. **PlanDSM Creating Our Tomorrow:** The proposed "I1" Industrial District is compatible with the Industrial future land use designation. Plan DSM describes this designation as: "Accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated." There is a Development Control Zone overlay designation at the extreme southwestern corner and eastern edges of the property based on the Federal Insurance Rate Map information. Any development in these areas would have to comply with floodplain development regulations in Chapter 50 of the City Code.
4. **Permitted Uses:** The requested "I1" Industrial District does not allow for any residential use. Therefore, if the rezoning is approved, the existing one-household residential use would become a non-conforming use and would be required to cease.

SUMMARY OF DISCUSSION

Bert Drost presented staff report and recommendation.

Johnny Alcivar asked if there will be a tree mitigation plan for the trees removed?

Bert Drost stated yes, they would need use the canopy method to calculate how many replacement trees are needed.

Brett Osborn 974 73rd Street Suite 16, WDM stated this property has always been zoned M1 up until 2019. The reason for violation isn't because of doing something inconsistent with the zoning ordinance but simply the owner not aware of the property being rezoned by the City of Des Moines. They are asking for this property to be rezoned back to where it was before 2019.

Rocky Sposato asked if the applicant agrees with staff recommendation?

Brett Osborn stated yes.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Francis Boggus made a motion for approval of Part A) the proposed rezoning to "I1" Industrial District be found in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial and Part B) **APPROVAL** of rezoning the subject property from "N5" Neighborhood District to "I1" Industrial District, subject to the condition that there shall be no residential use upon the property.

Motion passed: 12-0

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Ludwig".

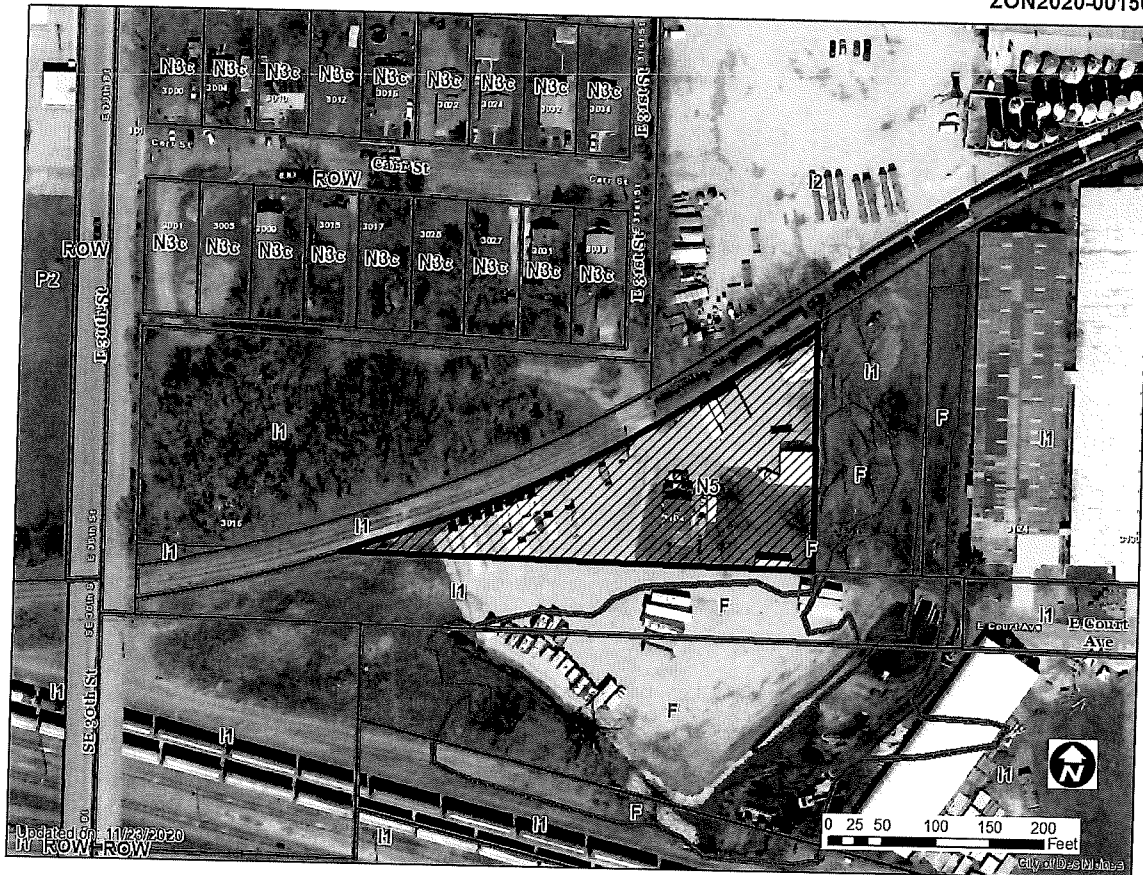
Michael Ludwig, AICP
Planning Administrator

MGL:tjh

Campbell's Holdings, LLC (owner) represented by Eric Campbell (officer) for the property at 3104 East Court Avenue.		File #		
		ZON2020-00150		
Description of Action	Rezone property from "N5" Neighborhood District to "I1" Industrial District to allow the property to be used for industrial uses such as outdoor storage.			
PlanDSM Future Land Use	Current: Industrial and Development Control Zone overlay. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"N5" Neighborhood District.			
Proposed Zoning District	"I1" Industrial District.			
Consent Card Responses Outside Area (200 feet)	In Favor	Not In Favor	Undetermined	% Opposition
Within Subject Property	1	0		
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Campbell's Holdings, LLC, 3104 East Court Avenue

ZON2020-00150



1 Inch = 105 feet

Item: ZON2020-00150

Date: 12/11/2020

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: Chris Snyder

Name: Chris Snyder

Address: 4400 E. University
Pleasant Hill, IA 50327

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

The rail and our property to the north are
important for our business.

Staff Use Only