

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	March 9, 2009
	Agenda Item No. 41 Roll Call No. <u>09-</u> Communication No. <u>09-139</u> Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Request from Ronald Brenizer Jr. to rezone 4506 SW 9th Street from a “C1-A” (Neighborhood Commercial Reuse) District to a Limited “C-2” (General Retail and Highway Oriented Commercial) District to allow a construction contractor’s business on the subject property.

SYNOPSIS:

The applicant is seeking to change the zoning to retain an existing contractor’s business that is located on the site without a valid Certificate of Occupancy. The current “C-1A” zoning allows uses permitted in the “C-1” (Neighborhood Retail Commercial) District and automobile glass repair. The requested rezoning to a Limited “C-2” District would allow a contractor’s business without outdoor storage of equipment, subject to compliance with Site Plan requirements applicable to the change of use. The Plan and Zoning Commission recommends denial of the request. Therefore, the request requires 6 votes for approval.

On February 9, 2009, the City Council continued this request and directed staff to meet with the applicant to create a plan that would bring the site into conformance with the City’s development regulations and allow the applicant to estimate the cost of complying. The results of this meeting are discussed in detail in the “Additional Information” section of this communication. The applicant has expressed an inability to bring the site into conformance and a desire to continue to store equipment outdoors. In light of this information staff concurs with the Plan and Zoning Commission’s recommendation of denial.

FISCAL IMPACT: NONE

Amount: N/A.

Funding Source: N/A.

ADDITIONAL INFORMATION:

On February 9, 2009, the City Council continued this request and directed staff to meet with the applicant to create a plan that would bring the site into conformance with the City’s development regulations and allow the applicant to estimate the cost of complying. Community Development staff met with Mr. Brenizer to outline requirements for bringing the property into compliance with development regulations. Items that must be completed include:

- paving of any graveled surfaces to be used for off-street parking;

- removal of gravel surfaces and re-seeding of areas not used for parking or maneuvering;
- removal of paving adjoining SW 9th Street to comply with provision of a parking lot landscape perimeter requirement;
- provision of a screened and gated enclosure for any trash containers kept outside;
- provision of six-foot high screen fencing along the west property line to meet minimum buffer yard requirements; and
- provision of a minimum number of trees, evergreens, and shrubs to meet the open space, buffer yard and parking lot perimeter landscaping requirements.

The applicant expressed concern regarding the cost of hiring a consultant to prepare a site plan for use of the property and has not provided any cost estimates for the required improvements or indicated a proposed schedule to bring the site into compliance.

Outdoor storage of the contractor's equipment is not permitted in the "C-2" District. When the rezoning was initially submitted, the applicant's attorney indicated the intent to store job site trailers at an alternate legal location. In recent discussions with staff, the applicant indicated that alternate storage locations made logistical operation of the business too costly. The applicant has stated a desire to continue storage of the two job site trailers on the subject property but has expressed that financial means are not currently available to build an addition or enclosure to keep the trailers inside. The applicant indicated a desire to proceed with the current rezoning request, but further indicated a future request to rezone the property to the "M-1" (Light Industrial) District may be forthcoming to accommodate the outdoor storage of trailers. If a future request for "M-1" zoning is denied, the applicant could seek a use variance from the Board of Adjustment.

PREVIOUS COUNCIL ACTION(S):

Date: February 9, 2009

Roll Call Number: 09-227

Action: On Request from Ronald Brenizer Jr. to rezone 4506 SW 9th Street from "C1-A" (Neighborhood Commercial Reuse) to Ltd. "C-2" (General Retail and Highway Oriented Commercial) to allow a construction contractors business. Plan and Zoning Commission recommends DENIAL. Requires 6 votes for approval. Moved by Hensley to continue to March 9, 2009 at 5:00 PM. Mr. Brenizer will work with the Community Development Department to create a plan and cost estimate to bring the property into compliance. Motion Carried 7-0.

Date: January 26, 2009

Roll Call Number: 09-090

Action: On Request from Ronald Brenizer Jr. to rezone 4506 SW 9th Street from "C1-A" (Neighborhood Commercial Reuse) to Ltd. "C-2" (General Retail and Highway Oriented Commercial) to allow a construction contractors business, (2-9-09). Plan and Zoning Commission recommends DENIAL. Moved by Vlassis to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Date: January 15, 2009.

Roll Call Number: N/A.

Action: Voted 7-3 in support of a motion recommending DENIAL of a request to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan and to rezone property from "C-1A" (Neighborhood Commercial Reuse District) to Limited "C-2" (General Retail and Highway Oriented Commercial District).

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

If the requested zoning is approved, the applicant will be obligated to follow Site Plan and Building Occupancy requirements through the City's administrative processes. Outdoor storage of contractor's equipment will require either "M-1" (Light Industrial) District zoning or a use variance from the Zoning Board of Adjustment (request for M-1 zoning must first be denied).

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