

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	December 3, 2012
	Agenda Item No.	36
	Roll Call No.	<u>12-1860</u>
	Communication No.	<u>12-606</u>
	Submitted by:	Phillip Delafield, Community Development Director

AGENDA HEADING:

Third Reading regarding rezoning of property at 4312, 4282, 4250 and 4216 E. 50th Street from Limited “M-1” (Light Industrial) to “R-3” (Multiple-Family Residential) to allow development of up to 200 residential apartments. The subject property is owned by Hubbell Properties II, LC, represented by Steve Niebuhr.

SYNOPSIS:

The Community Development Department and Traffic and Transportation Division recommend that the extension of Aurora Avenue east of NE 46th Street, as a residential collector street is imperative for future development of approximately 270 acres of land located north of Douglas Avenue, south of Broadway Avenue, and east of NE 46th Street. Staff recommended to the Plan and Zoning Commission that the zoning request be denied. Staff noted at the public hearing that if the Commission was inclined to approve the zoning, that approval should include a condition that Aurora Avenue be extended to NE 50th Street. The Plan and Zoning recommended approval of the zoning without such a condition. The City Council approved first and second readings of the rezoning with directives for staff and the applicant to discuss cost share alternatives for the construction of Aurora Avenue. Staff recommends that Hubbell’s proposal for a \$16,160 contribution to improvements be rejected as it represents only 3.4% of an estimated \$480,000 cost to construct 600 feet of roadway directly adjoining Hubbell’s property. Staff recommends that the proposed rezoning be denied because the existing street system is not sufficient to support the proposed multi-family residential development on the subject property and the expected future development of the adjoining area. It is also recommended that the City conduct a study of the total infrastructure needed to serve the entire 270 acres and identify funding sources for project costs that represent a fair share between the City and property owners, including but not limited to special assessments to benefited property owners. If the Council chooses to approve this rezoning application a 6/7th vote of the City Council is required. Staff advises the City Council that at least \$2.1 Million to \$3.2 Million will need to be appropriated through the Capital Improvement Program or other sources to fund future construction of an extension of Aurora Avenue to a residential collector standard from NE 46th Street east 2,600 feet.

FISCAL IMPACT:

Amount: Estimated \$2.1 to \$3.2 million of unfunded roadway utility improvements.

Funding Source: To be determined.

ADDITIONAL INFORMATION:

Two drawings showing alternate conceptual alignments for the extension of Aurora Avenue east of the Summersfield PUD are attached.

Alignment Option 1 would result in a direct east-west alignment for Aurora Avenue and two or more benefited property owners (including Hubbell Properties II, L.C.) sharing the cost to extend Aurora Avenue east of Summersfield PUD. Assuming that right-of-way is acquired or dedicated, the construction cost could be shared through a multi-party construction contract or via City assessment. No single-family lots would require direct driveway access from Aurora Avenue and the roadway would provide a buffer between existing light industrial, planned industrial or multiple-family residential uses and single-family residential uses.

Alignment Option 2 would assign the responsibility of constructing Aurora Avenue east of the Summersfield PUD to a single property owner (Nelson Family Farm or their successor) at the time that property is developed. In order to avoid costs of a single-loaded street, Aurora Avenue would veer to the south and a row of approximately 18 single-family lots would be platted on the north side of Aurora Avenue. These lots would require driveway access from Aurora Avenue and would directly adjoin existing and planned light industrial or multiple-family residential uses.

Staff recommends that the City pursue Alignment Option 1 based on the potential for cost sharing among benefited property owners; elimination of the need for direct residential driveway access from Aurora Avenue; and utilization of the roadway as buffer between uses of varying intensity. Without the extension of Aurora Avenue east of the Summersfield PUD and connection to NE 50th Street, the proposed multi-family project will be isolated from the transportation network and fire/emergency services. It will overload the existing transportation system by forcing residents of nearly 200 multi-family units and industrial users to share access to the surrounding street network at the non-signalized intersection of NE 50th Street and NE Broadway Avenue.

Preliminary estimates for the cost to construct Aurora Avenue from NE 46th Street to the east boundary of the Hubbell Broadway Business Park (approximately 2,600 lineal feet total) are between \$2.1 Million and \$3.2 Million. No money is currently budgeted in the CIP for this construction.

Hubbell development has proposed two options to date. First, is that no improvements or extension of Aurora Avenue be made east of NE 46th Street. Hubbell argues that NE 50th Street could be extended south to Douglas Avenue to serve the 270 acre area. Staff recommends that this option be rejected on the basis that a connection of NE 50th Street to the south will not provide an adequate connection for the residential properties that are planned to be developed. The intersection where existing NE 50th Street intersects Broadway Avenue is too close to Hwy 65 to be signalized. There is a frontage road that runs along the south side of Broadway Avenue which connects to Hubbell Avenue from NE 50th Street, but is too close to the intersection of Hubbell/Broadway to be signalized in the future. If only NE 50th Street were extended from Broadway Avenue to Douglas Avenue, and Aurora Avenue is not extended, virtually all westbound residential traffic from 270 acres north of Douglas Avenue would be combined with traffic from the existing development south of Douglas Avenue and overload the capacity of Douglas Avenue. Residents north of Douglas Avenue would live 1/4 mile from the Delaware Elementary School and have to travel over 1.5 miles using major arterials like Hubbell Avenue or Broadway Avenue to access the school, or travel south to Douglas Avenue just to head back north again on NE 46th Street. Not extending Aurora Avenue will divide existing and proposed development instead of providing connectivity.

Alternatively, Hubbell has proposed that the cost to extend Aurora Avenue be shared based upon the number of acres being developed compared to the total acres of undeveloped land east of the Summersfield PUD. Under this methodology, Hubbell has proposed a \$16,160 contribution to construct a portion of Aurora Avenue along the south boundary of Lot 12, Hubbell Broadway Business Park. Sharing the cost of public improvements based on total acreage of undeveloped land may make sense in theory. However, it requires voluntary agreement by all property owners in order to be truly equitable. No such agreements exist and 100% participation will likely never be obtained. Staff recommends that this option be rejected on the basis that \$16,160 represents only 3.4% of an estimated \$480,000 cost to construct 600 feet of roadway directly adjoining Hubbell's property. According to past practice, it is estimated that up to \$200,000 could be assessed to Hubbell's proposed development to construct this portion of Aurora Avenue. The \$16,160 contribution also fails to reflect costs of remaining improvements that don't adjoin Hubbell's proposed development that also should theoretically be shared by the entire 270 acres.

Representatives of Hubbell Development have indicated that the current proposal will result in a \$15 Million dollar investment on property that is currently being assessed as agricultural land and generating less than \$500 in property tax revenue per year. Staff notes that the subject property is platted and zoned for light industrial use which would currently be taxed at 100% of assessed value. The owner was paying nearly \$36,000 in property taxes per year between September 2007 and September 2010 prior to a reclassification and revaluation review in April 2009. Development of the property for multi-family residential use creates a higher demand for public services (fire and police protection) than an industrial warehouse building. The project will receive 5-year, 100% tax abatement if developed for multi-family residential use. At the end of the abatement period, the property will likely be assessed as a residential property which pays approximately 50% of the tax rate compared to commercial or industrial assessed property. Finally, since and at least ½ of the units are proposed to be funded with Low Income Housing Tax Credits, the taxable value would be further discounted based upon the income stream of the project.

Staff recommends the City should conduct a study of the total infrastructure needed to serve the entire 270 acres and identify funding sources for project costs that represent a fair share between the City and all property owners. One option to pay for improvements is for the City to fund 100% of the improvements through future CIP but no funding is currently appropriated for these improvements. The second option to pay for improvements is for the City to construct the improvements and assess the costs to benefited properties. Past practice has been to assess up to 100% of improvement costs less design and project management fees to the property owner(s) on each side of a street. However, no money has been appropriated to front the cost of construction and it is anticipated that involuntary assessments would be challenged by benefited property owners. A final option is to require the developer to construct and pay for of the cost of improvements as they develop. This option puts the burden on the first entity that develops and there is not currently an ability to require reimbursement to the first developer when subsequent properties develop. The study may determine that a combination of these methods is necessary.

Staff recommends that the proposed rezoning should be denied because the existing street system is not sufficient to support the proposed multi-family residential development on the subject property and the expected future development of the adjoining area.

If the Council chooses to approve this rezoning application a 6/7th vote of the City Council is required. Staff advises the City Council that at least \$2.1 Million to \$3.2 Million will need to be appropriated

through the Capital Improvement Program or other sources to fund future construction of Aurora Avenue to a residential collector standard extending 2,600 feet east of NE 46th Street.

PREVIOUS COUNCIL ACTION(S):

Date: November 19, 2012

Roll Call Number: [12-1780](#)

Action: [On](#) rezoning of 4312, 4282, 4250 and 4216 NE. 50th Street from Ltd “M-1” (Light Industrial) to “R-3” (Multiple-Family Residential) to allow development of up to 200 residential apartments. (Requires 6 votes for approval). ([Council Communication No. 12-589](#)) Moved by Mahaffey that this ordinance be considered and given second vote for passage; refer to the City Manager to work with all interested parties to discuss options and cost sharing for the extension of E. Aurora Avenue. Motion Carried 7-0.

Date: November 5, 2012

Roll Call Number: [12-1721](#), [12-1722](#) and [12-1723](#)

Action: (A) [Amend](#) the Des Moines 2020 Community Character Plan future land use designation from Planned Business Park to Medium-Density Residential, (Plan and Zoning Commission motion failed due to lack of the required 7 affirmative votes. Requires 6 votes for approval). Moved by Mahaffey to adopt the proposed amendment. Motion Carried 7-0.

(B) [Hearing](#) on rezoning of the property from Ltd. “M-1” (Light Industrial) to “R-3” (Multiple-Family Residential) to allow development of up to 200 residential apartments. (Requires 6 votes for approval.) Moved by Mahaffey to adopt and approve the rezoning, subject to final passage of the rezoning ordinance; refer to the City Manager to work with the developer regarding the extension of Aurora Avenue to the east, and to report back at the second consideration on November 19th. Motion Carried 7-0.

(C) [First](#) consideration of ordinance above. (Requires 6 votes for approval.) Moved by Mahaffey that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

Date: October 22, 2012

Roll Call Number: [12-1610](#)

Action: [On](#) request from Hubbell Properties II, LC (owner) represented by Steve Niebuhr (officer) to rezone property at 4312, 4282, 4250, and 4216 E. 50th Street from Limited “M-1” (Light Industrial) to “R-3” (Multiple Family Residential) to allow development of up to 200 residential apartments, (11-5-12). Moved by Mahaffey to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

If the requested zoning is denied, then schedule and hold hearing to Amend 2020 Community Character Plan Designation to Planned Industrial. If the rezoning is approved, then consideration of amendments to CIP budget to fund extension of public infrastructure.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.