

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> June 24, 2013
	<b>Agenda Item No.</b> 54B <b>Roll Call No.</b> [ ] <b>Communication No.</b> <u>13-329</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Public hearing regarding request from Thoreau Center, LLC (Scott Hartsook and Dennis Groenenboom) to rezone property at 3500 Kingman Boulevard from “R1-60” (One-Family Low Density Residential District) to a Limited “NPC” (Neighborhood Pedestrian Commercial District), to allow use of the property for assembly and small offices.

**SYNOPSIS:**

Staff held a meeting with the owner (Scott Hartsook and Dennis Groenenboom) and neighbor (Alicia and Eric Knapp) on June 17, 2013 to discuss the proposed rezoning per Council directive. The owner has agreed in writing to conditions 1 through 12 as recommended by Plan and Zoning Commission, subject to revisions to condition #3 regarding portable restroom facilities and condition #7 regarding the hours of operation. The owner remains opposed to Condition #13 as recommended by the Plan and Zoning Commission which would require provision of a buffer along the west lot line deemed suitable by the owner, neighbor and staff. The owner does not consent to additional revisions or conditions requested by Knapp. Any zoning conditions must be agreed to in writing by the owner of the subject property prior to the close of the public hearing. A simple majority vote of the City Council is needed to approve the zoning with conditions. The applicant has requested a waiver of the final consideration (requires six (6) votes). Staff recommends approval of the zoning with conditions as agreed to by the owner.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

On June 17, 2013 Community Development staff met with the owner (Hartsook and Groenenboom) and neighbor (Alicia and Eric Knapp) per Council directive. The primary requests by Knapp were for additional restrictions regarding provision/consumption of alcohol on the premises; a restriction on the maximum occupancy for events at the premises; and a restriction on the number of large events held on the premises. Knapp noted that proposed limits on maximum occupancy and number of events per month and calendar year were viewed as starting points for anticipated negotiation. A copy of the revisions and conditions requested by Knapp is attached. Hartsook and Groenenboom are opposed to any revisions or additional conditions proposed by Knapp except for a revision to Condition #3 to state that outdoor restroom facilities shall be prohibited unless otherwise required by law and a revision to Condition #7 regarding hours of operation. Hartsook and Groenenboom have submitted a letter addressing previous concerns expressed by Knapp and the owner’s reasoning for opposition to additional revisions and conditions requested by Knapp. To date, the owner’s have agreed in writing

to the following conditions (changes from the Plan and Zoning Commission recommendation are denoted by bold strikeout or underline text):

1. The use of the property shall be limited to the following:
  - a) Any use as allowed and limited in the “R1-60” District.
  - b) Office space.
  - c) Events center for meeting, reception, or assembly space.
2. Any use of the site and any future site modifications shall be in accordance with a Site Plan under the Design Guidelines for the “NPC” District as approved by the Plan & Zoning Commission.
3. Any use of the building must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities. **Outdoor restroom facilities shall be prohibited unless otherwise required by law.**
4. In order to comply with minimum parking requirements, any use of the premises for an office and/or events center use shall occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.
5. The existing structure shall not be expanded and shall not be modified to alter the existing residential character.
6. The property shall not be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. However, caterers, residents, renters, and guests may serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements.
7. Hours of operation shall be limited to between 7:00 AM to **11:00 PM 12:00 AM Sunday through Thursday and 7:00 AM to midnight Friday and Saturday**, with all events ending by **10:00 PM Sunday through Thursday and 11:00 PM Friday and Saturday.**
8. A 6-foot tall solid wood fence shall be provided along the west property line within the rear yard area, located on either the subject property or the adjoining property.
9. Signage on the premises shall be limited a monument sign not to exceed 24 square feet.
10. The Site shall operate in compliance with article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).
11. Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City’s Neighborhood Inspections Division.
12. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.
13. ~~A buffer be provided that is deemed suitable by the applicant, neighbor and staff.~~

#### PREVIOUS COUNCIL ACTION(S):

Date: June 10, 2013

Roll Call Number: [13-0940](#) and [13-0941](#)

Action: Items regarding property at 3500 Kingman Blvd., Scott Harstook and Dennis Groenenboom, (purchasers) and Parker Street Foundation and Harold Wells (owners):

- (A) [Amending](#) the Des Moines 2020 Community Character Plan to revise the existing future land use designation from Low-Density Residential to Commercial, Pedestrian-Oriented, Neighborhood Node. Moved by Hensley to continue to the June 24, 2013 Council Meeting. Motion Carried 7-0.

- (B) [Hearing](#) to rezone the property from “R1-60” (One-Family Low-Density Residential) to Ltd. “NPC” (Neighborhood Pedestrian Commercial). Moved by Hensley to continue to the June 24, 2013 Council Meeting at 5:00 PM; refer to the City Manager to work with the applicant and neighbors regarding the conditions for use of the property. Motion Carried 7-0.

Date: May 20, 2013

Roll Call Number: [13-0798](#)

Action: [On](#) request from Scott Hartsook and Dennis Groenenboom, Parker Street Foundation and Harold Wells to rezone 3500 Kingman Boulevard from “R1-60” (One-Family Low-Density Residential) to Ltd. “NPC” (Neighborhood Pedestrian Commercial) to allow use for assembly and small office uses, subject to conditions, (6-10-13). Moved by Hensley to adopt. Motion Carried 7-0.

### **BOARD/COMMISSION ACTION(S):**

Board: Plan and Zoning Commission

Date: May 2, 2013

Resolution Number: 21-2013-4.11 and ZON2013-00052

Action: Approval of a request to amend the Des Moines’ 2020 Community Character Plan to revise the existing future land use designation from Low-Density Residential to Commercial, Pedestrian-Oriented, Neighborhood Node; and approval of a request to rezone the property from “R1-60” One-Family Low-Density Residential District to a Limited “NPC” Neighborhood Pedestrian Commercial District, to allow use of the property for assembly and small office uses, subject to the following conditions:

1. The use of the property shall be limited to the following:
  - a) Any use as allowed and limited in the “R1-60” District.
  - b) Office space.
  - c) Events center for meeting, reception, or assembly space.
2. Any use of the site and any future site modifications shall be in accordance with a Site Plan under the Design Guidelines for the “NPC” District as approved by the Plan & Zoning Commission.
3. Any use of the building must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities.
4. In order to comply with minimum parking requirements, any use of the premises for an office and/or events center use shall occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.
5. The existing structure shall not be expanded and shall not be modified to alter the existing residential character.
6. The property shall not be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. However, caterers, residents, renters, and guests may serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements.

7. Hours of operation shall be limited to between 7:00 AM to 12:00 AM, with all events ending by 11:00 PM.
8. A 6-foot tall solid wood fence shall be provided along the west property line within the rear yard area, located on either the subject property or the adjoining property.
9. Signage on the premises shall be limited a monument sign not to exceed 24 square feet.
10. The Site shall operate in compliance with article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).
11. Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City's Neighborhood Inspections Division.
12. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.
13. A buffer shall be provided that is deemed suitable by the applicant, neighbor and staff.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Second and third reading of ordinance unless waived by the City Council per applicant's request (requires six (6) votes).

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