

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	February 10, 2014
	Agenda Item No.	30
	Roll Call No.	<u>14-0226</u>
	Communication No.	<u>14-059</u>
	Submitted by:	Phillip Delafield, Community Development Director

AGENDA HEADING:

Second reading of a request from C&S Properties II, LC to rezone 4140 E. 14th Street from “C-2” (General Retail and Highway Oriented Commercial) to limited “M-1” (Light Industrial) to allow expansion of a legal non-conforming light industrial use with outdoor storage.

SYNOPSIS:

At the request of Council, staff has reviewed the records for a previous zoning application for 4141 E. 14th Street (Imperial Properties) and the current zoning application for 4140 E. 14th Street (C&S Properties II, LC). Staff has determined that the two (2) zoning requests are significantly different and unique. Therefore, differences in the staff recommendations are justified. Staff continues to support the rezoning of 4140 E. 14th Street (C&S Properties II, LC) to a limited “M-1” (Light Industrial) zoning district. Staff recommends a waiver of the third reading as requested by the applicant (requires six (6) affirmative votes).

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

During the January 27, 2014 City Council meeting (Item No. 43), Council Member Moore noted that staff and the P&Z had recommended approval of a comprehensive plan amendment (to General Industrial) and rezoning (to M-1 Light Industrial) for property located at 4140 E. 14th Street (C&S Properties II, LC).

Council Member Moore also noted that staff and P&Z had recommended denial of a comprehensive plan amendment (to General Industrial) and rezoning (to M-1 Light Industrial) for property located at 4141 E. 14th Street (Imperial Properties, Inc.) in late 2011 and early 2012 based on a finding that “it is the intent of the Des Moines’ 2020 Community Character Plan preserve the East 14th Street corridor for commercial use and not industrial use purposes over time.”

Council Member Moore requested deferral of the second and third readings of the rezoning for 4140 E. 14th Street (C&S Properties II, LC) until February 10, 2014 so that staff could review whether the varying recommendations were potentially contradictory.

Staff has determined that the two (2) zoning requests are significantly different and unique. Detailed differences between the two (2) applications are as follows:

4141 E. 14th Street (Imperial Properties):

- P&Z and staff recommendations for denial of the Comprehensive Plan and zoning map amendments were based on a finding that “it is the intent of the Des Moines’ 2020 Community Character Plan preserve the East 14th Street corridor for commercial use and not industrial use purposes over time.”
- The applicant requested unlimited M-1 (Light Industrial) zoning which would have allowed an immediate use of the property for a chrome plating business and potential future use of the property for a multitude of other light industrial uses.
- A chrome plating business had already illegally occupied the building for such use. Such occupancy was a violation of existing zoning code for use and building/fire codes for occupancy type regarding processes and storage/containment of hazardous chemicals. No commitments were made by the property owner or tenant to renovate the building to comply with building and fire codes for such use.
- The property owner also requested to retain rights to unlimited C-2 Commercial uses.

4140 E. 14th Street (C&S Properties II, LC):

- The applicant requested limited M-1 (Light Industrial) zoning which would allow existing legal non-conforming outdoor storage to be expanded.
- The only M-1 uses requested are warehousing and outdoor contractor storage yard.
- Existing non-conforming outdoor storage will be improved as part of the rezoning by moving all outdoor storage areas out of required setbacks and the provision of fencing /landscaping.
- Previously unlimited C-2 Commercial uses are being reduced by excluding adult entertainment businesses, taverns and night clubs, off-premises advertising except for the existing sign on the property, liquor stores, pawn brokerages and delayed deposit services as a condition of the zoning.
- Although a Comprehensive Plan amendment to General Industrial was recommended by staff and P&Z and approved by the Council on January 27, 2014, staff believes that the limited “M-1” (Light Industrial) zoning as described above retains a predominantly commercial character. The General Industrial land use plan designation is unique and defensible but ultimately may not have been necessary.

PREVIOUS COUNCIL ACTION(S):

Date: January 27, 2014

Roll Call Number: [14-0169](#), [14-0170](#) and [14-0171](#)

Action: Items regarding 4140 E. 14th Street (C&S Properties II, LC):

- (A) [Approving](#) amendment to the Des Moines 2020 Community Character Land Use Plan to change the future land use designation from Commercial: Auto-Oriented, Small-scale Strip Development to General Industrial. Moved by Moore to approve the proposed amendment. Motion Carried 7-0.
- (B) [Hearing](#) to rezone the property from “C-2” (General Retail and Highway-Oriented Commercial) to Ltd. “M-1” (Light Industrial) to allow expansion of a legal non-conforming light industrial use with outdoor storage. Moved by Moore to adopt and approve the rezoning,

subject to final passage of the rezoning ordinance, and refer to the City Manager to provide a report with the second reading, addressing why this rezoning is different from the proposed rezoning at 4141 E. 14th Street that was recently denied. Motion Carried 7-0.

- (C) [First](#) consideration of ordinance above. Moved by Moore that this ordinance be considered and given first vote for passage, and refer to the City Manager to provide a report with the second reading, addressing why this rezoning is different from the proposed rezoning at 4141 E. 14th Street that was recently denied. Motion Carried 7-0.

Date: January 13, 2014

Roll Call Number: [14-0052](#)

Action: [On](#) a request from C&S Properties II, LC to rezone property at 4140 E. 14th Street to allow expansion of a legal non-conforming light industrial use with outdoor storage, (1-27-14). Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: December 19, 2013

Resolution Number: 21-2013-4.24 and ZON2013-00197

Action: Approval of a 2020 Community Character Plan Land Use Map designation of General Industrial and approval of a request for Limited “M-1” (Light Industrial) zoning by a vote of 13-0.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Third reading of the ordinance unless waived by the Council. Waiver of third reading is requested by the applicant and requires six (6) affirmative votes.

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