

Date..... January 7, 2008

WHEREAS, on December 17, 2007, by Roll Call No. 07-2374, it was duly resolved by the City Council that the application of Tim Hildebrandt, to rezone certain property owned by Edwin, Robert and Donald Willett and located in the vicinity of 2680 E. Payton Avenue, more fully described below, be set down for hearing on January 7, 2008, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on December 20, 2007, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

Lot 1 in the Official Plat of the "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" West of the 5<sup>th</sup> P.M., Des Moines, Polk County, Iowa; EXCEPT, the West 434.1 feet, the North 321.62 feet, and the South 49.5 feet, thereof, more particularly described as follows (and hereinafter referred to as the "Property"):

Beginning at the Southeast Corner of Lot 1 in White's Meadows, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa, said point being 49.50 feet North of the South Line of Lot 1 in the Official Plat of the "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" West of the 5<sup>th</sup> P.M., Des Moines, Polk County, Iowa, said point also being on the North Right-of-Way Line of East Payton Avenue as it is presently established in the City of Des Moines, Iowa; thence North along the East Line of said White's Meadows a distance of 965.4 feet, more or less, to the South Line of the North 321.62 feet of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, East along the South Line of the North 321.62 feet of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" a distance of 863.5 feet, more or less, to the West Line of Lot 3 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, South along the West Line of said Lot 3 a distance of 551.9 feet, more or less, to the Northeast Corner of Lot 2 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same"; thence, Southwesterly along the Northerly Line of said Lot 2 a distance of 730.3 feet, more or less, to the Northwest Corner of said Lot 2; thence, South along the West Line of said Lot 2 a distance of 223.1 feet, more or less, to the North Right-of-Way Line of said East Payton Avenue; thence, West along the North Right-of-Way Line of said East Payton Avenue and along a line parallel with and 49.5 feet North of the South Line of Lot 1 in the Official Plat of said "NW ¼ of the SE ¼ of Sec 25-T78-R24 with a strip 31 Links wide added to the North side of same" a distance of 152.7 feet, more or less, to the Point of Beginning.

( continued )

Date..... January 7, 2008

from the "R1-80" One-Family Residential District to a Limited "R-3" Multiple-Family Residential District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

- a) Only the following uses of structures and land shall be permitted upon the Property:
  - (i) Any use permitted in and as limited in the R1-80 One-Family Residential District.
  - (ii) Assisted living residential facility or housing for older persons.
- b) A tree survey detailing the species and caliper of all trees on the Property over 6 inches in caliper shall be submitted at such time that any preliminary subdivision plat is considered for the Property.
- c) Prior to approval of a preliminary subdivision plat for the Property, no tree over 6 inches in diameter shall be removed from the Property without the prior written approval of the Community Development Director of the City.
- d) No development of the Property shall occur prior to approval of a preliminary major subdivision plat which provides for the extension of SE 27<sup>th</sup> Street through the Property, and an east/west street connection to properties adjoining to the east and to the west of the Property.
- e) The lot area per dwelling unit for and development of the Property shall not be less than 3,600 square feet per dwelling unit.
- f) Any Site Plan for multiple-family residential development of the Property shall provide for the improvement and dedication of SE 27<sup>th</sup> Street.

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited "R-3" Multiple-Family Residential District are hereby overruled, and the hearing is closed.

( continued )

★ Roll Call Number

Agenda Item Number

49B

Date January 7, 2008

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

MOVED by \_\_\_\_\_ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

*Roger K. Brown*

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....  
Mayor

**CERTIFICATE**

I, DIANE RAUH, 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

49B

December 3, 2007

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held November 15, 2007, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
David Cupp	X			
Shirley Daniels	X			
Dann Flaherty	X			
Bruce Heilman				X
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Kaye Lozier	X			
Jim Martin	X			
Brian Millard				X
Mike Simonson	X			
Kent Sovern	X			
Tim Urban	X			
Marc Wallace	X			

**APPROVAL** of a request from Tim Hildebrandt (purchaser) to amend the Des Moines' 2020 Community Character Plan land use designation for property located at 2680 East Payton Avenue from Public/Semi-Public and Easter Lake New Town Plan General Development Zone, Low-Density Residential to Low/Medium Density Residential, only for the portion of property designated for the assisted living project on the submitted development concept. (21-2007-4.19)

By separate motion, Commissioners recommended **APPROVAL** of a request to rezone subject property from "R1-80" One-Family Residential District to "R-3" Multiple-Family Residential District only for the portion of property designated for the assisted living project on the submitted development concept, to allow for development of that portion of the property with a 50 unit assisted living residential apartment complex, subject to the owner agreeing to the following conditions:  
(ZON2007-00184)

1. A tree survey detailing the species and caliper of all trees over 6 inches in caliper shall be submitted at such time that a major subdivision plat is considered.
2. No tree over 6 inches in diameter shall be removed from the subject property without approval of a major subdivision plat.



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309 -1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003

3. No development of the property shall occur prior to approval of a preliminary major subdivision plat to include extension of SE 27<sup>th</sup> Court from the property to the north to East Payton Avenue and an east/west connection to properties adjoining to the east and to the west.
4. The lot area per dwelling unit shall not be less than 3,600 square feet per dwelling unit.
5. Any Site Plan for multiple-family residential development shall require the improvement of SE 27<sup>th</sup> Street along the entire west frontage.

**Written Responses**

1 In Favor

0 In Opposition

*This item would not require a 6/7 vote of City Council.*

**STAFF RECOMMENDATION AND BASIS FOR APPROVAL**

**Part A)** Staff recommends that the requested rezoning be found not in conformance with the Des Moines' 2020 Community Character Plan.

**Part B)** Staff recommends denial of the requested amendment to the Des Moines' 2020 Community Character Plan. Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Public/Semi-Public and Easter Lake New Town Plan General Development Zone, Low-Density Residential to Low/Medium Density Residential, only for the portion of property designated for the assisted living project on the submitted development concept.

**Part C)** Staff recommends approval of the requested rezoning subject to the owner agreeing to the following conditions:

1. A tree survey detailing the species and caliper of all trees over 6 inches in caliper shall be submitted at such time that a major subdivision plat is considered.
2. No tree over 6 inches in diameter shall be removed from the subject property without approval of a major subdivision plat.
3. No development of the property shall occur prior to approval of a preliminary major subdivision plat to include extension of SE 27<sup>th</sup> Court from the property to the north to East Payton Avenue and an east/west connection to properties adjoining to the east and to the west.
4. The lot area per dwelling unit shall not be less than 3,600 square feet per dwelling unit.
5. Any Site Plan for multiple-family residential development shall require the improvement of SE 27<sup>th</sup> Street along the entire west frontage.

**STAFF REPORT**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** Development of the property with a single-story assisted living project with 50 units in the first phase of development. A development concept submitted by the applicant indicates an extension of SE 27<sup>th</sup> Court from East Payton to the Tobis Park Estates single-family PUD to the north. Eighty-foot wide single-family lot development is conceptually proposed to the north of the proposed assisted living project.

The developer had previously obtained approval of a rezoning, subdivision, and Site Plan for a similar project at 5550 SE 14<sup>th</sup> Street, but the purchase of the land was not completed.

2. **Size of Site:** 13.8 acres with 12.1 acres for multiple-family
3. **Existing Zoning (site):** “R1-80” One-Family Residential District.
4. **Existing Land Use (site):** Undeveloped agricultural land.
5. **Adjacent Land Use and Zoning:**

*North* – “PUD” (Tobis Park Estates), Uses are single-family dwellings.

*South* – “R1-80”, Uses are agricultural.

*East* – “R1-80”, Uses are agricultural.

*West* – “R1-80”, Uses are single-family residential acreages.

6. **General Neighborhood/Area Land Uses:** The subject property is located in the Easter Lake New Town area which is currently a transition of new mixed densities of residential development to rural acreage and agricultural uses.
7. **Applicable Recognized Neighborhood(s):** Easter Lake Area Neighborhood.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation(s):** Easter Lake New Town Plan General Development Zone Low Density Residential, Public/Semi-Public and Low Density Residential.
10. **Applicable Regulations:** 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. **Natural Site Features:** The subject property is predominantly tilled agricultural land with heavy fence line vegetation along the western boundary and some vegetation growth along the drainage way that comprises the southeastern boundary. The respective City Code chapters require that mature trees are to be identified on any Subdivision Plat or Site Plan submitted for approval. Staff recommends that the applicant agree not to remove any trees from the subject property prior to approval of such documents and that a tree survey detailing the species and caliper of all trees over 6 inches in caliper be submitted at such time that a plat is considered.
2. **Drainage/Grading:** A majority of the subject property drains to the south and east into an existing open drainage creek. Some of the northern portion of the property drains generally toward the north. Grading/soil erosion protection plans and storm water management plans in accordance with the respective Ordinances are required with any Subdivision Plat or Site Plan

submitted. Public storm sewer improvements will be required of the developer with any major plat or site plan development of the property.

3. **Utilities:** Sanitary sewer is available from the north and southeast. Water mains are available in East Payton Avenue to the south and SE 27<sup>th</sup> Court to the north. Public water main to connect these existing mains will be required with full development of the subject property.
4. **Landscaping & Buffering:** Any proposed assisted living complex will require landscaping in accordance with the Des Moines' Landscaping Standards as part of a Site Plan reviewed by the Commission under the design guidelines for multiple-family residential development.
5. **Traffic/Street System:** The subject property is an essential piece to providing a north/south connector from East Payton Avenue for the greater surrounding neighborhood area. Staff recommends that any development of the subject property require a preliminary major subdivision plat involving the extension of SE 27<sup>th</sup> Court from East Payton Avenue to connect with the stubbed end in the "Tobis Park Estates" PUD to the north. This plat should also provide an east/west local street to provide connection to future developments to the east and west. The submitted development concept indicates the future intention for these streets.
6. **Access or Parking:** Parking for any assisted living complex will be reviewed with the Site Plan by the Commission under design guidelines for multiple-family residential development. Assisted living requires a minimum of one space per four dwelling units plus one space per two employees on the maximum working shift.
7. **2020 Community Character Plan:** In order to allow for the proposed rezoning, the future land use designations must be amended. The proposed "R-3" rezoning would require Medium Density Residential if it is to remain at 2,500 square feet of lot area per unit. This would permit approximately 210 units on the proposed 12.1 acre parcel. Staff believes that densities at approximately 3,600 square feet per acre are more appropriate based on the surrounding single-family development and the proposed surrounding residential densities. This would allow a Limited "R-3" rezoning to be found in conformance with Low/Medium Density Residential up to 12 units per acre or approximately 145 units with the build out of the conceptual multiple-family parcel.

The submitted development concept indicates an 80 foot wide single-family lot development north of the assisted living development parcel. Staff does not believe that the future land use designation or zoning should be amended for this area, as the existing designations will allow development under the submitted concept.

8. **Urban Design:** A site plan, as well as architectural design and materials, for any assisted living project will be reviewed under the design guidelines for multiple-family residential development by the Commission with a required Site Plan.

## **SUMMARY OF DISCUSSION**

Jason Van Essen: Presented staff report and recommendation. Noted this project would return to the Commission for review of the multi-family design guidelines. Explained the project to be for senior housing.

Mike Ludwig: Noted in addition to the multi-family site plan a preliminary plat for the entire property would return to the Commission for review. Issues relative to street extensions would be addressed at that time.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Jim Bollard, President of the Easter Lake Neighborhood Association: Thought the project was good but expressed concern about creeping R-3 with higher density development that has been increasing in the Easter Lake area, but was glad to see a lot of green space and a single story building; felt a senior housing project to be preferable to the townhomes and condos that have been cropping up. In general they like the way the project looks and the green space, but they don't like the zoning.

David Cupp: Asked if the project would be limited to senior citizens.

Mike Ludwig: Noted it is assisted living but will not be limited to senior citizens.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Jim Martin: Moved staff recommendation for A to find the zoning request not in conformance with the existing 2020 Community Character Plan.

Motion passed 11-0.

Jim Martin: Moved staff recommendation for B&C to amend the Comprehensive Plan and zoning for the assisted living portion of the property only.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment



## **Board members of the Planning and Zoning**

**I would like to voice my concerns regarding putting more multiple-family on Payton. Recently LaMar Koethe approached the board to rezone several acres on Payton and Army post from R1-80 to Multiple-Family, R1-70 and commercial. None of the R1-80 remained as it was all changed to multiple families, commercial and R1-70. I am concerned that we already have an over saturated multiple family area.**

**Currently there is a Senior Living at 3721 Indianola Avenue with 100 apartments and John Mauro is proposing another 80 apartments for seniors on the South Side. Is there a need for all the Senior Housing?**

**Currently on Indianola and Payton we have many multi-family estates such as Carman, Vineyards, The Arbors and others that I don't have the names of. In the Carman Estates alone there are 179 condos, 159 townhouses and 56 duplex units, which is a total of 394 dwelling units. In Lamar's proposal there will be another 980 dwelling units. This does not include the Vineyards, Arbors or other estates on Indianola Avenue.**

**I am concerned about all the high-density area's requested. We currently have issues with run off and erosion in our area now and with all the construction of the high-density areas I am afraid this will become more of a problem. Also my concern is with the current high-density condos and townhouses already on Indianola and Payton that are not selling and now they are requesting to build more. What happens when the units don't sell, will they start renting like some of the other condos in Des Moines that have not sold?**

**Another issue is the high volume of traffic that we will receive with all the high-density areas. Currently on Payton there is a one-lane bridge just past 31st and Payton this will be an issue with all the traffic. Also, we are losing a lot of the trees from all the building.**

**Has there been a needs analysis done for the request of all the high-density areas? Why can they not just build the single-family low-density homes that it was zoned for??? Where are the bike trails that they keep promising?**

**Also, we are concerned that the current area is zoned low density and there is not a lot of growth in the area. We would like to contain some of the green areas and try to keep as much of the zoning to low density.**

**If there is a need for more senior living on the south side of Des Moines, I would like to recommend the senior living proposal be moved to the south side of Payton, which has already been rezoned to multi-family. Also there are many areas on Army Post that could hold the Senior Living proposal.**

**Thank you for letting me voice our concerns.**

**Robey & Penny Orewiler  
3022 E. Highview Drive  
Des Moines, Iowa 50320**

2007 00184

Date 11-12-07 49B

Item

( ) ( ) in favor of the request.

(Circle One)

RECEIVED

Print Name:

Anna A. H-Crozier

NOV 4 2007

Signature:

*Anna A. H-Crozier*

COMMUNITY DEVELOPMENT DEPARTMENT

Address:

2731 E. Porter Ave, DSM

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

I am in favor of R-3 zoning as long as it stays for Senior Housing. Senior Housing should be part of every community/neighborhood. Want the two rows of housing North of Senior Housing to remain high quality housing, as already exists along E. Porter Ave. <sup>single family</sup>

