



Roll Call Number

Agenda Item Number

48A

Date February 22, 2010

WHEREAS, on August 7, 2000, by Roll Call No. 00-3381 the City Council adopted the Des Moines 2020 Community Character Land Use Plan; and

WHEREAS, the City Plan and Zoning Commission has advised in the attached letter that at a public hearing held January 21, 2010, the members voted 9-0 in support of a motion to recommend DENIAL of a request from Hubbell Realty Company (owner) to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development for property located at 2801 Fleur Drive as more specifically shown by the accompanying map.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposed amendment to the Des Moines 2020 Community Character Land Use Plan described above, is hereby denied.

MOVED by _____ to adopt, and deny the proposed amendment.

FORM APPROVED:

Michael F. Kelley
Assistant City Attorney

(21-2009-4.11)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRIESS, HENSLEY, MAHAFFEY, MEYER, MOORE, TOTAL, MOTION CARRIED, APPROVED.

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.

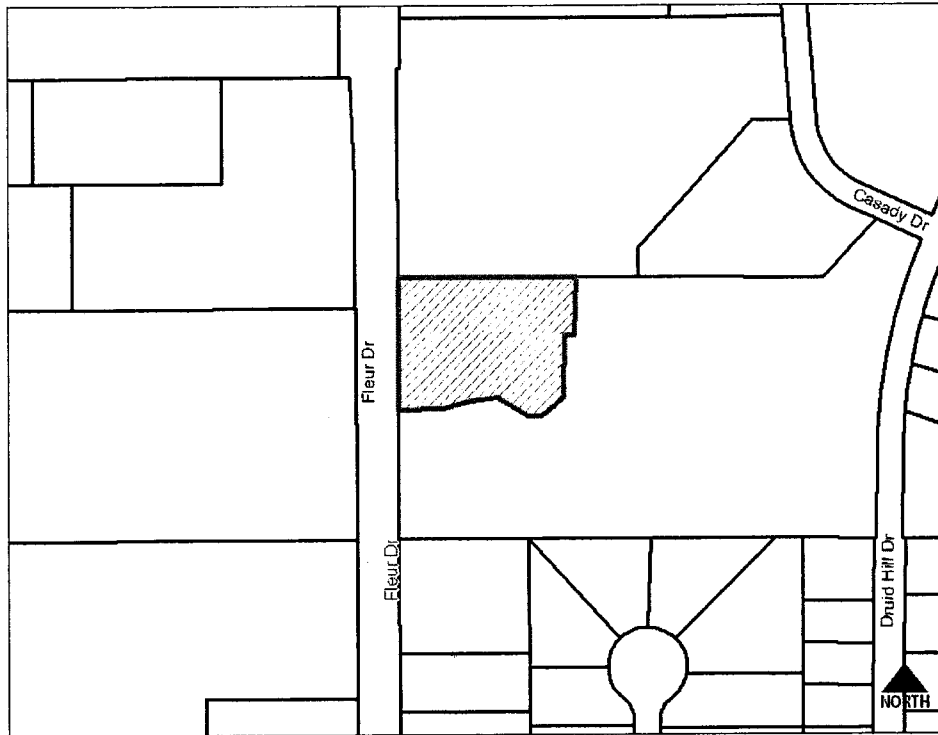
Mayor

City Clerk

Request from Hubbell Realty Company (owner) represented by R. Michael Hays (officer) to rezone property at 2801 Fleur Drive.			File # ZON2009-00220		
Description of Action	Rezone property at 2801 Fleur Drive from "C-0" Commercial-Residential District to Limited "C-2" General Retail and Highway Oriented Commercial District, to allow reuse of the existing professional offices for an event/reception hall.				
2020 Community Character Plan	Low-Density Residential				
Horizon 2025 Transportation Plan	No Planned Improvements				
Current Zoning District	"C-0" Commercial-Residential District				
Proposed Zoning District	"C-2" General Retail and Highway Oriented Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	7	2			
Outside Area					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	9-0		No	

Hubbell Realty Co - 2801 Fleur Drive

ZON2009-00220



January 27, 2010

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 January 21, 2010, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:



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

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels				X
Jacqueline Easley				X
Dann Flaherty	X			
Ted Irvine				X
Jeffrey Johannsen	X			
Greg Jones	X			
Jim Martin	X			
Brian Millard	X			
William Page	X			
Mike Simonson	X			
Kent Sovern	X			

APPROVAL of a request from Hubbell Realty Company (owner) for property located at 2801 Fleur Drive to find the requested rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels				X
Jacqueline Easley				X
Dann Flaherty	X			
Ted Irvine				X
Jeffrey Johannsen	X			
Greg Jones	X			
Jim Martin	X			
Brian Millard	X			
William Page	X			
Mike Simonson	X			
Kent Sovern	X			

DENIAL to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development.
 21-2009-4.11

By separate motion Commissioners recommended 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels				X
Jacqueline Easley				X
Dann Flaherty	X			
Ted Irvine				X
Jeffrey Johannsen	X			
Greg Jones	X			
Jim Martin	X			
Brian Millard	X			
William Page	X			
Mike Simonson	X			
Kent Sovern	X			

DENIAL to the rezoning of property from "C-0" Commercial-Residential District to Limited "C-2" General Retail and Highway Oriented Commercial District: ZON2009-00220

Written Responses

- 7 In Favor
- 2 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development.

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

1. Any external modifications or additions to the structure shall be in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
2. Any modifications to the site, including any building additions, building demolition, or parking lot expansions, shall be in accordance with a site plan as approved by the City's Plan & Zoning Commission.
3. Any additional parking constructed shall be set back at least 10 feet from the northern and eastern boundaries, 25 feet from the southern boundary of the property, and 35 feet from the western boundary.
4. Any additional parking constructed shall be landscaped in accordance with the Landscape Standards applicable to the "C-2" District.

5. Signage shall be limited to a single monument sign constructed with a brick base to complement the structure and shall not exceed 8 feet in height or 32 square feet in area.
6. Use of the property shall be limited to the following uses:
 - a) Single-family detached dwellings.
 - b) Churches, cathedrals, temples, and similar places of worship, provided that all principal buildings be set back a minimum of 35 feet from all property lines.
 - c) Public and parochial schools, elementary and secondary, and other educational institutions having an established current curriculum the same as ordinarily given in public schools in the city, but excluding boarding schools, nursery schools, and child care centers; provided that all principal buildings shall be set back a minimum of 35 feet from all property lines.
 - d) Supervised group residences, subject to the requirements of City Code Section 134-342.
 - e) Family homes, provided that new family homes owned or operated by public or private agencies shall be disbursed throughout the residential districts and shall not be located within contiguous city block areas.
 - f) Elder family homes, provided that elder family homes shall be disbursed throughout the residential districts and shall not be located within contiguous city block areas.
 - g) Elder group homes, provided that elder group homes shall be disbursed throughout the residential districts and shall not be located within contiguous city block areas.
 - h) Day nursery, day care center or nursery school.
 - i) Multiple-family residential subject to review and approval of a site plan by the Plan & Zoning Commission under Designs Guidelines for Multiple-Family Residential Uses.
 - j) Boardinghouses and roominghouses provided that any boardinghouse or roominghouse constructed or altered to increase the number of bedrooms after July 1, 2002, shall be used and maintained in conformance with an approved site plan.
 - k) Institutions of a religious, educational, or philanthropic nature, including libraries.
 - l) Colleges and universities, both public and private, including administrative buildings, classrooms, dormitories, athletic facilities, and similarly related structures, but excluding commercial trade schools and business colleges.
 - m) Nursing, convalescent, and retirement homes.
 - n) College fraternities and sororities if recognized by the local college or university.
 - o) Private clubs, lodges, or veterans organizations, excepting those holding a beer permit or liquor license.
 - p) Hospitals, both public and private.
 - q) Clinics or group medical centers, including dental clinics.
 - r) The office of a doctor, dentist, osteopath, chiropractor, optometrist, chiropodist, or similar profession.
 - s) Office uses not to exceed 30,000 square feet of gross floor area.
 - t) Funeral homes and mortuaries.
 - u) Beauty shops and barbershops.
 - v) Antique shops.
 - w) Apparel shops.
 - x) Art shops.
 - y) Baby and children's stores.
 - z) Bakeries with a retail sales area where all products produced on the premises are available fresh daily, provided the product preparation and storage area does not exceed 5,000 square feet of gross floor area. Distribution of products to other premises is permitted; however, no semitrailer trucks shall be used for distribution purposes.
 - aa) Bookstores.
 - bb) Camera stores.
 - cc) Collection office of public utility.
 - dd) Confectionery stores, including ice cream or snack bars.
 - ee) Delicatessens.

- ff) Florist shops and greenhouses.
- gg) Furniture stores.
- hh) Gift shops.
- ii) Hobby shops.
- jj) Jewelry stores and watch repair shops.
- kk) Leather goods stores.
- ll) Music stores.
- mm) Music studios.
- nn) Photographic studios, including film developing and retail sales of photographic equipment and supplies.
- oo) Post office substations.
- pp) Restaurants.
- qq) Tailor and dressmaking shops.
- rr) Theaters.
- ss) Banks, savings and loan associations and similar financial institutions.
- tt) Business, secretarial or other commercially operated schools for adults, but not including commercial trade schools, such as gasoline, diesel, or marine engine mechanics schools, or truck driving schools.
- uu) Labor union offices, including assembly halls, not to exceed 1,500 square feet of gross floor area for the assembly hall.
- vv) Photographic printing or developing and photocopying establishments, but not including letter or offset presses.
- ww) Radio stations, not to exceed 15 watts of power, including the transmitting tower, such tower not to exceed 100 feet in height.
- xx) Package goods stores for the sale of alcoholic beverages, subject to section 134-954.
- yy) Parking lots used for the temporary placement of motor vehicles while the driver is engaged in some other activity (i.e., working, shopping, or attending a recreational event, etc.) but not including a storage lot.
- zz) Animal hospitals, veterinary clinics, or kennels, provided any exercising runway shall be at least 200 feet from any adjoining residential use.
- aaa) Ballrooms and dancehalls.
- bbb) Trade schools.
- ccc) Hotels.
- ddd) Motels.
- eee) Office buildings.
- fff) Package goods stores for the sale of alcoholic beverages subject to the requirements of City Code Section 134-954.
- ggg) Photographic printing or developing establishments.
- hhh) Physical culture or health establishments.
- iii) Auction businesses.
- jjj) Radio or television studios.
- kkk) Bed and breakfasts.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to rezone the property in order to market the structure for commercial uses, such as retail, office, or a medical clinic. The current "C-0" Commercial-Residential District zoning classification limits use of the property to a professional office or a residential use. A portion of the structure (approximately 5,000 square feet) currently contains an office use. Any future commercial reuse of the property or expansion of the existing office space must comply with off-street parking requirements.

The subject property is listed on the National Register of Historic Places but is not designated

as a Local Landmark. Therefore, modifications to the building are not subject to the review of the City's Landmark Review Board.

2. **Size of Site:** 81,021 square feet (1.86 acres).
3. **Existing Zoning (site):** "C-0" Commercial-Residential District.
4. **Existing Land Use (site):** The site contains the historic Rollins Mansion. Approximately 5,000 square feet of the 18,000-square foot structure has been converted to commercial office space. The site also contains a circular parking lot in front of the structure with approximately 13 spaces, an area in front of the garage with 3 spaces, and a parking lot behind the structure with approximately 20 spaces.
5. **Adjacent Land Use and Zoning:**
 - North* – "C-0", Use is the Butler Mansion, which is used as office space for the Integer Group.
 - South* – "PUD", Use is the Druid Hills townhome development.
 - East* – "PUD", Use is the Druid Hills townhome development.
 - West* – "R-3", Uses are multiple-family residential and AIB College of Business.
6. **General Neighborhood/Area Land Uses:** The subject property is located on the Fleur Drive corridor in an area that includes a mix of residential, educational, and commercial uses.
7. **Applicable Recognized Neighborhood(s):** Gray's Lake Neighborhood.
8. **Relevant Zoning History:** The property was rezoned on April 22, 1996 by Ordinance 13,331 to a Limited "C-0" District with the following limitations:
 - a) The design of any building addition upon the Property shall be complimentary to the existing structure.
 - b) Any parking along the northern and eastern boundary of the Property shall be set back at least 10 feet from the property line and meet the ordinance requirements for screening and landscaping.
 - c) Any parking area along the south boundary line of the Property shall maintain a 25 foot setback with the required screening and/or landscaping.
 - d) Any parking area along the western boundary line of the Property shall be set back 35 feet from the property line and maintain the required screening / landscaping pursuant to the Zoning Ordinance.
9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries 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 recommend that certain conditions be applied to the subject property if the property owner agrees in writing, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. Urban Design:** The subject property is listed on the National Register of Historic Places but is not designated as a Local Landmark. Therefore, modifications to the building are not subject to the review of the City's Landmark Review Board. Given the historic character of the property, staff recommends that the rezoning be conditional upon any future external modifications or additions to the structure being in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- 2. Site Plan:** Given the historic character of the property, staff recommends that any future modifications to the site, including any building additions, building demolition, or parking lot expansions, be subject to review and approval of a site plan by the City's Plan & Zoning Commission.
- 3. Landscaping & Buffering:** The subject property contains several mature trees in the in the front yard area along Fleur Drive. Any site development for parking improvements may require site landscaping and buffering for the adjoining properties. In addition, any site development that would remove mature trees will require mitigation plantings in accordance with the recently adopted ordinance as part of the Site Plan.
- 4. Parking:** The site contains a circular parking lot in front of the structure with approximately 13 spaces, an area in front of the garage with 3 spaces, and a parking lot behind the structure with approximately 20 spaces. Any future commercial reuse of the property is subject to compliance with the off-street parking requirements unless the Zoning Board of Adjustment grants a Variance or Exception to the requirement.

The existing zoning conditions (adopted April 22, 1996 by Ordinance 13,331) require any off-street parking to provide a 10-foot setback from the north and east property lines, a 25-foot setback from the south property line, and a 35-foot setback from the west (front) property line.

- 5. 2020 Community Character Plan:** In order to find the requested rezoning in conformance with the comprehensive plan, the future land use designation must be amended from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development. The 2020 Community Character Plan defines this designation as small-to-moderate commercial that serves the passing motorist. Staff believes this designation is appropriate given its location along Fleur Drive so long as use of the property is restricted to those listed in the Section III (Staff Recommendation) of this report.
- 6. Additional Information:** Given the historic character of the property, staff recommends signage on the property be limited to a monument sign constructed with a brick base to complement the structure and shall be no greater than 8 feet in height or 32 square feet in area.

SUMMARY OF DISCUSSION

Mike Ludwig presented staff report and recommendation.

Brian Millard asked if a cell tower would be allowed on this property.

Mike Ludwig stated no a cell tower would not be allowed on this property, but a radio station could have a tower there.

Brian Millard asked would the applicant agree to exclude the use of a radio station tower and is there anything in the restriction about time, (i.e. late night activities).

Mike Ludwig stated Mr. Millard would have to ask the applicant if they would agree to the exclusion of a radio station and the possibility of the restriction on commercial hours of operation but currently there are no such restrictions proposed.

Will Page asked if this Commission have any authority over the interior of the building because the interior is just as significant to the historic character of the property as the exterior. He is concerned that if the building goes to an inappropriate owner these internal characteristics and features of the house could be salvaged out.

Mike Ludwig essentially in the zoning regulations typically regulate the use of the property and external features. We do not regulate internal modifications of structures other than through the building codes. It is a national register property it's not in a local historic district and not in a local landmark under the City's code. We are only able to regulate the use of the property through zoning such as the limitations in the staff report and as a condition of this requiring some sort of public review of exterior modification such as parking or the exterior of the building itself.

Will Page stated there are federal guidelines available for rehabilitation.

Dann Flaherty asked if the City regulates the interior on local landmarks.

Mike Ludwig stated he was not aware of any time the City has regulated the interior except to be in compliance with building code. If federal or state dollars are involved (such as historic tax credits) then the SHPO looks at interior renovation.

Kent Sovern asked if the parking lot to the east serves this property and is there appropriate provision for handicap accessibility to subject property.

Mike Ludwig stated that it does serve this property and any commercial use would be required to comply with our handicapped accessible parking requirements.

Joe Pietruszinsky, Hubbell Realty Company 6900 Westown Parkway stated that the intent of changing uses is to find an adaptive reuse of the building that is suitable and would work well with the historic structure. The end user would be the ones to determine the interior renovation, but we have not made any provisions for that at this time. To further limit uses would hinder prospective buyers from looking at the building.

Will Page asked if the applicant would refer possible buyers to the Secretary of Interiors Standard for rehabilitation for guidance.

Joe Pietruszinsky stated yes, by Hubbell's reputation they would gladly refer possible buyers to the Secretary of Interiors Standard for rehabilitation for guidance because it is a very special structure.

Greg Jones asked if the applicant agrees to staff recommendations.

Joe Pietruszinsky stated yes.

Brian Millard asked if the applicant would exclude the use of a cell tower, and if so would they provide it in writing before the City Council meeting.

Joe Pietruszinsky stated they would exclude the use of a cell tower.

Mike Ludwig stated that cell towers are already excluded from the list of permitted uses.

Jeffrey Johannsen asked about the hours of operation depending on what business goes into the property.

Larry Hulse stated in this proposal there is no limitation on when someone may operate their business.

Kent Sovern stated that he questions the list of inclusive activities, and noted that duplicate uses exist on the list.

Mike Ludwig pointed out that the list was compiled from three zoning districts so there may be some overlap.

Kent Sovern stated that he cannot support this proposal there are about 26 uses that he would strike.

Brian Millard asked applicant if he could further explain the motivation or need to have "C-2" zoning.

Joe Pietruszinsky stated that it is difficult to provide adaptive reuse of the property. This use is intended to open up our thinking to figure out some use that works economically in that structure. They are comfortable with the list and would like to move forward.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one in the audience to speak in opposition

CHAIRPERSON CLOSED THE PUBLIC HEARING

Jeffrey Johannsen stated that he agrees with Kent Sovern that some of the proposed permitted uses should be stricken.

Larry Hulse suggested going through the list with applicant.

Brian Millard asked if it was in the Commissions purview to go over the list.

Dann Flaherty asked Mr. Sovern if his concern is the redundancy.

Kent Sovern stated no, he does not agree with the recommendations.

Mike Simonson stated if there is a use that is appropriate for this building then let them come forward and the Commission could hear their case for rezoning. He would like to know what actual use is proposed first.

Greg Jones stated that he agrees with Mike Simonson and is uncomfortable with the broad list.

Jeffrey Johannsen stated that he too thinks the list is broad but would like to work with Hubbell.

COMMISSION ACTION

Kent Sovern moved staff recommendation that the requested rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan.

Motion passed 9-0.

Kent Sovern moved to deny the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development.

Larry Hulse commented that the P&Z doesn't want to change the land use now, but they might if something was in front of them.

Joe Pietruszinsky stated that the applicant would like to bring forward a use that wants to locate in this structure. However, they cannot market it for anything other than residential or office use right now. The people looking at this want to make sure the zoning is in place so they can go through the investment.

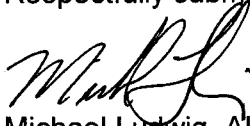
Kent Sovern stated others have come to P&Z with the same argument and over the history the Commission precedence has been to deny a rezoning before we have a use.

Motion passed 9-0.

Kent Sovern moved to deny the rezoning of property from "C-0" Commercial-Residential District to Limited "C-2" General Retail and Highway Oriented Commercial District.

Motion passed 9-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Item ZON2009-00230 Date 1/13/10

48

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
JAN 20 2010
DEPARTMENT

Print Name CLARKE COMPANY LTD

Signature [Signature]

Address 4210 SW 9TH ST
DM 30315-3957

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

Item ZON2009-00220 Date 1-14-10

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
JAN 20 2010
DEPARTMENT

Print Name LARRY MOORE

Signature [Signature]

Address 2876 Druid Hill Dr.

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

Don't know where the cars will be
parked.

Item ZON2009-00220

Date 1-14-09

48

I (am) (am not) in favor of the request.

COMMUNITY DEVELOPMENT
(Circle One)

JAN 25 2010

DEPARTMENT

Print Name COES BOLDT

Signature [Signature]

Address 2870 DRUID HILL DR

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

Item ZON2009-00220

Date 1-18-10

I (am) (am not) in favor of the request.

COMMUNITY DEVELOPMENT
(Circle One)

JAN 25 2010

DEPARTMENT

Print Name Maureen Myshecke Gray's Lake Neighborhood Assn. Chair

Signature [Signature]

Address P.O. Box 36162 Des Moines, IA 50315

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

Supportive of plans as proposed (ZON2009-00220).

Item ZON2009-00220 Date 1/19/10

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
JAN 25 2010
DEPARTMENT

Print Name W. Brenton

Signature [Signature]

Address 2869 Druid Hill Dr

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

Item ZON2009-00220 Date Jan 19'2010

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
JAN 25 2010
DEPARTMENT

Print Name LOYD B TAYLOR

Signature Lloyd B Taylor

Address 2846 Druid Hill Dr.

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

Item ZDN2009-00320 Date Nov 17, 2010

48

I (am) (am not) in favor of the request.

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT
JAN 25 2010

Print Name Kelley Martin

Signature Kelley Martin

Address 2874 Druid Hill Drive

Des Moines, IA 50315

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

The property needs a proper owner that will care for it as well as it deserves

Item ZON2009-00230 Date Jan 14, 2010

I (am) (am not) in favor of the request.

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT
JAN 2

Print Name FREDERICK MOUNT

Signature [Signature]

Address 2850 Druid Hill Dr Unit 2850

Des Moines, IA 50315

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

I approve because it will be an asset to the neighborhood.

January 21, 2010

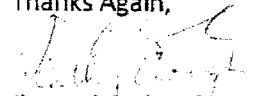
Dann Flaherty
Chair of the Plan and Zoning Commission

Re. Rezoning of the Rollins Mansion

Dear Chairman Flaherty,

I visited with Bert Drost yesterday about his recommendation. While we still believe that the current zoning is appropriate, if you proceed with changing this to C-2, we would like to see a limitation on operating hours so that businesses that operate 24/7 would not be allowed. Bert said they hadn't thought about that and he agreed that this additional limitation was a good idea. Our preference would be closing hours no later than 10:00 PM. We cannot be in attendance this evening and appreciate your consideration. Should anyone on the commission care to discuss this, feel free to contact us.

Thanks Again,



Jim and Cathy Clough
2842 Druid Hill Dr.

January 18, 2010

Dann Flaherty
Chair of the Plan and Zoning Commission

Re. Rezoning of the Rollins Mansion

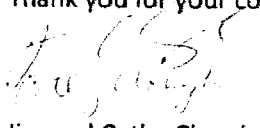
Dear Chairman Flaherty,

Erik Lundy provided us additional information on this proposed change. We live in the townhome building directly behind the mansion. Our front door is fifty feet from the parking lot of the mansion and our upstairs bedrooms overlook it. The "Statement of Intent" for C-0 zoning is appropriate for this property. It limits the type of business and the type of construction that can be done .

That said, we appreciate the historical importance of the mansion and were glad to see Hubbell purchase it. We have already experienced the mansion being used as a reception site as Clarke Company rented this venue out for that purpose. Weddings on the grounds were lovely but some receptions went late into the night and parking was a serious issue, with cars parked along both sides of the northern access to our complex between the mansions. Our concerns are noise, traffic and any activity that would reduce property values or our quality of life; our concerns are adequately addressed in the Statement of Intent for C-0 zoning. This was something we looked into prior to purchasing our townhome.

As the application presently reads, we cannot support this proposed change. We would be happy to discuss this with any commission member.

Thank you for your consideration,



Jim and Cathy Clough
2842 Druid Hill Drive

✓
48

Prepared by: Michael F. Kelley, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309 515/283-4124
Return Address: City Clerk - City Hall, 400 Robert Ray Dr., Des Moines, IA 50309
Taxpayer: No change
Title of Document: Acceptance of Rezoning Ordinance
Grantor's Name: Rollins Mansion, LLC
Grantee's Name: City of Des Moines, Iowa
Legal Description:

Parcel "E", being a part of Lot 16, Casady's Druid Hill Park, an Official Plat; Parcel "E" beginning at the Northeast corner of the West 327 feet of said Lot 16; thence East 21 feet, South 110.04 feet, West 17.59 feet to East line of the West 327 feet of said Lot 16; thence South 120.53 feet, Southwest 51.04 feet, West 28.26 feet, Northwest 67.46 feet, Southwesterly 106.69 feet, West 86.58 feet, North 255.06 feet to the North Line of said Lot 16; thence East 319.68 feet to the Point of Beginning of said Lot 16, as shown on the Plat of Survey recorded in Book 8142, Page 422 of the Polk County Recorder's Office; all now included in and forming a part of the City of Des Moines, Polk and Warren County, Iowa

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Rollins Mansion, LLC, by its sole member Iowa Property Exchange, LLC, is the sole owner of the Property in the vicinity of 2801 Fleur Drive, Des Moines, Iowa, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the C-O Commercial-Residential District to Limited C-2 General Retail and Highway Oriented Commercial District classification, I agree and accept on behalf of the owner to the imposition of the following conditions to run with the land and be binding upon all successors, heirs and assigns as part of the ordinance so rezoning the Property:

1. Any modifications to the site, including any building additions, building demolition, or parking lot expansions, shall be in accordance with a site plan as approved by the City's Plan & Zoning Commission and shall, to the extent feasible, respect the historic character of the building.

2. Any additional parking constructed shall be set back at least 10 feet from the northern and eastern boundaries, 25 feet from the southern boundary of the property, and 35 feet from the western boundary.
3. Any additional parking constructed shall be landscaped in accordance with the Landscape Standards applicable to the "C-2" District.
4. Signage shall be limited to a single monument sign constructed with a brick base to complement the structure and shall not exceed 8 feet in height or 32 square feet in area.
5. Use of the property shall be limited to the following uses:
 - a) Any use as permitted and limited in the "C-0" Commercial-Residential District, except:
 - i. Communication towers.
 - ii. Correctional placement residences.
 - iii. Shelters for the homeless.
 - iv. Agricultural uses.
 - b) Specialty retail, restaurant, and hospitality uses up to 15,000 square feet in gross floor area, such as:
 - i. Antique shops.
 - ii. Apparel shops.
 - iii. Art studios with gallery.
 - iv. Bookstores.
 - v. Camera stores.
 - vi. Confectionary stores, include ice cream or snack bars.
 - vii. Florist shops.
 - viii. Furniture stores.
 - ix. Gift shops.
 - x. Hobby shops.
 - xi. Hotels
 - xii. Jewelry stores.
 - xiii. Leather goods stores.
 - xiv. Music stores.
 - xv. Restaurants
 - xvi. Specialty food stores.
 - c) Music studios.
 - d) Photographic studios, including film developing and retail sales of photographic equipment and supplies.
 - e) Banks, savings and loan associations and similar financial institutions, except those whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - f) Business, secretarial or other commercially operated schools for adults, but not including commercial trade schools, such as gasoline, diesel, or marine engine mechanics schools, or truck driving schools.

- g) Ballrooms, dancehalls, and events center, including those with alcohol service in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
- h) Physical culture or health establishments.
- i) Auction businesses except for auto auctions.

3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

4. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited C-2, then this Acceptance shall be immediately terminated as applied to the real estate so rezoned on the effective date of such rezoning, and the conditions agreed to herein shall be rendered null and void, provided, if there be any such rezoning to a more restricted zoning classification, any then legal actual use of such real estate shall become a legal non-conforming use.

The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

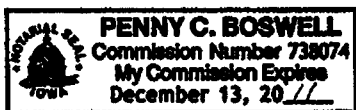
TITLE HOLDER

Rollins Mansion, LLC

By: *David Brown*
 David Brown, President of Iowa Property Exchange
 which is the sole member of Rollins Mansion, LLC

State of Iowa)
) ss:
 County of Polk)

This instrument was acknowledged before me on February 22, 2010, by **David Brown, as the President of Iowa Property Exchange, LLC, the sole member of Rollins Mansion, LLC**, who is personally known to me or who has provided identification sufficient under Iowa law, and has authorization to execute this document on behalf of **Rollins Mansion, LLC and Iowa Property Exchange, LLC**.



Penny C. Boswell
 Notary Public in the State of Iowa
 My commission expires: 2011