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Date March 9, 2009

WHEREAS, on February 23, 2009 by Roll Call No. 09-285 it was duly resolved by the City Council that the application of Dr. Gregory E. Peterson to rezone certain property he is purchasing from the Clifton Heights Presbyterian Church of Des Moines and the Presbyterian Church of the United States of America located at 16 Indianola Road, more fully described below, be set down for hearing on March 9, 2009 at 5:00 p.m. in Council Chambers at City Hall; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on February 26, 2009 as provided by law, setting forth the time and place for hearing on the 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:

All that part of Lot 5, South Park, an Official Plat, lying North of the North line of Lot 31, Clifton Heights 1st Plat, an Official Plat, and South of Indianola Avenue and bounded on the East by vacated Webster Street, and on the West by Southwest 1st Street;

also

All Lots 24, 25, 26, 27, 28, 29, 30, 31, and 32 in said Clifton Heights 1st Plat;

also

All that part of said vacated Webster Street right-of-way, being a 30 foot strip of ground, that lies between the westerly extension of the North line of Lot 30 and the easterly extension of the South line of Lot 32 and all that part of the East half of vacated Webster Street right-of-way, being a 15 foot strip of ground, lying South of the easterly extension of the South line of Lot 32 and North of the westerly extension of the South line of Lot 24 of said Clifton Heights 1st Plat, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from R-3 Multiple-Family Residential District and R1-60 One-Family Low Density Residential District to a Limited C-1 Neighborhood Retail Commercial 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:

Date March 9, 2009

1. Prohibition of the following uses:
 - a. Package goods stores for the sale of alcoholic beverages.
 - b. Pawnshops.
 - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.

2. All rooftop mechanical units shall be screened from view.

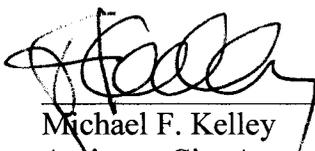
NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

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 Limited C-1 classification are hereby overruled, and the hearing is closed.

2. The Des Moines 2020 Community Character Plan Land Use Map Designation for the above-described property is hereby amended from Low Density Residential to Commercial: Pedestrian Oriented Commercial Corridor.

Moved by _____ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

APPROVED AS TO FORM:



Michael F. Kelley
Assistant City Attorney

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

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.

MOTION CARRIED APPROVED

Mayor

City Clerk

February 6, 2009

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 February 5, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0-1 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			
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson			X	
Kent Sovern	X			

APPROVAL of staff recommendation to find the proposed rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 11-0-1 as follows:

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

APPROVAL of the request to amend the Des Moines' 2020 Community Character Plan Land Use Map Designation from Low Density Residential to Commercial: Pedestrian-Oriented Commercial Corridor. (21-2008-4.22)

By separate motion Commissioners recommended 11-0-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson			X	
Kent Sovern	X			

APPROVAL of a request from Dr. Greg Peterson (purchaser) to rezone property located at 16 Indianola Road from "R1-60" One-Family Low-Density Residential District and "R-3" Multiple-Family Residential District to "C-1" Neighborhood Retail Commercial District, to allow construction of a mixed-use structure with medical and retail uses on the first floor with residential uses on the second floor subject to the following conditions: (ZON2008-00196)

1. Prohibition of the following uses:
 - a. Package goods stores for the sale of alcoholic beverages.
 - b. Pawnshops.
 - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
2. All rooftop mechanical units shall be screened from view.

Written Responses

6 In Favor
1 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends the Commission find the requested rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of an amendment to the Des Moines's 2020 Community Character Plan Land Use Map Designation from Low Density Residential to Commercial: Pedestrian-Oriented Commercial Corridor.

Part C) Staff recommends approval of the proposed rezoning subject to the following conditions:

1. Prohibition of the following uses:
 - a. Package goods stores for the sale of alcoholic beverages.

- b. Pawnshops.
- c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.

2. All rooftop mechanical units shall be screened from view.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow the applicant to redevelop the site with a mix of commercial and residential uses. The applicant has submitted a conceptual site sketch showing a two-story, mixed-use building. The first floor would contain 18,000 square feet of commercial space. The second floor would contain 12 residential condominium units. The building would also contain a sub-grade parking level with 39 stalls. It is staff's understanding that the applicant will have schematic building elevations to present at the meeting.

Any development that includes multiple-family units must comply with the City's Design Guidelines for Multiple Family Dwellings as approved by the Plan and Zoning Commission during the site plan review process.

2. **Size of Site:** 72,607 square feet or 1.67 acres.
3. **Existing Land Use (site):** Vacant church building and single-family dwelling.
4. **Adjacent Land Use and Zoning:**

North – "R-3"; Use is the St. Anthony's Church campus.

South – "R1-60"; Uses are single-family residential.

East – "C-1"; Uses are a single-family dwelling and an automotive repair shop.

West – "R1-60"; Use is single-family residential.

5. **General Neighborhood/Area Land Uses:** The subject site is located on the Indianola Road corridor that contains a mix of commercial and residential uses.
6. **Applicable Recognized Neighborhood(s):** Indianola Hills Neighborhood.
7. **2020 Community Character Land Use Plan Designation:** Low Density Residential.
8. **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, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **2020 Community Character Plan:** The proposed "C-1" District is not in conformance with the existing Low Density Residential land use designation. Staff believes that the proposed Commercial: Pedestrian-Oriented Commercial Corridor land use designation is appropriate given the existence of this designation to the east of the subject property and the mixed-use

nature of the Indianola Road corridor. Staff also believes the proposed development is in harmony with the development pattern identified for the north side of the Indianola Road corridor in the recent *2 Rivers District Plan*.

Staff believes that the uses allowed by the "C-1" District are generally appropriate for the site. However, staff does recommend that the prohibition of liquor stores, pawnshops, and financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.

2. **Landscaping & Buffering:** The City's Landscape Standards for the "C-1" District require the provision of 20% open space with one overstory tree, one evergreen tree and one shrub for every 2,500 square feet of required open space. The "C-1" standards would also include the provision of bufferyard plantings of two overstory trees and six evergreen trees per 100 lineal feet of property line, parking lot interior plantings of one overstory tree and three shrubs for every 20 spaces, and parking lot perimeter plantings of one overstory tree and three shrubs per 50 feet of frontage. The applicant would also be required to provide a six-foot tall opaque fence or wall along the south property line to buffer the residential uses to the south.
3. **Site Design:** The applicant has submitted a site sketch that shows the site would be accessed by a drive from SW 1st Street to the west and a drive from South Union Street to the east. It would have approximately 75 surface parking spaces along the north and east portions of the site. The building would generally encompass the south and west portions of the site.

Development of the site is subject to compliance with all City site plan and storm water requirements. Storm water, sanitary sewer and water lines are available in the adjoining right-of-ways. All outdoor lighting fixtures will be required to be downward directional, sharp cut-off type fixtures. Any trash enclosure constructed shall consist of masonry walls and 100% opaque steel gates.

The subject property generally sits lower than the surrounding single-family dwellings. Given this grade differential the screening of any rooftop mechanical units will be critical. Staff recommends the provision of screening be a condition of approval.

SUMMARY OF DISCUSSION

There was no one in the audience to speak on this item and no discussion.

COMMISSION ACTION

Bruce Heilman moved staff recommendation to find Part A) the requested rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan.

Part B) Approval of an amendment to the Des Moines's 2020 Community Character Plan Land Use Map Designation from Low Density Residential to Commercial: Pedestrian-Oriented Commercial Corridor.

And Part C) Approval of the proposed rezoning subject to the following conditions:

1. Prohibition of the following uses:
 - a. Package goods stores for the sale of alcoholic beverages.
 - b. Pawnshops.
 - c. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.

2. All rooftop mechanical units shall be screened from view.

Motion passed 11-0-1 (Mike Simonson abstained from discussion and vote due to conflict of interest)

Respectfully submitted,



Michael G. Ludwig
Planning Administrator

MGL:clw

Attachment

Item ZON 2008-00196 Date 2-2-07 **42**

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

(Circle One)

RECEIVED

Print Name Tina Reed

Signature Tina Reed

FEB 03 2009

Address 1956 S Union St. Dsm

COMMUNITY DEVELOPMENT DEPARTMENT
Reason for ~~DEPARTMENT~~ approving this request may be listed below:

Please see attached!



I'm not at all happy with this project!

I sold my house in Norwalk because I found this residential property in a quiet neighborhood without apartments or businesses close by.

It has a beautiful full view of trees, and over looking them is a great view of downtown.

And if they build here, they will have to cut away most of the hillside and I don't see how they can do this without cutting down the trees.

I put a lot of money in my home because I felt it was the "One" and now to find out someone is wanting to build retail office's, apartments and high traffic parking that will be **right up next** to my home.

I do not want to look at the back side of a large building, or being eye level with apartments.

I feel not only will this create busy, high and bad traffic of all kinds, but it would probably raise my taxes and lower the value of my home.

This is a RESIDENTIAL area and this is why I bought my home here... because it is residential and I didn't want to see or hear traffic coming and going while in my yard or out the window.

My street is a small gravel road that is about 150 feet long and according to the plans the entrance is going to be built near my entrance.

Not only do I not like the idea of traffic near my entrance, but this new road would have to be paved, maintained and someone will have to cover the cost of repairs etc...

I do not want to pay for this, nor can I afford higher taxes.

I feel they need to build their retail/office/apartments in business areas that are already zone for such complex's.... not in residential areas where people build their homes and raise their kids! I also feel, once the zoning **is** changed, they are able to change any plans and build as they see fit.

Also, with all the drainage issues and cutting deep into a steep hill, I do not see how this can be done without creating many problems.

I know I'm only one cog in the wheel, and money over powers, but I wanted my opinion to be known that I do **NOT** approve of this project!

Tina L. Reed 1956 S. Union St. Des Moines, IA. Item #ZON2008-00196

RECEIVED

FEB 03 2009

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Item ZON2008-00196 Date 1-28-09

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

RECEIVED

Print Name Bernard Lippold

FEB 03 2009

Signature Bernard Lippold

MUNICIPALITY DEVELOPMENT DEPARTMENT

Address 9 SW Hillside Ave

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

The roof of the former church on the subject property has collapsed. It will be much better for the neighborhood to have a developed property rather than a vacant lot.

Item ZON2008-00196 Date 1-30-09

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

(Circle One)

RECEIVED

Print Name Roland F Smith

FEB 03 2009

Signature Roland F Smith

MUNICIPALITY DEVELOPMENT DEPARTMENT

Address 1950 SW First St

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

It will be an improvement to the area site wise.

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

it will put some pressure on the area for property on the two walls - and at a high amount

MUNICIPALITY DEVELOPMENT DEPARTMENT

FEB 03 2009

RECEIVED

(am not) in favor of the request.

Item ZON2008-00196

Date

1/29/09

Print Name Dennis Johnson

Signature

Address #1 50th St Bldg

Item ZON2008-00196 Date 1-28-09

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

(Circle One)

Print Name Barbara Marchant
Signature Barbara J. Marchant
Address 29-S.W. Hillside Ave

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

Anything would be an improvement as to the condition of that church building right now - roof has fallen in the windows are all broke out - It is an eyesore. Lets go for a new and beautiful building!

Item ZON 2008 - 00194 Date 2-2-09

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

RECEIVED

FEB 04 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name William Newton
Signature William Newton
Address 2900 East Lake Drive

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

Item ZON2008-00196

Date 1-28-09

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

RECEIVED

FEB 03 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Kristie Ashley

Signature Kristie Ashley

Address 901 Thomas Beck / 1957 SW 1st

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

Up our property value