

Date April 6, 2009

WHEREAS, on March 23, 2009 by Roll Call No. 09-466 the City Council duly resolved that the request from East 4th Street LLC (owner) represented by Mike Kinter (officer) to rezone property located 118 Southeast 4th Street from M-1 Light Industrial District to Limited C-3A Central Business District Support Commercial District classification to allow conversion of existing warehouse/industrial space to office/retail within a property that has limited capacity for expansion of off street parking for 5:00 p.m. on April 6, 2009 in Council Chambers, City Hall in Des Moines, Iowa. The proposed rezoning is subject to the following conditions:

1. Adult entertainment businesses.
2. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
3. Mobile home parks.
4. Off-remises advertising signs.
5. Pawnshops.
6. Used car lots, except as accessory use to new vehicles dealership.

The subject property is more specifically described as follows:

South .4 Feet Vacated East/West Alley Right-of-Way North and Adjoining, and North 16 Feet Vacated East Market Street Right-of-Way South and Adjoining, and All Lots 7 and 8, Block 4, Scott & Deans Addition, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

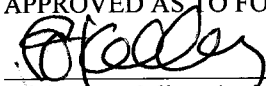
WHEREAS, due notice of hearing was published in the Des Moines Register on March 26, 2009, setting forth the time and place for hearing of the proposed rezoning; and

WHEREAS, pursuant to the published notice, those interested in the proposed rezoning, both for and against, have been given the opportunity to be heard and have presented their views to the City Council.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Des Moines that upon due consideration of the facts and statements of interested persons and arguments of counsel, objections to the proposed rezoning are hereby overruled, the hearing is closed, and the application to rezone the above-described property to a Limited C-3A district classification is hereby **APPROVED**.

Moved by _____ to approve and adopt.

APPROVED AS TO FORM:



Michael F. Kelley, Assistant City Attorney

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

March 20, 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 March 5, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 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			
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 East 4th Street, LLC (owner) represented by Mike Kinter (officer) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan and to rezone property located at 118 Southeast 4th Street from "M-1" Light Industrial District to "C-3A" Central Business District Support Commercial District, to allow conversion of existing warehouse/industrial space to office/retail within a property that has limited capacity for expansion of off-street parking subject to the prohibition of the following uses:

1. Adult entertainment businesses.
2. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
3. Mobile home parks.
4. Off-premise advertising signs.
5. Pawnshops.
6. Used car lots, except as accessory use to new vehicles dealership.

Written Responses

2 In Favor

0 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends the proposed rezoning be found in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the proposed rezoning subject to the prohibition of the following uses:

1. Adult entertainment businesses.
2. Financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
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STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to convert the two-story building from warehouse use to office and retail uses. The proposed uses are generally allowed in the "M-1" District. However, the site does not contain the space necessary to meet the "M-1" District off-street parking requirements. The subject property is located near the southern edge of the East Village and is approximately two blocks north of the planned route for the Southeast Connector road project. The area between the East Village and the Southeast Connector generally consists of existing light industrial uses. Staff believes this area will convert to a mix of office, retail and residential uses in the future as the Des Moines's 2020 Community Character Plan Future Land Use Map designates this area as *Downtown Support Commercial*. The proposed "C-3A" District conforms to the intent of this future land use designation.
2. **Size of Site:** 148' x 132' or 0.45 acres.
3. **Existing Zoning (site):** "M-1" Light Industrial District.
4. **Existing Land Use (site):** Warehouse.
5. **Adjacent Land Use and Zoning:**
 - North** – "M-1"; Use is a nightclub.
 - South** – "D-R"; Use is the City's Public Works complex.
 - East** – "M-1" Use is the City's Public Works complex.
 - West** – "M-1"; Use is a warehouse.
6. **General Neighborhood/Area Land Uses:** The subject property is located in the southern portion of the East Village in the downtown. This portion of the East Village generally contains a mix of commercial and light industrial uses.
7. **Applicable Recognized Neighborhood(s):** East Village Neighborhood Association/ Historic East Village Association.

8. **Relevant Zoning History:** The applicant has converted warehouse space to office space within the building but has not obtained a Certificate of Occupancy (C.O.). The applicant was issued a violation notice for occupying the converted space without a C.O. Staff has also determined that the site does not have adequate parking for the newly occupied uses. The applicant will be required to convert the existing perpendicular off-street parking stalls to parallel stalls unless they obtain relief from the Zoning Board of Adjustment for substandard stall depth and maneuvering space.
9. **2020 Community Character Land Use Plan Designation:** Downtown Support Commercial.
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, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Landscaping & Site Development:** The existing building covers all but the southern 16 feet of the subject property. The applicant will be required to submit a site plan before the occupancy of the building to office and retail uses will be allowed. During that process staff will review the site to ensure that it conforms with the City's site plan requirements to the extent possible. This review will include but is not limited to an evaluation of the need for parking, sidewalk, and landscape improvements.
2. **Access or Parking:** The existing building's footprint covers all but the southern 16 feet of the property. The southern portion of the site has historically been used for approximately 13 perpendicular parking stalls in conjunction with East Market Street. Perpendicular parking is also allowed on both sides of the adjoining segment of SE 4th Street right-of-way. This parking is available to the general public and cannot be counted toward meeting off-street parking requirements.

The "C-3A" District does not require off-street parking for any residential or commercial uses allowed in the "C-1" Neighborhood Retail Commercial District. Any provided off-street parking must comply with the Zoning Ordinance's requirements for maneuvering space and stall size. The existing perpendicular parking stalls to the south of the building do not meet the maneuvering space or stall size requirements. The applicant must convert these spaces to parallel stalls or obtain relief from the Zoning Board of Adjustment.

3. **2020 Community Character Plan:** The requested rezoning is in conformance with the Downtown Support Commercial future land use designation. This land use designation is described as follows by the 2020 Community Character Plan.

Downtown Support Commercial: General businesses, retail and service establishments, limited high density residential, mixed use developments, and work centers that support the downtown core providing their own off-street parking.

4. **Other:** A Certificate of Occupancy (C.O.) is required for all office space that is converted from a warehouse use.

SUMMARY OF DISCUSSION

There was no one in the audience to speak for or in opposition

CHAIRPERSON OPENED THE PUBLIC HEARING

COMMISSION ACTION

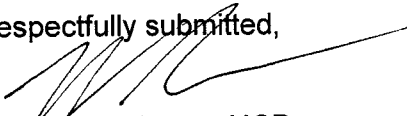
Greg Jones moved staff recommendation that Part A) The proposed rezoning be found in conformance with the Des Moines' 2020 Community Character Plan and

Part B) Approval of the proposed rezoning subject to the prohibition of the following uses:

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Motion passed 11-0

Respectfully submitted,



Jason Van Essen, AICP
Senior Planner

JMV:clw

Attachment

Item 2009 00009

Date 2-28-09

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

Print Name Gary Randa

Signature [Handwritten Signature]

Address 119 SE 3rd

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

I know Mike Kirtler with do
great things at his
PROPERTY.
Gary Randa

Item 2009 00009

Date 3-5-09

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

RECEIVED
MAR 09 2009
COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name W^m Schwarz

Signature W^m Schwarz

Address 101 SE 3rd ST

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

