

.....
Date April 20, 2009

WHEREAS, on April 6, 2009 by Roll Call No. 09-545, the City Council duly resolved that the request from Hubbell Realty Company (owner) to rezone property located at 1701 East Euclid Avenue from M-1 Light Industrial District to Limited M-2 Heavy Industrial District to allow appeal for a conditional use permit to the Zoning Board of Adjustment for conversion of warehouse space to a recycling collection center shall be heard at 5:00 p.m. on April 20, 2009 in Council Chambers, City Hall, Des Moines, Iowa. The subject property is more specifically described as follows:

The West 375 feet of that part of the North Half of the Northeast Quarter of Section 25, Township 79 North, Range 24 West of the 5th P.M., City of Des Moines, Polk County, Iowa, lying South of Euclid Avenue, except the East 40 feet thereof; and, except a triangular piece of ground described as follows: Beginning at a point on the South line of East Euclid Avenue, said point being 335 feet East and 712.2 feet South of the North Quarter corner of said Section 25; thence West along a line that is parallel to the North line of the Northeast Quarter of said Section 25. a distance of 147 feet; thence Southeasterly along a straight line to a point on the West line of Dixon Avenue, said point being 335 feet East and 1024.2 feet South of the North Quarter corner of said Section 25; thence Northerly along a straight line to the point of beginning;

And

The West 335 feet of the West Half of the Southwest Quarter of the Northeast Quarter of Section 25, Township 79 North, Range 24 West of the 5th P.M., City of Des Moines, Polk County, Iowa, except the South 1,208.31 feet thereof as measured along and perpendicular to the West line of the Southwest Quarter of the Northeast Quarter of said Section 25;

And

That part of Lot 5 of the Official Plat of the South Half of the Northwest Quarter of Section 25, Township 79 North, Range 24 West of the 5th P.M., City of Des Moines, Polk County, Iowa, lying East of the Chicago Northwestern Railroad right of way, except the South 1,183.31 feet thereof as measured along and perpendicular to the East line of the Southeast Quarter of the Northwest Quarter of said Section 25;

And

Lot 19 in Brown's Lowland Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, except that part described as follows: Beginning at the Northwest corner of said Lot 19; thence East along the North line of said Lot 19 a distance of 222 feet; thence South on a line forming a 90 degree 00 minute angle with the last described course; a distance of 215 feet; thence West on a line parallel with the North line of said Lot 19, a distance of 192.58 feet to the West line of said Lot 19; thence Northerly along the West line of said Lot 19, a distance of 217 feet to the point of



Date April 20, 2009

beginning, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

WHEREAS, the property rezoning is subject to the following conditions:

1. If this use does not go forward the Council may rezone it back to "M-1".
2. This rezoning is for this recycling type of use and "M-1" uses.
3. The entire property shall be brought into conformance with the City's Landscape Standards to the maximum feasible extent as determined by the Community Development Director.
4. Use of the property as a recycling center is subject to the issuance of a Conditional Use Permit by the Zoning Board of Adjustment and on-going compliance with any terms of such permit; and

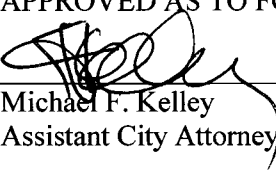
WHEREAS, due notice of the hearing was published in the Des Moines Register on April 10, 2009 setting forth the time and place for the proposed rezoning; and

WHEREAS, pursuant to the published notice, those interested in the proposed rezoning 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 person and arguments of counsel, the objections to the property rezoning are hereby overruled, the hearing is closed, and the application to rezone the above-described property to a Limited M-2 Heavy Industrial District classification is hereby APPROVED.

Moved by _____ to approved 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.

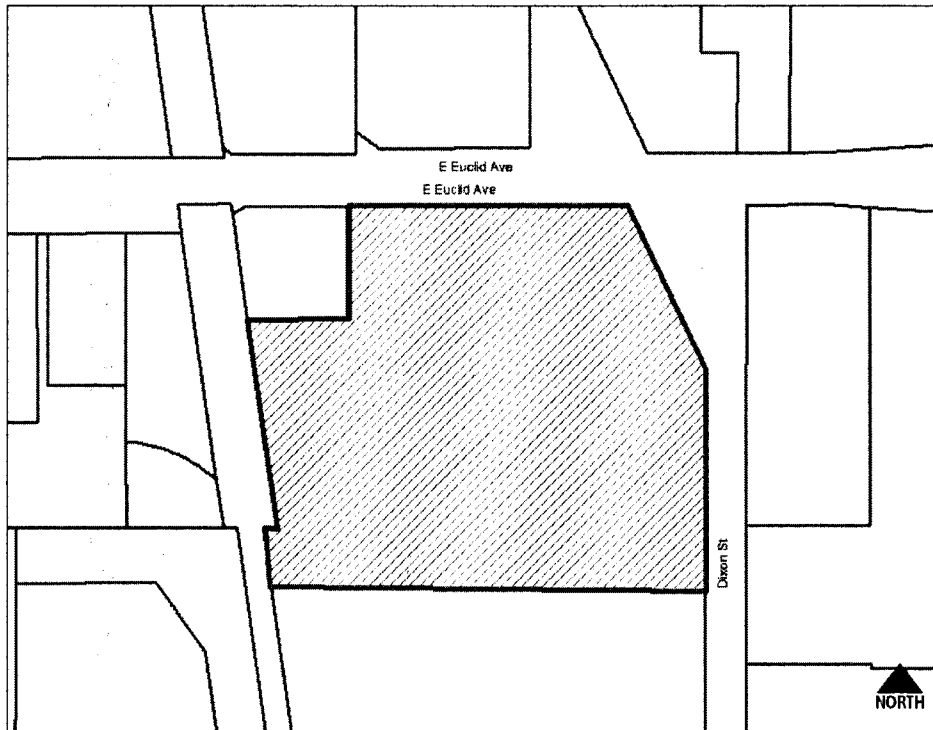
_____ City Clerk

09-543
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Request from Hubbell Realty Company (owner) represented by Steve Niebuhr (officer) to rezone property located at 1701 East Euclid Avenue.				File #	
				ZON2009-00029	
Description of Action	Rezone property from "M-1" Light Industrial District to "M-2" Heavy Industrial District to allow appeal for a Conditional Use to the Board of Adjustment for conversion of warehouse space to a recycling collection center..				
2020 Community Character Plan	General Industrial				
Horizon 2025 Transportation Plan	No Planned Improvements.				
Current Zoning District	"M-1" Light Industrial District				
Proposed Zoning District	"M-2" Heavy Industrial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1			N/A	
Outside Area					
Plan and Zoning Commission Action	Approval	10-0	Required 6/7 Vote of the City Council	Yes	N/A
	Denial			No	

Hubbell Realty Company - 1701 E Euclid Avenue

ZON2009-00029



Date _____

April 3, 2009

Agenda Item 26

Roll Call # 09-543

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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 April 2, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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 a request from Hubbell Realty Company (owner) represented by Steve Niebuhr (officer) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 10-0 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



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

APPROVAL of Part B) to approve the proposed rezoning subject to the following conditions:

1. If this use does not go forward the Council may rezone it back to "M-1".
2. This rezoning is for this recycling type of use and "M-1" uses.
3. The entire property shall be brought into conformance with the City's Landscape Standards.
4. Use of the property as a recycling center is subject to the issuance of a Conditional Use Permit by the Zoning Board of Adjustment and on-going compliance with any terms of such permit.

Written Responses

1 In Favor

0 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that 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 following conditions:

1. The entire property shall be brought into conformance with the City's Landscape Standards.
2. Use of the property as a recycling center is subject to the issuance of a Conditional Use Permit by the Zoning Board of Adjustment and on-going compliance with any terms of such permit.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant wishes to convert the existing warehouse facility to a recycling collection center. The receiving and delivery of goods would take place on the south side of the building. The applicant anticipates installing a new drive to access the south side of the building and a vehicle scale. No other significant changes to the site were identified in the application.
2. **Size of Site:** 12.84 acres.
3. **Existing Zoning (site):** "M-1" Light Industrial District.
4. **Existing Land Use (site):** Warehousing.
5. **Adjacent Land Use and Zoning:**

North – “M-1”, Uses include warehousing and the Mid-Iowa Council of Boy Scouts office building.

South – “M-1”, Use is a concrete/asphalt plant.

East – “M-1” & “M-2”, Uses include warehousing and auto salvage.

West – “M-1”, Uses include warehousing and light manufacturing.

6. **General Neighborhood/Area Land Uses:** The property is located in an industrial area in the northeast portion of the City near the East Euclid Avenue and Delaware Avenue intersection and is just north of the Guthrie Business Park.
7. **Applicable Recognized Neighborhood(s):** None.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** General Industrial.
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. **Conditional Use Permit Requirements:** Should the property be rezoned to the “M-2” District, the applicant must first obtain a Conditional Use Permit from the Zoning Board of Adjustment before the property can be used for a recycling collection center.

The following are criteria from Section 134-1122 of the Zoning Ordinance that the applicant must satisfy in order to be granted a Conditional Use Permit:

Section 134-1122(5).

Any other use not permitted in the M-1 light industrial district, or which does not comply with the limitations on such use applicable in the M-1 district, is permitted in the M-2 heavy industrial district only upon approval by the board of adjustment after public hearing. In its determination upon the particular uses at the location requested, the board of adjustment shall consider all of the following:

- a. *The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;*
- b. *Such use shall not impair an adequate supply of light and air to surrounding property;*
- c. *Such use shall not unduly increase congestion in the streets, or public danger of fire and safety;*
- d. *Such use shall not diminish or impair established property values in adjoining or surrounding property;*
- e. *Such use shall be in accord with the intent, purpose and spirit of this chapter and the comprehensive plan;*

- f. *All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.*
- g. *All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.*
- h. *Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.*
- i. *The dismantling or repair of vehicles shall occur only upon an impermeable surface with adequate provision for the collection and disposal of fluids and wastes.*
- j. *Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.*
- k. *The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.*

2. **Site Plan Requirements:** Any improvements to the site must comply with the City's site plan and landscaping requirements. Improvements to the site may also be necessary to meet the Conditional Use Permit criteria depending on the finalized operations of the recycling center. These improvements include but are not limited to the applicant providing screening near Dixon Street and preventing recycling operations from creating a nuisance to adjoining properties (i.e. containment of all recycled materials and debris, appropriate stacking and screening of any outdoor storage areas, etc.).

If more than 10,000 square feet of impervious surface is added to the site, a storm water management plan and any subsequent improvements will be required as reviewed and approved by the City's Permit and Development Center. Engineering staff has indicated that a storm sewer line is located in the Dixon Street right-of-way.

East Euclid Avenue from East 14th Street to the Mac Vicar Freeway is a Designated Landscape Enhancement Corridor which requires the portion of any development within 250 feet of the corridor to be developed to the "C-2" District landscape standards.

The "C-2" District Landscaping Standards generally require the following to be provided:

- Open space equal to at least 20% of the site with 1 overstory tree, 1 evergreen tree and 1 shrub planted for every 2,500 square feet of required open space.
- Interior parking lot plantings of 1 overstory tree and 3 shrubs for every 20 spaces.
- Parking lot perimeter plantings along public right-of-way frontage of 1 overstory tree and 3 shrubs per 50 lineal feet.

The remainder of the site (beyond 250 feet from East Euclid Avenue) is subject to the "M-2" District Landscaping Standards which generally require the following to be provided:

- Open space equal to at least 20% of the site with 1 overstory tree, 1 evergreen tree and 1 shrub planted for every 5,000 square feet of required open space.
- Interior parking lot plantings of 1 overstory tree and 3 shrubs for every 40 spaces.

- Parking lot perimeter plantings along public right-of-way frontage of 1 overstory tree and 3 shrubs per 100 lineal feet.
- 3. Access or Parking:** The receiving and delivery of goods would take place on the south side of the existing building and accessed from Dixon Street to the east. The submitted site sketch indicates the drive aisle and loading area would be paved with concrete and would include a vehicle scale area. The site includes a parking lot to the east of the building and a drive aisle with parallel parking to the north of the building. The proposed recycling use would require the provision of 1 off-street parking stall for every 2 employees they have during their largest shift.
 - 4. 2020 Community Character Plan:** The proposed “M-2” District is in conformance with the existing General Industrial designation of the 2020 Community Character Land Use Map.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Dann Flaherty asked if storage would be on the lot itself or should the Commission make this a condition and will this come back to Plan and Zoning for a site plan.

Jason Van Essen stated staff is not sure of all the details of how they will operate. However, the applicant must satisfy conditional use requirements in order to be granted a Conditional Use Permit and this will not come back to Plan and Zoning.

Larry Hulse stated that staff realized that if this was not used for this purpose then Council could initiate the zoning back to “M-1”.

Dann Flaherty asked staff if the use that the applicant is looking for does not go through that this gets brought back to the Plan and Zoning Commission for rezoning back to “M-1”.

Larry Hulse suggested that the Commission recommend to the Council that if the applicant's request does not go through then the Plan and Zoning recommendation to the Council would be to initiate the rezoning.

Dann Flaherty explained that the reason for the recommendation to the Council to initiate the rezoning back to “M-1” if this does not go through is because there has been recent zoning where what the Commission proposed for the zoning did not happen and if the Commission is going to recommend a rezoning because of what the rezoning is for and it does not happen, then the zoning should go back to what it was.

Brian Millard asked staff does item “g” under the conditional use permit requirement allow the applicant to have a junk yard.

Jason Van Essen stated the listed criteria are set up to cover a variety of uses and yes item g would allow the applicant to have a junk yard subject to obtaining a conditional use permit from the Board of Adjustment.

Brian Millard asked staff if item “h” allows the applicant to stack items higher than the fence if setback 75 feet.

Jason Van Essen stated that the board would look at that issue specific to this site and maybe it is something that might not work.

Brian Millard asked that if the Commission goes forward with this then these are things that could occur but by action of the Board of Adjustment.

Jason Van Essen Agreed.

Brian Millard asked if uses could be excluded from the list and could the Board of Adjustment give them relief and say yes you can do that.

Larry Hulse stated that the Board of Adjustment could not give them relief because Plan and Zoning is recommending the zoning of the uses and they are approving how the uses are operated.

JoAnne Corigliano asked about item "f" the storm water and whether there is enough space to direct anything and hope that special care is applied for the neighbor.

Jason Van Essen stated that the City Ordinance will be applied and they would be required to meet the requirements to provide storm water management. He also noted that this is an existing facility and they are not proposing to make significant changes to it and what changes they are going to make will have to meet our standards.

Steve Niebuhr Hubbell Realty Company, 6900 Westown Parkway, West Des Moines. Stated they would like to have a discussion to try to get some relief from the second part of the landscaping portion of staff recommendation where there are some stipulations on the number of trees that would need to be planted in the existing parking lot.

Larry Hulse explained that it is great if on existing properties the regulations can be met. However, if not then staff looks to see if something different more or less carries out the intent of landscaping but fits the existing situation.

Jason Van Essen explained that these are general requirements from our guidelines and often we get in situations where there is not usable for an existing site but the Director have the ability to grant a waiver to those so staff would work with the applicant.

Larry Hulse stated that they usually do not grant a total waiver but suggest that the applicant do it differently.

Steve Niebuhr stated that as long as staff works with them then they have no problem.

CHAIRPERSON OPENED THE PUBLIC HEARING

There is no one in the audience to speak for or in opposition.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Brian Millard asked that the Commission consider restricting storage or disassembly of vehicles outside.

Mike Ludwig stated that if the Commission wants to limit individual or prohibit specific use you can make that part of the recommendation. However, the applicant would have to agree to those limitations in writing prior to the Council hearing.

Brian Millard asked if a verbal agreement here would constitute an agreement.

Mike Ludwig stated that state law requires that it be agreed to in writing prior to the Council hearing. The typical process on rezoning is after the Plan and Zoning Commission makes their recommendation the legal department prepares that letter with the conditions that were

recommended by the Commission then sends that to the applicant and the applicant has the opportunity to respond back to those in writing and note any changes.

Brian Millard asked how to word it where the applicant would not be allowed to have a salvage yard and no outdoor storage shall exceed the height of the perimeter fence.

Mike Ludwig suggested the Commission recommend "M-2" uses except for salvage yards and no outdoor storage shall exceed the height of the perimeter fence.

Brian Millard asked if we could limit uses only M-1 plus this use.

Mike Ludwig stated they could do so, subject to the issuance of a Conditional Use Permit by the Zoning Board of Adjustment and on-going compliance with any terms of such permit.

COMMISSION ACTION

Jeffrey Johannsen moved Part A) to propose rezoning to be found in conformance with the Des Moines' 2020 Community Character Plan.

Motion passed 10-0.

Jeffrey Johannsen moved Part B) to approve the proposed rezoning subject to the following conditions:

1. If this use does not go forward the Council may rezone it back to "M-1".
2. This rezoning is for this recycling type of use and "M-1" uses.
3. The entire property shall be brought into conformance with the City's Landscape Standards.
4. Use of the property as a recycling center is subject to the issuance of a Conditional Use Permit by the Zoning Board of Adjustment and on-going compliance with any terms of such permit.

Motion passed 10-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

09-543
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59

Item ZON2009-00029

Date 3-31-09

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

RECEIVED

(DAVIS INVESTMENT CO., INC.)

APR 02 2009

Print Name SUSAN J. CHRISTENSEN

COMMUNITY DEVELOPMENT
DEPARTMENT

Signature Susan J. Christensen

Address 1658 E. EUCLID - BUILDING

OFFICE - 2504 BRISTOL DRIVE - AMES, IA, 50010
Reason for opposing or approving this request may be listed below:

