

Date..... April 21, 2008

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 3, 2008, its members voted 13-0 in support of a motion to recommend **DENIAL** of a request from A & W Rentals L.C. (owner) represented by Keith West (partner) to rezone property located at 2401 Easton Boulevard from "C-1" Neighborhood Retail Commercial District to Limited "M-1" Light Industrial District, to allow for outdoor storage of equipment and vehicles.

The subject property is more specifically described as follows:

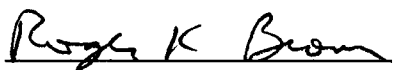
Lot 95, Hubbell Avenue Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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

1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on May 5, 2008, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED by _____ to adopt.

FORM APPROVED:



Roger K. Brown, Assistant City Attorney

(ZON2008-00032)

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.

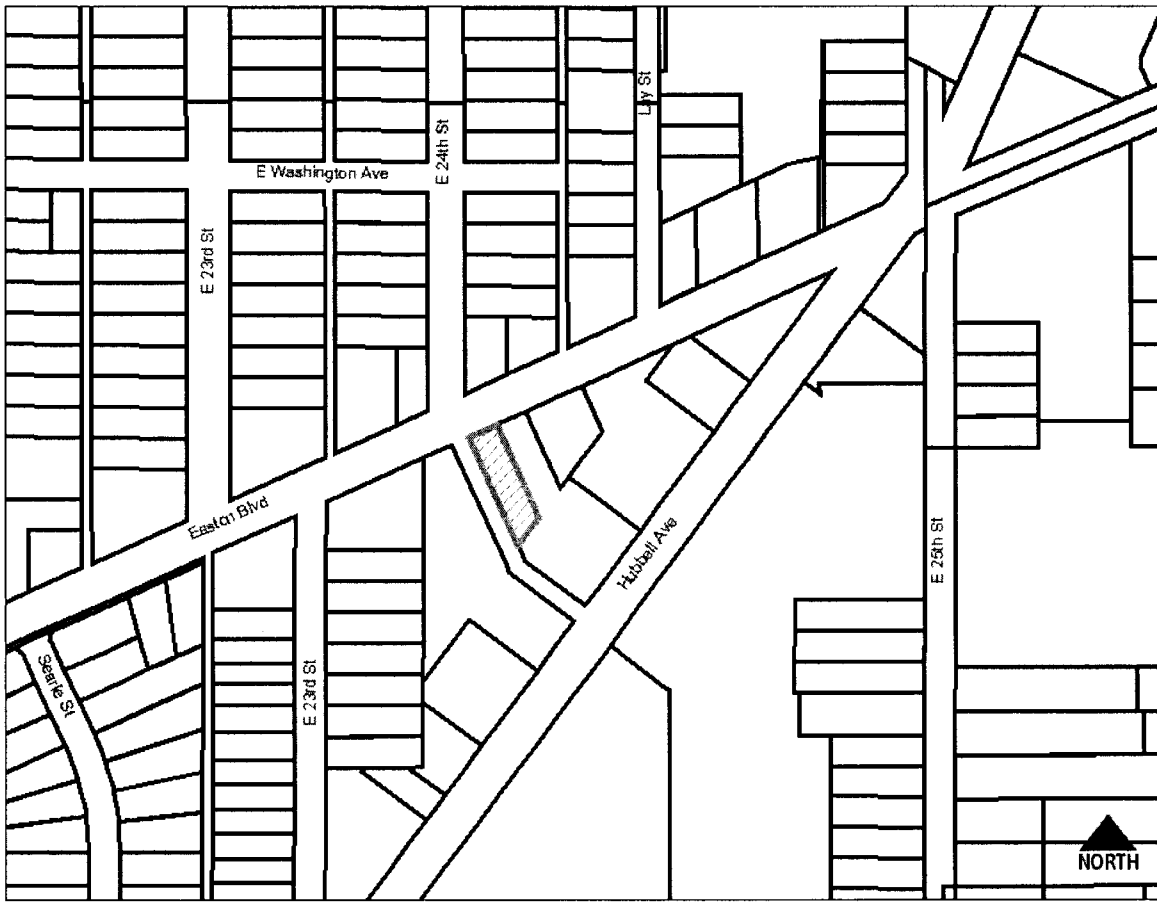
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

Request from Request from A & W Rentals L.C. (owner) represented by Keith West (partner) to rezone property located at 2401 Easton Boulevard.				File # ZON2008-00032	
Description of Action	Rezone Property from "C-1" Neighborhood Retail Commercial District to "M-1" Light Industrial District, to allow for outdoor storage of equipment and vehicles.				
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development				
Horizon 2025 Transportation Plan	No Planned Improvements				
Current Zoning District	"C-1" Neighborhood Retail Commercial District				
Proposed Zoning District	"M-1" Light Industrial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area	4	2	0	<20%	
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	13-0		No	

A & W Rentals LLC - 2401 Easton Blvd

ZON2008-00032



April 21, 2008

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 3, 2008, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	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			
Brian Millard	X			
Mike Simonson				X
Kent Sovern	X			
Tim Urban				X
Marc Wallace	X			

DENIAL of a request from A & W Rentals L.C. (owner) represented by Keith West (partner) to amend the Des Moines 2020 Community Character Land Use Plan land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial for property located at 2401 Easton Boulevard. (21-2008-4.03)

By same motion and vote, Commissioners recommended **DENIAL** of a request from A & W Rentals L.C. (owner) represented by Keith West (partner) to rezone subject property from "C-1" Neighborhood Retail Commercial District to Limited "M-1" Light Industrial District, to allow for outdoor storage of equipment and vehicles. (ZON2008-00032)

Written Responses

- 4 In Favor
- 2 In Opposition

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



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

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Part A) Staff recommends that the Commission find the requested rezoning is not in conformance with the existing Des Moines' 2020 Community Character Plan land use designation.

Part B) Staff recommends the Des Moines' 2020 Community Character Plan future land use designation be amended from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial.

Part C) Staff recommends approval of the requested rezoning subject to the owner's agreement with the following conditions.

1. Permitted uses of the property shall be limited to the following:
 - a. Uses as permitted in the "C-1" Neighborhood Retail Commercial District, except for packaged goods stores for the sale of alcoholic beverages, pawn shops, upholstery shops, and financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.
 - b. Contractor's equipment storage yard or plant; truck terminal or storage yard; rental of equipment commonly used by contractors; and storage yards for vehicles of a delivery or hauling service, subject to the following requirements:
 - i. All areas used for outside storage shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the city engineer;
 - ii. All areas used for outside parking of vehicles shall be set back 10 feet and screened by a 6 foot high solid opaque fence from any adjoining R district or portion of a PUD district designated for residential use; shall be set back 5 feet from any adjoining streets and alleys; and, shall be maintained with both a dustless surface and a drainage system approved by the city engineer, unless a higher standard is imposed by the site plan regulations in Chapter 82.
 - iii. 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.
 - iv. No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by section 134-3.
2. Any use of the site for outdoor storage shall be subject to compliance with a site plan as reviewed and approved by the Permit and Development Center.
3. Any site plan provides landscaping in accordance with the standards as applicable to the "C-1" Neighborhood Retail Commercial District.
4. Any area used for outdoor storage of equipment, trailers, vehicles, or other articles associated with the business shall be screened with a 6-foot-tall solid wood fence of a uniform design and color.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The owner is seeking to rezone the parcel to allow for outdoor storage of equipment and vehicles on the existing paved parking lot to the south of the

one-story commercial structure. According to the application, the site would be used to store 6 items, including three enclosed trailers (including one 16-foot, one 20-foot, and one 24-foot) and three carnival rides (including one 16-foot, one 20-foot, and one 24-foot). Also, according to the application, the building would be rented to a separate entity for an office use.

The applicant is requesting "M-1" zoning with conditions that limit the permitted uses of the property to the following:

- a. Uses as permitted in the "C-1" Neighborhood Retail Commercial District (City Code Section 134-842).
 - b. Contractor's equipment storage yard or plant; truck terminal or storage yard; rental of equipment commonly used by contractors; and storage yards for vehicles of a delivery or hauling service, subject to the following requirements:
 1. All areas used for outside storage shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the city engineer;
 2. All areas used for outside parking of vehicles shall be set back 10 feet and screened by a 6 foot high solid opaque fence from any adjoining R district or portion of a PUD district designated for residential use; shall be set back 5 feet from any adjoining streets and alleys; and, shall be maintained with both a dustless surface and a drainage system approved by the city engineer, unless a higher standard is imposed by the site plan regulations in Chapter 82.
 3. 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.
 4. No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by section 134-3.
2. **Size of Site:** Generally 50 feet by 177 feet or 8,882 square feet (0.20 acres).
 3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District.
 4. **Existing Land Use (site):** The subject property includes a one-story structure containing 1,696 square feet. The balance of the site is a paved parking lot.
 5. **Adjacent Land Use and Zoning:**
 - North* – "C-1", Uses are Easton Boulevard and a one-story commercial structure.
 - South* – "M-1", Use is Financial Plus Credit Union.
 - East* – "C-1", Use is parking lot for adjoining Financial Plus Credit Union.
 - West* – "M-1", Uses are East 24th Street and Icom Systems' office and warehouse.
 6. **General Neighborhood/Area Land Uses:** The subject property is located along the Easton Boulevard commercial corridor where it transitions from low-density residential uses to commercial uses near the intersection with Hubbell Avenue.

7. **Applicable Recognized Neighborhood(s):** ACCENT Neighborhood Association.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented, Small-Scale Strip Development.
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. **Site Plan Review:** Future reuse of the property would be subject to review and approval of a site plan by the Permit and Development Center. The site plan must demonstrate compliance with the City's storm water management, landscaping and buffering requirements.
2. **Landscaping & Buffering:** Use of the site for outdoor storage would require landscaping in accordance with the Des Moines Landscape Standards. Due the site's location along Easton Boulevard, staff recommends that any site plan comply with the City's Landscaping Standards as applicable in the "C-1" District, which generally require the following:
 - *20% open space with a minimum of 1 overstory deciduous tree, 1 evergreen tree and 1 shrub for every 2,500 square feet of required open space.*
 - *10'-wide bufferyards along property lines that adjoin a "R" District or residential use with a 6'-tall, 75% opaque fence or wall, and 2 overstory trees and 6 evergreen trees per 100 lineal feet of property line.*
 - *1 overstory tree and 3 shrubs must be provided along the perimeter of parking lots for every 50 lineal feet of frontage.*

In order to comply with the landscaping standards and the screening requirements for outdoor storage, a minimum 5-foot-wide landscape buffer must be provided along the west property line adjoining East 24th Street. This would require existing paving to be removed and replaced with landscaping and sod.

3. **Access or Parking:** The existing off-street parking area is accessed by a drive approach from East 24th Street. East 24th Street is considered a public street since it is within public right-of-way that is the minimum required 30 feet wide. As mentioned in the landscaping section, existing pavement that abuts the curb along East 24th Street must be removed and the area must be replaced with landscaping and sod as required by the landscape standards.

A minimum 5 off-street parking spaces must be provided in order for the existing 1,696-square foot structure (1 per 400 square feet). These five stalls must be marked and designated for the office use.

4. **2020 Community Character Plan:** The proposed zoning request for "M-1" Light Industrial District is not compatible with the existing Commercial: Auto-Oriented, Small-Scale Strip Development future land use designation. Therefore, the 2020 Community Character Land

Use Plan future land use designation should be amended to General Industrial. The applicant is requesting a Limited "M-1" District, with uses limited to those as permitted in the "C-1" District and contractor storage yards. Because of the need to protect nearby residential properties, certain uses permitted in the "C-1" District may not be appropriate. Staff recommends that a condition be accepted by the applicant prohibiting the use of the site for: packaged goods stores for the sale of alcoholic beverages, pawn shops, upholstery shops, and financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles.

Staff believes that a Limited "M-1" District with the recommended conditions is appropriate at this location since it directly abuts existing "M-1" Districts zoning to the south and to the west. Furthermore, any use of the site for outdoor storage would be subject to compliance with a site plan as reviewed and approved by the Permit and Development Center that would provide screening and landscaping that is not currently provided.

SUMMARY OF DISCUSSION

Jason Van Essen: Presented staff report and recommendation on both items 8 & 9 together. Explained the applicant has to be denied at the Plan and Zoning Commission to go to the Board of Adjustment for a use variance for the northern property. He explained zoning runs with the land whereas a use variance doesn't and more limitations can be placed with a use variance.

Fran Koontz: Explained part of the reason for the objection by the neighborhood to the staff recommendation for the southern property is that the area west of Hubbell was planned to be all industrial but it has changed and is currently affordable housing. There is a house directly behind the property on the north side and they do not want to see it bundled together but want both requests denied and the neighborhood to help the applicant go before the Board of Adjustment. Councilman Bob Mahaffey is asking that the applicant build a privacy fence around the property on the south side. Do not want to see M-1 zoning to back up to residential homes, but would support both pieces at the Board of Adjustment.

Larry Hulse: Explained there is a use variance possibility for projects that could be done without rezoning. The Board of Adjustment with a use variance can set conditions that are specific to that use, whereas zoning goes with the land. If the Board of Adjustment saw fit they could approve it, limiting it to that operation only. Instead of being legislative it is quasi-judicial.

Jeff Waldron, 3927 Ingersoll Avenue, Des Moines: Explained the business and noted the reason for the rezoning is to keep vehicles and equipment parked onsite because storage would not be cost-effective. They would be happy with the use variance but are concerned that the Board of Adjustment might deny and they have the final word. Limited rezoning is proper but the concerns raised are valid.

Brian Millard: Suggested with the support of the neighborhood groups the Board of Adjustment would likely be in support.

Jeff Waldron: Noted the use is not the problem.

Fran Koontz: Noted they would like to see them stay in the neighborhood, but they would like to have it fenced. It would protect them from vandals and protect the neighborhood as well. The neighborhood association would be willing to go before the Board of Adjustment with them.

Jeff Waldron: Expressed concern with vandalism if a fence is put in place.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one in the audience to speak in favor of this request.

The following individual spoke in opposition:

Steve Walter, 3114 E. 24th Street: Noted the Fairmont Park Neighborhood is in opposition. They would like to see the property cleaned up. They are concerned with the unsightly outside storage and they were not in favor of the rezoning.

Larry Hulse: Explained the process if the request is denied by the Commission.

David Cupp: Suggested if it goes to the Board of Adjustment, the neighborhood association could present their concerns.

Mike Ludwig: Clarified the use variance application would be for the southern and not the northern property.

Jeff Waldron: Noted they discussed withdrawing their application for the northern property at 2401 Easton.

Bruce Heilman: Expressed concern with the north side at 2401 and asked what would happen to the stuff that is currently parked there illegally if the applicant withdraws that request.

Mike Ludwig: Noted there would be enforcement action on the property. If the applicant doesn't get the approval to rezone they will apply for the use variance on the southern property. There would likely be a denial of a use variance on the north side if the rezoning is denied.

Dann Flaherty: Asked what happens with enforcement on the north property if it is withdrawn.

Larry Hulse: Explained if it is withdrawn they will have to comply and enforcement would have to be remedied.

Bruce Heilman: Suggested combining the parking needs on the south parcel and do something else with the northern property.

Dann Flaherty: Asked if the zoning on the north parcel is denied the enforcement action would not proceed until the variance action is granted or denied on either property.

Larry Hulse: Noted staff would work with the applicant to reach a reasonable approach to a solution.

Jeff Waldron: Noted the applicant was only cited on the south property at 2402 Easton.

Mike Ludwig: Noted if they are in compliance on the north there will be no enforcement done.

Jeff Waldron: Chose not to withdraw their request for the northern property.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Fran Koontz: Moved to find the zoning not in conformance not with the existing Des Moines' 2020 Community Character Plan land use designation for property located at 2401 Easton Blvd.

Motion passed 13-0

Fran Koontz: Moved to deny the request to amend the Des Moines' 2020 Community Character Plan future land use designation and the request to rezone Property from "C-1" Neighborhood

Retail Commercial District to Limited "M-1" Light Industrial District, to allow for outdoor storage of equipment and vehicles for property located at 2401 Easton Blvd.

Motion passed 13-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig". The signature is fluid and cursive, with a prominent initial "M" and a long, sweeping underline.

Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

Item 2008 00032

Date 3/24/2008 *AW*

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

RECEIVED

MAR 25 2008

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name KEITH WEST

Signature *[Handwritten Signature]*

Address 2400 EASTON BLVD
DSM, IA 50317

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

SUBJECT PROPERTY

Item 2008 00032

Date 3/25/08

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

(Circle One)

RECEIVED

MAR 27 2008

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name RON FISHER

Signature *[Handwritten Signature]*

Address 2305 Easton

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

I FEEL THESE BUILDINGS SHOULD BE ZONED
NOT Empty So BUSINESS DON'T move out
of Polk County

Item 2008 00032

Date _____

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

26

(Circle One)

RECEIVED

MAR 27 2008

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name John G. Dake

Signature John G. Dake

Address 1514 E 24th St D.M.

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

Mr. West is not bothering anyone by parking his vehicles on property he owns. Let the City mind its own business + leave him alone.

Item 2008 00032

Date 3/24/08

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

(Circle One)

RECEIVED

MAR 26 2008

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Harvey Berry

Signature Harvey Berry

Address 1513 E 24th St.

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

We are OK with the request of change of code since there has never been a business since we've lived here. it's OK.

Item 2008 00032 Date 3/31/2008

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

(Circle One)
RECEIVED

Print Name Trent Fohock @ 4 Standard Bearing

APR 2 2008

Signature Trent Fohock

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Address ~~2351~~ Hub 2350 Hubbell Ave
for 1445 E 23 St

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

Its an appropriate area for this zoning since its the same as mine
and does not affect the area since vehicles are already parked
here and industrial activities exist all around

Item 2008 00032

Date 3/22/08 ²⁶

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

RECEIVED
(Circle One)

MAR 25 2008

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Print Name John (Hoover) McLeod

Signature [Signature]

Address 1453 E 23rd St DM

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

- (1) THEY ARE PARKING VEHICLES, TRAILERS AND CARNEVAL RIDES AND EQUIP. CREATES THE SAME APPEARANCE AS FOOD VENDORS ETC. THAT CITY IS IN THE PROCESS OF BANNING.
- (2) SAFETY PROBLEM. CHILDREN ARE ATTRACTED TO CARNEVAL RIDES. POSSIBILITY OF INJURY
- (3) EQUIPMENT, VEHICLE AND TRAILER STORAGE CREATES AN EYESORE THAT THE NEIGHBORHOOD LESS APPEALING. HENDERS HOME SALES.
- (4) THE REST OF C-1 PROPERTY IN THE AREA OFFERS SHOPPING BENEFETS TO LOCAL RESEDENTS. M-1 DOES NOT FIT THE AREA AND OFFERS NO BENEFET TO AREA RESEDENTS.

Item 2008 00032

Date 3-28-8

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

RECEIVED
(Circle One)

MAR 31 2008

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Print Name EPUM Michael W Hoffman

Signature [Signature]

Address 2412 Easton Blvd

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

Instead of M1 zoning, could you make a variance of C1 zoning

216

RECEIVED

APR 01 2008

COMMUNITY DEVELOPMENT
DEPARTMENT

March 31, 2008

TO: Plan and Zoning Commission

RE: Rezoning of property on E. 24th & Easton Blvd to M-1

The ACCENT Neighborhood Association and the Coalition of Northeast Neighbors ask you to deny this zoning request. This neighborhood is transitional; a mix of business and residential and we feel this would not be in accordance with our general mix of uses.

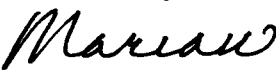
We do, however, support this item being moved to the Board of Adjustment for a use variance. This owner has improved the property on both the north and south sides of Easton Blvd. All the neighborhood and NE Neighbors ask that the use run with the owner rather than a light industrial zoning that would stay with the land. We would also be willing to lend our support at the Board of Adjustment for this use variance providing this applicant would build a privacy fence around his property. We feel that his property would be safe from any interference from individuals as well as looking better for the neighborhood. Please deny this applicant his rezoning request, but recommend that he seek relief through a use variance at the Board of Adjustment.

We would request this letter be supplied to that board should he be denied his request here on April 3.

Sincerely,



Fran Koontz
Chair, NEN



Marian Wynn
President, ACCENT

26

March 18, 2008

RECEIVED
MAR 25 2008
COMMUNITY DEVELOPMENT
DEPARTMENT

TO: Plan and Zoning Commission
City Council Members

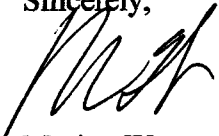
RE: M-1 Rezoning Request, 2404 Easton Blvd. Des Moines, Iowa

The ACCENT Board of Directors discussed and voted unanimously to request the denial of the requested M-1 zoning on Easton Blvd. This neighborhood is a mix of commercial and residential uses and we believe allowing the expansion of M-1 could work to the detriment of this transitional neighborhood in the future.

What this neighborhood Association does support, however, is this applicant appearing before the Board of Adjustment requesting a use variance, which would include the applicant constructing a privacy fence around the storage area of his trailers. We believe that this applicant is a good neighbor, but zoning runs with the land rather than the owner. We believe that a use variance would be a win for both the neighborhood and the applicant.

We appreciate your consideration of the above action.

Sincerely,



Marian Wynn
President, ACCENT Neighborhood Association