

★ **Roll Call Number**

Agenda Item Number

44A

Date May 5, 2008

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 April 3, 2008, the 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 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 Blvd, 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:


 Roger K. Brown
 Assistant City Attorney

(21-2008-4.03)

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

Date _____
 Agenda Item _____
 Roll Call # _____

May 5, 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".

Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment