

Date May 19, 2008

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on May 1, 2008, its members voted 9-0 in support of a motion to recommend **APPROVAL** of a request from Steven Cairns (tenant) to rezone property located at 2717 Martin Luther King Jr. Parkway from "M-3" Limited Industrial to Limited "M-1" Light Industrial District subject to the owner of the property agreeing to accept the following conditions:

1. Prohibit the use of the property for adult entertainment business, package goods liquor stores, pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, off-premises advertising signs, taverns and night clubs, and any "M-1" District permitted use that is not conducted completely within the confines of a building.
2. Any change of use, alteration, or improvement to the existing buildings or use of the property (including legitimizing current non-conforming uses) shall cause it to come into conformance with all applicable building codes, with issuance of Certificate of Occupancy, and shall cause it to come into conformance with the Des Moines' Landscape Standards as they would be applied to "C-2" Districts in accordance with an approved Site Plan.
3. Prohibit vehicle display lots or any type of auto body repair, alteration, detailing or any type of mechanical work.

The subject property is owned by AE Farms, Inc. and is more specifically described as follows:

(except the West 7 feet) Lot 2, Lambert Place, 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 June 9, 2008, at which time the City Council will hear both those who oppose and those who favor the proposal.

(Continued)

★ **Roll Call Number**

Agenda Item Number


23

Date May 19, 2008

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:



 Michael F. Kelley
 Assistant City Attorney

(ZON2008-00043)

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

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.

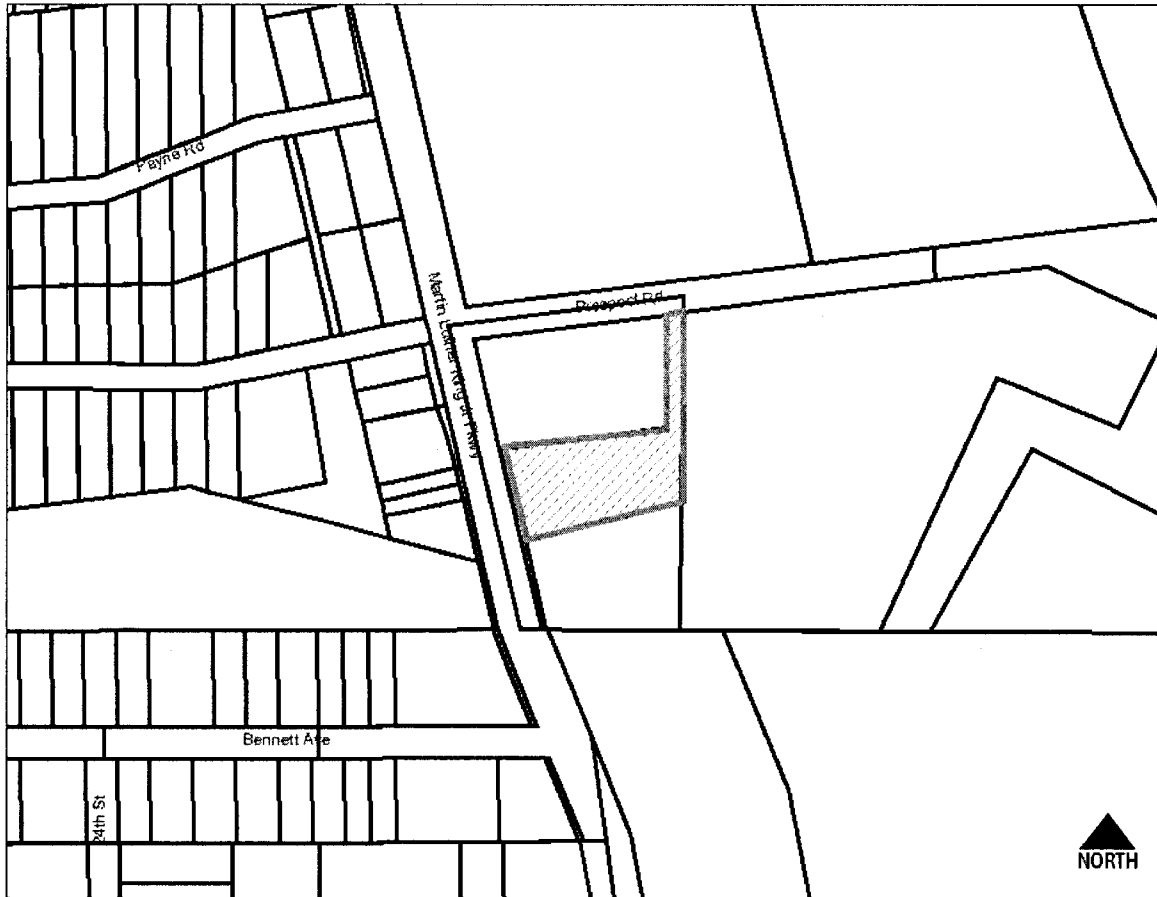
_____ Mayor

_____ City Clerk

Request from Steven Cairns (tenant) to rezone property located at 2717 Martin Luther King Jr. Parkway. The subject property is owned by AE Farms, Inc.			File #	
			ZON2008-00043	
Description of Action	Rezone property from "M-3" Limited Industrial to "M-1" Light Industrial District.			
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development			
Horizon 2025 Transportation Plan	M.L. King Jr. Parkway from 19 th Street to Euclid Avenue to widen from 4 lane undivided to 4 lane divided			
Current Zoning District	"M-3" Limited Industrial District			
Proposed Zoning District	"M-1" Light Industrial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	3	0	0	<20%
Plan and Zoning Commission Action	Approval	9-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Steve Cairns - 2717 ML King Jr. Parkway

ZON2008-00043



Date _____
 Agenda Item 23
 Roll Call # _____

May 19, 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 May 1, 2008, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 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			

APPROVAL of a request from Steven Cairns (tenant) to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial for property located at 2717 Martin Luther King Jr. Parkway. (21-2008-4.09)

By same motion and vote, Commissioners recommended **APPROVAL** of a request to rezone subject property from "M-3" Limited Industrial to Limited "M-1" Light Industrial District subject to the owner of the property agreeing to accept the following conditions: (ZON2008-00043)

1. Prohibit the use of the property for adult entertainment business, package goods liquor stores, pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, off-premises advertising signs, taverns and night clubs, and any "M-1" District permitted use that is not conducted completely within the confines of a building.



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

2. Any change of use, alteration, or improvement to the existing buildings or use of the property (including legitimizing current non-conforming uses) shall cause it to come into conformance with all applicable building codes, with issuance of Certificate of Occupancy, and shall cause it to come into conformance with the Des Moines' Landscape Standards as they would be applied to "C-2" Districts in accordance with an approved Site Plan.
3. Prohibit vehicle display lots or any type of auto body repair, alteration, detailing or any type of mechanical work.

Written Responses

2 In Favor

0 In Opposition

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

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

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

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan to revise the future land use from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial.

Part C) Staff recommends approval of the requested rezoning to "M-1" Light Industrial District subject to the owner of the property agreeing to accept the following conditions:

1. Prohibit the use of the property for adult entertainment business, package goods liquor stores, pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, off-premises advertising signs, taverns and night clubs, and any "M-1" District permitted use that is not conducted completely within the confines of a building.
2. Any change of use, alteration, or improvement to the existing buildings or use of the property (including legitimizing current non-conforming uses) shall cause it to come into conformance with all applicable building codes with issuance of Certificate of Occupancy and shall cause it to come into conformance with the Des Moines' Landscape Standards as they would be applied to "C-2" Districts in accordance with an approved Site Plan.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to rezone to allow for the existing warehousing and wholesale use along with other commercial and light industrial uses. There is enforcement action due to existing vehicle repair activity on the property not permitted in an "M-3" District.
2. **Size of Site:** 0.94 acres (41,091 square feet).
3. **Existing Zoning (site):** "M-3" Limited Industrial District.
4. **Existing Land Use (site):** The subject property is used for Gus Farms and Home Juice Company, which is a wholesale foods distribution with a small accessory retail component. There is also enforcement action for non-conforming vehicle repair use of the property.

5. Adjacent Land Use and Zoning:

North – “M-3”, Uses are warehousing for Roberts Dairy and Imperial Siding.

South – “C-2” & “M-3”, Uses are vehicle display, vehicle repair, communications tower and warehouse.

East – “U-1”, Uses are off-street parking for Des Moines Public Schools bus drivers and Prospect Park.

West – “C-2”, Use is vacant land.

6. **General Neighborhood/Area Land Uses:** The subject property is on the Martin Luther King Jr. Parkway commercial corridor between Euclid Avenue and Hickman Road with a mix of light industrial, commercial and office uses.
7. **Applicable Recognized Neighborhood(s):** N/A.
8. **Relevant Zoning History:** Since 2002 there are several code enforcement cases for illegal vehicle repair use of the property. There are also enforcement cases for junk and debris along with inoperable vehicles stored on the property. There are numerous instances where the City has impounded vehicles at the request of the property owner.
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. **Drainage/Grading:** The eastern portion of the property sits at a lower grade than the western portion which drains toward Martin Luther King, Jr. Parkway. The eastern portion of the property drains towards the park and Des Moines River to the east.
2. **Landscaping & Buffering:** The property does not appear to conform to the current adopted Des Moines Landscape Standards in terms of parking perimeter setbacks and overall open space and landscaping requirements.

Staff recommends that as a condition of rezoning, that any change of use, alteration, or improvement to the property require that the site come into conformance with the minimum landscaping requirements. This would primarily include provision of adequate landscape perimeters and open space with required plantings. Although the property is not a designated enhancement corridor, staff believes that its high visibility warrants the application of the Landscape Standards as they would be applied to “C-2” Districts.

3. **2020 Community Character Plan:** In order for the requested rezoning to be found in conformance with the Des Moines' 2020 Community Character Plan, the applicant has requested amendment of the Plan to revise future land use from Commercial: Auto-Oriented,

Small-Scale Strip Development to General Industrial. There are other Industrial designations further to the north along Martin Luther King Jr. Parkway. These areas are north of the intervening Des Moines Public Schools bus facility. Staff does not believe that it is inappropriate to designate the property for General Industrial use, so long as there are use limitations with any rezoning of the property.

The portion of the property that is zoned "M-3" can be used for warehousing but cannot be used for vehicle repair or auto body work because of the narrow use limitations of that District which were actually intended for industrial development near the airport. The subject property and surrounding properties are within the only "M-3" District Area in the City that is not in the vicinity of the Des Moines International Airport. Rezoning the entire property to "M-1" will allow for the current combination of uses of warehousing, retail, and vehicle repair.

While staff finds that the surrounding area has a land use character of light industrial uses such as warehousing, storage, and school bus storage/maintenance facilities; there are other uses in the "M-1" District that may not be appropriate along a corridor with high visibility, to include off-premises advertising, adult business, and industrial uses that occur outside of a building.

- 4. Permit and Development Comments:** Any conversion of the building for new uses will require a review under the Building Codes for a change in occupancy. This may result in necessary modifications to property to bring it into conformance with current codes with the issuance of any necessary permits. This could include current uses that have not been legitimized. Expansion, alteration, or improvement of the property that would require conformance with Des Moines Landscaping Standards will require a Site Plan review by the Permit and Development Center.

SUMMARY OF DISCUSSION

Mike Ludwig: Presented staff report and recommendation and noted an addition to the staff recommendation to add car lots to the list of prohibited uses, since there is not a car lot on the property currently. Noted past zoning violations are under consideration for enforcement. If the applicant has been cited for using the property for a use that is not allowed under the current zoning but it is allowed under the M-1, and if the property was rezoned to "M-1" the enforcement would go away.

Janice Gregerson, Mingo: Asking for rezoning because there is only 6' between the buildings and there is no division between parking lots. They have a mechanic and understand they could not do any repair work. Understood any mechanic work would have to be done inside the building and they are prepared to accept an exclusion to the billboard and would be willing to allow an exclusion of auto repair, body repair and noted they are trying to find a different renter. Noted it is a long way to get to the river. Noted they have a wholesale food delivery.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

CHAIRPERSON CLOSED THE PUBLIC HEARING


Brian Millard: Moved staff recommendation to find the rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

Motion passed 9-0.

Brian Millard: Moved staff recommendation for approval of the requested amendment to the Des Moines' 2020 Community Character Plan to revise the future land use from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial and of the requested rezoning to "M-1" Light Industrial District subject to the owner of the property agreeing to conditions including the prohibition of vehicle display lots or any type of auto body repair, alteration, detailing or any type of mechanic work.

Motion passed 9-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

Item ZON 2008-00043

Date 4/30/08 23

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

(Circle One)

RECEIVED

MAY 02 2008

Print Name DAVID & LORRAINE LONG

Signature David Long
8975 NW POLK CITY DR.
ANKENY, IA 50023

Address David Long

COMMUNITY DEVELOPMENT DEPARTMENT

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

Item ZON 2008-00043

Date 4/21/08

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

RECEIVED

APR 23 2008

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name AE Farms Inc

Signature Robert H. Mahaffey

Address 2420 E. University, DSM

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

This entire area should be rezoned as to its
current usage which is M-1.

SUBJECT PROPERTY

Item ZON 2008-00043 Date 4-22-08

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

(Circle One)
RECEIVED

Print Name Kathy Kirschbaum

APR 30 2008

Signature Kathy Kirschbaum

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Address 2713 ML King Jr Pky
Dm IA 50310

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

Need to keep thriving businesses in place,
it helps keep the buildings being kept up
and pays in to the tax base. The city
should offer incentives for new businesses
in this under developed area.

Item ZON 2008-00043 Date _____

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

(Circle One)
RECEIVED ?

Print Name Leslie Brewer

MAY 12 2008

Signature Leslie Brewer

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Address 2224 Prospect Rd
Des Moines, Iowa 503

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

