

57A

Date May 19, 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 17, 2008, the members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from O. Glen Kemp (owner) to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development for property located at 3749 & 3801 East University Avenue, 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 approved and adopted.

MOVED by \_\_\_\_\_ to adopt, and approve the proposed amendment.

FORM APPROVED:

  
 \_\_\_\_\_  
 Michael F. Kelley  
 Assistant City Attorney

(21-2008-4.07)

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

**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.

MOTION CARRIED APPROVED

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk

Date \_\_\_\_\_

Agenda Item 57A

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 April 17, 2008, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 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 O. Glen Kemp (owner) to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development for property located at 3749 & 3801 East University Avenue. (21-2008-4.07)

By same motion and vote, Commissioners recommended **APPROVAL** of a request to rezone property located at 3749 & 3801 East University Avenue from "C-1" Neighborhood Retail Commercial District and "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented Commercial District, to allow for redevelopment of the property for mini-warehouse use, subject to the applicant agreeing to the following conditions: (ZON2008-00036)

The following uses of land and structures shall not be permitted upon the property:

- A) Adult entertainment businesses;
- B) Package goods store for the sale of alcoholic beverages;
- C) Taverns and night clubs;
- D) Off-premises advertising signs;
- E) Vehicle display lots, including but not limited to used car sales lot;
- F) Pawn brokerages; and,
- G) Financial institutions where the majority of revenue is derived from lending guaranteed by collateral of future payroll or vehicle titles



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

If the property is developed for use as a mini-warehouse self-storage complex, then such development shall comply with the following additional requirements:

- A) The side of any building fronting East University Avenue shall be of masonry material in earth tone colors. The balance of the building, including overhead doors, shall be of an earth tone color.
- B) No storage units within 300-feet of East University Avenue shall be placed with doors facing East University Avenue.
- C) All lighting shall be shielded so as not to illuminate into adjoining residential properties.
- D) The gate and fencing along East University Avenue shall be of wrought iron or tubular steel construction, painted earth tones or black to complement the buildings, with masonry pillars.
- E) A 25-foot wide setback shall be maintained along the eastern and southern boundaries of the property.
- F) A sidewalk shall be installed and maintained along the East University Avenue in accordance with the East University streetscape plan.
- G) Hours of operation shall be limited to 6:00 am. to 10:00 p.m.

Written Responses

0 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 Commission find the requested rezoning not in conformance with the approved Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the request to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation to Commercial: Auto-Oriented Small-Scale Strip Development.

Part C) Staff recommends approval of the requested rezoning of the site from "R1-60" and "C-1" to "C-2" District subject to the applicant agreeing to the following conditions:

The following uses of land and structures shall not be permitted upon the Property:

- A) Adult entertainment businesses;
- B) Package goods store for the sale of alcoholic beverages;
- C) Taverns and night clubs;
- D) Off-premises advertising signs;
- E) Vehicle display lots, including but not limited to used car sales lot;
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## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The requested land use amendment and rezoning would allow for an expansion to the south side of the existing A to Z Rental business and allow use of the property for a miniwarehouse complex. The requested rezoning would also allow for the entire area owned by the applicant to be uniformly zoned.
2. **Size of Site:** The irregular-shaped site comprises 9.98 acres. The subject property has a combined frontage of 418' along East University Avenue and a total depth of 789'.
3. **Existing Zoning (site):** The eastern 1.54 acres portion of the site within 200' of East University Avenue is "C-1" Neighborhood Retail Commercial District. The western 1.54 acres portion within 430' of East University Avenue was rezoned to Limited "C-2" in 2004. The remaining 6.9 acres of the southern portion of the subject property is "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The subject property is comprised of four parcels. The A to Z Rental business is located on the west end of the site fronting East University Avenue. A single-family residence is located in the north central portion of the site to the rear of the adjoining Star convenience store. The land generally greater than 300' south of East University Avenue is undeveloped open space.
5. **Adjacent Land Use and Zoning:**
  - North** – "C-1" and "C-2"; Uses include Star Gas Station, East University Self Storage, and "Now or Later" Restaurant.
  - South** – "R1-60"; Use is campgrounds for Iowa State Fairgrounds.
  - East** – "R1-60"; Uses are undeveloped open space and a primarily single-family residential area.
  - West** - "C-2"; Uses include Better Living Patios & Sunrooms of Des Moines, a single-family dwelling with accessory garage, and an open space area behind the building.
6. **General Neighborhood/Area Land Uses:** The subject property is located along East University Avenue in an area that contains a mix of commercial and residential uses. The subject property is located between East University Avenue to the north and the Iowa State Fairgrounds campgrounds to the south. The subject site forms a "U" around the west, south,

and east property lines of a Git-n-Go gas and convenience store. The areas to east and west of the site are predominantly undeveloped.

**7. Applicable Recognized Neighborhood(s):** N/A.

**8. Relevant Zoning History:** The City Council rezoned the northwestern portion of the subject property formerly "A to Z Rental" on July 12, 2004 to Limited "C-2" subject to the following conditions:

The following uses of land and structures shall not be permitted upon the Property:

- a) Vehicle display lots, including but not limited to used car sales lots.
- b) Adult entertainment businesses.
- c) Taverns and nightclubs.
- d) Off-premises advertising signs.

**9. 2020 Community Character Land Use Plan Designation:** Commercial: Auto Oriented Small-Scale Strip Development and Low-Density Residential.

**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. Natural Site Features:** The south half of the site is a natural open space area with dense trees along the south and east property lines. The site gradually slopes downward to the east. The submitted site schematic anticipates that trees along the south and east boundaries of the property will not be disturbed based on the ability to develop utilizing existing grades. A tree survey identifying trees six-inches and larger will be required with the submittal of any site plan for development.

**2. Drainage/Grading:** The southern portion of the subject property slopes steeply downward to the south. The site generally drains southeast toward a tributary of Four Mile Creek. The site is known to contain fill. A soils analysis will be required as part of any site plan and building structural review.

Any future development will be required to meet all grading/soil erosion protection and storm water management policies during Site Plan review. The site schematic indicates the intent to provide storm water detention at the southeastern portion of the development, with a piped release into a dissipater to prevent any erosion from the controlled rate of release. The development is also subject to recently adopted post construction run-off- requirements which may necessitate a design using conservation methods to absorb part of the run-off into the ground on-site.

**3. Landscaping & Buffering:** Any future development will be required to meet the landscape standards of the Site Plan policies. The submitted site schematic indicates the intent to comply with minimum bufferyard and open space plantings. The schematic shows that the fencing will be placed and the bufferyard plantings will be planted tighter to the miniwarehouse buildings rather than spread at the perimeter of the property where it abuts residential uses. Staff believes that this will be more effective in screening the use based on the existing grades.

With any development, the applicant will be required to comply with the Site Plan policy provisions for the East University streetscape, to include a six foot wide sidewalk along their frontage scored into two-feet by two-feet sections.

4. **Traffic/Street System:** Based on the number of trips that would be generated by miniwarehouse use, Traffic and Transportation staff does not anticipate the need for special traffic controls or for upgrades to the adjoining street facilities on East University Avenue.
5. **Access or Parking:** The subject property is accessed by two driveways from East University Avenue. The former A to Z Rental business area is accessed by one driveway and the single-family residence is accessed by an additional driveway located just east of the adjoining Git-n-Go. The submitted site schematic contemplates a 30' wide looped drive aisle allowing for Fire apparatus access or two-way traffic and parallel parking.
6. **2020 Community Character Plan:** The proposed "C-2" District is in conformance with the portion of the site fronting East University Avenue that is designated as Commercial: Auto Oriented Small-Scale Strip Development. However, the proposed zoning would require an amendment for the area designated as Low-Density Residential to Small-Scale Strip Development in order to be found in conformance with the Des Moines' 2020 Community Character Plan.

The property to the west was rezoned "C-2" in 2006 with intent to develop a similar miniwarehouse type use. The future development of residential areas east of the subject property could be impacted by expanding the Commercial: Auto Oriented Small-Scale Strip Development future land use designation. Therefore staff would recommend prohibiting a number of uses that would normally be prohibited in a "C-2" District, including but not limited to Vehicle display lots, Adult entertainment businesses, Taverns and nightclubs, and Off-premises advertising signs. Additionally there are a few "C-1" District uses that present that should be prohibited. These would include package goods liquor stores, pawn brokers, and financial institutions where the majority of revenue is derived from lending guaranteed by collateral of future payroll or vehicle titles.

7. **Urban Design:** Because the East University Avenue corridor is identified as a significant gateway corridor by the Des Moines' 2020 Community Character Plan (p. 38), development is looked upon to provide an enhanced level of exterior design. Staff recommends that similar building requirement conditions as placed on the miniwarehousing to the north also be placed on any proposed miniwarehouse development. These include:
  - A) The side of any building fronting East University Avenue shall be of masonry material in earth tone colors. The balance of the building, including overhead doors, shall be of an earth tone color.
  - B) No storage units within 300-feet of East University Avenue shall be placed with doors facing East University Avenue.
  - C) All lighting shall be shielded so as not to illuminate into adjoining residential properties.
  - D) The gate and fencing along East University Avenue shall be of wrought iron or tubular steel construction, painted earth tones or black to complement the buildings, with masonry pillars.
  - E) A 25-foot wide setback shall be maintained along the eastern and southern boundaries of the property.
  - F) A sidewalk shall be installed and maintained along the East University Avenue in accordance with the East University streetscape plan.
  - G) Hours of operation shall be limited to 6:00 am. to 10:00 p.m.

## SUMMARY OF DISCUSSION

Erik Lundy: Presented staff report and recommendation. Indicated the opaque fencing the applicant is proposing between the units would prevent headlights from being a problem.

*Kaye Lozier left the meeting at 6:35 p.m.*

David Cupp: Asked if there is something to ensure proposed development goes in after the property is rezoned or the zoning goes back to what it previously was.

Erik Lundy: Indicated when the zoning is changed by ordinance, it stays in place. The only mechanism to change it back into the previous zoning would be to go through a rezoning.

Larry Hulse: Explained it is a property rights issue and the zoning goes with the land. There are a lot of conditions that affect the use but the zoning remains until there is a rezoning.

Mike Ludwig: Suggested the only way to do it would be to restrict the use to only a mini-warehouse storage but the property owner has to agree to any conditions in writing prior to the City Council hearing and they might not agree to a limitation to only one use on their property. Noted staff has attempted to eliminate the uses that are most controversial from the list.

Marc Wallace: Suggested placing too many limitations on a zoning could preclude a future opportunity for a property.

Mike Ludwig: Noted when the 2020 Comp Plan was written it reflected more existing land uses than any future projection. The idea was that as development was proposed, rezoning or amendments to the Comprehensive Plan would have to be considered and the character would have to be taken into consideration at the time of the rezoning.

Wally Pelds, Pelds Engineering, 2323 Dixon Street, Des Moines: Noted the property was illegally filled with concrete rubble. They did some of the soil borings and realized the only thing they could do was slab on grade buildings so they had to determine what they could put on it. Explained they were looking at a development similar to the mini-storage that is across the street to the north. They plan to leave as many of the existing trees as possible. The number of units shown might change; they may have to be smaller because of the shifting of the land that is going to exist. They plan to have an on-site manager.

Marc Wallace: Asked about the trees in the southeastern corner.

Wally Pelds: Noted they would try to save as many as possible but will have to take some out to build a detention basin.

David Cupp: Asked how deep the fill is.

Wally Pelds: Explained some of it is 18 inches.

Tim Urban: Expressed concern that the property is heavily wooded on the south and southeast, yet they will have to grade the southeast because of storm detention. Suggested 8 buildings could be pushed north in a tighter configuration to leave the entire southeast portion of the property from interference and place the storm detention in the middle of the property.

Wally Pelds: Explained the City wants more green space to absorb the water so he tried to spread out the buildings so he can absorb surface water.

Mike Ludwig: Noted they have to come through the site planning process and they would be asked to identify trees on the property at that time. There could be adjustments to the buildings to limit the impact on significant trees, but that would be dealt with in the site plan review.

SNA

Tim Urban: Suggested there were two ways to approach the property from a rezoning standpoint: a "C-2" with restrictions, leaving it open for the site plan review process to weigh the relative merit for the topography, trees and other factors of the site to determine what would work; or a PUD, which could have a sunset on it and grant the PUD and if it is doesn't go forward for development the PUD would disappear.

Mike Ludwig: Noted that under PUD zoning, if the development did not occur a new concept plan would have to be submitted; the zoning would not go back to the R1-60 but would remain PUD. Explained the approval of the concept plan sunsets if development doesn't proceed and the City would need to take a tangible action to revoke the concept plan under the ordinance. Part of the concept of the tree preservation discussion is the idea that there has to be some flexibility retained in the process to incent compliance with the ordinance.

Wally Pelds: Noted they would do what they could to save the trees.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

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

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Bruce Heilman: Moved staff recommendation.

David Cupp: Applauded the applicant for an attempt to rectify a bad situation.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment