

.....
Date..... June 4, 2007

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on May 17, 2007, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Heritage Corporation, Ltd. (owner) represented by Sidney Tyler (officer) to rezone property located in the vicinity of 2142 Indianola Avenue from the "C-1" Neighborhood Retail Commercial District and "R1-60" One-Family Low-Density Residential District to the "NPC" Neighborhood Pedestrian Commercial District, to allow for mixed-use retail, office and multiple-family residential development subject to the owner agreeing to the following conditions:

1. Prohibition of the following uses on the property:
 - a. Gas Stations;
 - b. Packaged goods liquor stores;
 - c. Off-premises advertising signs
 - d. Taverns and Nightclubs; and
 - e. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
2. The south façade of structures facing Gray Street shall not be greater than two stories. The north façade of these same structures may be three stories to take advantage of topography and to accommodate tuck under garages;
3. Any parking reduction allowed by the NPC district shall be subject to design review of the site plan.

The subject property is more specifically described as follows:

All of Lots 4, 5, 6 and 7 of Crawford Place Replat, an Official Plat, and (except beginning at the SE corner, thence west 10 feet, thence NE 10.21 feet to the east line, thence SE 10 feet to the point of beginning) Lot 7A of said Crawford Place Replat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

(continued)

★ Roll Call Number

Agenda Item Number
26

June 4, 2007

Date

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 18, 2007, 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

(ZON2007-00056)

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

Date _____

Agenda Item 26

Roll Call # _____

June 4, 2007

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 17, 2007, the following action was taken:

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels				X
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Kaye Lozier	X			
Jim Martin	X			
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson	X			
Kent Sovern	X			
Tim Urban	X			
Marc Wallace	X			

APPROVAL of a request from Heritage Corporation, Ltd. (owner) represented by Sidney Tyler (officer) to amend the Des Moines 2020 Community Character Plan designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node for property located in the vicinity of 2142 Indianola Avenue.
(21-2007-4.05)

By separate motion and vote members moved 13-0 for **APPROVAL** of a request to rezone subject property from "C-1" Neighborhood Retail Commercial District and "R1-60" One-Family Low-Density Residential District to "NPC" Neighborhood Pedestrian Commercial District, to allow for mixed-use retail, office and multiple-family residential development subject to the owner agreeing to the following conditions: (ZON2007-00056)

1. Prohibition of the following uses on the property:
 - a. Gas Stations;
 - b. Packaged goods liquor stores;
 - c. Off-premises advertising signs
 - d. Taverns and Nightclubs; and
 - e. Financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.



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. The south façade of structures facing Gray Street shall not be greater than two stories. The north façade of these same structures may be three stories to take advantage of topography and to accommodate tuck under garages;
3. Any parking reduction allowed by the NPC district shall be subject to design review of the site plan.

Written Responses

2 In Favor

4 In Opposition

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

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Part A) Staff recommends that the proposed 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 future land use designation, from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node.

Part C) Staff recommends approval of the requested rezoning subject to the prohibition of Gas Stations; Packaged Goods Liquor Stores; Off-premises advertising signs; and Taverns and Nightclubs as permitted uses.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The owner is seeking to develop the subject property with mixed-use residential and commercial uses at a pedestrian scale. Future Site Plan development would be reviewed by the Commission under the "NPC" Design Guidelines should the property be rezoned as requested.
2. **Size of Site:** 1.635 acres (71,220 square feet)
3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District and "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The property at 2142 Indianola Avenue currently contains a 3,481 square foot retail commercial building that is vacant. The property at 2128 Indianola Avenue currently contains a 2,391 square foot building housing Florene's Bakery Shop. There is paved off-street parking associated with both buildings. The remaining property is undeveloped and contains an open drainage way.
5. **Adjacent Land Use and Zoning:**

North – “C-1”, Uses are single-family dwellings, a two-family dwelling, and Manning’s Restaurant.

South – “R1-70”, Uses include a single-family dwelling and private bocce ball court.

East – “C-1”, Uses include the Hemminger Apartments multiple-family residential complex and single-family dwellings.

West – “R1-60”, Uses are single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the Indianola Avenue mixed-use corridor that runs through the City’s Southside and is surrounded by predominantly residential neighborhood areas.
7. **Applicable Recognized Neighborhood(s):** Indianola Hills Neighborhood Association.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** 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, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Natural Features:** There are a few mature trees west of the existing commercial building along East Gray Street. The man-made drainage way through the subject property has volunteer tree growth along its banks. This growth stabilizes the soil but it does not contain significant specimen trees and has little aesthetic value.
2. **Drainage/Grading:** There is a significant open drainage way running from the southwest to the northeast through the property. This drainage way serves as a regional conveyance of storm water for the surrounding area. There is a scheduled project to put a double box culvert storm sewer through this property. The necessary easements for the box culverts will restrict the placement of future buildings within the property. However, off-street parking areas may be developed within the easement. The developer is looking to coordinate their site development with the scheduling of the City storm sewer project.

All other site grading is subject to review as part of a Site Plan submittal or grading permit and must adhere to storm water management policies applied to “NPC” Districts should the property be rezoned as proposed.

3. **Landscaping & Buffering:** The “NPC” Design Guidelines do not provide for specific landscaping requirements. However, staff will use “C-1” standards as a basis in making recommendations to the Commission on any future “NPC” Site Plan. “R” District protection setbacks and screening requirements are specific guidelines applied to off-street parking areas in “NPC” Site Plans.

4. **Access or Parking:** The “NPC” Design Guidelines for Site Plan review allow for a 60% reduction in the typical minimum required spaces for off-street parking.
5. **Des Moines’ 2020 Community Character Plan:** Because the proposed zoning is pedestrian-oriented and the size of the rezoning area is small and surrounded by residential use, staff recommends that the future land use designation be amended to Commercial: Pedestrian-Oriented Neighborhood Node. This would allow for the requested rezoning to be found in conformance with the Des Moines’ 2020 Community Character Plan. In order to allow for an expansion of commercial zoning throughout the subject property, a future land use amendment to the Des Moines’ 2020 Community Character Plan is necessary.
6. **Urban Design:** The developer has not provided renderings or elevations of proposed buildings or dwellings at this time. Review of any Site Plan under the proposed zoning will be subject to all “NPC” Design Guidelines. The existing commercial buildings conform to many of the “NPC” Design guidelines including street setback, entrance locations, etc.

A conceptual site layout was submitted with the rezoning request that includes the preservation of the existing commercial buildings. It also includes the development of five-units of row townhouses along East Gray Street, a new single-family detached dwelling on the far western portion of the property, and a new mixed-use two-story building between the two existing commercial buildings along Indianola Avenue. The general concept of the proposed layout appears to meet the intent of the “NPC” Design Guidelines. However, review of a Site Plan with building elevations by the Plan and Zoning Commission is required under the “NPC” zoning regulations.

SUMMARY OF DISCUSSION

Erik Lundy: Presented staff report and recommendation. Noted anything that would be developed would return to the Commission in the form of a site plan for review of the design. Explained staff does not believe the request to be in conformance with the current 2020 Community Character Plan due to the low-density designation.

Brian Millard: Asked about entities that derive the majority of their business from operations such as check cashing and title loan businesses, and asked if they would be permitted since they weren’t on the list of prohibited uses.

Erik Lundy: Did not observe a proliferation of those types of businesses along Indianola Avenue. Usually if there is a saturation of those types of businesses, staff generally asks for the prohibition of them. Specific language to identify those uses would have to be included to prohibit them.

Tim Urban: Asked about the demarcation between the existing C-1 and R1-60 on the proposed site.

Erik Lundy: Noted it follows the line of the parcel boundaries.

Tim Urban: As a result of the response, asked if the developer could develop commercial.

Erik Lundy: Indicated they could, however the sewer and drainage way creates an additional obstacle to meeting 25’ setback in the C-1 district.

Tim Urban: Asked if someone could do a purely commercial development of the site using the shown footprints, because the existing building is right on the property line it would not meet a setback requirement and would need to get a variance.

Erik Lundy: Affirmed that under C-1 zoning, there would be 25' setbacks required from East Indianola Avenue and East Gray, which would cut into the amount of land.

Mike Ludwig: Explained the developer could go to the Board of Adjustment for relief to the building setback for the new building. Since the existing building is up to the street, the setback for the new building would only require an Exception from the Board of Adjustment.

Tim Urban: Expressed concern that there would not be enough parking and noted normally NPC developments offer on-street parking adjoining the properties so cars can park in front of the businesses on adjacent streets. There is typically also the environment of medium density so a number of people will walk from the surrounding neighborhood. However, the subject site is in a much higher traffic corridor and he expressed concern that it would not generate the pedestrian traffic that would normally be found in other NPC designated areas.

Mike Ludwig: Noted at the time of the actual site plan review parking issues could be discussed and evaluated. It is a design guideline on the parking requirement and if the on-street parking is not adequate the Commission could make condition of the zoning be that the reduction of parking in the NPC district would be subject to review of the site plan.

Kaye Lozier: Asked what the buffer requirements would be between the subject site and the neighborhood if it is changed to commercial.

Erik Lundy: Referred to the NPC Design Guidelines regarding the off-street parking areas, noting there would likely be a 10' buffer requirement where parking separates from residential. NPC zoning district is flexible in terms of the landscaping standards, however the C-1 requirements would be used as a baseline so the 10' buffer yard requirement would be applied as a starting point. If there was a challenge staff would look at other options.

Sid Tyler, 4615 185th Lane, Carlisle, IA: Represented the applicant and noted parking was included in the proposed sketch they drew, that would comply with the present C-1 requirements for the square footage of the building based on an office/retail space. There would be additional parking over and above the C-1 requirements. Noted they are open to other options if necessary.

Bruce Heilman: Asked why they would not move their request to the east to have enough for the 10' buffer and have a large lot for a home instead of having the one single-family home being NPC.

Sid Tyler: Noted he was following the recommendations from the pre-application meeting with staff, but indicated it could be moved to the east. Noted it would be expensive to build a single-family home on the site because of the length of the driveway and the price of the home could only justify so much in the area. Indicated they submitted a conceptual drawing with the most intense land use possible.

Bruce Heilman: Indicated the Commission looks carefully at transition and buffering, particularly when adjoining an established residential area and suggested that be taken into consideration. He would prefer the developer would commit to a residential property there and create their own natural transition and whoever bought it would understand they would be next to commercial. The R1-60 could then be left on that piece.

Mike Ludwig: Noted that even a single-family dwelling would require relief from the Board of Adjustment as the R1-60 zoning district requires a 30' rear yard setback.

Erik Lundy: Noted it was discussed that NPC would offer the most flexibility.

Brian Millard: Asked the applicant if he saw a need to have businesses that would derive most of their business from check cashing and title loans, or if it would be a problem to prohibit those uses as a condition of zoning approval.

Sid Tyler: Noted he did not think those uses sounded appealing and adding it as a condition would not be a problem. He had no intention of making it a bar, even though it is being designed to look like one.

Tim Urban: Suggested the small parking lot at the corner of the intersection of two streets to be problematic because the accesses are so close to the intersection. Noted NPC may offer the advantage of using the corner as a building site and mirroring it to the existing site to the north.

Sid Tyler: Noted the parking lot on the corner is an existing parking lot.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following individuals spoke in opposition:

Julie M. Naylor, 118 E. Gray: Opposed to the construction, although not opposed to progress. Did not like the proposal for the building or the neighborhood. There is no entrance to get into the field and did not understand where a driveway would be. Would prefer to keep the neighborhood as a "ma and pa" neighborhood as it currently is. Fears more drug dealing that is already evident.

Mary Jo Scavo, 111 SE Gray: Expressed opposition to the proposal as a result of the two-story apartment building. Did not know where it would be but felt it would be an eyesore because it would be all low housing.

Jeff Johannsen joined the meeting at 6:54 p.m.

Mike Ludwig: Noted much of the uses shown on the property are permitted under the current zoning so the applicant could build an apartment or multi-family project on the property under C-1 zoning if they met the setbacks or obtained the necessary relief from the Board of Adjustment.

Tim Urban: Asked what the advantages the developer would get out of the NPC zoning over the C-1.

Mike Ludwig: Noted the NPC zoning would be more restrictive from a use standpoint but more flexible on the building setback. If there were no condition placed regarding the parking there would be an automatic reduction of parking granted. If the condition is placed that says reduction does not occur until a site plan is reviewed then the building setback is the only benefit of NPC zoning at this time.

Sid Tyler: Clarified that the intent is ownership of the condo/row housing versus rental apartments. There would not be a high-rise, but single-family row housing. The potential two-story structure to the north of the existing commercial building would be a mixed use such as a coffee shop, boutique with a possible living space above for the owner/operator of the retail establishment. Noted he envisions a quaint village concept. Explained there was a proposed optional driveway arrangement off Gray Street to get in behind the condos. There are adequate entrances into the site and he did not see that to be a problem.

Tim Urban: Asked if he would have a problem limiting the height to two-stories on the site under the NPC.

Sid Tyler: Clarified he was thinking of a brownstone type of row housing with the garage underneath, which would be a three-story.

Tim Urban: Asked the question because of neighbors opposed to the introduction of larger-scale buildings into a low-density single-family area.

Sid Tyler: Noted he was receptive to limiting the commercial to a two-story.

Tim Urban: Suggested the three-story would be more intrusive into the neighborhood.

Erik Lundy: Noted that rear loading garages off Gray would give the appearance of a two-story from the Gray Street side.

Dann Flaherty: Asked about the trees.

Sid Tyler: Noted the tree on Gray Street would remain but there are two that would be removed.

Mike Ludwig: Offered the point of clarification that the current C-1 zoning district allows 35' height maximum, residential uses have a three-story limit and all other uses have a two-story limit. Noted a condition could be placed that would mirror the C-1 district to offer the flexibility of having garages on the residential and restrict any commercial building to two-stories.

CHAIRPERSON CLOSED THE PUBLIC HEARING

David Cupp: Moved to find the proposed rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan land use designation of Low Density Residential.

Motion passed 13-0.

Tim Urban: Moved for staff recommendation to amend the 2020 Community Character Plan and to allow the zoning to NPC with the limitation of structures facing Gray Street to less than three stories with additional stories being accommodated through rear-loading to the north, but that the parking reduction be subject to NPC site plan review.

Brian Millard: Offered a friendly amendment to include to the rezoning the prohibition of entities that derive the majority of their business from check cashing, title loans and such and deferred to legal counsel for appropriate verbiage.

Roger Brown: Clarified the amendment would be to add the standard language that has been used under similar circumstances.

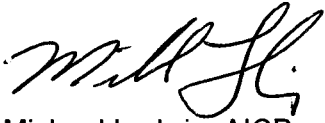
Kent Sovern: Did not object to the motion, but raised caution relative to differentiating financial institutions based on the means of collateral that they secure.

Mike Simonson: Would support the motion because it looks like an exciting project, however he had concerns about placing height limitations.

Motion passed 13-0.

Bruce Heilman: Suggested the developer consider leaving the western piece as greenspace to provide a buffer to the neighbors.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Ludwig'.

Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

26

Request from Heritage Corporation, Ltd. (owner) represented by Sidney Tyler (officer) to rezone property located at 2142 Indianola Avenue.			File # ZON2007-00056	
Description of Action	Rezone subject property from "C-1" Neighborhood Retail Commercial District and "R1-60" One-Family Low-Density Residential District to "NPC" Neighborhood Pedestrian Commercial District, to allow for mixed-use retail, office and multiple-family residential development.			
2020 Community Character Plan	Low-Density Residential			
Horizon 2025 Transportation Plan	No Planned Improvements			
Current Zoning District	"C-1" Neighborhood Retail Commercial District and "R1-60" One-Family Low-Density Residential District			
Proposed Zoning District	"NPC" Neighborhood Pedestrian Commercial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	2	4	0	>20%
Plan and Zoning Commission Action	Approval	13-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Heritage Corp (The Market Place) - 2142 Indianola Avenue

ZON2007-00056



Item 2007 00056

Date May 8, 2007 26

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

RECEIVED ✓

MAY 11 2007

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name James J Leo Sr

Signature James J Leo Sr

Address 2131 PEER ST

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

Item 2007 00056

Date May 11, 2007

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

RECEIVED ✓

MAY 14 2007

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Bonnie Hall

Signature 2137 Indiana Rd.

Address Des Moines, Ia 50315

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

Item 2007 00056

Date May 11, 2007 26

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

NO

RECEIVED
MAY 14 2007

Print Name Julie M. Naylor
Signature Julie M. Naylor
Address 118 E GRAY

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

THIS IS A MA & PA Neighborhood. People have lived here all their lives without complications & expect to die without any. The apts on Indianola Rd bring enough B.S. already. We do not welcome any more crime, drugs, robbery's into our lives. He can take it to Carusle by his neighborhood & ~~present~~ present it there.

Item 2007 00056

Date 5/8/07

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



Print Name Nathan Cox
Signature Nathan Cox
Address 2112 Indianola Ave, DSM, IA 50315

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

Do not want more apts/multiple-family dwellings built. Business-only rezoning would be fine if it excluded the aforementioned. thank you.

26

Item 2007 00056

Date 5-10-07

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

(Circle One)

RECEIVED

MAY 11 2007

Print Name Jack Nittler

Signature Josh Nittler

Address 37 SE Gray

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

We dont need any apt on Gray or busines bldg.

Item 2007 00056

Date 5-12-07

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

(Circle One)

RECEIVED

MAY 16 2007

Print Name MARiJo T. SCAVO

Signature Marip T Scavo

Address 111 SE GRAY ST

COMMUNITY DEVELOPMENT DEPARTMENT

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

You are trying to clean up SE 14th, so you want to mess with Indiana Ave. There is already too many Taverns on it. Put it all at Indiana + SE 14th. You are raising Taxes so we can look out + see apartment. No WAY