

Date..... July 9, 2007

WHEREAS, on June 18, 2007, by Roll Call No. 07-1163, it was duly resolved by the City Council that the application of Central Iowa KFC, Inc. (developer), to rezone certain property owned by K and E, L.L.C., and located in the vicinity of 902 E. Euclid Avenue, more fully described below, be set down for hearing on July 9, 2007, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on June 28, 2007, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

Lot 14, except the North 310.8 feet and except the South 165.0 feet, of Euclid Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

from the "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

- A. The following uses of structures and land shall be prohibited upon the Property:
- 1) Adult entertainment business;
 - 2) Automobile establishments for display, hire and rental, including used car sales lot.
 - 3) Garage for general motor vehicle repair;
 - 4) Off-premises advertising sign;
 - 5) Package goods store for the sale of alcoholic beverages;
 - 6) Taverns and nightclubs; and,
 - 7) Businesses that derive their primary revenue from title or advance payroll loans and/or pawn brokering.

(continued)

Date July 9, 2007

- B. Any commercial use of the Property shall be subject to an approved site plan. In the site plan approval process, easements shall be recorded upon the remaining residential portion of the parcel (consisting of the South 125.0 feet of the North 310.8 feet of said Lot 14), to allow the owner of the Property to maintain, and to relocate if necessary in the future, any required landscaping and stormwater management facilities installed on such adjoining residential property for the benefit of the commercial use upon the Property.

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited "C-2" General Retail and Highway Oriented Commercial District are hereby overruled, and the hearing is closed.
2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

MOVED by _____ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
 Assistant City Attorney
 G:\SHARED\LEGAL\BROWN\WORK\REZONING\KFC.doc

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

65

June 18, 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 June 7, 2007, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-0 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			



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

on a request from Central Iowa KFC, Inc. (developer) represented by Kevin Schlutz (officer) for **APPROVAL** of a motion to rezone a more limited area of property located at 902 E. Euclid Avenue, described as Lot 14, except the North 310.8 feet and except the South 165 feet, of Euclid Place, subject to the owner agreeing to the following conditions: (ZON2007-00068)

1. Prohibit the uses of Adult entertainment business; Automobile establishments for display, hire and rental; Garage for general motor vehicle repair, Off-premises advertising signs, Package goods stores for the sale of alcoholic beverages, Taverns and nightclubs and Businesses that derive their primary revenue from title or advance payroll loans and/or pawn brokering.
2. Provision of easements to maintain, or relocate in the future if necessary, any landscaping installed on the remaining adjoining residential property.

Written Responses

- 1 In Favor
- 1 In Opposition

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

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Part A) Staff recommends that a limited rezoning described as Lot 14, except the North 310.8 feet and except the South 165 feet, of Euclid Place, be found in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends denial of the requested amendment to the Des Moines' 2020 Community Character Plan.

Part C) Staff recommends approval of the requested rezoning of a more limited area described as Lot 14, except the North 310.8 feet and except the South 165 feet, of Euclid Place, subject to the owner agreeing to the following conditions:

1. Prohibit the uses of Adult entertainment business; Automobile establishments for display, hire and rental; Garage for general motor vehicle repair, Off-premises advertising signs, Package goods stores for the sale of alcoholic beverages, Taverns and nightclubs and Businesses that derive their primary revenue from title or advance payroll loans and/or pawn brokering.
2. Provision of easements to maintain, or relocate in the future if necessary, any landscaping installed on the remaining adjoining residential property.

STAFF REPORT

1. **Purpose of Request:** The applicant is seeking to increase the commercially zoned area of the site in order to replace the existing restaurant building with a new relocated building and extend the off-street parking area to the north.
2. **Size of Site:** 0.82 acres (35,720 square feet).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Vacant open space.
5. **Adjacent Land Use and Zoning:**

North – "R1-60", Uses are single-family dwellings.

South – "C-2", Use is a KFC drive-thru restaurant.

East – "R1-60", Uses are vacant open space and a single-family dwelling.

West – "R1-60" & "R-2", Uses are a Wendy's drive-thru restaurant, off-street parking, and two-family dwellings (City owned housing).
6. **General Neighborhood/Area Land Uses:** The subject property is located just north of the East Euclid Avenue highway commercial corridor west of the East 14th Street highway commercial corridor.
7. **Applicable Recognized Neighborhood(s):** Highland Park 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:** The subject property has scattered fence line trees along the east and west property lines ranging in size from 12" to 36" in diameter. The grading concept submitted avoids disturbing the trees.
- 2. Drainage/Grading:** A portion of the subject property is designed for storm water detention for expanded paved and built areas. The grading concept submitted shows water from a basin being conveyed through an outlet to storm sewer in East Euclid Avenue.
- 3. Utilities:** The public storm sewer in East 9th Street outlets to the subject property at the western edge.
- 4. Landscaping & Buffering:** The planned extension of the site to the north will require compliance with all provisions of the Des Moines' Landscape Standards as applicable to "C-2" Districts. Bufferyard screening and plantings will be required along the north, east, and west; except that none is required along that portion abutting the Wendy's off-street parking lot. Trash enclosures must be kept out of required buffer yard areas.

All site plan requirements must be provided within the commercially zoned area unless easements are secured on the residential property to maintain or relocate if necessary for future development the required bufferyards planted in those areas. Open space used for storm water detention within residentially zoned areas should have easements requiring maintenance or relocation as well.

- 5. Access or Parking:** The purpose for the rezoning request is to provide additional commercially zoned land to allow for a more efficient off-street parking and drive-thru circulation for the restaurant site. Better landscaping and traffic circulation are indicated on the proposed concept. No vehicular access is proposed to adjoining residentially zoned property.
- 6. Des Moines' 2020 Community Character Plan:** The Low Density Residential future land use designation will require an amendment should the entire property be rezoned to "C-2". Staff suggests however that only the amount of property necessary for the planned site expansion be rezoned to a commercial designation. Staff believes in that case that the rezoning request could be found in conformance with the current Des Moines' 2020 Community Character Plan based on a finding that it would be a minimal expansion of the current Commercial: Auto-Oriented, Small-Scale Strip Development designation for the main portion of the restaurant property along East Euclid Avenue without extending any access into surrounding residential development. Therefore staff would recommend denial of an amendment to the Des Moines' 2020 Community Character Plan.

Because of the adjoining low density residential uses of the property, staff would further recommend that the uses of Adult entertainment business; Automobile establishments for display, hire and rental; Garage for general motor vehicle repair, Off-premises advertising signs, Package goods stores for the sale of alcoholic beverages, Taverns and nightclubs,

Businesses that derive their primary revenue from title or advance payroll loans and/or pawn brokering be prohibited on any property rezoned to "C-2".

SUMMARY OF DISCUSSION

Mike Ludwig: Presented staff report and recommendation. Explained the reason for staff recommendation for denial of the amendment to the Des Moines' 2020 Community Character Plan to be that limited zoning would not require a change to the Land Use Plan.

Doug Saltsgaver, Engineering Resource Group, 2413 Grand Avenue: Noted the applicant is planning to demolish the existing building and explained the request. Indicated they are in agreement with staff recommendations and they are looking at a rain garden situation rather than permeable surfaces to control water runoff.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following individual spoke on this item:

John Morrisey, 2913 Oxford Street: Asked why there was a loop in front of the building.

Doug Saltsgaver: Indicated it is something KFC likes to see in the event patrons need to return into the site after going through the drive-through, instead of having to traverse into the street and back into the parking lot and explained they have moved the building back further to provide additional green space in the front.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Fran Koontz: Moved staff recommendation.

Motion passed 8-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

65

Item 2007 00068

Date 5/1/07

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

(Circle One) RECEIVED

JUN 04 2007

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Angelo Origuoli

Signature *Angelo Origuoli*

Address P.O. Box 2771, Menlo Park, CA 94026

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

KFC has been, and will continue to be a wonderful asset in the neighborhood. Please allow them to expand.

Item 2007 00068

Date 5-31-07

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

(Circle One) RECEIVED

JUN 04 2007

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name DENNIS LINDSAY

Signature *Dennis Lindsay*

Address 1105 E. DOUGLAS

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

I DO NOT THINK I NEED A REASON TO OPPOSE, HOWEVER, I DO NOT WANT A FAST FOOD ENTERPRISE CLOSER TO ME, AS I AM ALREADY PICKING UP THEIR TRASH FROM CUSTOMERS WHO THROW IT OUT WHERE EVER ~~THEY~~ THEY GO. OPPOSED!!!