

Date July 14, 2008

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on May 15, 2008, its members voted 14-0 in support of a motion to recommend **DENIAL** of a request from 3025 Douglas Ave. Inc. (owner) represented by Doug Silzer (officer) to rezone property located at 3025 Douglas Avenue from "C-2" General Retail and Highway Oriented Commercial District to Limited "M-1" Light Industrial District.

The subject property is more specifically described as follows:


-Except beginning at the Southwest corner of Lot 26, thence North 24.52 Feet, thence East 160 Feet, thence South 24.17 Feet thence West 160 Feet to the Point of Beginning and except the South 168 Feet of the East 190 Feet- the South 243 Feet of Lots 26 through 53; and the South 52 Feet of Lots 54 and 55, Block H, Lawnwoods, an Official Plat, 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 July 28, 2008, 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:


 Michael F. Kelley
 Assistant City Attorney

(ZON2008-00062)

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

Request from 3025 Douglas Ave. Inc. (owner) represented by Doug Silzer (officer) to rezone property located at 3025 Douglas Avenue.				File #	
				ZON2008-00062	
Description of Action	Rezone property from "C-2" General Retail and Highway Oriented Commercial District to Limited "M-1" Light Industrial District, to allow for outdoor equipment storage.				
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development				
Horizon 2025 Transportation Plan	No Planned Improvements				
Current Zoning District	"C-2" General Retail and Highway Oriented Commercial District				
Proposed Zoning District	Limited "M-1" Light Industrial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	6				
Outside Area	0				
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council to overturn P & Z Recommendation	Yes	X
	Denial	14-0		No	

Doug Silzer - 3025 Douglas Avenue

ZON2008-00062



Item ZON 2008-00062 Date 5-28-08

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

(Circle One) **RECEIVED**

MAY 29 2008

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Sam Eldridge

Signature Sam Eldridge

Address 2926 Garden Ridge Rd.

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

Four horizontal lines for text input.

Item ZON 2008-00062 Date 5-28-08

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

(Circle One)

RECEIVED

MAY 29 2008

COMMUNITY DEVELOPMENT DEPARTMENT

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

Print Name Peggy Kennedy

Signature Peggy Kennedy

Address 3000 Garden Ave, DSM

Item ZON 2008-00062 Date 5/28/08

(Circle One) (am not) **RECEIVED** request.

(Circle One) MAY 29 2008

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Denise Osborne

Signature Denise Osborne

Address 3019 Garden Ave

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

Five horizontal lines for text input.

Item 20N2008-00062 Date 05-28-08

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

(Circle One)
RECEIVED

Print Name Marilyn M. Downing

JUN 02 2008

Signature Marilyn M. Downing

COMMUNITY DEVELOPMENT DEPARTMENT

Address 3004 Garden Ave.

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

I have lived in this house since 1976 and as long as I have lived there Doug has keep his house and business clean and orderly. There is no reason to deny him, he is a man of his word. MMD

Item 20N2008-00062 Date 5-28-08

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

(Circle One)
RECEIVED

Print Name Matthew Marsh

JUN 02 2008

Signature Matthew D. Marsh

COMMUNITY DEVELOPMENT DEPARTMENT

Address 435 E. Grand

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

Item 20N2008-00062 Date 05-31-2008

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

(Circle One)
RECEIVED

Print Name Shirley Ann Anderson

JUN 05 2008

Signature Shirley Ann Anderson

COMMUNITY DEVELOPMENT DEPARTMENT

Address 3105 Garden Ave DM IA 50310-5320

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

Date _____

Agenda Item 33

Roll Call # _____

July 9, 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 June 5, 2008, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 14-0 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 3025 Douglas Ave. Inc. (owner) represented by Doug Silzer (officer) to rezone property located at 3025 Douglas Avenue as follows:

A) The proposed rezoning is not in conformance with the Des Moines' 2020 Community Character Plan.

B) Denial of a request to amend the Des Moines' 2020 Community Character Plan future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial. (21-2008-4.12)

C) Denial of a request to rezone property from "C-2" General Retail and Highway Oriented Commercial District to Limited "M-1" Light Industrial District, to allow for outdoor equipment storage. (ZON2008-00062)

Written Responses

6 In Favor

0 In Opposition

A 6/7 vote of City Council is required to overturn the Commission's recommendation for denial.



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 DENIAL

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 denial of the request to amend the Des Moines' 2020 Community Character Plan future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial.

Part C) Staff recommends denial of the requested rezoning on the basis that "M-1" Light Industrial District is not appropriate given the location adjacent to single-family residential uses. However, should the Commission be inclined to support the rezoning, staff recommends the Commission incorporate the existing zoning limitations established by Ordinance 13,313 (see subsection 8 in the General Information section).

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The owner is seeking to rezone the property to a Limited "M-1" Light-Industrial District to allow for outdoor storage of four vehicles and trailers on the paved parking lot to the north of the existing building as an accessory use to the primary use of the property for automobile repair. Such outdoor storage is considered to be a "contractor's storage yard", which requires the "M-1" designation.

The current Limited "C-2" District zoning regulations (see subsection 8 below) include a limitation that "All automotive repair uses shall take place inside the building and there shall be no exterior storage".

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-2" General Retail and Highway-Oriented Commercial District (City Code Section 134-947).
- 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. **Size of Site:** 51,834 (1.19 acres).
3. **Existing Zoning (site):** Limited "C-2" Neighborhood Retail Commercial District (see subsection 8 below).
4. **Existing Land Use (site):** The subject property includes a one-story structure containing 4,754 square feet of office and garage space, and a large asphalt parking lot to the north and east sides the building. The irregularly shaped parcel has 160 feet of frontage along Douglas Avenue and 75 feet of frontage along 30th Street.

5. Adjacent Land Use and Zoning:

North – "R1-60", Uses are 7 single-family residential dwellings.

South – "R-4", Uses are Douglas Avenue and the Veterans Administration (VA) Hospital campus.

East – "C-1", Uses is a one-story office building occupied by The Pawn Shop.

West – "C-1", Uses are a 1-story commercial structure occupied by Domino's Pizza and a single-family dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the Douglas Avenue commercial corridor with single-family residential uses adjacent to the north.
7. **Applicable Recognized Neighborhood(s):** Lower Beaver Neighborhood Association.
8. **Relevant Zoning History:** On March 18, 1998, Ordinance 13,313 was adopted to rezone the site to a limited "C-2" District with the following limitations:
 - A. Only the uses of structures or land listed below shall be permitted upon the Property:
 1. Any use permitted in the "R-2" One and Two family Residential District.
 2. Any use permitted in the "C-1" Neighborhood Retail District except and excluding any residential uses.
 3. Automobile accessory stores.
 4. Book binding.
 5. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges, miniature golf courses, trampoline centers, and similar recreational uses and facilities.
 6. Laundries.
 7. Office buildings.
 8. Pet shops, including aquariums.
 9. Photographic printing or developing establishments.
 10. Plumbing and heating shops.
 11. Physical culture or health establishments.
 12. Radio or Television studios.
 13. Garage for general motor vehicle repair, subject to the limitations in the "C-2" District regulations.
 14. Automobile washing establishments.
 15. Bakeries, subject to the limitations in the "C-2" District regulations.
 16. Bed and breakfast.

17. Any combination of the above uses.
- B. **All automotive repair uses shall take place inside the building and there shall be no exterior storage.**
- C. A 10 foot buffer yard along the north line of the Property shall be maintained with a six foot high opaque fence and landscaping of pyramidal arborvitae spaced 15 feet on center in a staggered layout on each side of the fence. The landscaping shall be in substantial compliance with the January 19, 1996 plan by PBS Landscapers.
- D. No buildings shall be permitted on the east 190 feet of the Property.
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:** If permitted, future reuse of the property for outdoor storage of contractors' equipment would be subject to review and approval of an amendment to the site plan approved April 11, 1996 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 as applicable in the "M-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 5,000 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 100 lineal feet of frontage.*

The existing zoning limitations require provision of a 10-foot-wide bufferyard along the north line to be maintained with a six-foot-high opaque fence and landscaping of pyramidal arborvitae spaced 15 feet on center in a staggered layout on each side of the fence.

3. **Access or Parking:** The existing off-street parking area is accessed by a drive approach from Douglas Avenue and a long driveway from 30th Street. The proposed outdoor storage of contractors' equipment would occur at the northwest corner of the site behind the existing building. Future reuse of the property for such would be subject to review and approval of an amendment to the current site plan by the Permit and Development Center. The site plan must clearly identify areas where outdoor storage would occur.
4. **2020 Community Character Plan:** The proposed zoning request for "M-1" Light Industrial District is not compatible with the Commercial: Auto-Oriented, Small-Scale Strip Development future land use designation. Therefore the 2020 Community Character Land

Use Plan future land use designation would have to be amended to General Industrial. Because of the need to protect adjoining and nearby residential properties, staff does not believe the requested industrial designation is appropriate.

SUMMARY OF DISCUSSION

Bert Drost: Presented staff report and recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

Pete Sand, 900 Des Moines Street, Des Moines: Noted the applicant has no strong feelings about the decision made. Explained an automotive repair business and a small business where the applicant put egress windows on homes requires he have bobcats and trailers, which do not fit well inside the building. He suggested a use variance could be obtained, but the policy requires seeking rezoning first, which is why they were before the Plan and Zoning Commission. He did not think it was onerous on the neighbors because it was secluded.

Brian Millard: Noted there have been a lot of violations on the site, vehicles are being stored illegally and dumping is occurring. Asked what would ensure the rules would be followed.

Pete Sand: Suggested the question is whether or not to allow M-1 zoning on the subject property. He noted there was one occasion where there was a pile of rubble of concrete block and it was cleaned up. He noted the lot adjoining the applicant's property has had some violations and did not want any confusion.

Brian Millard: Noted there was a row of vehicles and a dump truck on the subject property today.

Doug Silzer, 2981 214th Trail, Winterset, Iowa: Noted he used to live on Garden Ridge and he has had good relationships with all the neighbors. He called the City inspector the day after the illegal dumping was done on his property. He hired PediCort to bring dump trucks in to clean up the dumping. Explained he has had abandoned cars left on his property. He calls the Police and has it ticketed and towed. Noted the dump truck is his and he currently has nowhere else to park it.

Pete Sand: Noted there was a citation for a car without proper licensing and he spoke with the applicant about not accepting vehicles for repair that did not have proper licensing.

Bruce Heilman: Asked if the applicant realized the light construction was an M-1 use and any activity must be ancillary to the primary use, which is the auto repair. Noted the applicant is asking to allow an M-1 business to go into a C-2 area by rezoning to M-1. The construction business is currently illegal.

Doug Silzer: Noted all equipment would be inside the building. Noted the business is not construction related and explained he is asking to park three registered licensed trailers on his property.

Bruce Heilman: Asked what the mailing address for the construction business is.

Doug Silzer: Noted it is 3025 Douglas Avenue.

Fran Koontz: Noted he is in violation for parking his trailers.

Pete Sand: Noted they are before the Commission to rectify the problem.

Tim Urban: Noted the applicant realizes he is in violation of zoning and has to be denied rezoning in order to go before the Board of Adjustment.

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

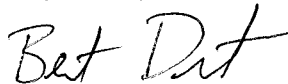
CHAIRPERSON CLOSED THE PUBLIC HEARING

Brian Millard: Moved the staff recommendation for denial and noted there are plenty of M districts and that he is appalled that there are applicants that continue to violate the ordinance knowingly and appear before the Commission without bringing their properties into compliance so they can go to the Board of Adjustment.

Motion passed 14-0 to find the rezoning not in conformance with the 2020 Community Character Plan future land use designation.

Motion passed 14-0 to deny the amendment to the Des Moines' 2020 Community Character Plan future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial.

Respectfully submitted,



Bert Drost
Sr. Planner

bd:clw

Attachment