

Date August 20, 2007

WHEREAS, on August 6, 2007, by Roll Call No. 07-1515, it was duly resolved by the City Council that the application of Mark Scigliano, to rezone certain property owned by L & H Investments, LLC, and located in the vicinity of 1507 Hartford Avenue, more fully described below, be set down for hearing on August 20, 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 August 9, 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:

Lots 1 through 6 and Lots 18 through 24, in Block 3, Riverside Park, an Official Plat; and the vacated North/South alley right-of-way lying West of and adjoining said Lots 18 through 24; and the vacated SE 15th Court right-of-way lying East of and adjoining said Lots 20 through 24, 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 "M-1" Light Industrial District to a Limited "M-2" Heavy Industrial 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:

1. Prior to the issuance of a permanent Certificate of Occupancy for any new commercial or industrial use of the Property, the intervening vacated alley shall be acquired and assembled into the site.
2. Use of the Property for storage of inoperable vehicles outside of a building shall not be commenced until a Conditional Use Permit for such use has been obtained from the Zoning Board of Adjustment.
3. All necessary permits shall be obtained from the Permit and Development Center for the conversion of any existing structures and the construction of any new structures on the property.

(continued)

Date..... August 20, 2007

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4. The site plan for any commercial or industrial use of the Property shall conform to the landscaping standards applicable within the "C-2" District.
5. The following uses of land and structures shall be prohibited upon the Property:
 - a) Abattoirs, slaughter houses and stockyards;
 - b) Cement, lime, gypsum, or plaster of Paris manufacture;
 - c) Explosive storage;
 - d) Garbage, offal or dead animal reduction or dumping;
 - e) Junk yard and salvage yard, however, this shall not prohibit the use of the property as a towing and storage yard for motor vehicles and trailers provided there is no salvaging, stacking or crushing of vehicles on the property;
 - f) Sand or gravel pits; and
 - g) Solid waste transfer station.
6. A fluid leakage mitigation plan be submitted by the applicant and reviewed and approved by staff as part of the site plan approval process for any use of the Property as a towing and storage yard for motor vehicles and trailers.

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 "M-2" Heavy Industrial District are hereby overruled, and the hearing is closed.

(continued)

Date August 20, 2007

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\Seigliano.doc

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

MOTION CARRIED

APPROVED

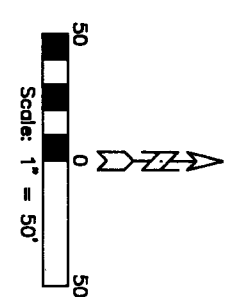
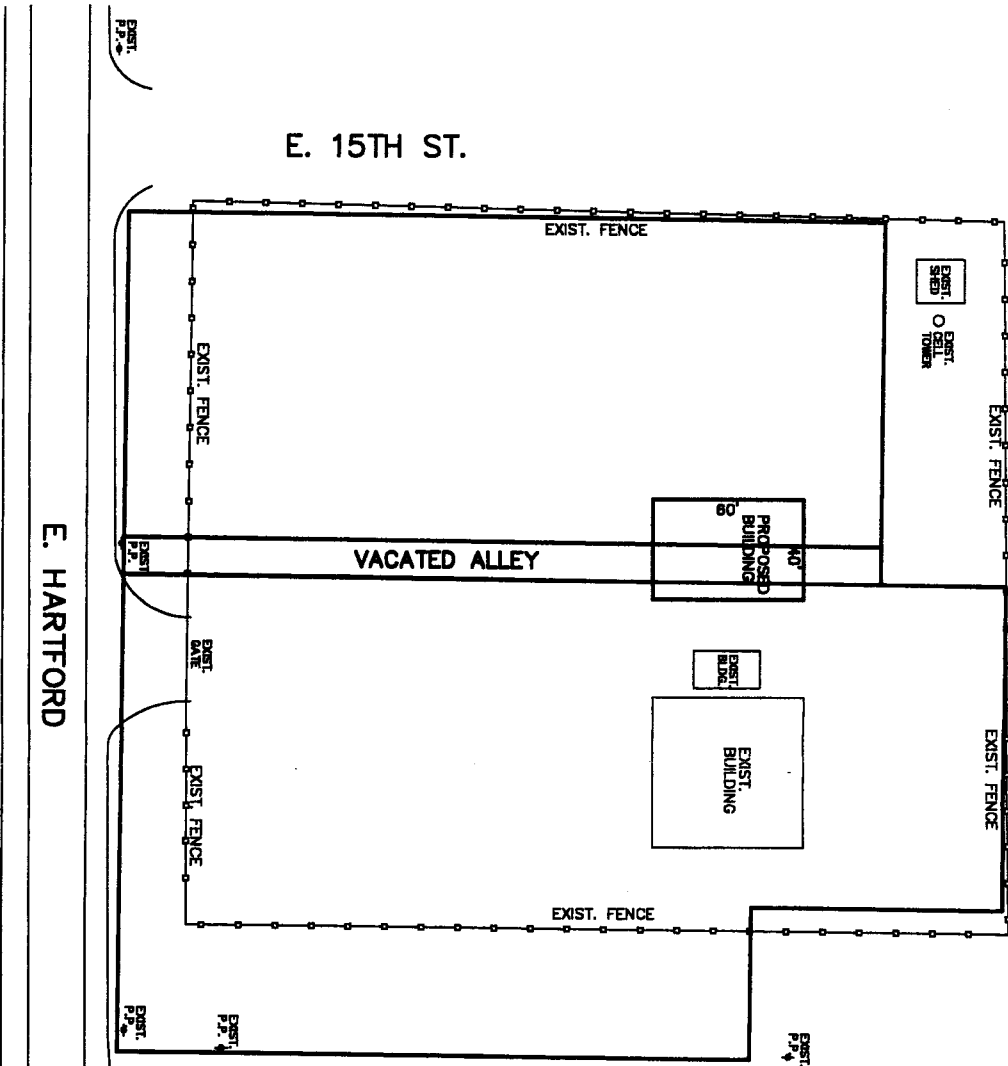
.....
Mayor

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



E. HARTFORD

E. 15TH ST.

VACATED ALLEY

EXIST. FENCE

EXIST. FENCE

EXIST. FENCE

EXIST. FENCE

EXIST. FENCE

EXIST. P.P.

EXIST. P.P.

EXIST. P.P.

EXIST. P.P.

ERG
 Engineering & Rendering Group
 1000 North Main Street
 Suite 100
 Hartford, CT 06103
 Phone: 860-234-1111
 Fax: 860-234-1112
 Website: www.erginc.com

AMERICAN AUTO ADJUSTERS

NO.	REVISION	DATE	BY	APP.	LOCATION	SCALE	DATE	BY	APP.
						1" = 50'	06/19/07	PJV	
						7085-CP1.DWG			
						SHEET 1	OF 1	FILE NO.	7085

August 6, 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 July 19, 2007, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 6-2 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

APPROVAL of a request from Mark Scigliano (purchaser) to rezone property located at 1507 Hartford Avenue from "M-1" Light Industrial District to Limited "M-2" Heavy Industrial District to allow for a Conditional Use to allow storage of inoperable vehicles, subject to the owner agreeing to the following conditions:

(ZON2007-00091)

1. Acquisition of the vacated alley from the City to legally incorporate it into the subject property.
2. Obtaining a Conditional Use Permit from the Zoning Board of Adjustment for any proposed towing or storage yard use for storage of inoperable vehicles outside of a building.
3. Issuance of all necessary permits for conversion of any existing structure or construction of any new structures by the Permit and Development Center.
4. Conformance with all landscaping standards as applicable to "C-2" Districts as a part of a required site plan.
5. Prohibition of the following uses of the property:

- a). Abattoirs and slaughter houses or stockyards;
- b). Cement, lime, gypsum, or plaster of Paris manufacture;
- c). Explosive storage;
- d). Garbage, offal or dead animal reduction or dumping;
- e). Junk yard or salvage yard, however, this shall not prohibit the use of the property as a towing and storage yard for motor vehicles and trailers provided there is no salvaging, stacking or crushing of vehicles on the property;
- f). Sand or gravel pits; and
- g). Solid waste transfer station.

6. A fluid leakage mitigation plan be submitted by the applicant and reviewed and approved by staff.

Written Responses

0 In Favor

2 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 the Commission find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the requested rezoning subject to the owner agreeing to the following conditions:

- 1. Acquisition of the vacated alley from the City to legally incorporate it into the subject property.
- 2. Granting of a Conditional Use Permit from the Zoning Board of Adjustment for any proposed towing or storage yard use for storage of inoperable vehicles outside of a building.
- 3. Issuance of all necessary permits for conversion of any existing structure or construction of any new structures by the Permit and Development Center.
- 4. Conformance with all landscaping standards as applicable to "C-2" Districts as a part of a required site plan.
- 5. Prohibition of the following uses of the property:
 - a. Abattoirs and slaughter houses or stockyards;
 - b. Cement, lime, gypsum, or plaster of Paris manufacture;
 - c. Explosive storage;
 - d. Garbage, offal or dead animal reduction or dumping;
 - e. Junk yard or salvage yard, however, this shall not prohibit the use of the property as a towing and storage yard for motor vehicles and trailers provided there is no salvaging, stacking or crushing of vehicles on the property;
 - f. Sand or gravel pits; and
 - g. Solid waste transfer station.

STAFF REPORT

1. **Purpose of Request:** The applicant intends to use the property for a towing and storage yard for motor vehicles and trailers. The existing building on the property is proposed to be converted to indoor vehicle storage with a new building to be constructed for office purposes.

The applicant proposed to accept a limited form of "M-2" District zoning that would prohibit the following uses.

1. Abattoirs and slaughter houses or stockyards.
2. Cement, lime, gypsum, or plaster of Paris manufacture.
3. Explosive storage.
4. Garbage, offal or dead animal reduction or dumping.
5. Sand or gravel pits.
6. Solid waste transfer station.

2. **Size of Site:** 2.39 acres

3. **Existing Zoning (site):** "M-1" Light Industrial District.

4. **Existing Land Use (site):** Fenced storage yard for operable vehicles.

5. **Adjacent Land Use and Zoning:**

North – "M-1", Uses are communications tower/antenna and concrete recycling plant.

South – "U-1", Use is vacant land.

East – "M-1"; Use is concrete recycling plant.

West – "M-1", Use is vacant land.

6. **General Neighborhood/Area Land Uses:** The subject property is located within a small industrial area surrounded by vacant land that is one block east of the Southeast 14th Street major commercial corridor and approximately two-blocks south of the Des Moines River.

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

8. **Relevant Zoning History:** N/A.

9. **2020 Community Character Land Use Plan Designation:** General Industrial.

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 developer will be required to comply with storm water management requirements as part of a site plan amendment for the required paved drive areas and the additional building.

2. **Landscaping & Buffering:** The subject property will require conformance with the Des Moines' Landscape Standards with the site plan in accordance with those standards applicable to "C-2" Districts because it is located within 200' of a landscape enhancement corridor as defined in the Zoning Ordinance.

The City's Landscaping Standards for "C-2" Districts generally require the following:

- 20% open space with a minimum of 1 overstory deciduous tree, 1 evergreen tree and 1 shrub for every 2,500 square feet of required open space.
- Parking lots and display lots shall provide landscaping within the interior of the parking lot. All parking lots or display lots containing more than forty stalls shall be required to landscape the interior of the parking lot with a minimum of 1 overstory tree and 3 shrubs for every twenty spaces, at maturity shrubs shall be no taller than 36".
- Parking lots and display lots of any size shall be required to separate the paved lot from the property line and landscape this setback perimeter in conformance with Chapter 5, Section II of the Des Moines Landscape Standards.

Section 134-1123 of the Zoning Ordinance states that in the "M-2" District, the following conditions are required:

1. The best practical means known for the disposal of refuse matter or water-carried waste and the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed.
2. All development within the M-2 heavy industrial district is also subject to the adopted landscape standards under the site plan regulations in chapter 82.

These performance standards and the above mentioned landscaping requirements would be reviewed during the Conditional Use Permit and site plan review processes. At this time the only side of the premises not adequately screened from public view is the east side of the property. Staff would recommend a similar fence screening treatment be provided on the east as is currently on the south and west perimeter of the site.

3. **Traffic/Street System:** There is currently a vacated segment of alley bisecting the subject property north/south. The alley must be purchased from the City in order to incorporate it into the site.
4. **Access or Parking:** Public access to the property is provided from Hartford Street. The subject property will be required to provide paved parking and access for maneuvering aisles to vehicle storage areas. The storage areas would have to be surfaced with a dustless surface with proper drainage design acceptable to the City Engineer. Off-street parking requirements are based on the amount of office area and number of employees. Parking will be evaluated during the Conditional Use Permit and site plan review processes. Staff believes there is adequate space on the site to provide the necessary parking.
5. **Applicable Conditional Use Criteria:** Section 134-1122 (5) states that any use not permitted in the "M-1" Light Industrial District, or which does not comply with the limitations on such use applicable in the "M-1" District is permitted in the "M-2" Heavy Industrial District only upon approval by the Board of Adjustment after public hearing. In its determination upon the particular uses at the location requested, the Board of Adjustment shall consider all of the following:
 - a. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;
 - b. Such use shall not impair an adequate supply of light and air to surrounding property;

- c. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
- d. Such use shall not diminish or impair established property values in adjoining or surrounding property;
- e. Such use shall be in accord with the intent, purpose and spirit of this chapter and the comprehensive plan;
- f. 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.
- g. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.
- h. Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.
- i. The dismantling or repair of vehicles shall occur only upon a impermeable surface with adequate provision for the collection and disposal of fluids and wastes.
- j. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.
- k. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.

SUMMARY OF DISCUSSION

Erik Lundy: Presented staff report and recommendation.

Kaye Lozier left the meeting at 9:25 p.m.

Roger Brown: Noted the condition of the rezoning would be signed and recorded and would run with the land.

Doug Saltsgaver, 2413 Grand Avenue: Noted the applicant is not in the salvage, parts or auto crushing business, but only in the towing business. There is no interest in selling parts or junk vehicles. Explained they are considering building a new office building and converting the existing building to storage. They would like to pursue a contract with the City of Des Moines that would require they have indoor storage.

Tim Urban: Asked what the existing screening around the property is.

Doug Saltsgaver: Noted it is currently the chain link fencing with slats. They would need to comply with the site plan regulations. There would be more greenery and screening. There is a large existing tree that is 4' diameter trunk and they would be adding more interior shrubs and trees.

Tim Urban: Asked if there would still be an open driveway or a gate.

Doug Saltsgaver: Noted they have a gate that is opaque and the applicant prefers to keep the gate shut.

Dann Flaherty: Asked about fluid leaking and silting into the river.

Doug Saltsgaver: Indicated there would be restrictions, but there would be no absolute way to prevent the heavy metals from entering the water system.

Tim Urban: Asked if the vehicles would be stored on hard surface or gravel; if fluids would go into the ground if they were leaking. Asked if there would be a way to segregate vehicles into a building to keep them from leaking into the ground.

Doug Saltsgaver: Indicated it is permeable, but noted the majority of the vehicles would be repossessions and not damaged.

Tom Trimble, 7552 SE 120th: Explained if a car is in an accident and there is damage to the vehicle's radiator, etc. almost all fluid is gone by the time it gets to them. Explained vehicles that are towed in could be placed in a building and a cloth could be placed under the vehicle to catch any fluid and it could be disposed of. He was not adverse to putting reasonable restrictions on how the vehicles are stored to prevent fluid leaking into the ground.

Jeffrey Johannsen: Asked who the investors in L&H Investments, L.L.C.

Mark Scigliano, 4513 SW 16th: Noted the investors of the property who they are leasing from with the option to buy and are purchasing it on contract from are Leonard Fazio and Harry Laird.

Mike Ludwig: Noted the Commission could make a recommendation to the Board of Adjustment regarding criteria "g" on the staff report that the area where vehicles will be stored has to be paved.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one in the audience to speak in favor of the request.

The following individuals spoke in opposition:

Thomas Gomez, 1908 SE 14th court: Expressed concern that if the property is rezoned they could use it as a salvage yard for junk cars. Asked if the restrictions would apply to future owners as well.

Dann Flaherty: Indicated they would run with the land.

Victoria Griffin, 1923 S.E. 14th Court: Had concerns but with the restrictions, she was ok with the request.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Dann Flaherty: Concerned about the water supply with heavy metal runoff. He would vote in opposition because of the proximity to the river and there is no guarantee of keeping the heavy metal out of the water.

Tim Urban: Moved staff subject to the applicant submitting a fluid leakage mitigation plan that would show how they would handle fluid leakage. Staff would have to determine whether their proposal was credible for mitigating fluid leakage.

Marc Wallace: Expressed concern for the environment.

Motion passed 6-2 (Jeffrey Johannsen & Dann Flaherty were in opposition). Greg Jones, Kent Sovern, Bruce Heilman, Shirley Daniels, Tim Urban & Marc Wallace were in favor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Ludwig', written in a cursive style.

Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

Item 2007 00091

Date 7-16-07

I () in favor of the request.

(Circle One)



Mr Mike R. Lopez aka.

Print Name Rosemary Gomez

Signature Rosemary Gomez

Address 1908 S.E. 14th Ct

Weston, Ia 50520

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

We dont want this area to become a junk car lot, accumulating for long periods of time, becomes a eye sore & decreases the value of surrounding properties. This will permit vandalism, four trucks using 14th st. leave used in wash heard condition. We need more information on use of 1507rd Hartman

Item 2007 00091

Date 7-14-07

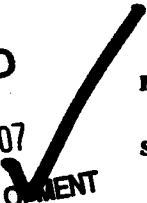
I () in favor of the request.

(Circle One)

RECEIVED

JUL 18 2007

COMMUNITY DEVELOPMENT DEPARTMENT



Print Name Victoria Griffin

Signature Victoria Griffin

Address

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

It will further to dispace the area. No one wants junk cars in the neighborhood.