



Date September 8, 2008

WHEREAS, on July 14, 2008 by Roll Call No. 08-1275, the City Council initiated the rezoning of a portion of the Riverbend Neighborhood to an R1-60 One-Family Low Density Residential District;

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 21, 2008, its members voted 14-0 in support of a motion to recommend APPROVAL of the rezoning of that portion of the Riverbend Neighborhood described in Exhibit "A" and depicted on the map in Exhibit "B", from the "R-3" Multiple Family Residential District and "M-1" Light Industrial District to the "R1-60" One-Family Low-Density Residential District.

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 at City Hall at 5:00 p.m. on September 22, 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:

Roger K. Brown
Roger K. Brown
Assistant City Attorney

(ZON2008-00110)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIR, COLEMAN, HENSLEY, KIERNAN, MAHAFFEY, MEYER, VLASSIS, and 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.

City Clerk

Mayor

September 3, 2008

Date	_____
Agenda Item	14
Roll Call #	_____

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 August 21, 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			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz	X			
Jim Martin	X			
Brian Millard	X			
Mike Simonson	X			
Kent Sovern	X			

**APPROVAL** of a City Council initiated request from the River Bend Neighborhood Association that the proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 14-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz	X			
Jim Martin	X			
Brian Millard	X			
Mike Simonson	X			
Kent Sovern	X			



CITY PLAN AND ZONING COMMISSION  
 ARMORY BUILDING  
 602 ROBERT J. RAY DRIVE  
 DES MOINES, IOWA 50309-1821  
 (515) 263-4182

ALL-AMERICA CITY  
 1949, 1976, 1981  
 2003

**APPROVAL** of a request to rezone property from "R-3" Multiple-Family Residential District and "M-1" Light Industrial District to "R1-60" One-Family Low-Density Residential District.  
(ZON2008-00110)

## **STAFF RECOMMENDATION AND BASIS FOR APPROVAL**

Staff recommends the following:

Part A) The proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan.

Part B) The properties within the subject area be rezoned from "R-3" Multiple-Family Residential District and "M-1" Light Industrial District to "R1-60" One-Family Low-Density Residential District in accordance with the attached map.

### Written Responses

36 In Favor

24 In Opposition

## **STAFF REPORT**

### **I. GENERAL INFORMATION**

Over a period of several decades, a significant number of single-family residential dwellings in the River Bend Neighborhood have been converted into multiple-family residential structures. Many of these conversions occurred on parcels that currently do not meet the minimum lot area requirements for the number of dwelling units in the structure. Impacts to the neighborhood have included increased traffic congestion, illegal parking of vehicles due to a lack of off-street parking areas, incompatible additions to structures, and a perception that the area is a less than desirable place to live.

The River Bend Neighborhood Association was formed in 1986 to combat crime, preserve historical structures, and improve nuisance properties. For several years the association has expressed concern about the negative impacts of too much density on residential streets and the substandard rental units within the boundaries of their neighborhood. In general, the River Bend Neighborhood Association does not have issues with "built as" multiple-family residential structures in the area as they were originally designed and constructed to accommodate higher densities.

The River Bend Neighborhood Association opposes future conversions of single-family residential structures into multiple-family residential structures and the construction of new multiple-family structures in residential blocks that are predominantly single-family residential in character.

While the Des Moines' 2020 Community Character Plan designates the subject area as Low / Medium Density Residential, the City's zoning code does not currently contain a true mixed-density residential zoning classification. Therefore, the City Council initiated a proposal to rezone portions of the River Bend Neighborhood to "R1-60", One-Family Low Density Residential District.

The following is a description of how the proposal will affect properties within the requested area:

- Any property within the requested area currently zoned "R-3" Multiple Family Residential District that contains an existing multiple family structure that was originally constructed as a multiple family structure would remain zoned "R-3" Multiple Family Residential District.

- Any property within the requested area currently zoned "R-3" Multiple Family Residential District that contains a single-family residential dwelling converted into a multiple-family residential structure that currently conforms to the "R-3" Multiple Family Residential District zoning would remain zoned "R-3" Multiple Family Residential District.
- Any property within the requested area that has an existing single-family or duplex structure considered to be a conforming use and structure in the "R1-60" One-Family Low-Density Residential District would be rezoned to "R1-60" One-Family Low-Density Residential District.
- Any property within the requested area that was not built as a multiple-family residential structure and does not conform to the current "R-3" Multiple Family Residential Zoning would be rezoned to "R1-60" One-Family Low-Density Residential District.
- This proposal will also rezone portions of three properties currently partially zoned "M-1" Light Industrial District to "R1-60" One-Family Low-Density Residential District.

Attached is a map of the subject area and the proposed zoning for individual properties. Determination of a property's "conforming" status was based solely on an analysis of lot area and lot width. Further determination of an individual property's conformity will be necessary at the time of any building permit review.

Finally, the designation of "built-as" multiple-family residential structures is based upon designations of the County Assessor and a brief visual inspection of the neighborhood by City staff. In order to address the dispute of such designations (or lack thereof), the City proposes to have an administrative appeal process where the applicant can submit a letter of appeal and supporting documentation such as property deeds, fire insurance maps, building permits, etc. Said application must be submitted no later than the date of second consideration of the rezoning by the City Council. An administrative decision by the Community Development Director on all appeals of designation will be issued prior to the third and final consideration of the proposed rezoning by the City Council.

## **SUMMARY OF DISCUSSION**

David Dunn: Presented staff report and recommendation.

Dann Flaherty: Submitted letter from Bruce Buldhaupt owner of 1804 Arlington in regards to the history of property, which would make this duplex a legal non-conforming use.

Fran Koontz: Discussion regarding legal non-conforming uses and what it means.

Erik Lundy: Some properties will not be rezoned.

Larry Hulse: Explained that the existing non-conforming uses will be permitted to continue as is, however, if it is destroyed beyond 60 percent then it would lose the legal non-conforming status.

Leisha Barcus: Suggested that some property owners may need to be educated in legal non-conforming uses.

Erik Lundy: Agreed saying that a number of calls were received, with people saying they did not get enough information to make a decision. Also, there is a number of multi-family properties that would be zoned as "R1-60" that currently don't conform to "R-3".

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following spoke in favor:*

Jeanne Johnson, President of the Riverbend Neighborhood Association, 811 Hickman Road: Asked for all those in favor to stand, (approximately 20 in the audience stood). She stated that the neighborhood board has approved unanimously of this rezoning because they believe that the remainder single-family homes deserve to be preserved. She also noted that the City Manager wrote a letter to the City Council explaining the rezoning and identified 68 vacant properties in the neighborhood.

Curt Sytsma 1961 Arlington Avenue: Stated that while he approves of the rezoning he does not want any of his properties rezoned. He wants a provision saying the conforming use is to keep the architecturally significant carriage house as a legitimate rental unit.

Erik Lundy: Explained that two separate single-family houses on a lot currently do not conform under "R-3", so this is an example of non-conforming use situation.

Curt Sytsma: Asked that an exception be made for this property because the use of that property goes back to at least the Colby Family in the 1920's and should be preserved historically.

Fran Koontz: Stated that maybe the City should have a "granny-flat ordinance" that allows for carriage houses which are many times made into conversion apartments for family members.

Brian Millard: Asked if he rents the carriage house.

Curt Sytsma: Stated that it is not rented, the people help out around the property and live there in return for that service.

Leisha Barcus: Stated that she did not think that renting or not was an issue. She noted that she has the same situation with her carriage house in the Waterbury neighborhood.

Brian Millard: Asked if there was an active rental certificate on the carriage house.

Curt Sytsma: Noted that he has an active rental certificate on the carriage house.

The following spoke in opposition:

Dan Manning, 317 6<sup>th</sup> Avenue, Speaking on behalf of Des Moines Catholic Workers Trust: Stated that the Des Moines Catholic Workers Trust does not object to such a change in the community, but asked for further analysis regarding their properties at 1301 8<sup>th</sup> Street, 1310 7<sup>th</sup> Street, 1317 8<sup>th</sup> Street, and 713 Indiana Avenue. They asked that those particular parcels be exempted from the rezoning so that they maintain their zoning and do not lose their status.

Fran Koontz: Asked if these are multiple-family or single-family homes.

Dan Manning: Noted that these are single-family homes with unrelated tenants.

Fran Koontz: Asked what is the problem.

Dan Manning: They just do not want to lose their "R-3" multiple-family designation.

Dann Flaherty: Asked if there is the likelihood of non-conforming in the near future.

Dan Manning: Stated he would just like to have the flexibility of the use.

Frank Cordaro, member of the Des Moines Catholic Workers Trust: Noted that in the near future there may be more than four unrelated people in the house, which would be temporary.

Tina Johnson, 1900 7<sup>th</sup> Street: Asked what legal non-conforming and non-conforming means. She would prefer to leave her property "R-3", asked why her neighbor is allowed to remain "R-3" and she is not.

David Dunn: Answered that her property does not currently conform to "R-3" zoning because it does not meet the minimum lot area criteria.

Dann Flaherty: Suggested that Tina Johnson talk to staff after the meeting to learn more about her specific situation.

Brian Millard: Voiced concern that she has not had a rental certificate since last August and asked staff to find out where she stands because if it has been a year she could lose the legal non-conforming status.

Larry Hulse: Stated he will check to find out.

Erik Lundy: Stated that regarding the Des Moines Catholic Workers Trust properties, the zoning officer has indicated that we consider those single-family dwellings for their primary use which does conform under "R1-60". There have been some disputes and enforcement actions over time that have occurred, and that several activities occurring on the property have not complied.

Dann Flaherty: Asked what kind of activities.

Erik Lundy: Answered charitable service in some capacities.

Brian Millard: Stated that they serve meals out of those houses and that people come to get meals and leave. He also asked if those people could sleep there.

Erik Lundy: Noted that he does not know without having Su Donovan here to answer the question.

Larry Hulse: Noted that the question that Erik has raised is not for this board to consider but for the zoning enforcement and owner to work out.

Dann Flaherty: Asked if they were in violation if they were "R-3".

Erik Lundy: No

Dan Manning: Stated that they received notice as a "R-3" property that they were in violation. They have been discussing with Su Donovan about philanthropic uses, therefore do not want to lose their status.

Dann Flaherty: Asked if "R1-60" also permits philanthropic use.

Erik Lundy: Yes can be by Special Permit.

Bruce Heilman: Asked for clarification about whether or not the people live there but are served the meals. Also, asked when the people arrive for meals are they walk-ins or is it an organized transportation.

Dan Manning: Stated that there are about four people that live there and serve the meal and the people that come for the meal are walk-ins.

JoAnne Corigliano: State that she has volunteered and her experience has been not more than two or three people live there the rest are volunteers.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Bruce Heilman: Stated that the meal service is a wonderful service to offer. However, the activities could be a detriment to the neighborhood.

JoAnne Corigliano: Stated the worker houses have very strict rules as to who can come in and who cannot and they will not allow people who are disruptive or drunk. There are relatively small problems but no more than you would find in a legal conforming place.

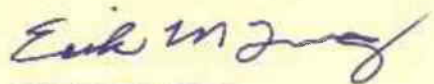
Moved staff recommendation determining the proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan.  
(Fran Koontz)

Motion passed 14-0.

Moved staff recommendation to rezone property from "R-3" Multiple-Family Residential District and "M-1" Light Industrial District to "R1-60" One-Family Low-Density Residential District.  
(Fran Koontz)

Motion passed 14-0.

Respectfully submitted,



Erik Lundy, AICP  
Senior City Planner

EML:clw

Attachment

