

★ Roll Call Number

Agenda Item Number

SIA

.....  
 Date October 8, 2007

WHEREAS, on August 7, 2000, by Roll Call No. 00-3381 the City Council adopted the Des Moines 2020 Community Character Land Use Plan; and

WHEREAS, the City Plan and Zoning Commission has advised in the attached letter that at a public hearing held September 6, 2007, the members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Wayne Larson (lessee) to amend the Des Moines 2020 Community Character Plan land use designation for the northern portion of property located at 2800 East University Avenue from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development as more specifically shown on the accompanying map. The subject property is owned by J.S. Baker Properties, LLC.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposed amendment to the Des Moines 2020 Community Character Land Use Plan described above, is hereby approved.

MOVED by \_\_\_\_\_ to adopt, and approve the proposed amendment.

FORM APPROVED:

(21-2007-4.11)

\_\_\_\_\_  
 Roger K. Brown  
 Assistant City Attorney

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

**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.

MOTION CARRIED APPROVED

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk

Date \_\_\_\_\_

Agenda Item S17

Roll Call # \_\_\_\_\_

October 8, 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 September 6, 2007, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0 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 Wayne Larson (lessee) to amend the Des Moines 2020 Community Character Plan land use designation for the northern portion of property located at 2800 East University Avenue from Low-Density Residential to Commercial: Auto-Oriented Small-Scale Strip Development. (21-2007-4.11)

By same motion and vote, members recommended **APPROVAL** of a request to rezone subject property from the "R1-60" One-Family Low-Density Residential District and "C-2" General Retail and Highway-Oriented Commercial District to a Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow use of the property for a vehicle display lot for ATVs, mopeds, scooters, and related vehicles subject to the owner of the property agreeing to the following conditions: (ZON2007-00131)

1. Prohibit the use of the property for adult business; tavern/nightclub; off-premises advertising; and sales and display of vehicles larger than scooters, mopeds, motorcycles, or ATVs.
2. Prohibit the use of the north 50' of the subject property for any use except open space in conjunction with adjoining commercial use or a single-family dwelling.



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

3. Any outdoor display of scooter, mopeds, motorcycles, ATVs and similar personal vehicles shall be in accordance with a Site Plan approved in accordance with design guidelines for vehicles display by the Plan and Zoning Commission.

The subject property is owned by J.S. Baker Properties, LLC.

#### Written Responses

2 In Favor

0 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 requested rezoning, with conditions accepted as recommended, be found in conformance with the Des Moines' 2020 Community Character Plan.

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

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

1. Prohibit the use of the property for adult business; tavern/nightclub; off-premises advertising; and sales and display of vehicles larger than scooters, mopeds, motorcycles, or ATVs.
2. Prohibit the use of the north 50' of the subject property for any use except open space in conjunction with adjoining commercial use or a single-family dwelling.
3. Any outdoor display of scooter, mopeds, motorcycles, ATVs and similar personal vehicles shall be in accordance with a Site Plan approved in accordance with design guidelines for vehicles display by the Plan and Zoning Commission.

#### **STAFF REPORT**

1. **Purpose of Request:** The applicant is looking to increase the amount of property zoned commercially for the site to conform to minimum area and open space requirements necessary under the design guidelines for outdoor vehicle display. The applicant is currently operating sales of scooters, ATVs, and motorcycles with display inside the building on the premises. The applicant proposes to prohibit adult business and tavern/nightclub use of the property, with only building expansion and/or off-street parking permitted on the north 50', excluding vehicle display.
2. **Size of Site:** Area zoned "R1-60" is 7,500 square feet. The overall site is 0.65 acres (28,302 square feet)
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District and "C-2" General Retail and Highway Oriented Commercial District.
4. **Existing Land Use (site):** Scooter, moped and ATV sales business in a 7,700 square foot commercial building with vacant open space to the north.
5. **Adjacent Land Use and Zoning:**

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

**South** – “C-2” & “C-1”, Uses are Last Stop Liquor Shop and vacant commercial property.

**East** – “C-2” & “R1-60”, Uses are commercial/office strip center, Wilson Auto Body Repair, and vacant residentially zoned land.

**West** – “C-2” & “R1-60”, Uses are single-family dwellings.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the East University Avenue highway commercial corridor, which has primarily low density residential neighborhoods to the north and south.
7. **Applicable Recognized Neighborhood(s):** ACCENT Neighborhood and Fairground Neighborhood.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented, Small-Scale Strip Development and 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, 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:** Any increase of impervious surface (paving or buildings) will require conformance with a storm water management plan consistent with the Site Plan Policies.
2. **Landscaping & Buffering:** The property is currently developed based on standards for open space and landscape setbacks in place before the current adopted standards. Conversion of the property as proposed to allow vehicle display will require conformance with a Site Plan under design guidelines for vehicle display which will require conformance with the Des Moines Landscape Standards as applicable to “C-2” Districts. A bufferyard in accordance with these standards will be necessary to protect the residential property to the north. The vacant property that is currently zoned “R1-60” will allow for the development of a bufferyard, minimum open space requirements and minimum lot area requirements for vehicle display. Improvements to the front of the property will require the widening of the public sidewalk in accordance with the East University Avenue Design Guidelines.

Staff believes that a condition should be required that the north 50' may only be used for open space in conjunction with the adjoining business to the south or for a single-family dwelling. This would require a future rezoning to allow any expansion of a commercial building or parking into this area.

3. **Access or Parking:** The applicant will be required to meet minimum off-street parking requirements. Any proposed display of scooters, moped, ATVs and Motorcycles cannot compromise the need to provide the minimum parking on the site.
4. **2020 Community Character Plan:** The agenda provides for an amendment to the Des Moines' 2020 Community Character Plan to allow expansion of the Small-Scale Strip Development designation. In this scenario, should a condition be accepted to allow only open

space or single-family use of the residentially designated property at this time, then staff believes that the proposed rezoning could be found in conformance with the current Des Moines' 2020 Community Character Plan without a requirement for amendment.

## **SUMMARY OF DISCUSSION**

*Jeffrey Johannsen left the meeting @ 6:49 p.m.*

Mike Ludwig: Presented staff report and recommendation. Noted a vehicle display lot site plan would return to the Commission for a full review.

Bruce Heilman: Asked if it would be better to just allow the display lot to be less than ½ acre.

Fran Koontz: Expressed concern with regard to the residential properties along the rear. Did not want to see anything but green space or a single-family dwelling for the back 50' and suggested the applicant reserve it and never do anything more in the future.

Mike Ludwig: Noted the restriction would run with the land and not with the owner and they would have to request rezoning of the property if they wanted to do anything with the rear 50'. Noted with the additional use restrictions and limitations on the property, the request is better than what is currently there.

Wayne Larson, 1602 Grand, Ames: Explained he has spent a lot of time to clean up and improve the property both inside and outside. Noted they have added double doors on the front of the building to improve the appearance of the building. All products are EPA and DOT approved and the property is in character with the neighborhood. His request is to display the motorcycles, 4-wheelers, ATVs and mopeds.

Brian Millard: Expressed concerns that the request include only ATV and scooter-type vehicles and he would like to see a creative plan to prevent parking beyond the parking lot paving.

Fran Koontz: Asked if he was okay with not having anything behind his building.

Wayne Larson: Indicated he did not care if the rear 50' was not to be rezoned and explained the only reason he had that in the request was because the City required it to satisfy the ½ acre requirement. He explained they were not planning to do anything with it.

Fran Koontz: Asked why the ½ acre requirement since they owned it all.

Mike Ludwig: Explained the benefit to rezoning the subject property at this time to be the additional conditions on the use of the property. Currently the existing C-2 zoning on the commercial parcel on University allows a lot of uses that theoretically could be objectionable. The rezoning request tightens up the zoning on the property. If it is not a concern it could be left as it is and they could come in with a site plan display lot that is less than a ½ acre. He suggested a site plan could be limited to prohibit other vehicle display lot and would rather it be a zoning limitation and not a site plan limitation. He was uncertain how much they were short of the ½ acre requirement. Noted he received a call from a concerned citizen who wanted assurance there would be no vehicle test drives on the lot or surrounding streets.

Wayne Larson: Indicated the insurance company would not allow them to have customers test driving the vehicles.

Fran Koontz: Indicated she was okay with the rezoning with the caveat that the rear 50' remain green space.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following individual spoke on this item:*

Holly Hansen, 1219 E. 28<sup>th</sup> Street: Expressed concern about the open space. They do not want to look out their window and see vehicles and was concerned with the noise as well. Would like assurance that the area would be kept as open space and not used for storage of vehicles or parts unless there is a future rezoning request. People are concerned about the valuation of their homes, noise pollution and safety of the children, as well. Noted the neighbors met with the applicant and owner and they trust them, but in the event the business changes hands, they wanted to ensure a new owner could not go against the applicant's decision.

Leisha Barcus: Asked if they were aware a residential home could be built there.

Holly Hansen: Indicated she was okay with that, it was just the storage of vehicles and equipment and test driving she was concerned with.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Fran Koontz: Moved staff recommendation.

Marc Wallace: Expressed concern regarding the adjacent property on E. 29<sup>th</sup> Street behind the subject property is also zoned residential and there are cars parked on the sidewalk and all over. Did not want the subject property to become the same and suggested there could be enforcement with the zoning as requested and he was in support of that.

Bruce Heilman: Given the nature of the business he had no problem supporting the request, but stressed there should be different ordinances for ATVs, mopeds and automobiles. He would not support the request if it were for automobiles.

Motion passed 12-0.

Respectfully submitted,

Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment