

Date..... October 8, 2007

WHEREAS, on September 24, 2007, by Roll Call No. 07-~~1837~~ it was duly resolved by the City Council that the application of TD & MD, L.L.C., represented by Tomas Duax, President, to rezone certain property it owns in the vicinity of 1455 - 2nd Place and 218 Clark Street, more fully described below, be set down for hearing on October 8, 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 September ~~27~~, 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 55 and 56, Marshall's Second Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

from the "R1-60" One-Family Low-Density Residential District to a Limited "M-1" Light 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:

- A. Only the following uses of structures or land shall be permitted upon the Property: Wholesale warehousing in accordance with an approved site plan. Outdoor storage shall not be permitted upon the Property.
- B. Landscaping and buffering shall be provided upon the Property in accordance with the City's Landscaping Standards for the "C-2" District.
- C. Vehicular access to the Property shall be limited to access from the adjoining alley.
- D. Any building constructed or placed upon the Property shall be constructed and maintained in conformance with the following design standards:
 - 1) At least 60% of the exterior facade facing 2nd Place and Clark Street, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.

(continued)

Date..... October 8, 2007

-2-

- 2) Not more than 40% of the exterior façade facing 2nd Place and Clark Street shall be metal or synthetic stucco (such as EFIS or Dryvit).
 - 3) The required materials used for the exterior facades facing 2nd Place and Clark Street must wrap around the sides of the building in either a wainscoat application across the entire side or extend the entire height of the facade a distance of at least four (4) feet back from the facade facing 2nd Place and Clark Street.
 - 4) No metal (such as standing seam metal), synthetic stucco material (such as EFIS or Dryvit) or other materials susceptibility to damage shall be used as an exterior material below four (4) feet above grade.
 - 5) All outdoor dumpsters shall be enclosed by a solid opaque screen.
- E. Prior to occupancy of any building upon the Property, the adjoining property fronting on 2nd Avenue shall be improved by:
- 1) The addition and installation of brick wainscoting along the east side of the existing building;
 - 2) The installation of landscaping and buffering in accordance with the City's Landscaping Standards for the "C-2" District; and,
 - 3) The installation of solid opaque screening around all outdoor dumpsters.

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-1" Light Industrial 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.

(continued)

★ Roll Call Number

Agenda Item Number

52B

Date October 8, 2007

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

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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

52B

September 24, 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 13-0 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 Central City Liquors represented by Tom Duax (officer) to amend the Des Moines 2020 Community Character Plan from Low-Density Residential to General Industrial for property located at 1455 2nd Place and 218 Clark Street. (21-2007-4.10)

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 to the "M-1" Light Industrial District to allow for construction of a 3,000-square foot commercial/industrial structure and associated parking, subject to the following conditions: (ZON2007-00130)

1. Provision of landscaping and buffering in accordance with the City's Landscaping Standards for the "C-2" District.
2. Compliance with all Site Plan requirements of the Permit and Development Center.
3. Limitation of vehicular access to the site from the adjoining alley.
4. Use of property limited to wholesale warehousing.
5. Prohibition of outdoor storage.



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

6. Compliance with the following design standards for all future buildings:
 - a. At least 60% of the exterior facade facing 2nd Place and Clark Street, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.
 - b. Not more than 40% of the exterior façade facing 2nd Place and Clark Street shall be metal or synthetic stucco (such as EFIS or Dryvit).
 - c. The required materials used for the exterior facades facing 2nd Place and Clark Street must wrap around the sides of the building in either a wainscoat application across the entire side or extend the entire height of the facade a distance of at least four (4) feet back from the facade facing 2nd Place and Clark Street.
 - d. No metal (such as standing seam metal), synthetic stucco material (such as EFIS or Dryvit) or other materials susceptibility to damage shall be used as an exterior material below four (4) feet above grade.
7. Provision of brick wainscoting along the front of the existing building on 2nd Avenue.
8. Provision of solid opaque screening around all dumpsters.

The subject property is owned by T.D. & M.D., L.L.C.

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 the proposed rezoning be found not in conformance with the Des Moines' 2020 Community Character Plan Future Land Use designation of Low-Density Residential.

Part B) Staff recommends approval of the proposed amendment to the Des Moines' 2020 Community Character Plan from Low-Density Residential to General Industrial.

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

1. Provision of landscaping and buffering in accordance with the City's Landscaping Standards for the "C-2" District.
2. Compliance with all Site Plan requirements of the Permit and Development Center.
3. Limitation of vehicular access to the site from the adjoining alley.
4. Use of property limited to wholesale warehousing.
5. Prohibition of outdoor storage.
6. Compliance with the following design standards for all future buildings:
 - a. At least 60% of the exterior facade facing 2nd Place and Clark Street, excluding windows and doors, shall be covered with stone, brick, architectural tilt-up concrete panels, tile or architectural block such as split-face block.
 - b. Not more than 40% of the exterior façade facing 2nd Place and Clark Street shall be metal or synthetic stucco (such as EFIS or Dryvit).

- c. The required materials used for the exterior facades facing 2nd Place and Clark Street must wrap around the sides of the building in either a wainscoat application across the entire side or extend the entire height of the facade a distance of at least four (4) feet back from the facade facing 2nd Place and Clark Street.
- d. No metal (such as standing seam metal), synthetic stucco material (such as EFIS or Dryvit) or other materials susceptibility to damage shall be used as an exterior material below four (4) feet above grade.

STAFF REPORT

- 1. **Purpose of Request:** The applicant operates a liquor store on the 2nd Avenue corridor east of the subject site. The applicant is proposing to rezone the subject site from "R1-60" to "M-1" to allow for the construction of a 40' x 75' building and parking lot for storage for his existing business.
- 2. **Size of Site:** 100' x 133'.
- 3. **Existing Land Use (site):** Vacant lot.
- 4. **Adjacent Land Use and Zoning:**
 - North* – "R1-60"; Uses are single-family residential.
 - South* – "R1-60"; Use is single-family residential.
 - East* – "M-1"; Use is the Central City Liquor store.
 - West* – "R1-60"; Use is Bates Park.
- 5. **General Neighborhood/Area Land Uses:** The subject site is located adjacent to the Second Avenue corridor, which consists of a mix of commercial and light industrial uses. The site is also located along the eastern edge of the River Bend Neighborhood, which primarily consists of a mix of residential uses.
- 6. **Applicable Recognized Neighborhood(s):** River Bend Neighborhood.
- 7. **Relevant Zoning History:** N/A.
- 8. **2020 Community Character Land Use Plan Designation:** Low-Density Residential.
- 9. **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. **Landscaping & Buffering:** The applicant will be required to meet the City's Landscaping and Buffering Standards when the site is developed. The "C-2" District standards apply to this property because it is within 200' of Second Avenue, which is a designated landscape corridor. These standards include the following:

- a. A bufferyard along the south property line with a 6'-tall 75% opaque fence or wall and 2 overstory trees and 6 evergreen shrubs per 100' lineal feet.
 - b. Open space equal to 20% of the site with 1 overstory deciduous tree, 1 evergreen tree and 1 shrub for every 2,500 square feet of required open space.
 - c. A minimum 7'-wide parking lot perimeter strip along the north and west property line with 1 overstory tree and 3 shrubs per 50' lineal feet.
2. **Traffic/Street System:** The submitted site sketch shows access to the site from the existing north/south alley. The applicant was previously required to pave a portion of the alley since it is used for access to their existing parking lot in front of the liquor store. Staff believes that if the proposed building is used for warehousing and access is limited to the site from the alley, that the proposed rezoning will have minimal impact on the traffic pattern in the area.
 3. **Parking:** The submitted site sketch indicates 8 off-street parking spaces would be provided. The proposed 3,000 square foot building would require 8 off-street parking spaces if used for retail or 1 off-street parking space if used for warehousing.
 4. **2020 Community Character Plan:** The City's Land Use Plan identifies the subject property as "Low-Density Residential." However, the property is immediately west of the applicant's "M-1" zoned property that contains his business, which is consistent with the land use designation of the Second Avenue corridor. Staff believes the proposed rezoning is appropriate if the use of and access to the property is limited.

Intense commercial activity in this area should remain on the parcels that front 2nd Avenue. However, staff believes that low impact business uses such as storage/warehousing and overflow parking that meets current standards are appropriate as they have minimal impact on near by residences and support the ongoing health of the 2nd Avenue commercial corridor.

5. **Urban Design:** The submitted site sketch indicates the proposed building would be set back 55' from the north (front) property line, 33' from the east (rear) property line, 5' from the south (side) property line and 25' from the west (front) property line. The proposed south side setback does not meet the 25' minimum required by the "M-1" District. The submitted information indicates the applicant intends to seek a Variance from the Zoning Board of Adjustment from this requirement. Staff believes a 25' setback from the south property line should be provided to protect the adjoining residential use. A 50' x 60' building could be constructed that meets all the required setbacks and provides the same amount of floor area as the proposed building. This would require the parking area to be moved from the northern portion of the site to the eastern portion of the site along the alley.

The subject property provides a transition between residential uses to the west, and light industrial and commercial uses to the east. Staff believes that it is important that this property be well landscaped and that quality building materials be used when the site is developed. Staff recommends design standards similar to those used for tax abatement in the Central Place Business Park to the east as a condition of zoning approval.

6. **Additional Information:** The subject property contains an illegal gravel parking lot that is being used to store vehicles and trailers. The applicant was issued a violation notice on July 8, 2007.

SUMMARY OF DISCUSSION

Jason Van Essen: Presented staff report and recommendation. Noted the site plan is only conceptual, but the applicant acknowledged that they would need relief from the Zoning Board of Adjustment for the setback requirement to the south, which should be 25'. Staff believes there are

other ways to accommodate a building and parking and would work with the applicant in the future to work those out.

Brian Millard: Asked if the parking for the existing building along 2nd Avenue meets the required parking standards or if they will have to go to the Board of Adjustment.

Jason Van Essen: Explained they have already gone through the Board of Adjustment process and have obtained all the relief approvals they needed to operate that business. He indicated the materials for that building do not meet the standards and the design requirements staff is recommending for the new building. The new building will be held to higher standards than what is on the existing building.

Brian Millard: Asked if staff had looked at any way to incorporate the proposed lot in back to relieve the current ingress and egress issues.

Jason Van Essen: Because of the closeness to Clark Street, he was uncertain how they could accommodate to make it work better. Having the lot on the back parcel for other parking will relieve some congestion and the maneuvering is difficult on that site and suggested if it were spread out on the site it would relieve some of these concerns.

Brian Millard: Asked if staff had found any solutions for the traffic situation.

Jason Van Essen: Noted staff had not looked at that, but it would be something to take note of and see what the applicant can come up with at the site plan stage.

Leisha Barcus: Asked what kind of truck traffic would be expected.

Jason Van Essen: Deferred to the applicant to describe the size and number of their current vehicles, assuming it would remain the same. He suggested having a building on the site would allow the applicant to clean up the use.

Leisha Barcus: Asked who owns Bates Park.

Jason Van Essen: Explained Bates Park is immediately to the west and there is some residential land on the other side of the street that the City has acquired. The City has maintained ownership of Bates Park.

Mike Simonson: Asked what the intent for vehicular access from the alley was.

Jason Van Essen: Explained staff is looking to avoid having curb cuts/truck traffic coming off 2nd Place, which is transitioning to the residential neighborhood to limit truck traffic a short distance off 2nd Avenue.

Mike Simonson: Asked if the alley was paved.

Jason Van Essen: Indicated a portion of the alley behind the applicant's property is paved.

Mike Simonson: Suggested if the proposed building were rotated 90° eight parking stalls could be placed off the alley, which would be more attractive with more green space on Clark and keep the cars on Clark. Asked how they are handling trash on the existing building and if they have an enclosed dumpster.

Jason Van Essen: Deferred to the applicant for how their existing facilities operate. He reiterated the staff report regarding setback from the south and the location of the building for parking and

truck loading area off the alley is the same solution as what Commissioner Simonson was suggesting.

Andy Schreck, Civil Design Advantage, 5501 NW 112th Street, Grimes: Noted the applicant was also present to respond to questions. Explained the existing trash is located within a fenced area to the west of the building. The applicant would be in favor of paving the alley for his traffic.

Tom Duax, 1940 NW 89th, Clive: Explained north of the building is paved to the street and he would love to pave the remainder of the alley to the south side of his building and would like to buy the entire alley all the way to Sambettis and Forest. He would guarantee access to everyone along the alley and would immediately blacktop the alley. The City suggested he dedicate a 15' strip of right-of-way on 2nd Avenue to allow for future widening of the street. In exchange they gave him an additional 8' allowance off the alley. Explained the reason for his request and noted he is very conscious of what is happening in his neighborhood. He was open to suggestions to improve his existing building. He would give all the consideration that he could to improve the exterior but can't do it all at one time.

David Cupp: Asked if the new building would have cold storage.

Tom Duax: Indicated he initially thought about building a recycling center, but because of the volume they are doing they may be best to put the wholesale aspect of the business and put it in the new building. The expectation for that building is to do some recycling in it and perhaps move his wholesale into it. He is not planning any cold storage for the building. Presently the compressors are behind the fenced area. There are three compressors for his three walk-in coolers, two A/C units and there is one air-cooled ice unit. There would be no additional truck traffic. Currently the two beer companies stop at his store twice a week. Behind the gate on the north side is a 2 yard dumpster and it is dumped on Tuesday, Thursday and Saturday mornings. He would not need another dumpster.

Kent Sovern: Asked what the size of the delivery vehicles are.

Tom Duax: Indicated there are beer trucks and full-size semis and explained how they back up into his driveway noting they do not block 2nd Avenue because there is plenty of room to get into his building. He chose concrete instead of blacktop for his lot. The alley is important and he would like to blacktop it. Currently he maintains the alley behind his store. Parking requirements are met, but he didn't know if the existing commercial use next to his has a sufficient amount of parking.

David Cupp: Asked if they had any problems with staff recommendation.

Andy Schreck: Noted they are in agreement with staff recommendations.

Fran Koontz: Asked if they would be willing to add brick wainscoting and landscaping on the 2nd Avenue site.

Andy Schreck: Indicated they would be willing.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

CHAIRPERSON CLOSED THE PUBLIC HEARING

Fran Koontz: Moved staff with the addition of a condition that the existing building on 2nd Avenue be improved with wainscoting of brick along the front, along with C-2 landscaping requirements.

Jason VanEssen: Asked if everyone understood the difference between the wholesale warehousing and how it might relate to the recycling business and explained the bulk of the applicant's recycling has to do with picking up stuff off site and bringing it to the site. Noted any walk in traffic would still have to walk through as part of the retail function on 2nd Avenue, but storage for the wholesale in the new building would be acceptable.

Mike Simonson: Offered a friendly amendment that the existing dumpsters or any other dumpsters added to the existing property would be screened with a solid opaque screen.

Fran Koontz: Accepted that as a friendly amendment.

Motion passed 13-0.

Brian Millard: Asked if there was any reason the applicant could not move forward with the alley vacation request.

Mike Ludwig: Noted they could initiate the process and staff would review it.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

Item 2007 00130

Date 8/27/2007

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

(Circle One)

RECEIVED

AUG 31 2007

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name: TOM QUAX
Signature: [Signature]
Address: 1460 2nd Ave

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

CCL HAS CLEAR UP THIS AREA
AND WILL CONTINUE TO KEEP
IT CLEAR

APPLICANT & HOUSING OWNER

Item 2007 00130

Date 9-16-07

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

(Circle One)

RECEIVED

SEP 05 2007

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name: NALY SYSAVATH
Signature: [Signature]
Address: 1441 2nd St - DES HAINE STAGE

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

Thank everything is ok.

52B

Item 2007 00130

Date 8-27-07

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

(Circle One)

RECEIVED

AUG 29 2007

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Tim Lindemoen

Signature Tim Lindemoen

Address 1440 2ND Ave

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

NEITHER NAME OR ADDRESS ON ASSESSORS
RECORDS