

Date August 8, 2011

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 21, 2011, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from DMM Investments, LLC represented by Edward Mauro (officer) to rezone property located at 2340 Herold Avenue from M-3 Limited Industrial District to Limited R1-60 One-Family Low-Density Residential District, to allow extension of Herold Avenue for single-family lot development subject to the following conditions:

1. No part of the Property shall be divided into a lot or separate parcel with a width of less than 65 feet except those lots dedicated for public use.
2. Any development of the property shall only be permitted after extension of the public street in a manner to allow development of adjoining developable property to the east and north. Such street extension shall provide a secondary connection to the existing street system on Emma Avenue or Stanton Avenue.
3. Any development of the property shall be subject to the recorded Noise and Avigation easements in favor of the Des Moines International Airport.
4. Each single-family dwelling unit shall have a private garage, whether attached or detached.
5. Minimum building floor areas for single-family residences shall be as follows:
  - a) Single-story (ranch)- 1,200 square feet, excluding basements.
  - b) Two-story-1,400 square feet, excluding basements.
6. The front elevation of each single-family home must contain one of the following:
  - a) A front porch of not less than 60 square feet; or
  - b) 1/3 to 1/2 stone or brick masonry.
7. The front elevation of each single-family home must contain one of the following:
  - a) Shutters on each side of each window; or
  - b) Window trim not less than 4" in width.

-Continue-

Date..... August 8, 2011

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8. The exterior of each single-family home must be of masonry (brick or stone) or a combination of masonry and vinyl, cedar, Masonite, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.
9. The roof on any home shall be of architectural type shingles or cedar shakes.
10. Fencing shall be limited as follows:
  - a) Black vinyl-clad chain link is the only fencing material permitted.
  - b) The maximum height of fencing allowed in a side or rear yard is five feet (5').
  - c) Fencing is prohibited within any front yard and within access easements to detention basins or trails.
  - d) If fencing is placed in an easement that prohibits access, the city will remove the fence to gain access. Replacement of the fence is the responsibility of the homeowner.
  - e) Wood privacy screens up to six-feet (6') in height are permitted when located outside of the required setbacks for a principal structure, outside of conservation easements and when adjoining private patios or decks outside the required front yard.
  - f) All other fencing or screening is subject to the review and approval of the Planning Director and/or the Zoning Board of Adjustment.

The subject properties are more specifically described as follows:

Parcel H, Book 10831, Page 348, Commencing 1145.21 Feet West of South ¼ Corner of Section 20-78-24, thence North 330.27 Feet to Point of Beginning, thence West 169.98 Feet to Southeast Corner Lot 10, Cooper Place Plat 2, an Official Plat, thence North 331.26 Feet along East Line Cooper Place Plat 2, and East Line Pine Meadow, an Official Plat, thence East 169.72 Feet, thence South 330.73 Feet to Point of Beginning Southwest ¼, Southeast ¼, Southwest ¼, Section 20, Township 78 North, Range 24 West of the 5<sup>th</sup> P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

- Continue -

Date August 8, 2011

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

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 August 29, 2010, at which time the City Council will hear both those who oppose and those who favor the proposal.

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

(ZON2011-00112)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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

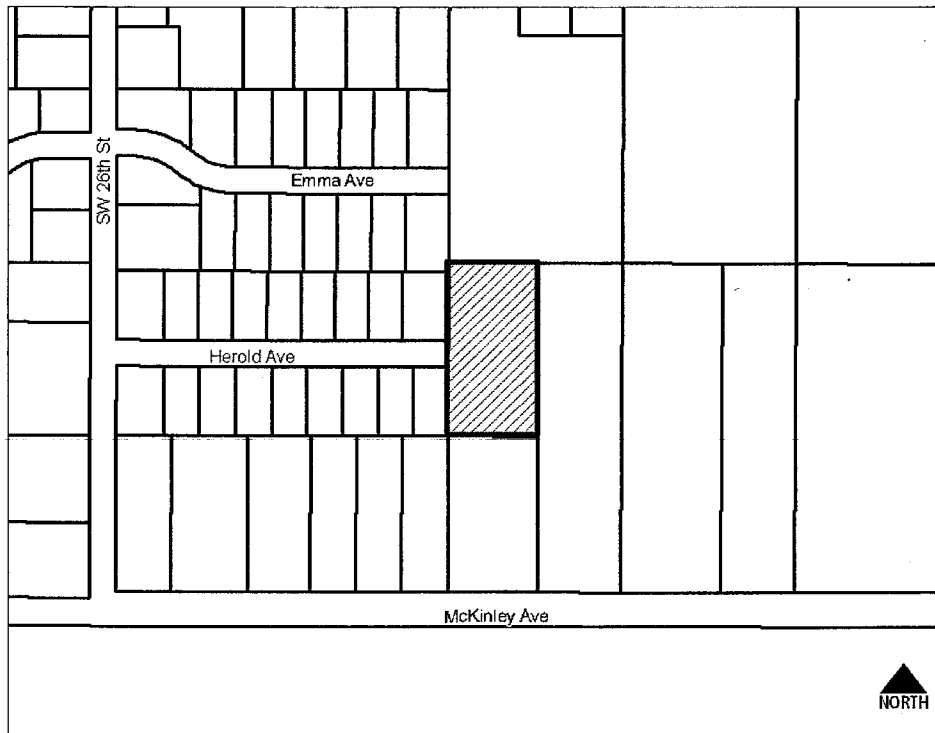
\_\_\_\_\_  
 City Clerk

23

Request from DMM Investments, LLC represented by Edward Mauro (officer) to rezone property located at 2340 Herold Avenue.			File #		
			ZON2011-00112		
<b>Description of Action</b>	Review and approval to rezone the property from "M-3" Limited Industrial District to "R1-60" One-Family Low-Density Residential District, to allow extension of Herold Avenue for single-family lot development.				
<b>2020 Community Character Plan</b>	Planned Business Park				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"M-3" Limited Industrial District				
<b>Proposed Zoning District</b>	"R1-60" One-Family Low-Density Residential District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	10-0	<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial			No	

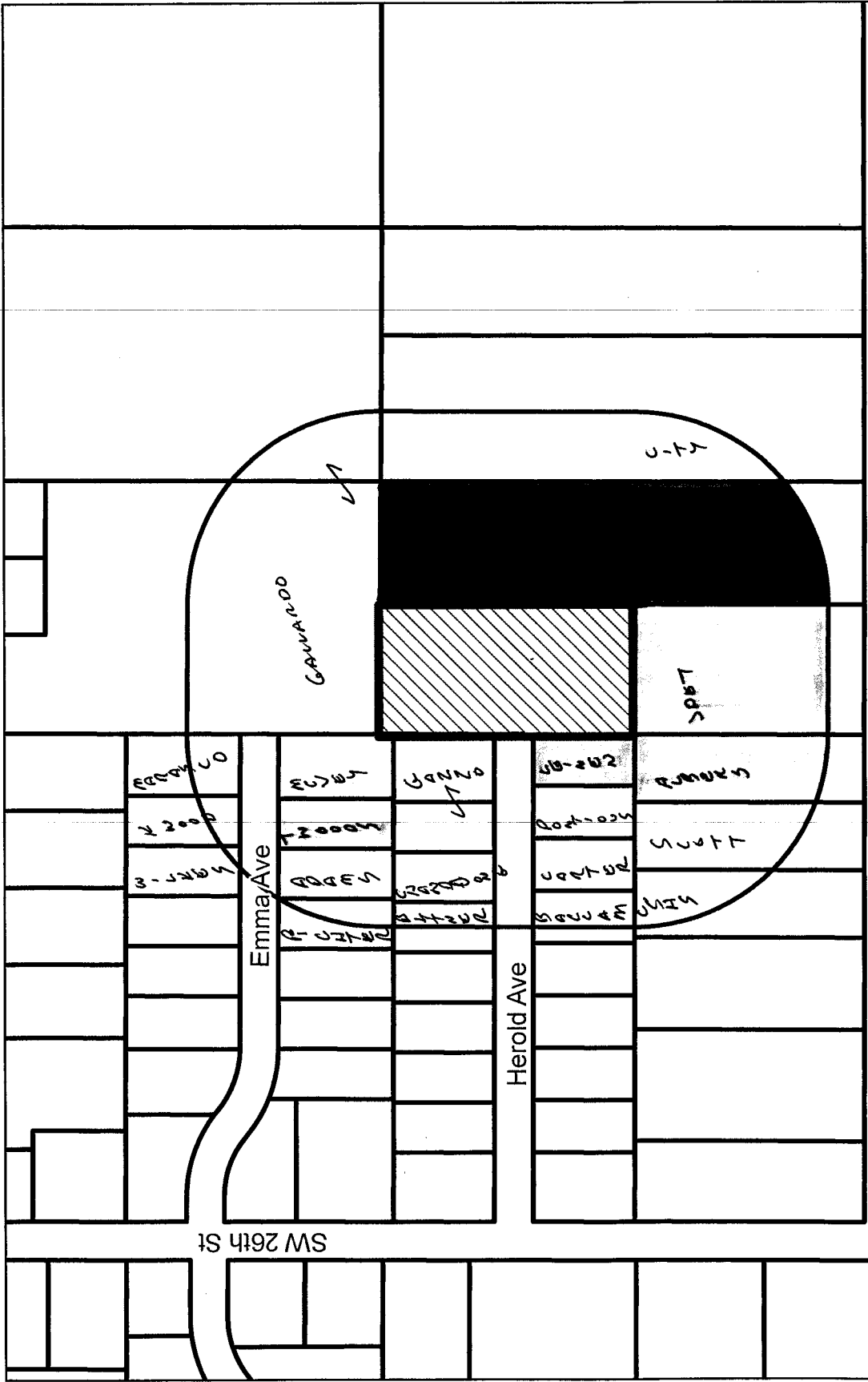
DMM Investments LLC - 2340 Herold Avenue

ZON2011-00112



DMM Investments LLC - 2340 Herold Avenue

ZON2011-00112



McKinley Ave



*Handwritten signature or initials*

Date August 8, 2011

Agenda Item 23

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

July 27, 2011

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 21, 2011, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Tim Fitzgerald				X
Dann Flaherty	X			
John "Jack" Hilmes	X			
Joel Huston	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
Kent Sovern				X
CJ Stephens	X			

**APPROVAL** of a request from DMM Investments, LLC represented by Edward Mauro (officer), Part A) that the requested rezoning with conditions be found **not** in conformance with the existing Des Moines' 2020 Community Character Plan future land use designation.

By separate motion Commissioners recommended 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Tim Fitzgerald				X
Dann Flaherty	X			
John "Jack" Hilmes	X			
Joel Huston	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
Kent Sovern				X
CJ Stephens	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** Part B) approval of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation; and Part C) approval of the rezoning to Limited "R1-60" subject to the following conditions:

ZON2011-00112 & 21-2011-4.08

1. No part of the Property shall be divided into a lot or separate parcel with a width of less than 65 feet except those lots dedicated for public use.

~~No dwelling shall be constructed or permitted to remain upon the property unless it has not less than 1,200 square feet of finished floor area. In computing floor area, the same shall not include porches, breezeways or garages.~~

2. Any development of the property shall only be permitted after extension of the public street in manner which to allow development of adjoining developable property to the east and north. Such street extension shall provide a secondary connection to the existing street system on Emma Avenue or Stanton Avenue.
3. Any development of the property shall be subject to the recorded Noise and Avigation easements in favor of the Des Moines International Airport.
4. Each single-family dwelling unit shall have a private garage, whether attached or detached.
5. Minimum building floor areas for single-family residential shall be as follows:
  - i. Single-story (ranch) 1,200 square feet, excluding basements.
  - ii. Two-story 1,400 square feet, excluding basements.
6. The front elevation of each single-family home constructed must contain one of the following:
  - a) A front porch of not less than 60 square feet; or
  - b) 1/3 to 1/2 stone or brick masonry.
7. The front elevation of each single-family home constructed must contain one of the following:
  - a) Shutters on each side of each window; or
  - b) Window trim not less than 4" in width.
8. The exterior of each single-family home must be of masonry (brick or stone) and/or vinyl, cedar, Masonite, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.
9. The roof on any home constructed shall be of architectural type shingles or cedar shakes.
10. Fencing shall be limited as follows:
  - a) Black vinyl-clad chain link is the only fencing material permitted.
  - b) The maximum height of fencing allowed in a side or rear yard is five-feet (5').
  - c) Fencing is prohibited within any front yard and within access easements to detention basins or trails.
  - d) If fencing is placed in an easement that prohibits access, the city will remove the fence to gain access. Replacement of the fence is the responsibility of the homeowner.

- e) Wood privacy screens up to six-feet (6') in height are permitted when located outside of the required setbacks for a principal structure, outside of conservation easements and when adjoining private patios or decks outside the required front yard.
- f) All other fencing or screening is subject to the review and approval of the Planning Director and/or the Zoning Board of Adjustment.

Written Responses

- 4 In Favor
- 1 In Opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the requested rezoning with conditions be found not in conformance with the Des Moines' 2020 Community Character Plan future land use designation.

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation.

Part C) Staff recommends approval of rezoning to a Limited "R1-60" subject to the following conditions:

- 1. No part of the Property shall be divided into a lot or separate parcel with a width of less than 65 feet except those lots dedicated for public use.
- 2. No dwelling shall be constructed or permitted to remain upon the property unless it has not less than 1,200 square feet of finished floor area. In computing floor area, the same shall not include porches, breezeways or garages.
- 3. Any development of the property shall only be permitted after extension of the public street in manner which to allow development of adjoining developable property to the east and north. Such street extension shall provide a secondary connection to the existing street system on Emma Avenue or Stanton Avenue.
- 4. Any development of the property shall be subject to the recorded Noise and Avigation easements in favor of the Des Moines International Airport.

**STAFF REPORT**

**I. GENERAL INFORMATION**

- 1. **Purpose of Request:** The applicant is seeking to rezone the subject property to extend the development of single-family housing east on Herold Avenue.
- 2. **Size of Site:** 169.72-feet by 331.26-feet or 56,221 square feet (1.29 acres)
- 3. **Existing Zoning (site):** "M-3" Limited Industrial.
- 4. **Existing Land Use (site):** Undeveloped timbered property.



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

*North* – “R1-80”, Use is a single-family residential acreage.

*South* – “M-3”, Use is a dental office.

*East* – “R1-80”, Use is vacant timbered land.

*West* – Limited “R1-60”, Uses are single-family dwellings.

- 6. General Neighborhood/Area Land Uses:** The subject property is located at the end of Herold Avenue, a single-family residential cul-de-sac street, running east of Southwest 26<sup>th</sup> Street. The property is approximately a block north of McKinley Avenue which is a collector street running along the north side of the Des Moines International Airport. The property is in a transition area between limited industrial and commercial development at the periphery of the airport and the low density residential neighborhood to the north.
- 7. Applicable Recognized Neighborhood(s):** Southwestern Hills Neighborhood Association.
- 8. Relevant Zoning History:** The adjoining property to the west was rezoned to a limited “R1-60” by the City Council on September 21, 1992 with the following conditions:
- a) No part of the Property shall be divided into lot or separate parcel with a width of less than 65 feet except those lots dedicated for public use.
  - b) No dwelling shall be constructed or permitted to remain upon the Property unless it has not less than 1,200 square feet of finished floor area. In computing floor area, the same shall not include porches, breezeways or garages
- 9. 2020 Community Character Land Use Plan Designation:** Planned Business Park.
- 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, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

**II. ADDITIONAL APPLICABLE INFORMATION**

- 1. Drainage/Grading:** Future subdivision plat development of the subject property will require a storm water management plan and a soil erosion protection and grading plan as part of the submittal review.
- 2. Utilities:** All necessary utilities are currently available or within a reasonable distance to the subject property. Public sanitary and storm sewer along with water are available at the eastern terminus of Herold Avenue. It is possible that there would be design challenges to extension of those utilities depending on how the grades would be developed for future development.

3. **Landscaping & Buffering:** There is significant timber on the subject property. All development would be subject to Tree Mitigation Ordinances as part of any Subdivision Plat review or grading plan review. Any trees removed after May 2009 will be required to be mitigated under formulas dictated in the Ordinance.
4. **Access or Parking:** Section 106-133(g)(1) of the Subdivision Ordinance requires that no permanent dead-end street shall have a turnaround in excess of 660 feet. Currently there it is approximately 660 feet from the centerline of Southwest 26<sup>th</sup> Street to the west property line of the subject property. This provision cannot be met unless there is a waiver by the Plan and Zoning Commission and City Council of this provision. Any future subdivision of this property will require review by both.

Fire Engineering staff have indicated that Fire Code would require a secondary vehicular outlet for any development over 30 single-family dwellings. Herold Avenue currently has 18 single-family dwellings on the dead-end section, leaving and addition 12 allowed under the Fire Code. However, staff recommends that any development of this land be required to connect in some fashion to the existing public street system to the north. There would be opportunity to loop up to Emma Avenue or even Stanton Avenue. This also would open development potential for other undeveloped areas.

Section 106-133(b) requires that street improvements be extended such that adjoining land that has not been subdivided may be accessed. In this instance there is land both to the east and north that is residentially zoned and has not been developed. Staff believes that any extension of Herold Avenue shall be done in a manner which allows its further extension into adjoining residential property to allow for its orderly development. Ultimately a secondary connection to the street system is warranted.

5. **2020 Community Character Plan:** Staff recommends that the existing future land use designation be amended from Planned Business Park to Low Density Residential. This is more consistent with the current depth of existing limited industrial and commercial development along the McKinley Avenue Corridor to the south across from the Airport. Extending industrial or commercial development to the subject property would present additional impact to the existing single-family residential development.
6. **Airport Height and Hazard:** The subject property carries a Noise and Avigation Easement to the Des Moines International Airport. This acknowledges that any development of the property could experience noise and vibration impacts from the existing and future airport operations. In addition development of structures and landscaping must be kept below a horizontal plane of height established by the easement which is as low as 21 feet above grade on some portions of the property. This avigation limitation will be reviewed with any future subdivision or development of the property.

## SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Edward Mauro 4064 SW 31<sup>st</sup> Street stated that he agrees with most of the staff recommendations. He is concerned with condition 3 because he has no control over all of the adjoining property to extend that street to Emma or to Stanton. He would not want to be restricted.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following spoke in opposition of applicant's request*

Frank Gallardo 2340 Stanton Avenue stated that he is getting a lot of stormwater runoff from Emma Avenue and believes with the rezoning he will get flooded.

*Rebuttal*

Edward Mauro stated that there was a meeting held at the Southside Library and any development that would take place would meet City runoff containment requirements.

CJ Stephens asked what the price range of the homes the applicant is planning.

Edward Mauro stated that they have not gotten that far yet.

CJ Stephens asked if trees are going to be salvaged or saved or is the land going to be clear cut.

Edward Mauro stated it is too soon for him to give an answer. They would try to salvage what they could to meet the requirement of the zoning but a significant amount will have to be removed at some time.

CJ Stephens asked if this would be coming back to the Commission as a plan.

Mike Ludwig stated a subdivision review by P&Z would be required to build any more than one house on the property.

Mike Ludwig asked the applicant if he would be willing to accept single-family design standards that have been applied previously to PUD's requiring minimum amount of brick or porch, window trim/shutters, minimum siding thickness, architectural shingles, and fencing restrictions.

Edward Mauro stated that he would not be opposed.

Mike Ludwig stated that the applicant would have to agree in writing to any conditions prior to the Council hearing.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

### **COMMISSION ACTION**

CJ Stephens moved staff recommendation Part A) that with conditions it is found not in conformance with the Des Moines' 2020 Community Character Plan future land use designation.

Motion passed 10-0.

## **COMMISSION ACTION:**

CJ Stephens moved staff recommendation Part B) to approve the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation; and Part C) to approve rezoning to a Limited "R1-60" subject to the following conditions:

1. No part of the Property shall be divided into a lot or separate parcel with a width of less than 65 feet except those lots dedicated for public use.

~~No dwelling shall be constructed or permitted to remain upon the property unless it has not less than 1,200 square feet of finished floor area. In computing floor area, the same shall not include porches, breezeways or garages.~~

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8. The exterior of each single-family home must be of masonry (brick or stone) and/or vinyl, cedar, Masonite, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.
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- f) All other fencing or screening is subject to the review and approval of the Planning Director and/or the Zoning Board of Adjustment.

Motion passed 10-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

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MGL:clw

Attachment

Item 2011 00112 Date July 7, 2011

23

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

(Circle One)

**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name

Dan Mitchell

JUL 12 2011

Signature

Dan Mitchell

DEPARTMENT

Address

2315 SW McKinley

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

We bought our home because it was  
an acreage within the city. We love our huge yard,  
pasture and wooded areas for wild life. If the  
housing area is allowed to extend, it will  
interfere with the wild life that resides in  
this area.

Item 2011 00112 Date \_\_\_\_\_

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

(Circle One)

**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name

Everett H. Albens

Signature

Everett H. Albens

JUL 12 2011

Address

2403 McKinley Ave

DEPARTMENT

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item 2011 00112\*\* Date 7/14/2011

23

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

(Circle One) **RECEIVED**  
COMMUNITY DEVELOPMENT  
Print Name Jim Mawo

JUL 19 2011 Signature Jim Mawo

DEPARTMENT Address 2333 McKinley Ave

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

The removal and possible addition of homes would be good for the area

Item 2011 00112\*\* Date 7-1-11

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

(Circle One) **RECEIVED**  
COMMUNITY DEVELOPMENT  
Print Name Colleen Leinen

JUL 12 2011 Signature Colleen Leinen

DEPARTMENT Address 2400 Herald Ave

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

So I don't have to contend with weeds coming into my yard and poison ivy coming through my fence. Would also like to have it cleaned up + mowed clear to my lot line!

Item 2011 00112

Date 7/23/2011

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

(Circle One)

Print Name Tim Woods

Signature [Handwritten Signature]

Address 2406 Emma Av

DEPARTMENT

JUL 25 2011

Reasons for denying or approving this request may be listed below:

RECEIVED I AM NOTHING WRONG WITH SINGLE FAMILY DEVELOPMENT.

Four horizontal lines for additional text.