

65A

Date August 29, 2011

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 August 18, 2011, the members voted 13-0 to recommend **APPROVAL** of the request from Howard Tully (owner) to amend the Des Moines' 2020 Community Character Plan existing future land use designation from General Industrial to Low-Density Residential for property located at 201 SE 29<sup>th</sup> Court.

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 and adopted.

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

FORM APPROVED:

  
 Michael F. Kelley  
 Assistant City Attorney

(21-2011-4.09)

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

Date \_\_\_\_\_

Agenda Item 65A

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

August 19, 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 August 18, 2011, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 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 Howard Tully (owner), Part A) that the proposed rezoning be found **not** in conformance with the existing Des Moines' 2020 Community Character Plan's General Industrial designation;

AND

**APPROVAL** of Part B) to amend the Des Moines' 2020 Community Character Plan existing future land use designation from General Industrial to Low-Density Residential; and to approve Part C) the rezoning of property located at 201 SE 29<sup>th</sup> Court to "R1-60" One-Family Low-Density Residential District, to bring the existing single-family dwelling into conformance with the Zoning Ordinance subject to the applicant agreeing to the following condition:  
ZON2011-00138 & 21-2011-4.09

1. Any new dwelling or addition to the existing dwelling on the subject property shall be kept at least 25 feet from the west property line.



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

2. Any new single-family dwelling constructed shall meet the following design requirements:
  - (a) Have a minimum of 1,200 square feet of living area exclusive of any attached garage.
  - (b) Have an attached or detached garage for parking of at least two vehicles.
  - (c) Have either an open roofed front porch or shall have at least 40% of the front façade comprised of brick, stone or block masonry material.
  - (d) All exterior siding material shall be masonry, stone, cement board or minimum 42 mil thickness vinyl.
  
3. All exterior roofing material shall architectural asphalt shingles.

Written Responses

1 In Favor

0 In Opposition

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

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan's General Industrial designation.

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from General Industrial to Low-Density Residential.

Part C) Staff recommends approval of the request to rezone the property to "R1-60" One-Family Low-Density Residential District subject to the applicant agreeing to the following condition:

1. Any new dwelling or addition to the existing dwelling on the subject property shall be kept at least 25 feet from the west property line.
  
2. Any new single-family dwelling constructed shall meet the following design requirements:
  - (a) Have a minimum of 1,200 square feet of living area exclusive of any attached garage.
  - (b) Have an attached or detached garage for parking of at least two vehicles.
  - (c) Have either an open roofed front porch or shall have at least 40% of the front façade comprised of brick, stone or block masonry material.
  - (d) All exterior siding material shall be masonry, stone, cement board or minimum 42 mil thickness vinyl.
  
3. All exterior roofing material shall architectural asphalt shingles.

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** A single-family residential dwelling has existed on the subject property since 1972. The existing dwelling is considered a legal, non-conforming use in the "M-1" Light Industrial District. This designation is impacting the owner's ability to refinance the subject property. Properties immediately to the south of the subject property are zoned R1-60.
2. **Size of Site:** 165 feet by 100 feet (16,500 square feet) rezoning area, 1,850 square feet (2.6 acres) amendment area.
3. **Existing Zoning (site):** "M-1" Light Industrial District.
4. **Existing Land Use (site):** Single-family dwelling.
5. **Adjacent Land Use and Zoning:**
  - North* – "M-1", Use is vacant land.
  - South* – "R1-60", Use is a single-family dwelling.
  - East* – "M-1", Use is undeveloped timber land.
  - West* – "M-1" & "R-3", Uses are vacant land, unimproved East Market Street right-of-way and a single-family dwelling.
6. **General Neighborhood/Area Land Uses:** The surrounding neighborhood area provides a transition between the heavy industrial uses to the west, east and north and the single-family neighborhood to the south.
7. **Applicable Recognized Neighborhood(s):** N/A.
8. **Relevant Zoning History:** On August 8, 2011 the City Council set a date of the public hearing regarding the rezoning of the subject property for August 29, 2011.
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:** In reviewing the requested rezoning staff has concern for the long range need to provide a transition between the industrial uses to the west, north, and east from the residential uses to the south. The existing dwelling is considered a legal, non-conforming use in the "M-1" Light Industrial District. The current

zoning would not allow residential redevelopment of the property if the existing dwelling is removed or destroyed. This zoning regulation prevents the owner from refinancing the subject property. Any redevelopment of the property under industrial zoning would require a 25-foot setback and a 6-foot tall opaque screen to protect the neighborhood to south. Opaque screens generally can consist of a wall, fence, berm, landscaping or an adequate mix of these elements as described by the Zoning Ordinance.

If the subject property is rezoned to allow the continuance of residential use, staff believes there should be safeguards required for any future residential development. Any new dwelling should be set back at least 25 feet from the "M" District boundary to the north. This would allow a dwelling to be rebuilt, but would require it to be placed further away from the industrial use.

**2. 2020 Community Character Plan:** The Des Moines' 2020 Community Character Plan designates the subject area as General Industrial. This designation must be amended to the Low Density Residential to allow for the requested rezoning. The Des Moines' 2020 Community Character has the following policies in reference to the General Industrial typology which are relevant to the subject request.

- Allow for a limited amount of heavy industrial uses where appropriate, but minimize negative impacts on the surroundings. Concentrate on retaining and improving existing industrial uses to preserve existing jobs.
- Prohibit the development of additional housing units in major industrial zones. Encourage the purchase of homes in industrial areas as businesses seek to expand.

Staff believes that these policies were intended for prohibiting larger scale new residential development from occurring within areas designated for General Industrial use and not with regard to retention of individual existing single-family dwellings. Nevertheless, staff believes that should there be any new residential development on the subject property it should have a reasonable separation from the existing industrial district and use.

## **SUMMARY OF DISCUSSION**

*There was no discussion.*

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one to speak in favor or in opposition of the applicant's request.*

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

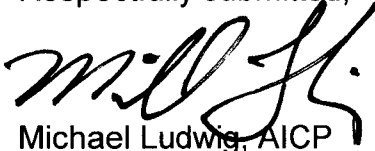
## COMMISSION ACTION

Greg Jones moved to approve Part A) that the requested rezoning be found **not** in conformance with the existing Des Moines' 2020 Community Character Plan's General Industrial designation; and Part B) to approve the requested amendment to the Des Moines' 2020 Community Character Plan existing future land use designation from General Industrial to Low-Density Residential; and Part C) approval of the rezoning of property located at 201 SE 29<sup>th</sup> Court to "R1-60" One-Family Low-Density Residential District, to bring the existing single-family dwelling into conformance with the Zoning Ordinance subject to the applicant agreeing to the following condition:

1. Any new dwelling or addition to the existing dwelling on the subject property shall be kept at least 25 feet from the west property line.
2. Any new single-family dwelling constructed shall meet the following design requirements:
  - (a) Have a minimum of 1,200 square feet of living area exclusive of any attached garage.
  - (b) Have an attached or detached garage for parking of at least two vehicles.
  - (c) Have either an open roofed front porch or shall have at least 40% of the front façade comprised of brick, stone or block masonry material.
  - (d) All exterior siding material shall be masonry, stone, cement board or minimum 42 mil thickness vinyl.
3. All exterior roofing material shall architectural asphalt shingles.

Motion passed 13-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

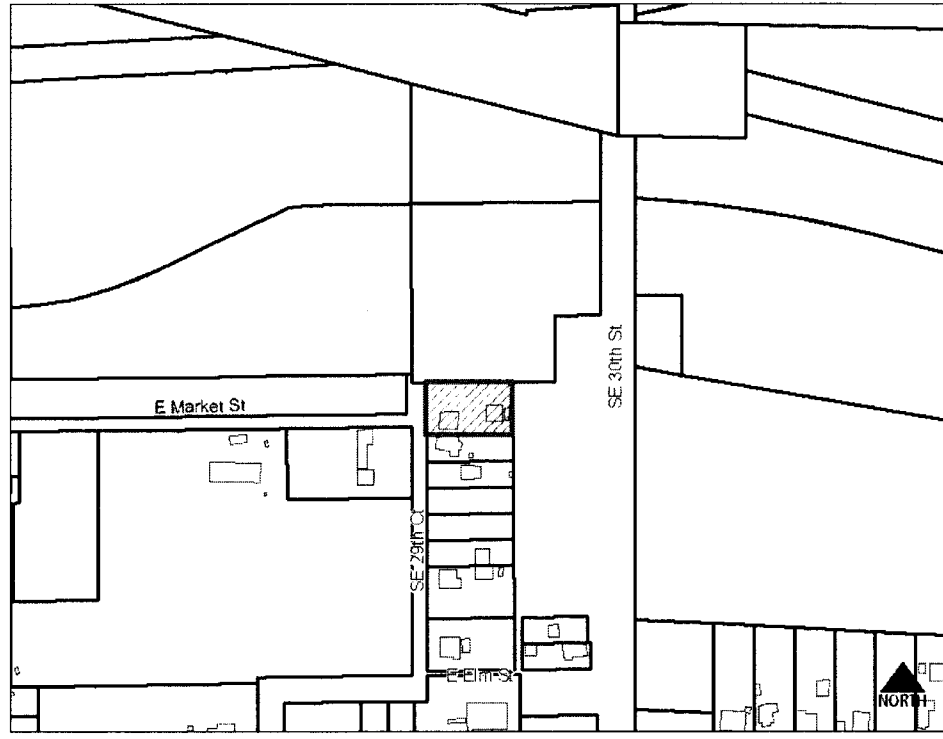
Attachment

65A

Request from Howard Tully (owner) to rezone property located at 201 SE 29 <sup>th</sup> Court			File #	
			ZON2011-00138	
<b>Description of Action</b>	Review and approval to rezone the property from "M-1" Light Industrial District to "R1-60" One-Family Low-Density Residential District, to bring the existing single-family dwelling into conformance with the Zoning Ordinance.			
<b>2020 Community Character Plan</b>	General Industrial			
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	"M-1" Light 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	1	0		
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	13-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

Howard Tully - 201 Southeast 29th Court

ZON2011-00138



Item ZON2011-00138

Date 8-11-11

65A

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

(Circle One)  
**RECEIVED**  
COMMUNITY DEVELOPMENT

Print Name Marjorie Robertson

Signature Marjorie Robertson

AUG 12 2011

Address 203 S.E. 29th Ct.

DEPARTMENT

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

Howard Tully is my neighbor and I know what M-1 means if some industrial place comes in and wants to build on his land it would be a matter of time before they take my land. I want to put a stop to it.

Item ZON2011-00138

Date 8-10-11

I (am)  in favor of the request.

(Circle One)  
**RECEIVED**  
COMMUNITY DEVELOPMENT

Print Name HOWARD TULLY

Signature Howard Tully

AUG 12 2011

Address 2015 E 29th St #0317

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
SUBJECT PROPERTY



Item ZON2011-00138 Date 8-12-11

(am) (am riot) in favor of the request.

(Circle One) **RECEIVED**  
**COMMUNITY DEVELOPMENT**

Tony Holt

AUG 17 2011

Signature Tony Holt

**DEPARTMENT**

Address 3005 Roblang Ct

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

Because it is a residential property

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Howard Tully - 201 Southeast 29th Street Court

ZON2011-00138

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