

Date..... September 12, 2011

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 1, 2011, its members voted 14-0 in support of a motion to recommend **APPROVAL** of a request from Exodus Groups Investments, LLC (owner) represented by Jeret Koenig (officer) to rezone property located at 1825 East Army Post Road from "C-2" General Retail and Highway Oriented Commercial District to a Limited "M-1" District subject to the following conditions:

1. Permitted uses shall be limited to the following:
  - a) Uses allowed in the "C-2" District excluding adult entertainment businesses, off-premises advertising signs, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity; and
  - b) Warehousing that is completely enclosed in a building or screened from view.
2. Outside display of general merchandise is permitted subject to the following requirements:
  - a) All display areas shall be identified on an approved Site Plan and generally limited to those areas identified on the submitted site sketch.
  - b) Any display area that adjoins a building shall include a minimum 5-foot wide open pedestrian access way from the parking lot to the main door of the building.
  - c) Merchandise displayed directly adjoining a building shall be stacked no greater than 8 feet in height.
  - d) Merchandise displayed in areas that do not adjoin a building shall be limited in size and scope by the material types identified on an approved Site Plan.
3. All outside storage areas and all display areas for automobiles, trailers, motorcycles, boats and/or farm implements shall comply with the following requirements:
  - a) Any such area shall be located outside of the front yard area.
  - b) Any such area shall be screened from view to the satisfaction of the Community Development Director. Slats in chain link fencing shall not be considered an appropriate screening material.
  - c) No items shall be stacked higher than the perimeter screening.

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- d) Any such area shall be designed to allow no part of any stored or displayed product to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the city engineer.
  - e) All display areas, driveways and areas used for temporary storage shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
4. Any development of the property shall comply with the City's Landscaping Standards applicable to the "C-2" District.
  5. Submittal and approval of a Site Plan in accordance with City's Site Plan Regulations by December 31, 2011.
  6. Completion of all site improvements in compliance with the approved Site Plan by June 1, 2012.

The subject properties are more specifically described as follows:

West 1/2 Northwest ¼, and West 1/2 Southwest ¼, Northwest ¼, Northeast ¼, Section 35, 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.

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, City Hall, Des Moines, Iowa at 5:00 p.m. on September 26, 2011, at which time the City Council will hear both those who oppose and those who favor the proposal.

Date September 12, 2011

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:

  
 Michael F. Kelley  
 Assistant City Attorney

(ZON2011-00111)

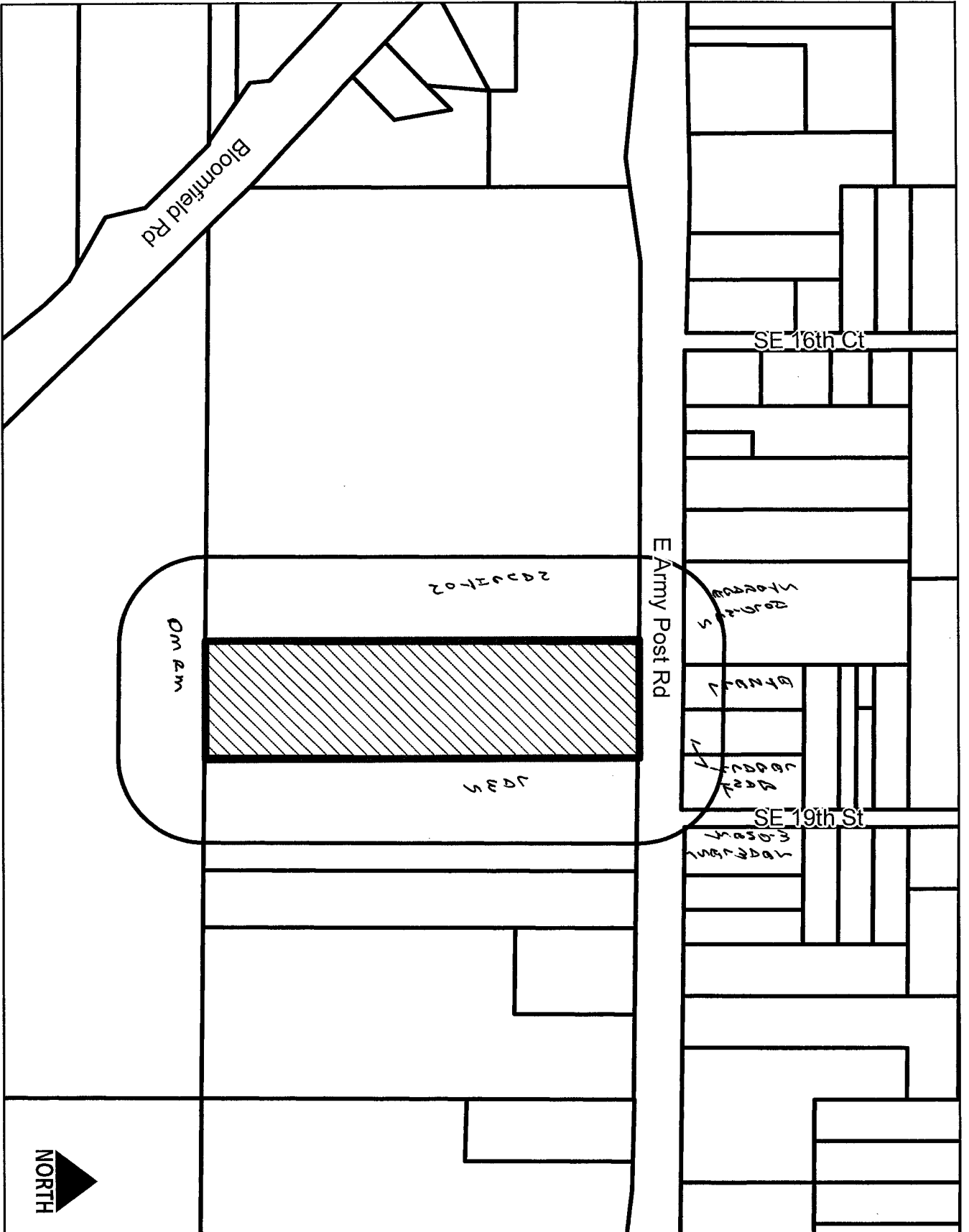
| COUNCIL ACTION | YEAS | NAYS     | PASS | ABSENT |
|----------------|------|----------|------|--------|
| COWNIE         |      |          |      |        |
| COLEMAN        |      |          |      |        |
| GRIESS         |      |          |      |        |
| HENSLEY        |      |          |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

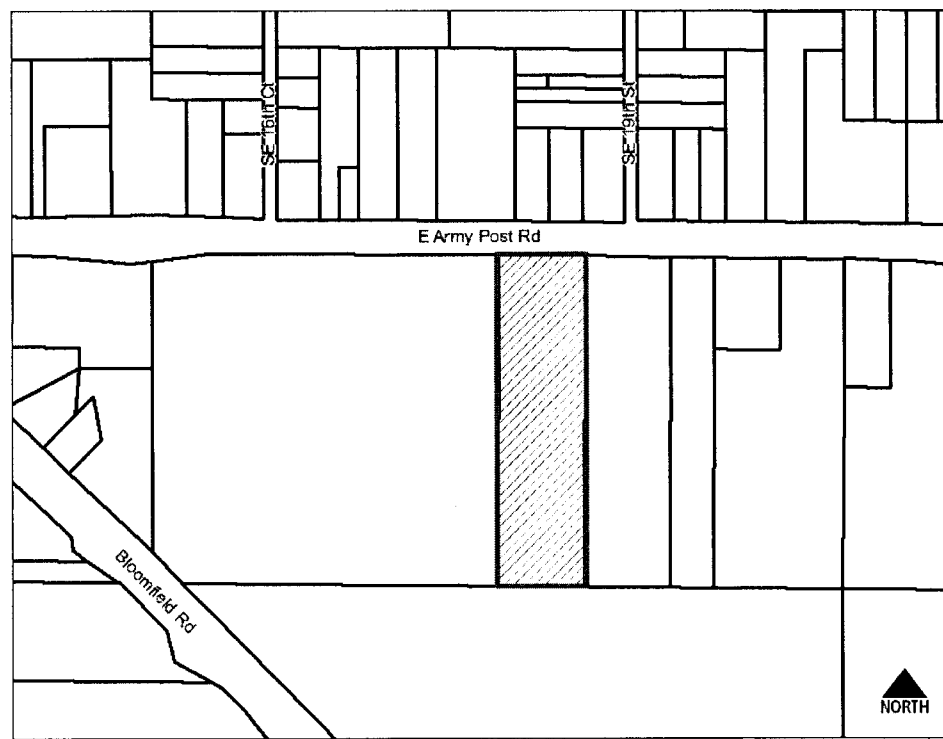
\_\_\_\_\_ City Clerk



22

|   |  |               |  |              |   |
|---|--|---------------|--|--------------|---|
| Request from Exodus Groups Investments, LLC (owner) represented by Jeret Koenig (officer) to rezone property located at 1825 East Army Post Road. |  | File #        |  |              |   |
|   |  | ZON2011-00111 |  |              |   |
| <b>Description of Action</b>  | Review and approval to rezone the property from "C-2" General Retail and Highway Oriented Commercial District to "M-1" Light Industrial District, to allow for an expansion of the existing retail/wholesale farm and city supply with additional wholesale use whereby it becomes a more predominant use of the land than the retail component. |               |  |              |   |
| <b>2020 Community Character Plan</b>  | Commercial: Auto-Oriented Community Commercial   |               |  |              |   |
| <b>Horizon 2035 Transportation Plan</b>   | East Army Post Road from SE 14 <sup>th</sup> Street to SE 45 <sup>th</sup> Street to widen from 2 lanes undivided to 4 lanes undivided   |               |  |              |   |
| <b>Current Zoning District</b>  | "C-2" General Retail and Highway Oriented Commercial District  |               |  |              |   |
| <b>Proposed Zoning District</b>   | "M-1" Light Industrial 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   | 14-0          | <b>Required 6/7 Vote of the City Council</b> | Yes          |   |
|   | Denial   |               |  | No           | X |

Exodus Group Investments Inc - 1825 East Army Post Road      ZON2011-00111



September 17, 2014

Agenda Item 22

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

September 7, 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 September 1, 2011, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 14-0 as follows:



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

| 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 Exodus Groups Investments, LLC (owner) represented by Jeret Koenig (officer) for property located at 1825 East Army Post Road Part A) to find the requested unlimited "M-1" zoning **not** 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 |
|--------------------|-----|------|------|--------|
| 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   |      |      |        |

**DENIAL** of Part B) to amend the requested land use amendment to the Des Moines' 2020 Community Character Plan future land use designation from Commercial: Auto-Oriented Community Commercial to General Industrial. The amendment is not necessary if the permitted uses are limited to those uses allowed in the "C-2" District and warehousing within a building or fully screened area, and if the site is operated in compliance with the conditions listed in Part D of the staff recommendation; and Part C) to find a request for Limited "M-1" zoning district subject to the conditions listed in Part D of the staff recommendation in conformance with the Des Moines 2020 Community Character Plan.

By separate motion Commissioners recommended 14-0 as follows:

| <u>Commission Action:</u> | <u>Yes</u> | <u>Nays</u> | <u>Pass</u> | <u>Absent</u> |
|---------------------------|------------|-------------|-------------|---------------|
| 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 request Part D) to rezone the subject property to a Limited "M-1" District subject to the following conditions: ZON2011-00111 & 21-2011-4.07

1. Permitted uses shall be limited to the following:
  - a) Uses allowed in the "C-2" District excluding adult entertainment businesses, off-premises advertising signs, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity; and
  - b) Warehousing that is completely enclosed in a building or screened from view.
2. Outside display of general merchandise is permitted subject to the following requirements:
  - a) All display areas shall be identified on an approved Site Plan and generally limited to those areas identified on the submitted site sketch.
  - b) Any display area that adjoins a building shall include a minimum 5-foot wide open pedestrian access way from the parking lot to the main door of the building.
  - c) Merchandise displayed directly adjoining a building shall be stacked no greater than 8 feet in height.
  - d) Merchandise displayed in areas that do not adjoin a building shall be limited in size and scope by the material types identified on an approved Site Plan.
3. All outside storage areas and all display areas for automobiles, trailers, motorcycles, boats and/or farm implements shall comply with the following requirements:

- a) Any such area shall be located outside of the front yard area.
  - b) Any such area shall be screened from view to the satisfaction of the Community Development Director. Slats in chain link fencing shall not be considered an appropriate screening material.
  - c) No items shall be stacked higher than the perimeter screening.
  - d) Any such area shall be designed to allow no part of any stored or displayed product to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the city engineer.
  - e) All display areas, driveways and areas used for temporary storage shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
4. Any development of the property shall comply with the City's Landscaping Standards applicable to the "C-2" District.
  5. Submittal and approval of a Site Plan in accordance with City's Site Plan Regulations by December 31, 2011.
  6. Completion of all site improvements in compliance with the approved Site Plan by June 1, 2012.

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

Part A) Staff recommends that the Commission find the requested unlimited "M-1" zoning not in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends denial of the requested future land use amendment to General Industrial. The amendment is not necessary if the permitted uses are limited to those uses allowed in the "C-2" District and warehousing within a building or fully screened area, and if the site is operated in compliance with the conditions listed in Part D of the staff recommendation.

Part C) Staff recommends that the Commission find a request for Limited "M-1" zoning district subject to the conditions listed in Part D of the staff recommendation in conformance with the Des Moines 2020 Community Character Plan.

Part D) Staff recommends approval of the rezoning of subject property to a Limited "M-1" District subject to the following conditions:

1. Permitted uses shall be limited to the following:
  - a) Uses allowed in the "C-2" District excluding adult entertainment businesses, off-premises advertising signs, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity; and
  - b) Warehousing that is completely enclosed in a building or screened from view.
2. Outside display of general merchandise is permitted subject to the following requirements:
  - a) All display areas shall be identified on an approved Site Plan and generally limited to those areas identified on the submitted site sketch.



- b) Any display area that adjoins a building shall include a minimum 5-foot wide open pedestrian access way from the parking lot to the main door of the building.
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4. Any development of the property shall comply with the City's Landscaping Standards applicable to the "C-2" District.
5. Submittal and approval of a Site Plan in accordance with City's Site Plan Regulations by December 31, 2011.
6. Completion of all site improvements in compliance with the approved Site Plan by June 1, 2012.

## **STAFF REPORT**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant currently operates a retail business known as "Farm and City Supply" and associated wholesaling businesses at the subject property. The applicant wishes to expand the wholesale component of their business to the point that it would become the primary use of the property. Wholesaling is not a permitted principal use in the "C-2" District. The applicant's future plans may also include the purchase of additional land. Any additional land added to the site would require rezoning before it could be developed for the proposed use.
2. **Size of Site:** 415,736 square feet or 9.54 acres.
3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District.

The "C-2" District allows businesses that display, rent, or sale of automobiles, trailers, motorcycles, boats and farm implements with outside storage and display limited to areas established on an approved Site Plan per Section 134-947(c)(3) of the Zoning Ordinance.

4. **Existing Land Use (site):** Retail and wholesaling. The site contains a 28,000-square foot commercial building, a 33,000-square foot warehouse building and a 13,040-square foot storage canopy structure. The property was originally developed for a lumberyard business.

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

**North** – "C-2", Uses are a mini-warehouse facility, a tavern, a bail bonds business & a single-family dwelling.

**South** - "C-2", Use is a mobile home park.

**East** – "C-2", Use is a single-family dwelling with an associated landscape nursery business.

**West** – "C-2", Use is undeveloped land.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the East Army Post Road highway commercial corridor east of the SE 14<sup>th</sup> Street intersection.
7. **Applicable Recognized Neighborhood(s):** Easter Lake Area Neighborhood.
8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented Community Commercial.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning boundaries or regulations 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 make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. **ADDITIONAL APPLICABLE INFORMATION**

1. **Drainage/Grading:** Any additional development of the site must comply with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan.
2. **Utilities:** There are no public sanitary or storm sewers in the area to serve the property. There is an existing 16-inch water main in the East Army Post Road right-of-way.
3. **Landscaping & Buffering:** The applicant has submitted a site sketch that identifies display areas, parking lot dimensions and existing plant material. The City's Landscaping Standards for the "C-2" District require the following.
  - *Open Space* equal to 20% of the site with 1 overstory tree, 1 evergreen tree and 1 shrub per 2,500 square feet of required open space.
  - *Bufferyard* with a minimum width of 20 feet with a 6-foot tall opaque fence/screen, and 4 overstory trees and 8 evergreen trees per 100 lineal feet.
  - *Parking & Maneuvering Perimeter Planting Area* with a minimum width of 10 feet with 1 overstory tree and 3 shrub per 50 lineal feet.

The Landscaping Standards allows for up to 30% of the plant material to be substituted at a ratio of 1 overstory tree to 2 evergreen trees to 3 ornamental trees to 7 shrubs. The site sketch indicates that the side and rear yards contain a significant number of overstory trees and some ornamental trees. The trees appear to be tightly grouped and their species is not noted, suggesting they may be volunteer fence row growth. There are no evergreen trees identified. The sketch identifies 17 ornamental trees and 25 shrubs in the front yard.

The applicant will be required to submit a site plan to the City's Permit and Development Center for review following the rezoning process. Plant material will be fully evaluated through that process. Existing plant material is counted toward meeting the Landscaping Standards if it meets the intent of the standards. Staff anticipates the applicant will be required to plant a limited number of overstory trees in the front yard and evergreen trees along the south perimeter of the property to buffer the dwellings to the south.

Staff believes that if the property is rezoned to "M-1" District that it should be subject to compliance with the landscaping requirements for the "C-2" District to ensure compatibility with the surrounding "C-2" zoning. Future development of the site would also be subject to the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).

4. **Access or Parking:** The site has two access drives to East Army Post Road. If the business is expanded, the applicant would be required to provide adequate off-street parking in compliance with the Zoning Ordinance requirements. The applicant has submitted a dimensioned site sketch that identifies proposed outdoor display areas and parking spaces. The sketch identifies 27 spaces in the main portion of the parking lot and an additional 20 spaces in the gated area to the west of the building for a total of 47 spaces. This exceeds the required 33 spaces for the existing and proposed uses.
5. **2020 Community Character Plan:** The proposed rezoning to the "M-1" District with no limitations is not compatible with the Commercial: Auto-Oriented Community Commercial future land use designation. Staff believes that industrial development should be focused in the areas the City has already designated for those types of uses. The adjoining portion of East Army Post Road is designated for commercial development to support the existing and planned residential uses in the area.

The subject property could be rezoned to Limited "M-1" without amending the Future Land Use Map if the permitted uses are limited to those allowed in the "C-2" District and warehousing enclosed in a building or completely screened from view, and if the site is operated in compliance with the conditions identified in the staff recommendation.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation.

Jeret Koenig Indianola stated that he agrees with staff recommendation.

## **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 staff recommendation Part A) to find the requested unlimited "M-1" zoning not in conformance with the Des Moines' 2020 Community Character Plan.

Motion passed 14-0

Greg Jones moved staff recommendation Part B) to deny the requested future land use amendment to General Industrial. The amendment is not necessary if the permitted uses are limited to those uses allowed in the "C-2" District and warehousing within a building or fully screened area, and if the site is operated in compliance with the conditions listed in Part D of the staff recommendation; and Part C) to find a request for Limited "M-1" zoning district subject to the conditions listed in Part D of the staff recommendation in conformance with the Des Moines 2020 Community Character Plan.

Motion passed 14-0


Greg Jones moved staff recommendation Part D) to approve the rezoning of the subject property to a Limited "M-1" District subject to the following conditions:

1. Permitted uses shall be limited to the following:
  - a) Uses allowed in the "C-2" District excluding adult entertainment businesses, off-premises advertising signs, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity; and
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- 5. Submittal and approval of a Site Plan in accordance with City's Site Plan Regulations by December 31, 2011.
- 6. Completion of all site improvements in compliance with the approved Site Plan by June 1, 2012.

Motion passed 14-0

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment