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Date..... September 26, 2011

WHEREAS, on September 12, 2011 by Roll Call No. 11-1575, it was duly resolved by the City Council that the application of Exodus Group Investments, LLC to rezone certain property located in the vicinity of 1825 East Army Post Road, more fully described below, be set down for hearing on September 26, 2011, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on September 15, 2011, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with the notice those interested in the 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:

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 5th P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from the C-2 General Retail and Highway Oriented Commercial District to a Limited M-1 Light Industrial District classification, subject to the following conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and are binding upon the owners and their successors, heirs and assigns as follows:

- (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.

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- (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.

(Continued on Page 3)

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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.


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, the hearing is closed and the proposed rezoning is hereby APPROVED.

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

MOVED by _____ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:


 Michael F. Kelley
 Assistant City Attorney

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

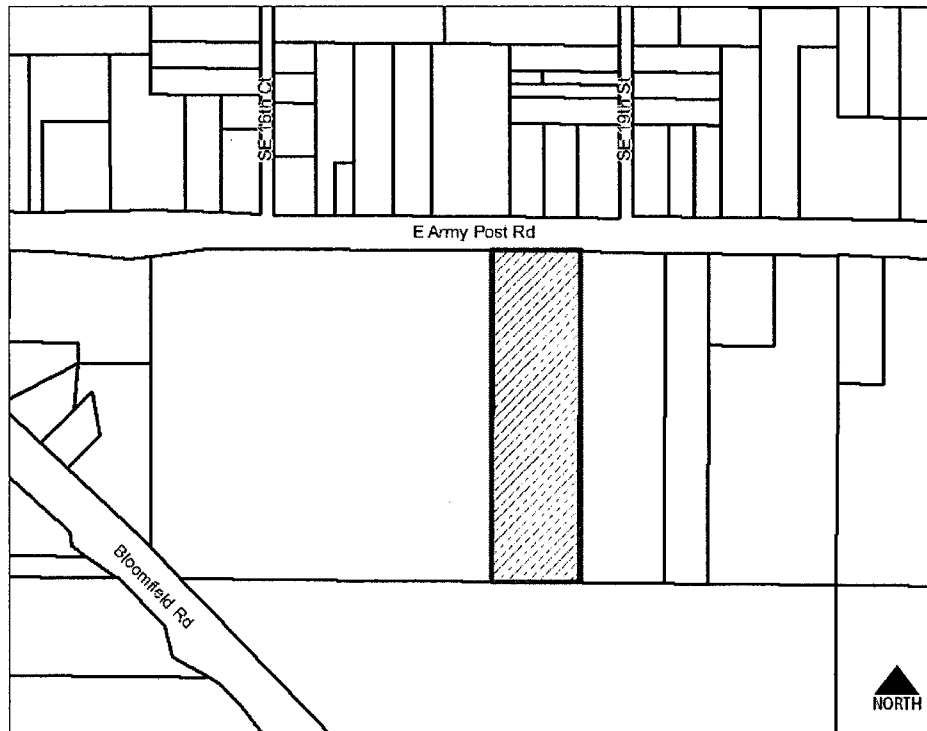
_____ Mayor

_____ City Clerk

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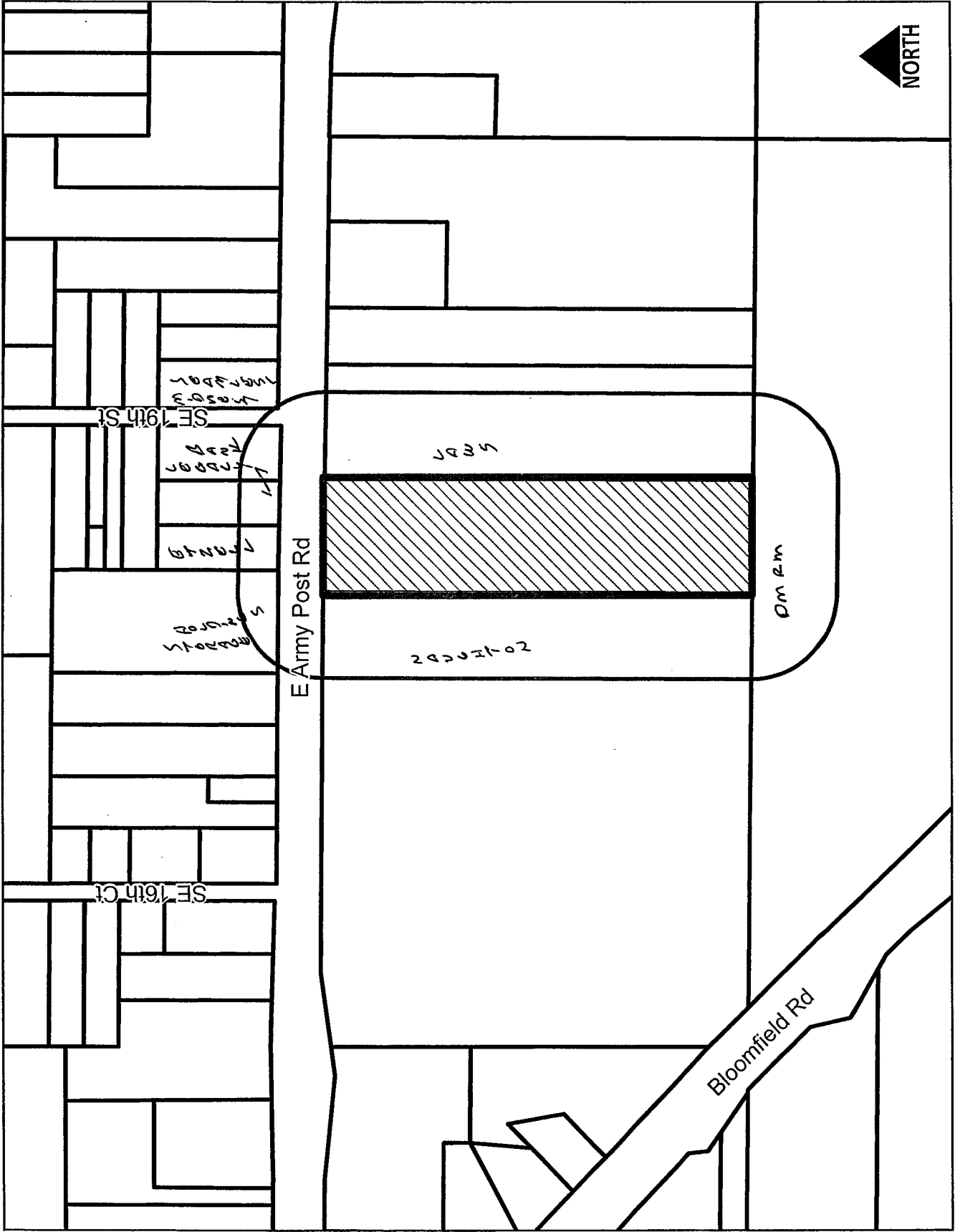
Request from Exodus Groups Investments, LLC (owner) represented by Jeret Koenig (officer) to rezone property located at 1825 East Army Post Road.		File #		
		ZON2011-00111		
Description of Action	Review and approval to rezone the property from "C-2" General Retail and Highway Oriented Commercial District 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.			
2020 Community Character Plan	Commercial: Auto-Oriented Community Commercial			
Horizon 2035 Transportation Plan	East Army Post Road from SE 14 th Street to SE 45 th Street to widen from 2 lanes undivided to 4 lanes undivided			
Current Zoning District	"C-2" General Retail and Highway Oriented Commercial District			
Proposed Zoning District	"M-1" Light Industrial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area				
Plan and Zoning Commission Action	Approval	14-0	Required 6/7 Vote of the City Council	Yes
	Denial			No
				X

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



ZON2011-00111

Exodus Group Investments Inc - 1825 East Army Post Road



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September 7, 2011

Agenda Item 50

Roll Call # _____

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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 - 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 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 14th 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

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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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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.

Motion passed 14-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment