

Date..... February 27, 2012

WHEREAS, on February 13, 2012 by Roll Call No. 12-0188, it was duly resolved by the City Council that the application of ThermoKing Sales and Service, Inc. to rezone certain property located in the vicinity of 4975 Hubbell Road, more fully described below, from the A-1 Agricultural District to a Limited M-1 Light Industrial District classification, be set down for hearing on February 27, 2012, 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 February 16, 2012, 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:

Beginning 136.11 feet West and 133.31 feet North of the Southeast Corner, thence West 261.27 feet, thence northerly 551.68 feet, thence Northeasterly 145 feet, thence Southeasterly 179 feet, thence South 540.88 feet to the Point of Beginning, Southeast ¼, Southwest ¼, Section 15, Township 79 North, Range 23 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

from the A-1 Agricultural 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) Sales and service of recreational vehicles and refrigerated semi-tractor trailers, and above-ground storage tanks of petroleum.
  - b) Uses allowed in the C-2 District, excluding adult entertainment businesses, off-premises advertising signs, delayed deposit services and pawn shops.

(Continued on Page 2)

Date February 27, 2012

-2-

- c) Uses allowed in the C-3 and C-3A District, excluding assembly and packaging of small components; and manufacturing, packaging, and storage of dairy products.
  - d) Storage yards, and communication towers and antennas as permitted in the M-1 District.
- (2) Any outdoor storage or vehicle display shall occur on a paved asphalt or Portland cement concrete surface.

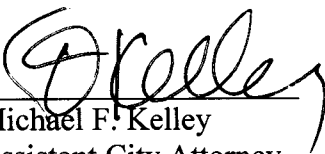
NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

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.

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

FORM APPROVED:

  
 Michael F. Kelley  
 Assistant City Attorney

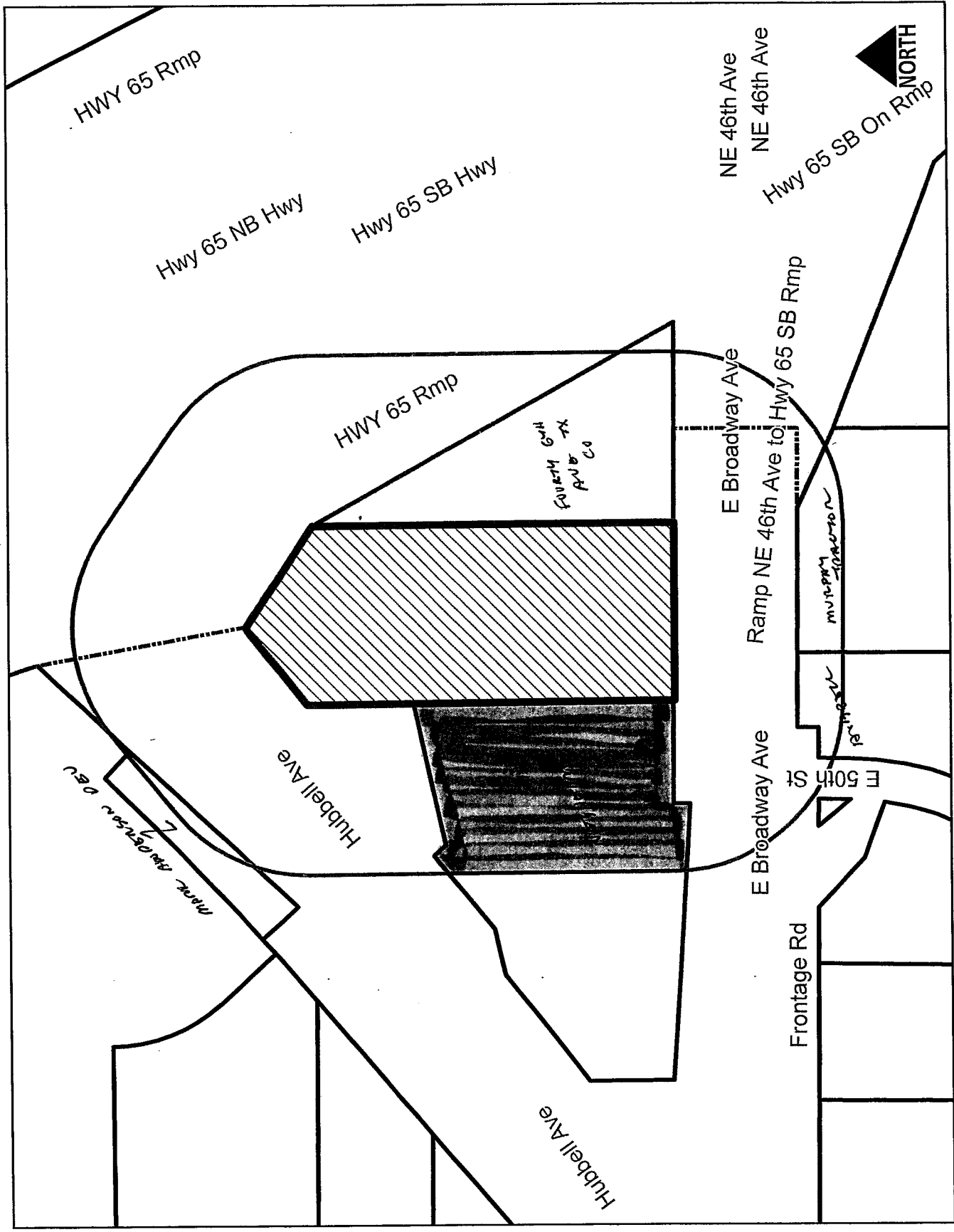
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**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



Date Feb. 29, 2012  
 Agenda Item 49  
 Roll Call # \_\_\_\_\_

February 1, 2012

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 January 19, 2012, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 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			
CJ Stephens	X			

**APPROVAL** of a request from ThermoKing Sales and Service, Inc. (owner) represented by Daniel Santarsiero (officer), Part A) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan; and Part B) to rezone property located at 4875 Hubbell Road from "A-1" Agricultural District to Limited "M-1" Light Industrial District, to allow property with uses of sales and service of recreational vehicles and refrigerated semi-tractor trailers, to include above ground storage tanks of petroleum, to conform as permitted uses with Zoning, subject to the following conditions: ZON2011-00242

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, delayed deposit services and pawn shops.
  - b) Uses allowed in the "C-3" and C-3A" District, excluding assembly and packaging of small components; and manufacturing, packaging, and storage of dairy products.

- c) Only the uses of storage yards, and communication towers and antennas as permitted in the "M-1" District.

2. Any outdoor storage or vehicle display shall occur on a paved asphalt or Portland cement concrete surface.

Written Responses

1 In Favor

0 In Opposition

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

Part A) Staff recommends that the Commission find the requested Limited "M-1" zoning in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the requested rezoning 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, delayed deposit services and pawn shops.
  - b) Uses allowed in the "C-3" and C-3A" District, excluding assembly and packaging of small components; and manufacturing, packaging, and storage of dairy products.
  - c) Only the uses of storage yards, and communication towers and antennas as permitted in the "M-1" District.
- 2. Any outdoor storage or vehicle display shall occur on a paved asphalt or Portland cement concrete surface.

**STAFF REPORT**

**I. GENERAL INFORMATION**

- 1. **Purpose of Request:** The subject property houses two existing businesses that were annexed into the City in 2009: ThermoKing, a company selling refrigerated semi-trailers; and Shorewood RV, a company displaying and selling recreational vehicles. The applicant is seeking to bring the existing uses into conformance with the uses permitted by the Zoning Ordinance.
- 2. **Size of Site:** 3.56 acres.
- 3. **Existing Zoning (site):** "A-1" Agricultural District.
- 4. **Existing Land Use (site):** Sales, servicing and display of refrigerated semi-trailers; and sales and display of recreational vehicles. There is also accessory outdoor storage. The site contains a 10,004-square foot commercial building for warehousing, service, and office use that is shared by the two businesses. There is also an existing 120-foot communications antenna on the subject property.

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

*North* – “A-1”, Uses are agricultural land and U.S. Highway 65.

*South* - “A-1” & “M-1”, Murphy Tractor and vacant industrial land.

*East* – “A-1”, Use is a warehouse and trucking company.

*West* – “A-1”, Use is Archer Motel.

**6. General Neighborhood/Area Land Uses:** The subject property is located along the Hubbell Avenue and East Broadway Avenue highway commercial corridor just west of the U.S. Highway 65 interchange.

**7. Applicable Recognized Neighborhood(s):**

**8. Relevant Zoning History:** The property was annexed into the City of Des Moines and zoned as “A-1” Agricultural District on June 26, 2009.

**9. 2020 Community Character Land Use Plan Designation:** Planned Business Park.

**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:** There is no proposed grading or modification to drainage. Any future development of the site would be required to comply with the City’s stormwater management requirements. Any grading would be 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. The nearest public storm and sanitary sewers are approximately 700 feet to the southwest. Public water main is located on the north side of Hubbell Avenue from the subject property.

**3. Landscaping & Buffering:** Any future development of the site under its existing use would be subject to meeting landscaping provisions as applicable to “C-2” Districts based on the design guidelines for vehicle display lots. Redevelopment for other uses would require landscaping as applicable to “M-1” Districts.

**4. Access or Parking:** The site has two access drives, including one from the north from Hubbell Avenue and one from East Broadway Avenue. Any expansion of the use of building on the property would need to be analyzed to determine whether the site would meet minimum requirements for off-street parking spaces. The current building requires a minimum of 17 paved and marked spaces. The site currently exceeds that

minimum requirement. The current use also includes outdoor storage, which is on a paved surface.

- 5. 2020 Community Character Plan:** The proposed rezoning to the limited “M-1” District is compatible with the Planned Business Park future land use designation. Any future expansion involving vehicle display is subject to conformance with a site plan approval under design guidelines for vehicle display lots.

Staff believes that the “M-1” District zoning is necessary to allow for the current ongoing uses on the property. However based on the mix of residential, highway commercial, and light industrial uses in the immediate surrounding area, the following uses that would be allowed by the “C-2”, “C-3” and “C-3A” would not be compatible: adult entertainment businesses, off-premises advertising signs, delayed deposit services; pawn shops; assembly and packaging of small components; and manufacturing, packaging, and storage of dairy products. Also, the only uses as allowed in the “M-1” District that would be appropriate for the area are storage yards, and communication towers and antennas. The applicant has already proposed prohibiting adult businesses and pawn shops with their application.

## **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 staff recommendation Part A) to find the proposed rezoning in conformance with the Des Moines’ 2020 Community Character Plan; and Part B) to rezone property located at 4875 Hubbell Road from “A-1” Agricultural District to Limited “M-1” Light Industrial District, to allow property with uses of sales and service of recreational vehicles and refrigerated semi-tractor trailers, to include above ground storage tanks of petroleum, to conform as permitted uses with Zoning, subject to the following conditions:

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  - b) Uses allowed in the “C-3” and C-3A” District, excluding assembly and packaging of small components; and manufacturing, packaging, and storage of dairy products.
  - c) Only the uses of storage yards, and communication towers and antennas as permitted in the “M-1” District.

2. Any outdoor storage or vehicle display shall occur on a paved asphalt or Portland cement concrete surface.

Motion passed 11-0.

Respectfully submitted,

  
Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment