

.....
Date..... April 9, 2012

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 9, 2012, its members voted 8-2 in support of a motion to recommend **DENIAL** of a request from F & J Mobile Homes, Inc. (owner) to rezone property located at 7657 U.S. Highway 69 from Limited C-2 General Retail and Highway-Oriented Commercial District and R-5 Mobile Home Residential District to a Limited M-1 Light Industrial District, to allow for outdoor storage of Recreational Vehicles by the general public; and

WHEREAS, on March 12, 2012 by Roll Call No.12-0385, the City Council set a public hearing on the proposed rezoning for April 9, 2012 at 5:00 p.m. in Council Chambers, City Hall, Des Moines, Iowa;

The subject property is more specifically described as follows (the "Property"):

Commencing at the South Quarter Corner of Section 25, Township 79 North, Range 24 West of the 5th P.M., Polk County, Iowa, said point of Commencing also being the Southwest corner of the Official Plat of Diagonal Acres as recorded at the Polk County Recorder's Office in Book "R", Page 125; thence North 00°20'07" East, a distance of 1271.73 feet to the Point of Beginning, thence North 00°20'07" East, a distance of 430 feet, thence South 89°39'53" East, a distance of 46.68 feet, thence South 41°39'53" East, a distance of 570.04 feet, thence South 33°20'07" West, a distance of 90.00 feet, thence South 10°30'07" West, a distance of 64.17 feet, thence North 79°29'53" West, a distance of 103.58 feet, thence North 66°25'19" West, a distance of 289.59 feet to the Point of Beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

WHEREAS, notice of the public hearing was published in the Des Moines Register according to law on March 29, 2012, setting forth the time and place for hearing on the proposed rezoning; and

WHEREAS, in accordance with the notice those interested in the proposed rezoning, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to City Council.

Date April 9, 2012

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

Alternative A

_____ Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the property from Limited C-2 General Retail and Highway-Oriented Commercial District and R-5 Mobile Home Residential District to a Limited M-1 Light Industrial District are accepted, the hearing is closed and the proposed rezoning is hereby DENIED.


Moved by _____ to adopt and to DENY the proposed rezoning.

Alternative B

_____ Moved by _____ to continue the public hearing until the _____ Council meeting at 5:00 p.m. and to direct the City Manager and Legal Department to prepare the necessary legislation to approve the rezoning subject to the conditions acceptable to the City and the applicant.

Moved by _____ to adopt and to continue the public hearing to _____ at 5:00 p.m.

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

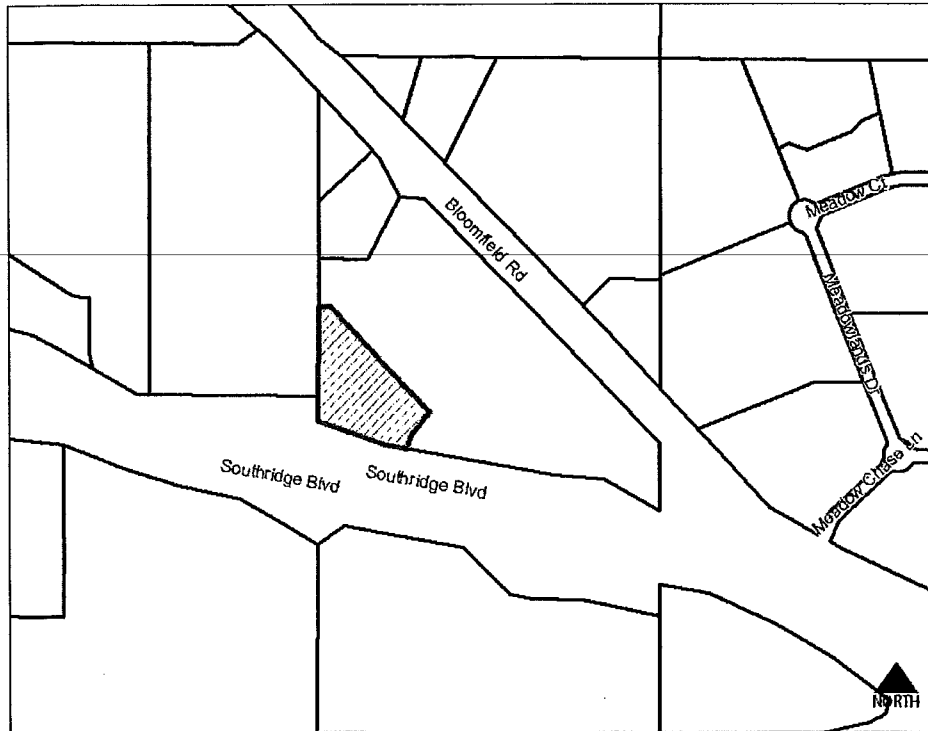
_____ Mayor

_____ City Clerk

Request from F & J Mobile Homes, Inc. (owner) represented by George Jordan (officer) to rezone property at 7657 U.S. Highway 69.		File #			
		ZON2011-00240			
Description of Action	Request to rezone the property from Limited "C-2" General Retail and Highway-Oriented Commercial District and "R-5" Mobile Home Residential District to a Limited "M-1" Light Industrial District, to allow for outdoor storage of Recreational Vehicles.				
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	Limited "C-2" General Retail and Highway-Oriented Commercial District and "R-5" Mobile Home Residential District				
Proposed Zoning District	Limited "M-1" Light Industrial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	3	0			
Outside Area					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	8-2		No	

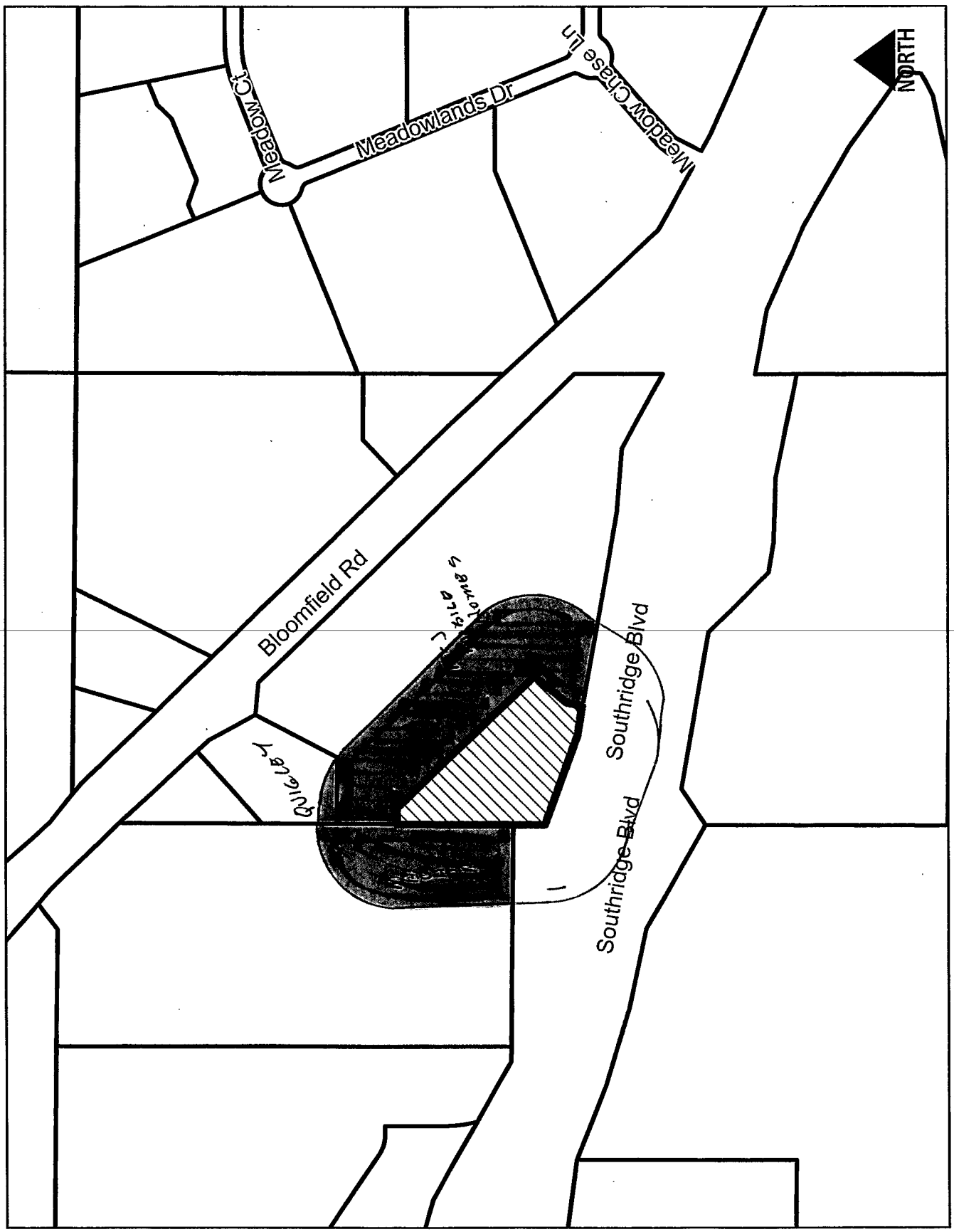
F & J Mobile Home Inc. - 7657 US Hwy 69

ZON2011-00240



ZON2011-00240

F & J Mobile Home Inc. - 7657 US Hwy 69



9/4

Date April 9, 2012

Agenda Item 46

Call # _____

March 6, 2012

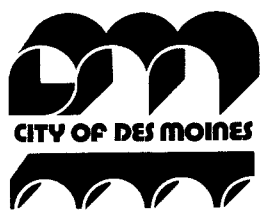
Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held March 1, 2012, the following action was taken regarding a request from F & J Mobile Homes, Inc. (owner) represented by George Jordan (officer) for property located at 7657 U.S. Highway 69:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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 motion to find the requested rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan

By separate motion Commissioners recommended 8-2 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			
CJ Stephens				X

DENIAL of request to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial.

By separate motion Commissioners recommended 8-2 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			
CJ Stephens				X

DENIAL of request to rezone property at property located at 7657 U.S. Highway 69 from Limited "C-2" General Retail and Highway-Oriented Commercial District and "R-5" Mobile Home Residential District to a Limited "M-1" District based on a finding that it is the intent of the Des Moines' 2020 Community Character Plan to preserve the highly visible Southridge Boulevard corridor for commercial and residential uses rather than the proposed industrial use. (ZON2011-00240)

Written Responses

- 3 In Favor
- 0 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning 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.

Part C) Staff recommends denial of the requested rezoning to a Limited "M-1" District based on a finding that it is the intent of the Des Moines' 2020 Community Character Plan to preserve the highly visible Southridge Boulevard corridor for commercial and residential uses rather than the proposed industrial use.

STAFF REPORT

I. GENERAL INFORMATION

This item was continued from the February 2, 2012 Plan & Zoning Commission meeting to allow the appellant to propose conditions for a Limited "M-1" District for the Commission to consider. The appellant has since proposed the following zoning limitations:

1. Uses of the property shall be limited to:
 - a) Uses as permitted and limited by Ordinance 14,265 (see "Relevant Zoning History" Subsection").
 - b) Storage of recreational vehicles.
2. Provision of a 20-wide landscape area along Southridge Boulevard, either on subject property or within an easement on adjoining DOT right-of-way, that is landscaped with at least four (4) overstory street trees and eight (8) evergreen trees per 100 lineal feet. (Note: this is the bufferyard requirement contained in the City's Landscaping Standards for a parking lot over 100,000 square feet in area.)
3. Prohibition of any signage.
4. All vehicles stored on the premises shall be licensed and operable.
5. All vehicles stored on the premises shall be arranged in an orderly manner along paved drive aisles.

The following is the staff report prepared for the February 2, 2012 Plan & Zoning Commission meeting. Staff maintains the recommendation for denial since it is the intent of the Des Moines' 2020 Community Character Plan to preserve the highly visible Southridge Boulevard corridor for commercial and residential uses rather than the proposed industrial use.

1. **Purpose of Request:** The rezoning would allow use of the property as an outdoor storage yard for the storage of recreational vehicles by any member of the public. Currently the site is only allowed to be used for storage by the residents of the adjoining Hillocks Estates Mobile Home Park. This use is in accordance with a Site Plan (10-07-7.69) as approved by the City's Permit and Development Center.
2. **Size of Site:** 3.07 acres.
3. **Existing Zoning (site):** Limited "C-2" General Retail and Highway-Oriented Commercial District, "VDL" Vehicle Display Lot Overlay District, and "R-5" Mobile Home Residential District.
4. **Existing Land Use (site):** The property currently contains an outdoor storage lot that is to be used for storage only by residents of the adjoining mobile home community. The drive aisle is paved with hot mix asphalt and the storage area is surfaced with recycled asphalt.

5. Adjacent Land Use and Zoning:

North – “R-5”, Use is Hillock Estates Mobile Home Park

South – “R1-60”, Use is undeveloped land.

East - “R-5”, Use is Hillock Estates Mobile Home Park.

West – “C-1”, Use is undeveloped land.

6. General Neighborhood/Area Land Uses: The subject property is located along Southridge Boulevard between the Highway 5/Highway 65 bypass and the Southridge Mall Regional Commercial Center.

7. Applicable Recognized Neighborhood(s): Easter Lake Area Neighborhood.

8. Relevant Zoning History: On August 11, 2003, the City Council approved Ordinance 14,265 to rezone a portion of the subject property from “R-5” Mobile Home Residential District to a Limited “C-2” District, with the following conditions:

A. The following uses of land and structures shall be prohibited upon the Property:

- i) Adult entertainment business.
 - ii) Vehicle sales and display, including but not limited to used car sales lot.
 - iii) Off premises advertising signs
 - iv) Taverns and nightclubs.
-

B. Any commercial business operated upon the property shall conform to the limitations on the permitted hours of operation applicable within the "C-1" Neighborhood Retail Commercial District.

C. Any portion of the Property devoted to miniwarehouse use shall conform to the following additional limitations:

- i) The hours of operation shall be limited to between 6:00 a.m. and 10:00 p.m.
- ii) Storage units facing Highway 69 shall have an exterior of masonry material with a neutral color tone.
- iii) No storage units shall have doors directly facing Highway 69.
- iv) The required gating and fencing fronting Highway 69 shall consist of wrought iron or tubular steel construction and shall be painted black or a neutral color tone, with masonry pillars to compliment the storage units.

On August 23, 2006, the Zoning Board of Adjustment granted a Special Permit for a temporary gravel-surfaced, off-street parking lot to allow use of an existing recycled asphalt surfaced area for off-street parking for a duration of no longer than eighteen (18) months, subject to the following conditions:

- A. The parking lot complies with a site plan that is reviewed and approval by the Permit and Development Center in accordance with all City requirements, including those related to landscaping and stormwater runoff.
- B. The parking lot is used only by tenants residing the Hillock Estates mobile home community.
- C. The property owner maintains a log of all vehicles and trailers stored within the parking lot, including information regarding the names and addresses of the people whom vehicles and trailers are registered under.
- D. The minimum required 20'-wide access drive and drive aisles are paved with an asphaltic or Portland cement binder pavement by March 1, 2008 (18 months).
- E. Compliance with all applicable city codes and issuance of all necessary permits by the Permit and Development Center.

On September 26, 2007, the Zoning Board of Adjustment amended that Special Permit and granted a Variance of 24 months over the maximum allowed 18 months for a Special Permit for unpaved parking to allow a 24-month extension of use of an existing area recycled asphalt area for off-street parking accessed by a gravel-surfaced driveway, subject to the following conditions:

- A. The site is monitored by City staff every 6 months to identify and determine areas of the site which are suitable for paving.
- B. Areas determined to be suitable for paving shall be paved within a reasonable time frame.
- C. The entire area shall be paved by March 31, 2010

9. 2020 Community Character Land Use Plan Designation: Commercial: Auto-Oriented, Small-Scale Strip Development.

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. 2020 Community Character Plan: The proposed rezoning to a Limited "M-1" Light Industrial District is not compatible with the 2020 Community Character Plan's future land use designation of Commercial: Auto-Oriented Small-Scale Strip Development. Staff does not believe that the General industrial designation to allow an outdoor storage lot is appropriate at this site given it's highly visible location along Southridge Boulevard, which functions as a gateway to the City of Des Moines. It is anticipated that any future update to the City's Land Use Plan would designate this corridor as a gateway corridor.

Staff believes that industrial uses, such as surface storage lots, should be focused in areas away from this significant corridor. Given the change in grade between the site and Southridge Boulevard, screening the site with landscaping or fencing material would do little to minimize the visual impact of the storage lot. Furthermore, the impact of the existing storage area would be increased if the site were rezoned and permitted to be used by people other than residents of the mobile home park.

- 2. **Site Plan Requirements:** The site is currently developed in accordance with a Site Plan (10-07-7.69) for a storage lot and limited to use by residents of the adjacent Hillock Estates Mobile Home Park only. The approved Site Plan includes a single drive aisle through site with storage on both sides. The drive aisle is paved with hot mix asphalt and the storage area is surfaced with recycled asphalt. Any storage use on the site must be in compliance with this Site Plan or in compliance with an amended Site Plan as reviewed and approved by the City's Permit and Development Center.
- 3. **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.
- 4. **Enforcement Comments:** There is a history of zoning violations since 2006 on the subject property. This includes the current violation that the storage lot is being used to store recreational vehicles owned by non-residents of the adjoining Hillock Estates Mobile Home Park.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Jim Nervig with Brick Gentry Law, 6701 Westown Parkway, Ste. 100, West Des Moines representing F&J Mobile Home. The applicant believes that a comprehensive plan amendment is not needed for this project. They already have the ability to park recreational vehicles for the people in their land lease community. They are asking for the ability to allow parking of recreational vehicles from owners throughout the metropolitan area on the lot. There is a need for other owners to have somewhere other than in front of their homes, driveway, and garages that are not big enough. They have met with the surrounding neighbors and they do not seem opposed to what the applicant wants to do. In a meeting with staff the applicant proposed to comply with five conditions:

- 1) While they are asking for a rezoning from C-2 to M-1 it is such a limited condition rezoning that the only M-1 use they are asking for in addition to what they are already allowed under the C-2 is the ability to park recreational vehicles on the site for people who live outside of the mobile home park.
- 2) They are proposing a 20 ft wide landscape area along Southridge Boulevard. They went to IDOT to ask approval to put their landscaping outside the fence as to screen the fence which from the visual impact is critical. DOT is supportive. They are proposing four overstory street trees, eight evergreen trees per 100 lineal feet.
- 3) They are prohibiting signage. There will be no signage as to clutter the visual impact.
- 4) All vehicles on the premises will be licensed and operative vehicles.

5) All vehicles stored on the premises shall be arranged in an orderly manner along paved drive aisle.

Vic Piagentini, Associated Engineering Company of Iowa 2917 Martin Luther King Jr. Parkway stated after meeting with staff the applicant concluded that buffer plantings in the right-a-way was the best solution for making it look good. It screens the fence so the barbed wire is not seen. There are four overstory and eight evergreen trees for every 100 linear feet. Some of the evergreens are already in place.

Mike Simonson asked for the description of the grade from the highway to the site.

Vic Piagentini stated that the roadway is approximately 6 feet higher than the middle of the parking area.

CJ Stephens asked the size and type of evergreens and overstory trees that they are planting because this could be a long time before a screen is functional.

Vic Piagentini stated that he was not sure. He believes that it is up to the owner.

CJ Stephens stated that because this is a public right-a-way she is aware there are specifications from the DNR and from the Municipal Arborist in the City regarding species and this is not one of them. She would prefer consultation when the recommendation of the size and type of trees are discussed.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

The following spoke in opposition of the applicant's request.

Jim Bollard 4007 SE 26th Street stated that he is neither for nor against. His comments are the concerns from before the zoning enforcement. The applicant is already using the property for the requested use. Any site improvements that they make would be good. He asked about the required gating being tubular steel or wrought iron. He questioned what tubular steel meant. If the use could be limited to what is already there with site improvements, as a neighborhood there is no issue with that. The bigger issue is if there is a new owner and there is something different they want to do with the land than what this owner wants to do. Therefore, subject to limitations with this zoning the neighborhood would not be opposed.

Rebuttal

Jim Nervig reiterated that given the unusual configuration and size of this land the applicant's request is the only beneficial use to be made of this property and they believe that they are doing everything that they reasonably can in the way of agreeing to conditions and landscaping to minimize the use. He pointed out that they are not required to put any landscaping in right now if the site is just restricted to residential recreational vehicles of the land lease community residents. The question to think about is whether it is better visually for people passing by on the roadway to see the site with the landscaping

and conditions that they are proposing than it would be to take away some of the vehicles of the non-resident and still see all of the vehicles of the resident on the same site.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Erik Lundy showed photos to get a better sense of the grade. In addition, to the proposed conditions if the Commission is looking to rule in favor of the applicant's request they may consider bringing forward the previous conditions that are on the property currently, just in case if some point in the future they do make the assumption that they can go back to "C-2" usage. The tubular steel was in regard to the miniwarehouse use proposed at that time.

Christine Pardee asked who would be required to maintain the trees.

Erik Lundy stated that it is in a State right-of-way and might have to be determined when permission is given from the State.

Tim Fitzgerald stated when he heard the landscaping is up to owner's discretion it made him shudder a little bit because of the way it looks now.

CJ Stephens asked how many additional spaces is the applicant talking about.

Erik Lundy stated that he was not sure if there is any specific number of spaces. The idea was that it would be in an orderly fashion.

Tim Fitzgerald asked why is this request before the Commission and not before the Zoning Board of Adjustment.

Erik Lundy stated that it is a use that would require "M-1" Zoning. If they are denied the rezoning then they do have standing to request a use variance from the Board of Adjustment.

Mike Ludwig stated the storage of vehicles for the residence of the park is accessory to the land lease community use. By opening it up to storage vehicles from outside of the park it then becomes an outdoor storage area which requires "M-1" zoning.

Ted Irvine asked if there was anything they could do relative to taking away the zoning if the ownership changes.

Mike Ludwig stated the closest they could come to limiting it to this owner would be exclude all the other remaining uses under the proposed zoning. However, the applicant would have to agree in writing to those types of limitations. Staff still believes that a comprehensive plan amendment is required because this is outdoor storage.

COMMISSION ACTION:

JoAnne Corigliano moved staff recommendation Part A) to find the requested rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

Motion passed 10-0.


JoAnne Corigliano moved staff recommendation Part B) to deny the requested future land use amendment to General Industrial.

Motion passed 8-2 (Greg Jones and Ted Irvine voted in opposition)

JoAnne Corigliano moved staff recommendation Part C) to deny the requested rezoning to a Limited "M-1" District based on a finding that it is the intent of the Des Moines' 2020 Community Character Plan to preserve the highly visible Southridge Boulevard corridor for commercial and residential uses rather than the proposed industrial use.

Motion passed 8-2 (Greg Jones and Ted Irvine voted in opposition)

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Item ZON2011-00240 Date 1-26-12 46

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

RECEIVED
COMMUNITY DEVELOPMENT Print Name George Jordan

JAN 30 2012 Signature George Jordan

DEPARTMENT Address 6901 S.E. 14 W.M. P.O. 50320

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

good use of property

SUBJECT PROPERTY
AND ADJOINING PROPERTY

Item ZON2011-00240 Date 1/30/11

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT Print Name Richard Quigley

Signature Rich Quigley

FEB 02 2012 Address 7250 Bloomfield Rd. Des Moines, Ia. 50320

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

Item ZON2011-00240 Date 1-29-12

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

RECEIVED
COMMUNITY DEVELOPMENT Print Name KAROLYN MACHIA

FEB 04 2012 Signature Karolyn H. Machia

DEPARTMENT Address 7230 Bloomfield Rd - 50320

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

