

Date August 27, 2012

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 July 19, 2012, the members voted 11-2 to recommend **DENIAL** of a request from Timber Creek Homes, LLC (owner) represented by John Walker (officer) to amend Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Low/Medium Density Residential.

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 denied.

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

FORM APPROVED:



Michael F. Kelley  
Assistant City Attorney

(21-2012-4.08)

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 \_\_\_\_\_

Agenda Item 40 A

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

July 26, 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 July 19, 2012, the following action was taken regarding a request from Timber Creek Homes, LLC (owner) represented by John Walker (officer) to rezone property located at 2007 East 33<sup>rd</sup> Street.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-2 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			
Ted Irvine	X			
Greg Jones		X		
William Page	X			
Christine Pardee	X			
Mike Simonson		X		
CJ Stephens	X			
Vicki Stogdill	X			

**APPROVAL** of a motion regarding Part A) to find the proposed rezoning not in conformance with the current Des Moines' 2020 Community Character Plan; Part B) denial of the request to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Low/Medium Density Residential; and Part C) denial of the requested rezoning from "R1-60" One-Family Low-Density Residential District to "R-2" Two-Family Residential District, to allow for development of the property for two-family dwelling. (ZON2012-00114 & 21-2012-4.08)

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

Part A) Staff recommends that the proposed rezoning be found not in conformance with the current Des Moines' 2020 Community Character Plan.

Part B) Staff recommends denial of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Low/Medium Density Residential.

Part C) Staff recommends denial of the requested rezoning.



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

## Written Responses

2 In Favor

3 In Opposition

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

**1. Purpose of Request:** The applicant is proposing to develop the vacant property with a two-family dwelling. A development concept was submitted that proposes a two-story building with a shared front center portico providing access to separate stoop front entrances facing East 33rd Street. Each unit is proposed to have a separate driveway directly in front of the unit.

**2. Size of Site:** 62-foot wide by 140-foot depth (8,750 square feet).

**3. Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.

**4. Existing Land Use (site):** Vacant land.

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

North – "R1-60", Use is a one-story two-family dwelling.

South – "R1-60", Use is a split-foyer two-family dwelling.

East – "R1-60", Use is the Mid-Eastern Council on Chemical Abuse (MECCA) out-patient chemical abuse treatment clinic.

West – "R1-60", Uses are single-family dwellings.

**6. General Neighborhood/Area Land Uses:** The subject property is located at the southeast corner of the intersection of Easton Boulevard and East 33rd Street, on parcel south of the corner parcel. The property is located in a predominantly low-density residential neighborhood.

**7. Applicable Recognized Neighborhood(s):** The subject property is located in the Gray's Woods Neighborhood and is within 250 feet of both the ACCENT Neighborhood and the Sheridan Gardens Neighborhood. These neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on June 29, 2012. Additionally, separate notifications of the hearing for this specific item were mailed on June 29, 2012 (20 days prior) and July 9, 2012 (10 days prior to the scheduled hearing). A Final Agenda was mailed to the neighborhood associations on July 13, 2012.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Grays Woods Neighborhood Association mailings were sent to Karen Shoopman at 3804 Indianapolis Avenue. The ACCENT Neighborhood mailings were sent to Marian Wynn at 2413 Elizabeth Avenue. The Sheridan Gardens Neighborhood mailings were sent to Christine Larson at 2721 East 39th Street. The applicant has scheduled a neighborhood meeting on-site for Wednesday, July 18, 2012. The applicant will present a summary of the neighborhood meeting to the Commission on July 19, 2012.

**8. Relevant Zoning History:** N/A.

**9. 2020 Community Character Land Use Plan Designation:** Low Density Residential.

**10. 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.

Should the applicant be denied rezoning by the City Council, they may submit an appeal to the Board of Adjustment for a Use Variance to allow the proposed use under provisions in Sec. 134-64(2). This would require the owner to demonstrate unique circumstances have created an unnecessary hardship by not allowing the property to be used for other than uses permitted in the "R1-60" District. However, the rezoning be granted, or following its denial a Use Variance be granted, to allow a two-family dwelling use on the property; then additional zoning relief will also be necessary from the Board of Adjustment regarding lot width and if a Use Variance regarding lot area.

## **II. ADDITIONAL APPLICABLE INFORMATION**

**1. Natural Site Features:** The subject property is vacant property. There is a significant number of mature trees on the northern and eastern portion of the property. Given an existing platted lot of this size, development of a two-family dwelling would not require any mitigation under the City's Tree Preservation Ordinance for trees that would be removed. The eastern third of the property which contains the trees also has a steep slope of approximately 25% gradient dropping toward the east. This slope will hinder the ability to develop detached accessory buildings within the rear yard area of any proposed two-family dwelling.

**2. Access/Parking:** Two-family dwellings are required to provide a minimum of one off-street parking space per unit to be located outside of the minimum front yard setback. In this instance, an existing paved drive approach is located off of East 8th Street. The proposed concept does not designate any off-street parking spaces outside of the calculated average, minimum required 34.5-foot front yard setback. The proposed layout shows two separate drive entrances extending 30 feet from the East 33rd Street to a point in the front of the proposed two-family dwelling. The proposed layout does indicate 10-foot side yard setbacks which would alternatively allow for drive entrances to be extended into the side yards to meet this requirement.

**3. 2020 Community Character Plan:** The Des Moines' 2020 Community Character Plan projects the area for Low Density residential including two-family units in existence before 1997. In addition the Gray's Woods Neighborhood Plan indicates that this area is to be reserved for future Low Density Residential development which by definition in the Des Moines' 2020 Community Character Plan is limited to single-family dwellings. The requested rezoning would require amendment to a Low/Medium Density Residential designation.

The property adjoining to the north and the two properties immediately adjoining to the south of the subject property are built-as two-family dwellings. The character of the proposed design concept and exterior materials would be compatible with the residential design elements of these existing two-family dwellings and other nearby single-family dwellings. However, staff believes that an amendment of the land use designation and rezoning would not be appropriate for the subject property given the remaining surrounding predominance of single-family dwellings in the immediate area. Additionally the property does not meet the lot area and lot width requirements under the current standards for two-family dwellings in the proposed "R-2" District.

## **SUMMARY OF DISCUSSION**

Erik Lundy presented the staff report and recommendation.

Greg Jones asked if the duplexes to the south are on 62 foot wide lots.

Erik Lundy stated yes they are and might be a little larger.

Greg Jones stated the duplexes where built in the 60's when most of the City was "R-2". So did this lot get down zoned at some point?

Erik Lundy stated the property was rezoned in 1996. When most of the city was "R-2" they rezoned it to "R1-60".

John Walker 4975 Andrews Place, Pleasant Hill, IA stated he agrees with staff regarding difficulty of building on that lot. However, he has a plan. His plan is to remove the dirt for foundation that would go into a wall along the northern side of the property. He believes that a driveway can now be put on the south side of the property instead of the front with the possibility of a garage in the future. It's a great lot and a great neighborhood. He believes that the duplexes are best use for the lot. Right now it is an eyesore. It is vacant and full of trash with people parking on the property. He is just trying to improve the neighborhood.

## **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:*

Karen Shoopman 3804 Indianapolis Avenue, Chair of the Grays Wood Neighborhood Association passed out a copy of her remarks for all the commissioners and one for the record (See attached). On July 9<sup>th</sup>, 2012 GWNA Board of Directors unanimously voted to oppose the request for Mr. John Walker to rezone property located at 2007 E. 33<sup>rd</sup> Street from "R1-60" to "R-2". The neighborhood association met with the applicant Wednesday, July 18, 2012 on site where the GWNA suggested the applicant build a single-family home instead of building a duplex. Mr. Walker stated that the lot is not large enough for single-family housing.

### **Rebuttal**

John Walker stated that he believes that he said a duplex will fit in this Neighborhood better then a single-family home. This is a great neighborhood except for the vacant lots

that are eyesores. They need structures or parks. He believes that this is the best use for this lot and it fits in with the neighborhood.

Jack Hilmes asked how long the lot has been vacant.

John Walker stated the lot has been vacant for years. Polk County Assessor shows that it has never had a structure on it.

Jack Hilmes asked have the applicant had a chance to talk to the owner at 2004 E. 33<sup>rd</sup> who has been there for 60 years.

John Walker stated that he believes the owner of 2004 E. 33<sup>rd</sup> was at the meeting Wednesday, July 18, 2012.

Jack Hilmes stated that the owner of 2004 E. 33<sup>rd</sup> comments on the response card that this lot was filled with concrete, asphalt and other waste materials on it. Is it true that this is a fill lot with concrete, asphalt and other waste materials on it?

John Walker stated that the lot has less than the other lots next to it. It is full in the back but the fill has been there for a long time.

John Hilmes stated on Google Earth it currently looks like the property is getting used as a parking lot.

John Walker stated that is the way it looks and he will have those cars removed. He does want his property to be an eyesore.

John Hilmes stated that there is some concern about the intersection with turn lanes. Have you addressed that in the neighborhood meeting?

John Walker stated that wasn't brought up in the meeting. However, on the site plan the driveway would be in back and have a place to turn around.

CJ Stephens asked does he plan to live in the building or is his plan to be an absentee landlord?

John Walker stated that he would be an absentee landlord. However, he is absentee landlord with all his other rentals in the metro area.

Tim Fitzgerald asked if the applicant had considered building a single-family home for rental purposes.

John Walker stated that he did run the numbers but could not get it to work out. He believes that not even the sale of a single-family property would work. The viable use is a duplex.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**


### **COMMISSION ACTION:**

Christine Pardee moved staff recommendation Part A) to find the proposed rezoning **not** in conformance with the current Des Moines' 2020 Community Character Plan, Part B) denial

of the request to amend the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Low/Medium Density Residential, and Part C) the denial of the requested rezoning.

Motion passed 11-2 (Greg Jones and Mike Simonson voted in opposition)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig". The signature is stylized and cursive.

Michael Ludwig, AICP  
Planning Administrator

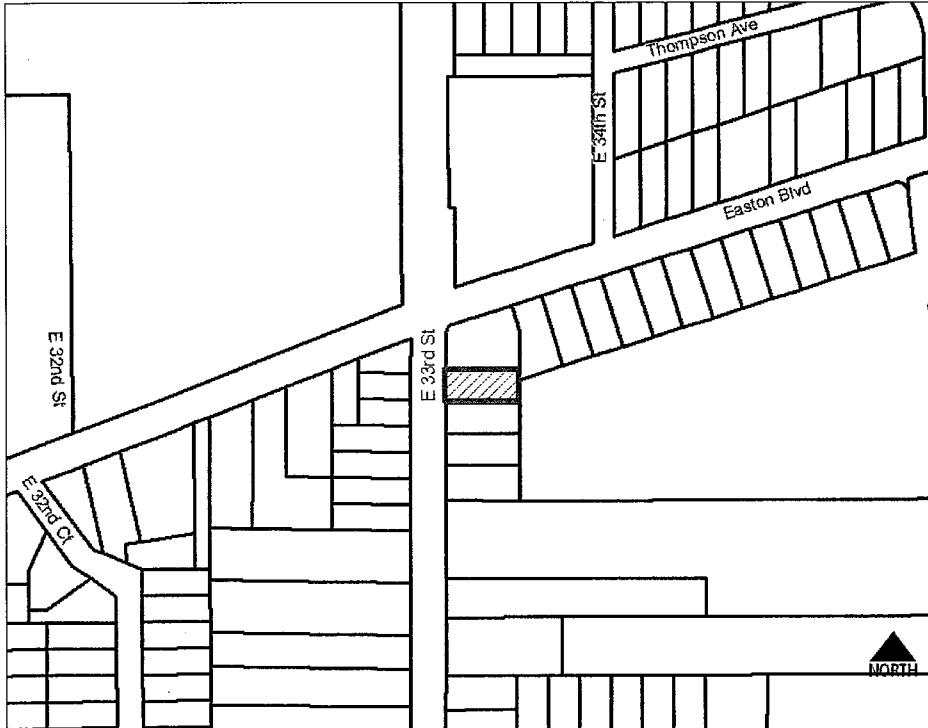
MGL:clw

Attachment

Request from Timber Creek Homes, LLC (owner) represented by John Walker (officer) to rezone property located at 2007 East 33 <sup>rd</sup> Street:			File #		
			ZON2012-00114		
<b>Description of Action</b>	Review and approval to rezone from "R1-60" One-Family Low-Density Residential District to "R-2" Two-Family Residential District, to allow for development of the property for two-family dwelling.				
<b>2020 Community Character Plan</b>	Low-Density Residential				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District				
<b>Proposed Zoning District</b>	"R-2" Two-Family Residential District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2	2			
Outside Area		1			
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	11-2		No	

Timber Creek Homes LLC - 2007 East 33rd Street

ZON2012-00114





Item 2012 00114

Date July 11, 2012

I (am) **RECEIVED** for of the request

COMMUNITY DEVELOPMENT

JUL 16 2012

DEPARTMENT

Print Name KARL KEMP

Signature Karl Kemp

Address 1915 E 33rd St.

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

1. we need Less Rentals, NOT MORE
2. This lot is to close To The Intersection For more Drive ways
3. NOT ENOUGH OFF-STREET PARKING
4. This lot is currently used as a Parking lot

Item 2012 00114

Date 7-12-2012

I (am) **RECEIVED** for of the request

COMMUNITY DEVELOPMENT

JUL 16 2012

DEPARTMENT

Print Name WALTER Mettler

Signature Walt Mettler

Address 2004 E 33 St

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

The land is to <sup>Narrow - 80ft anything</sup> small to put ~~anything~~ ON IT  
 It was filled in with concrete and Blacktop  
 waste and junk in early 60s. I lived here  
 for 60 yrs. Saw all kinds of trouble from the  
 other 2 apt buildings there. Drug-Gang fights -  
 knife fights. Check on police calls there - "manys"

Item 2012 00114

Date 7/11/2012

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

RECEIVED  
COMMUNITY DEVELOPMENT

JUL 19 2012

Print Name Ashley Wilson

Signature *Ashley Wilson*

Address 907 34th St SW Bendungan 1A

Reason for opposing or approving this request may be listed below: 50035

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item 2012 00114

Date JULY 12, 2012

RECEIVED  
COMMUNITY DEVELOPMENT

JUL 16 2012

DEPARTMENT

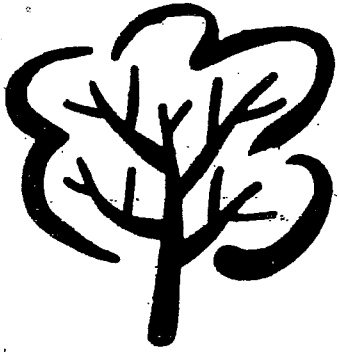
ST. JOSEPH CHURCH by  
Print Name BILL KONNATH, BUS. MGR.

Signature Bill Konnath, Bus. Mgr.

Address 3300 EASTON BLVD.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**GWNA** All American Neighborhood™

**Gray's Woods Neighborhood Association**

**Remarks by  
Karen A. Shoopman  
before the  
Plan and Zoning Commission  
hearing on  
July 19, 2012**

Good evening Chairman Flaherty and Commissioner members.

My name is Karen Shoopman, 3804 Indianapolis Avenue, Des Moines, Iowa. I am Chair of the Gray's Woods Neighborhood Association (GWNA). I have been involved with the association for 13 years.

On July 9, 2012 the GWNA Board of Directors unanimously voted to oppose the request from Mr. John Walker, President of Timber Creek Homes in Pleasant Hill, Iowa, to rezone property located at 2007 E. 33<sup>rd</sup> Street from "R1-60" One-Family Low-Density Residential District to "R-2" Two-Family Residential District to allow for the development of a duplex.

In addition, GWNA opposes amending the Des Moines 2020 Community Character Plan future land use designation from Low-Density Residential to Low-Medium Density Residential.

GWNA was formed in 1996. As you know, the Des Moines City Council, Polk County Board of Supervisors, Neighborhood Revitalization Board and the Plan and Zoning Commission approved our Neighborhood Action Plan on March 1, 1999. The residents of Gray's Woods worked diligently with Des Moines City Staff to create our neighborhood plan. Our plan calls for low-density, owner occupied single family homes, built on larger lots compatible with and sensitive to the surrounding neighborhood.

The plan also discourages the conversion of single family homes to duplex or multi-family housing. There is a high concentration of duplexes in our neighborhood. Over the years, the 45 duplexes in Gray's Woods have not proven to enhance the integrity of the neighborhood.

As a matter of fact, in the fall of 2011 the City of Des Moines demolished two duplexes. They were located in the vicinity of E. 33<sup>rd</sup> Street and Kinsey Avenue. Both were within one-quarter mile of this proposed rezoning. The lot on Kinsey Avenue will have a single family home built on it. The lot on E. 33<sup>rd</sup> Street was purchased and will remain vacant.

GWNA  
Plan and Zoning Commission  
RE: 2007 E. 33<sup>rd</sup> Street

July 19, 2012  
Page two

I received a note from Mr. Walker on Friday, July 13<sup>th</sup> stating he would be available to discuss this matter and answer questions in person at the site on Wednesday, July 18<sup>th</sup> at 5:30 p.m.

We appreciated the opportunity to meet with him on site yesterday to discuss the property he purchased approximate three weeks ago. We suggested he build a single family home on the property. However, we do not understand his statement that the lot is not large enough for single family housing.

We would hope that when Mr. Walker applied for rezoning City Staff supplied him with a copy of our neighborhood plan. It was unclear to us if he read the plan. We are more than happy to supply him with a copy.

We are sorry Mr. Walker purchased the property with the thoughts of building a duplex. However, if he had done due diligence he would have known it is zoned for single family housing.

To conclude, the Gray's Woods Neighborhood Association opposes rezoning the property located at 2007 E. 33<sup>rd</sup> Street from "R1-60" One-Family Low-Density Residential to "R-2" Two-Family Residential District to allow for development of property for a duplex.

Thank you for your time.

Timber Creek Homes LLC - 2007 East 33rd Street

ZON2012-00114

