



Date March 11, 2013

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on February 28, 2013, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Anthony Holt (owner), additional subject property is owned by Roll-Offs of Des Moines, Inc., Gary Eilbert Auto Body, Inc., and Charles Gary Eilbert to rezone property located in the vicinity of 20 East 18th Street from M-1 Light Industrial District to Limited M-2 Heavy Industrial District, to allow use of a portion of the property for a conditional use for the outdoor storage of inoperable construction equipment subject to the following conditions:

1. Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the M-1 District.
 - b. Storage of inoperable machinery in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
2. Any area used for outdoor storage of inoperable machinery shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.

The subject property is more specifically described as follows:

Lots 1 through 8 and Lots 15 through 22, Block 1, I.N. Thomas Sub Division, an Official Plat, and the vacated East-West alley lying North and adjoining Lots 17 through 22, Block 1, I.N. Thomas Sub Division 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 March 25, 2013, at which time the City Council will hear both those who oppose and those who favor the proposal.



Roll Call Number

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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.

FORM APPROVED:

MOVED by _____ to adopt.

Michael F. Kelley
Assistant City Attorney

(ZON2013-00005)

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.

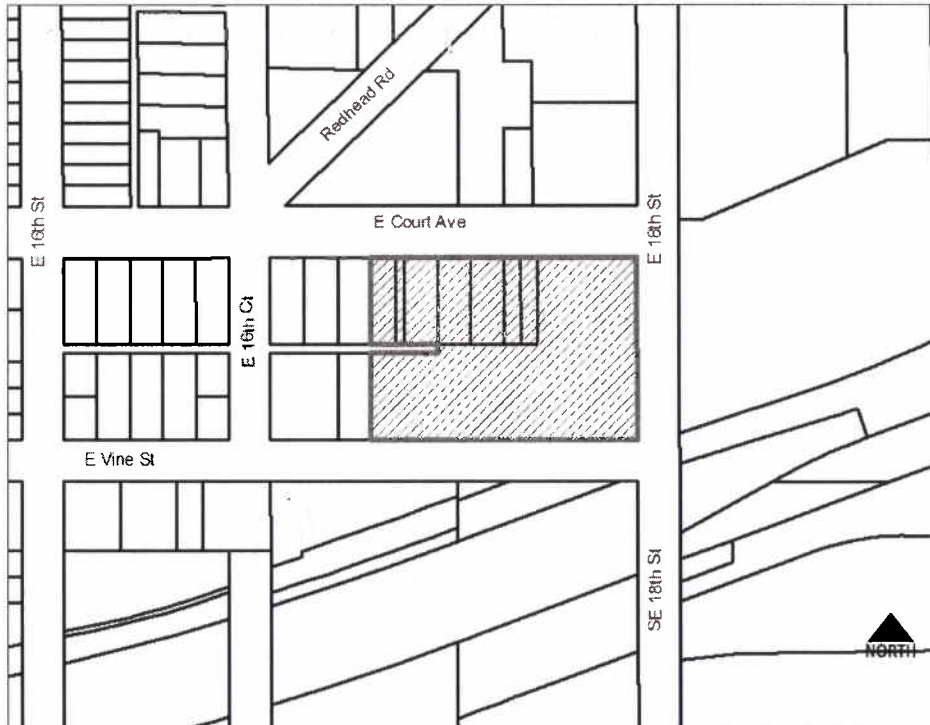
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

Request from Anthony Holt (owner) to rezone property located in the vicinity of 20 East 18 th Street. Additional subject property is owned by Roll-Offs of Des Moines, Inc., Gary Eilbert Auto Body, Inc., and Charles Gary Eilbert.				File # ZON2013-00005	
Description of Action	Approval to rezone from "M-1" Light Industrial District to "M-2" Heavy Industrial District, to allow use of a portion of the property for a conditional use for the outdoor storage of inoperable construction equipment subject to conditions.				
2020 Community Character Plan	Low-Density Residential				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	"M-1" Light Industrial District				
Proposed Zoning District	"M-2" Heavy Industrial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1	3			
Outside Area					
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes	X
	Denial			No	

Anthony Holt - 20 East 18th Street

ZON2013-00005



Date March 11, 2013

Agenda Item 21

Roll Call # _____

March 5, 2013

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 February 28, 2013, the following action was taken regarding a request from Anthony Holt (owner) to rezone property located in the vicinity of 20 East 18th Street. Additional subject property is owned by Roll-Offs of Des Moines, Inc., Gary Eilbert Auto Body, Inc., and Charles Gary Eilbert.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles				X
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			
Greg Wattier				X

APPROVAL of Part A) to find the proposed rezoning is **not** in conformance with the current Des Moines' 2020 Community Character Plan future land use designation of Low Density Residential; approval of Part B) to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation for the western portion of the site from Low Density Residential to General Industrial; and Part C) to approve the rezoning from "M-1" Light Industrial District to "M-2" Heavy Industrial District subject to the following conditions: (ZON2013-00005 & 21-2013-4.01)

1. Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the "M-1" District.
 - b. Storage of inoperable machinery in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.



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

2. Any area used for outdoor storage of inoperable machinery shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the rezoning be found not in conformance with the current Des Moines' 2020 Community Character Plan future land use designation of Low Density Residential.

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation for the western portion of the site from Low Density Residential to General Industrial.

Part C) Staff recommends approval of the rezoning from "M-1" Light Industrial District to "M-2" Heavy Industrial District, subject to the following conditions:

1. Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the "M-1" District.
 - b. Storage of inoperable machinery in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
2. Any area used for outdoor storage of inoperable machinery shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.

Written Responses

- 1 In Favor
- 3 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning to an "M-2" Heavy Industrial District would allow for outdoor storage of inoperable construction equipment. The property is currently operating as a display lot for forklifts and similar equipment available for sale. The site is currently being improved in accordance with an approved Site Plan for "Holt Warehouse and Storage Lot" under design guidelines for vehicle display lots.

The conceptual site sketch submitted with the rezoning application demonstrates that the outdoor storage of inoperable construction equipment would only occur within an area measuring 150 feet by 130 feet (19,500 square feet). The approved Site Plan indicates that this area will be completely surrounded by a 6-foot tall screen and will be surfaced with a recycled asphalt product. This area is setback 100 feet from the east front property line along East 18th Street and 180 feet from the north front property line along East Court Avenue.

2. If rezoned to "M-2" Heavy Industrial District, any future use of the property for outdoor storage of inoperable construction equipment must be in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
3. **Size of Site:** 4.04 acres.
4. **Existing Zoning (site):** "M-1" Light Industrial District.
5. **Existing Land Use (site):** Vehicle display lot for forklifts and similar equipment for sale, contractor's storage yard, automotive repair, and a single-family dwelling.

6. Adjacent Land Use and Zoning:

North – "M-1"; Uses include East Court Avenue and a warehouse use.

South - "M-1"; Uses include a railroad and a grain elevator.

East - "M-1"; Uses include Southeast 18th Street and a warehouse use.

West - "M-1"; Use is a single-family dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located in an industrial area along East 18th Street in the vicinity of multiple east/west railroad lines.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Capitol East Neighborhood. The neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on February 1, 2013. A Final Agenda was mailed to the neighborhood associations on February 15, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on February 1, 2013 (20 days prior) and February 11, 2013 (10 days prior to the scheduled hearing) to the Capitol East Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Capitol East Neighborhood Association mailings were sent to Peggy Ingram, 1441 Capitol Ave, #10, Des Moines, IA 50316.

The applicant held a neighborhood meeting on February 13, 2013. When staff contacted the applicant on February 14, 2013, they indicated that no neighbors attended the neighborhood meeting.

8. **Relevant Zoning History:** On June 21, 2012, the Plan & Zoning Commission approved a Site Plan for "Holt Warehouse and Storage Lot" under design guidelines for vehicle display lots to allow display of forklifts and similar equipment for sale in addition to use for a contractor equipment storage yard.

9. **2020 Community Character Land Use Plan Designation:** General Industrial and 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.

II. ADDITIONAL APPLICABLE INFORMATION

1. **2020 Community Character Plan:** The 2020 Community Character Plan land use map currently designates the eastern portion of the site along East 18th Street as General Industrial and the balance of the site as Low Density Residential. Therefore, the proposed rezoning requires the area designated as Low Density Residential to be amended to General Industrial. Staff believes the request to amend the existing future land use designation from Low Density Residential to General Industrial would be appropriate so long as permitted uses upon the property are limited to those as permitted in the "M-1" District and the storage of inoperable machinery. The existing single-family residential use could remain until such time that it is removed or destroyed by more than 60%.
2. **Site Plan Requirement:** The site is currently being improved in accordance with an approved Site Plan for "Holt Warehouse and Storage Lot" under design guidelines for vehicle display lots. The approved Site Plan must be amended to identify areas where outside storage of inoperable machinery would occur.
3. **Conditional Use Permit Requirements:** In accordance with City Code Section 134-1122(5), any future use of the property for outdoor storage of inoperable vehicles must be in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment. In its determination, the Board shall consider all of the following:
 - a. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;
 - b. Such use shall not impair an adequate supply of light and air to surrounding property;
 - c. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
 - d. Such use shall not diminish or impair established property values in adjoining or surrounding property;
 - e. Such use shall be in accord with the intent, purpose and spirit of this chapter and the comprehensive plan;
 - f. All driveways, parking lots and areas used for temporary storage of vehicles 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.
 - g. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and

color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.

- h. Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.
- i. The dismantling or repair of vehicles shall occur only upon a impermeable surface with adequate provision for the collection and disposal of fluids and wastes.
- j. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.
- k. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.

SUMMARY OF DISCUSSION

Bert Drost presented the report and staff recommendation. Staff received over 20% opposition therefore this proposal will require a 6/7th vote from the City Council.

Tony Holt 20 E. 18th Street stated that they have attended a couple of neighborhood meetings. He was not able to reach their neighbor across the street from their property, Mr. Colosimo who is in opposition. Inoperable equipment would be stored behind the 6 ft. fence and be a considerable distance from the street. They have a salvage yard at their Pleasant Hill location. Therefore, they will not be using this proposed site for salvage.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

Gary Eilbert 1657 E. Court stated he has the auto body shop near the proposed rezoning. He is in favor of the rezoning and would like to see it go through.

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

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

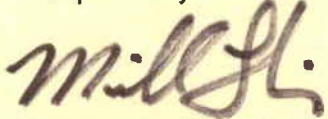
Tim Fitzgerald moved to approve Part A) to find the proposed rezoning is **not** in conformance with the current Des Moines' 2020 Community Character Plan future land use designation of Low Density Residential; to approve Part B) to amend the current Des Moines' 2020 Community Character Plan to revise the future land use designation for the western portion of the site from Low Density Residential to General Industrial and Part C) to approve the rezoning from "M-1" Light Industrial District to "M-2" Heavy Industrial District subject to the following conditions:

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 - b. Storage of inoperable machinery in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.

2. Any area used for outdoor storage of inoperable machinery shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.

Motion passed 12-0.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "m. ludwig".

Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

February 17, 2013

Capitol East Neighborhood Association
c/o Lia Ruth Miller, Acting Chair
245 East 15th Street
Des Moines, Iowa 50316-3909

City of Des Moines
Zoning and Planning Board

Re: *Roll-Offs of Des Moines/Available Material Handling*
20 East 18th Street

We, *Capitol East Neighborhood Association*, are writing in support of the request by Tony Holt of *Roll-offs of Des Moines/Available Material Handling* to change their zoning to M2 and to improve their business site.

They have removed two houses and paved the lots, in doing so; they have improved the look of their business site and their neighborhood area. They have partially fenced this area. They plan to build a new building and to pave more area to store equipment. They plan to complete fencing the property. We look forward to the completion of their efforts.

Thank you for your time and consideration.

Lia Miller, Acting Chair
Capitol East Neighborhood Association



Copy, Print, Forward with Thunderbolt

Letter of support for Roll-Offs of Des Moines

LiaRuth Miller <lia_miller@q.com>

Thu, Feb 21, 2013 at 8:48 AM

To: Eric Lundy <emlundy@dmgov.org>

Cc: Tony Holt <tony.holt@sterlinged.org>, Nadine Hogate <nhogate@juno.com>, Peggy Ingram <peggyann2519@yahoo.com>

Eric Lundy,
Capitol East Neighborhood is supporting Roll-Offs of Des Moines in their endeavors. Please see the attached letter of support.
Thank you for your time.

Lia Ruth Miller
Capitol East Neighborhood Association

--

LiaRuth Miller



ROLL OFFS OF Des Moines.doc
23K

February 18, 2013

In regards to the rezoning of the property located in the vicinity of 20 East 18th Street from M-1 to M-2 (ZON2013-00005), I would not be in favor of this request.

It is my understanding that the M-2 zoning is being requested so that the property could be used for inoperable construction equipment. To me that sounds like a salvage yard, which brings no value to the community.

Sincerely,

Tyler Carson
Tyler Carson

Nichols Controls & Supply, LLC

1721 Dean Ave-P.O. Box 1437- Des Moines IA 50305



Tyler Carson
Store Manager

Store : (515) 564-0437
(800) 369-2456
Fax : (515) 564-0464

E-Mail: TYLER@NICHOLSCONTROLS.COM

Item ZON2013-00005 Date _____ 21

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

(Circle One)



Print Name Scott Sargent

Signature Scott Sargent

Address 1639 E Court Ave Des Moines IA

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

It is my understanding that in the proposed zoning almost
any business may be allowed after obtaining a CUP.
I feel this may offer too much latitude that could
adversely affect my property value even more
than it already has.

Item ZON2013-00005 Date _____

21

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

(Circle One)



Print Name C+C Realty LLC

Signature _____

Address 205 EAST 18th ST.

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

SEE ATTACHED LETTER —

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February 15, 2013



We oppose the rezone of this request for the following reasons.

The location of the property is adjacent to residential property and located in the Agri Park Enterprise Zone six blocks from the State Capital. By allowing this to be rezoned from M1 to M2 to storage inoperable construction equipment this would basically be a salvage yard. You the city have been taking actions to clean up all the salvage yards in the area so why would you allow another salvage yard. Currently the owner requesting this in a since has as salvage yard on the property which to us does not meet zoning. A few years back the city rezoned all this area from M2 to M1 to stop this type of business in the area if you choose to grant this property owner the rezone the city needs to grant everyone in the area back to M2.

Sincerely,

Charles A. Colosimo Sr.

Charles A. Colosimo Sr.

RECEIVED
COMMUNITY DEVELOPMENT
FEB 15 2013
DEPARTMENT

P.S. PLEASE CALL IF YOU HAVE ANY QUESTIONS.



Dry / Cold Storage
Processing
Fulfillment
Development

Charles A. Colosimo Sr.

15 East 18th Street
Des Moines, IA 50316

515-299-9311
Fax 515-299-9313
Call 515-299-9311

ZON2013-00005

Anthony Holt - 20 East 18th Street

