

Date March 25, 2013

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on March 7, 2013, its members voted 12-0 in support of a motion to recommend **DENIAL** of a request from PE, LLC (owner) represented by Phil Ebert (officer) to rezone property located at 1734 East University Avenue and 1213 East 17th Court to the M-1 Light Industrial District, and **APPROVAL** of a revised proposal to rezone the property to a Limited C-2 General Retail and Highway Oriented Commercial District, subject to owner agreeing to the following limitations:

1. Prohibit use of the property for adult business, taverns and nightclubs, liquor Stores, off-premises advertising signs, or delayed deposit services and pawn brokerages.
2. Any reuse of the property for a use not permitted in "C-1" shall require a Site Plan as approved by the Permit and Development Center that in conformance with current design guidelines and landscaping.

The subject property is more specifically described as follows:


(except beginning at the Southwest corner of Lot 18; thence East 125.03 feet to the Southeast corner of Lot 18; thence North 10.18 feet; thence Southwest 125.29 feet; thence South 2.05 feet to Point of Beginning) Lots 18, 19, and 20, Block 8, Stalford & Dixons Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Date March 25, 2013

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 April 8, 2013, at which time the City Council will hear both those who oppose and those who favor the proposal.
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

(ZON2013-00018)

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

March 13, 2013

Date _____

Agenda Item 21

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 March 7, 2013, the following action was taken regarding a request from PE, LLC (owner) represented by Phil Ebert (officer) to rezone property located at 1734 East University Avenue and 1213 East 17th Court. Additional subject property is owned by EP Co, LLC.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 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
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 existing Des Moines' 2020 Community Character Plan.

By separate motion Commissioners recommended 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

Commission Action:	Yes	Nays	Pass	Absent
Christine Pardee	X			
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

DENIAL of Part B) to approve the amendment of the Des Moines' 2020 Community Character Plan future land use designations from Low/Medium Density Residential to General Industrial, and **APPROVAL** of a revised proposal to amend the Des Moines' 2020 Community Character Plan future land use designations from Low/Medium Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Commercial; and

Part C) **DENIAL** of the request to rezone the property to the "M-1" District, and **APPROVAL** of a revised proposal to rezone the property to a Limited "C-2" District, subject to owner agreeing to the following limitations:

1. Prohibit use of the property for adult business, taverns and nightclubs, liquor Stores, off-premises advertising signs, or delayed deposit services and pawn brokerages.
2. Any reuse of the property for a use not permitted in "C-1" shall require a Site Plan as approved by the Permit and Development Center that in conformance with current design guidelines and landscaping.

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 request to amend the Des Moines' 2020 Community Character Plan future land use designations from Low/Medium Density Residential to General Industrial.

Staff recommends a revised proposal to amend the Des Moines' 2020 Community Character Plan future land use designations from Low/Medium Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Commercial.

Part C) Staff recommends denial of the request to rezone the property to the "M-1" District.

Staff recommends approval of a revised proposal to rezone the property to a Limited "C-2" District, subject to owner agreeing to the following limitations:

1. Prohibit use of the property for adult business, taverns and nightclubs, liquor Stores, off-premises advertising signs, or delayed deposit services and pawn brokerages.
2. Any reuse of the property for a use not permitted in "C-1" shall require a Site Plan as approved by the Permit and Development Center that in conformance with current design guidelines and landscaping.

Written Responses

1 In Favor

0 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to convert the use of the property from a retail shop to a custom retail cabinet and millwork shop, and a construction contractor business office with outdoor storage of contractor trailers and other equipment.
2. **Size of Site:** 14,716 square feet (0.34 acres).
3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District.
4. **Existing Land Use (site):** Vacant building that was most recently occupied with a retail use.
5. **Adjacent Land Use and Zoning:**
 - North* – "R-2A", Uses are single-family dwellings.
 - South* – "C-1", Use is vacant property.
 - East* – "C-1", Use is a custom cabinet and millwork shop. The Polk County Assessor lists it as an auto-repair shop.
 - West* – "C-1", Use is an auto-repair shop.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the East University Avenue Commercial Corridor. The area transitions to low density residential to the north and the south of the commercial corridor.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Martin Luther King, Jr. Park Neighborhood. This neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on February 15, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on February 15, 2013 (20 days prior) and February 25, 2013 (10 days prior to the scheduled hearing) to Martin Luther King Jr. Park Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on March 1, 2013.

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 Martin Luther King, Jr. Park Neighborhood Association mailings were sent to Curt Wagner, 1317 Hutton Street, Des Moines, IA, 50316.

The applicant is required to schedule a neighborhood meeting prior to the hearing which includes invitation to Martin Luther King Jr. Park Neighborhood contact and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. The applicant will provide a summary of the meeting at the public hearing.

8. **Relevant Zoning History:** The applicant owns the business directly to the east which carries a determination made by the Zoning Board of Adjustment on September 26, 2007 that a previously a legal non-conforming sign shop had been in continuous use so the property maintained legal nonconforming rights to uses as permitted in the "M-1" District. The applicant has indicated a desire to maintain a cabinet/millwork and sign shop use of that property.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented, Small-Scale Strip Commercial and Low/Medium 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. **Landscaping & Buffering:** The proposed occupancy of the site would be subject to a Site Plan in accordance with the landscaping standards for the "M-1" District if the requested rezoning is approved. Staff recommends that the request be revised to a "C-2" District, which would increase the planting requirements for landscaping.
2. **Access or Parking:** The City's traffic engineering staff have indicated that any Site Plan for the property would be subject to improving a non-conforming condition with regard to the spacing of drive approaches. Staff would recommend that there be only one driveway entrance from East 17th Court, with proper spacing from both East University Avenue and the existing residential driveway adjacent to the north.
3. **2020 Community Character Plan:** The "M-1" District designation requested by the applicant requires the Des Moines' 2020 Community Character Plan's future land use designation for the property to be amended to General Industrial. Staff believes that the scale of the developed site is within the neighborhood scale intended by the Commercial: Auto-Oriented, Small-Scale Strip Commercial designation, but not General Industrial.

Staff does not believe that the uses allowed by the General Industrial designation would be appropriate for the subject property, even if limited to the applicant's proposed use for outdoor contractor equipment storage. The immediate neighborhood is still fairly intact with commercial and residential use patterns.

Staff recommend that the Low/Medium Density Residential designated portion be amended to the Commercial: Auto-Oriented, Small-Scale Strip Commercial designation, which would allow for the site to be rezoned to a Limited "C-2" District, so long as the following uses are prohibited: adult business, taverns and nightclubs, liquor stores, off-premises advertising signs, delayed deposit services and pawn brokerages. Such a Limited "C-2" District would still allow for the proposed cabinet/millwork shop and contractors office uses but not outdoor contractor storage.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Greg Wattier asked for more clarification of where the trailers would be located.

Jason Van Essen stated the applicant could probably answer that question. Staff is recommending denial of "M-1" District. Instead staff is recommending rezoning to "C-2" District where outdoor storage is prohibited (including trailers).

Greg Wattier asked if the applicant would come back to staff showing a design of how they would screen the trailers outdoor would that be an option for approval.

Jason Van Essen stated no outdoor storage requires "M-1" Zoning. "M-1" Zoning is not consistent with the future vision of this area.

Phil Ebert 4235 NE 3rd Street stated he would like to utilize this building and put a spray shop in there to paint architecture woodwork. He has no intent of outdoor storage.

Dann Flaherty asked if the applicant wanted to withdraw his request and talk with staff about bringing it back under a different type of zoning.

Phil Ebert stated he would be willing to go with staff recommendation to rezone the property to a Limited "C-2" District.

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:

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

Motion Passed 12-0.

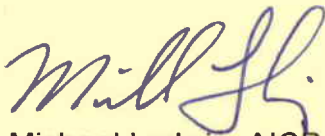
Christine Pardee moved staff recommendation Part B) to deny the request to amend the Des Moines' 2020 Community Character Plan future land use designations from Low/Medium Density Residential to General Industrial, and approve a revised proposal to amend the Des Moines' 2020 Community Character Plan future land use designations from Low/Medium Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Commercial; and Part C) to deny of the request to rezone the property to the "M-1" District,

and **approve** a revised proposal to rezone the property to a Limited "C-2" District, subject to owner agreeing to the following limitations:

1. Prohibit use of the property for adult business, taverns and nightclubs, liquor Stores, off-premises advertising signs, or delayed deposit services and pawn brokerages.
2. Any reuse of the property for a use not permitted in "C-1" shall require a Site Plan as approved by the Permit and Development Center that in conformance with current design guidelines and landscaping.

Motion passed 12-0.

Respectfully submitted,



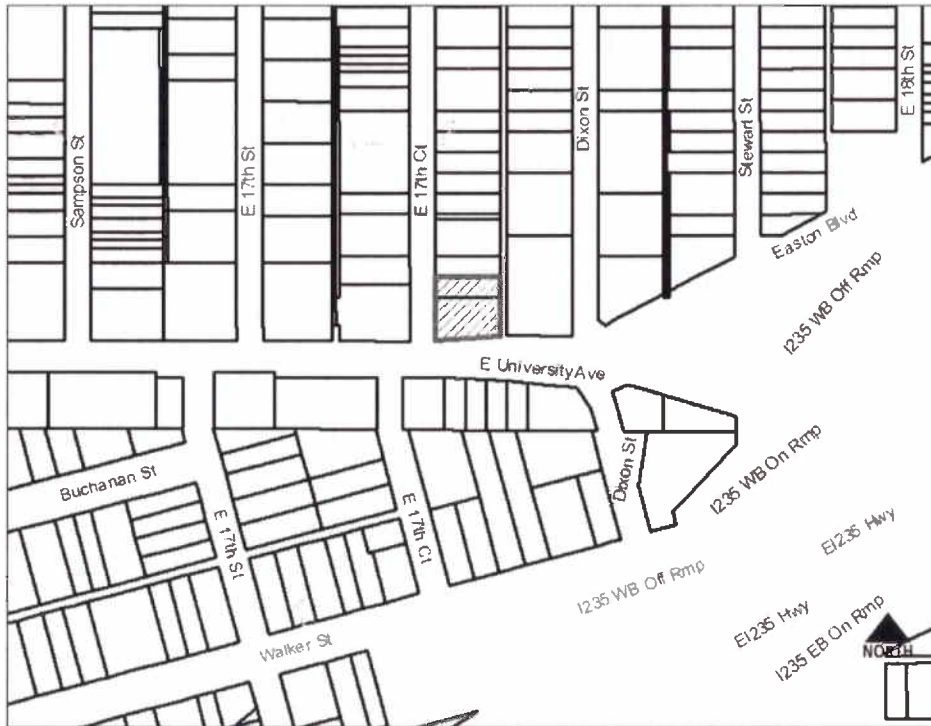
Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Request from PE, LLC (owner) represented by Phil Ebert (officer) to rezone property located at 1734 East University Avenue and 1213 East 17 th Court. Additional subject property is owned by EP Co, LLC.				File # ZON2013-00018	
Description of Action	Denial of request to rezone property from "C-1" Neighborhood Retail Commercial District to "M-1" Light Industrial District, to allow a custom retail carpentry and millwork shop and office involving outdoor storage of contractor vehicles and job trailers, and approval of a revised proposal to rezone the property to a Limited "C-2" District, subject to conditions.				
2020 Community Character Plan	Low/Medium Density Residential (existing) General Industrial. (proposed) Commercial: Auto Oriented, Small-Scale Strip Commercial designation (P&Z rec.)				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	"C-1" Neighborhood Retail Commercial District				
Proposed Zoning District	"M-1" Light Industrial District, (proposed by applicant), Limited "C-2" District (P&Z rec.)				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1				
Outside Area					
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes	X (if "M-1")
	Denial			No	X (if Limited C-2)

PE LLC - 1734 East University Avenue and 1213 East 17th Court ZON2013-00018



Item 2013 0018 Date 2/27/13

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

(Circle One)

Print Name BKM Renovators, LLC

Signature Fadal Meri

Address 1700 E University

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