



Date May 6, 2013

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 18, 2013, its members voted 14-0 in support of a motion to recommend **APPROVAL** of a request from John Scieszinski (owner) to rezone property at 1135 Army Post Road from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented Commercial District, to allow continued use of the property for highway commercial uses including, offices, retail, and small engine repair subject to the following conditions:

1. Use of the property shall be limited to the following:
 - a. Any residential use as permitted and limited in the "R-2" District.
 - b. Any commercial use as allowed and limited in the "C-0" District.
 - c. Accessory off-street parking lot used for the temporary placement of operable motor vehicles in support of a use as permitted in the "C-2" District that occurs on the southern portion of the subject property (1135 Army Post Road).
2. The portion of property being rezoned shall be brought into conformance with the City's current landscaping requirements.
3. Any future development of the property shall comply with a Site Plan as approved by the Permit and Development Center.

The subject property is more specifically described as follows:

North 152.05 feet of Lot 7 and the South 46.05 feet of the North 152.05 feet of Lot 6, COHRON, an Official Plat, 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 May 20, 2013, at which time the City Council will hear both those who oppose and those who favor the proposal.



Roll Call Number

Agenda Item Number

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Date May 6, 2013

- 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.

MOVED by _____ to adopt.

FORM APPROVED:

Michael F. Kelley
Assistant City Attorney

(ZON2013-00006)

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 May 6, 2013

Agenda Item 216

Roll Call # _____

April 29, 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 April 18, 2013, the following action was taken regarding a request from John Scieszinski (owner) to rezone property at 1135 Army Post Road.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 14-0 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 current Des Moines' 2020 Community Character Plan future land use designation of Low Density Residential.

By separate motion Commissioners recommended 14-0 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			

APPROVAL of Part B) to amend the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development, and **APPROVAL** of Part C) to rezone the property from "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District, to allow continued use of the property for highway commercial uses, including offices, retail, and small engine repair subject to the following conditions: (21-2013-4.02 & ZON2013-00006)

1. Use of the property shall be limited to the following:
 - a. Any residential use as permitted and limited in the "R-2" District.
 - b. Any commercial use as allowed and limited in the "C-0" District.
 - c. Accessory off-street parking lot used for the temporary placement of operable motor vehicles in support of a use as permitted in the "C-2" District that occurs on the southern portion of the subject property (1135 Army Post Road).
2. The portion of property being rezoned shall be brought into conformance with the City's current landscaping requirements.
3. Any future development of the property shall comply with a Site Plan as approved by the Permit and Development Center.

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 from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development.

Part C) Staff recommends approval of the rezoning from "R1-60" to Limited "C-2" General Retail and Highway-Oriented Commercial District, subject to the following conditions:

1. Use of the property shall be limited to the following:
 - a. Any residential use as permitted and limited in the "R-2" District.
 - b. Any commercial use as allowed and limited in the "C-0" District.
 - c. Accessory off-street parking lot used for the temporary placement of operable motor vehicles in support of a use as permitted in the "C-2" District that occurs on the southern portion of the subject property (1135 Army Post Road).
2. The portion of property being rezoned shall be brought into conformance with the City's current landscaping requirements. (These requirements are outlined in Section II, Subsection 3 of the staff report.)

3. Any future development of the property shall comply with a Site Plan as approved by the Permit and Development Center.

Written Responses

- 1 In Favor
- 1 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would bring the entire property under common zoning. Any future use or development on the property must be in accordance with a Site Plan as approved by the Permit and Development Center.
2. **Size of Site:** 15,370 square feet.
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The subject property contains a paved parking lot area that is within 10 feet of the adjoining residentially zoned property to the north and from the commercially zoned property to the east. It is setback five feet from the property line along Southwest 12th Street.
5. **Adjacent Land Use and Zoning:**
North – "R1-60", Uses are single-family dwellings.
South – "C-2", Uses are a commercial building on the subject parcel with office, retail, and repair shop uses and Ft. Des Moines Church of the Open Bible.
East – Limited "C-2", Uses is undeveloped private open space supporting a site for an AutoZone automotive parts retail store.
West – "R-2" and "R1-60", Uses are single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located behind a commercial building that sits along the Army Post Road major commercial corridor and a low-density residential neighborhood. It is within a transition area between the corridor and the low density residential neighborhood to the north.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Watrous South Neighborhood. This neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on February 1, 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 Watrous South 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 was mailed to the neighborhood associations on February 15, 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 Watrous Neighborhood Association mailings were sent to James Spiller, PO Box 35845, Des Moines, IA 50315.

The applicant is required to hold a neighborhood meeting. The public hearing on the rezoning was deferred from the February 21, 2013 and March 7, 2013 agendas so that this neighborhood meeting could be held on March 21, 2013. The appellant will provide a summary of this meeting at the hearing.

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.

II. ADDITIONAL APPLICABLE INFORMATION

1. Site Plan Requirement: Any future development upon the subject property would be subject to City's site plan requirements with regards to stormwater, paving material, landscaping, screening, etc. There is an approved Site Plan on file with the City. It was originally approved on January 13, 1982 and then amended to extend the paved parking area to the north on June 17, 1987. The Zoning Ordinance at that time allow for extension of paved parking areas up to 100 feet into adjoining residentially zoned property. The current approved site plan amendment has 10-foot paving setbacks from all residentially zoned properties with a six-foot screen fence. There were no minimum plant material requirements at the time of approval.

2. 2020 Community Character Plan: The proposed "C-2" District would not be consistent with the current Low Density Residential future land use designation. It would require amendment to a Commercial: Auto-Oriented, Small-Scale Strip Development land use designation, the same as the balance of the subject parcel along Army Post Road. The automotive parts store property to the east has a similar depth of property with Limited "C-2" zoning that allows only uses as permitted in the "R-2" District, as well as business and profession offices as permitted in the "C-2" District.

Staff believes the request to amend the existing future land use designation from Low Density Residential to Commercial: Auto-Oriented, Small-Scale Strip Development would be appropriate so long as permitted uses upon the property are limited to residential uses as permitted in the "R-2" District or commercial uses those as

permitted in the "C-0" District, and accessory parking lots used for the temporary placement of operable motor vehicles as part of a permitted use in the adjoining "C-2". This would be similar with the limitations on property to the east

- 3. Landscaping/Screening:** Given the close proximity of residential uses, any portion of property being rezoned should be brought into conformance with the City's current landscaping requirements. The City of Des Moines' Landscape Standards would require the following:

Perimeter Landscaping for 46 feet of frontage along Southwest 12th Street

- 7-foot paving setback (must remove about 2 feet of paving)
- Provide 1 overstory tree along SW 12th Street (1 per 50 lineal feet)
- Provide 3 shrubs along SW 12th Street (3 per 50 lineal feet)

Bufferyard Landscaping Requirements for 398 lineal feet of property line

- 10-foot wide paving setback (must remove 10 foot wide strip along west, north, and east)
- Provide 8 overstory trees (2 per 100 lineal feet)
- Provide 24 evergreen trees (6 per 100 lineal feet)

- 4. Zoning Enforcement:** There is an active Zoning Enforcement case for the subject property initiated in 2010 that requires removing inoperable vehicles and portable accessory structures from the property and all vehicles parked within the 10-foot setbacks from adjoining residentially zoned property. The requested rezoning will not mitigate these violations.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Greg Wattier asked why is this request was before the Commission. Is it a violation of the use that is there and it needs to meet current zoning?

Erik Lundy stated he believes that this request is coming to the Commission because the owner's desire to establish legitimacy for use of the property, and perhaps giving him the option to extend the building into the area at some point in the future. He is not sure the rezoning in itself will solve some of the violations i.e. illegal storage of inoperable vehicles as that would take a "M-2" zoning and the applicant is not asking for "M-2" zoning.

John Scieszinski 350 Georgetown Place, Norwalk, IA gave a brief history of what the property was used for prior to him owning it. The concrete was already in place prior to him owning the property and if there was any requirement as to any type of setbacks they were not met when the concrete was poured in the early 80s. He stated that the inoperable vehicles that were previously on the lot came from people leaving them without the owner's knowledge and people storing their vehicles and not coming back to get them. Storage was a previous use of this property. He also stated that he has complained to the police department about kids coming onto the property and taking license plates off vehicles and scraping off the stickers to use on their vehicles. They have also cut off the catalytic converters. He has taken measures to deter anymore vandalism on his property. The mechanics are now having vehicles towed that are just dumped there. He did take out

some shrubs and large trees that impede the view in order to get out of the lot. Currently, there are no cars sitting on the concrete. The pictures that were shown of the property with cars on the concrete was from a few years ago, and currently there are no vehicles being stored.

He spoke to surrounding neighbors about his request and they all have said they have no problem.

Greg Jones asked if the applicant agreed with staff recommendation.

John Scieszinski stated that he does not understand all of the conditions.

Greg Jones read the conditions and explained staff recommendation. Specifically, Condition #2 requires the applicant to provide a setback around the perimeter of the parking lot which might entail cutting out some pavement and installing plants/trees.

John Scieszinski stated that he would resist that because it was never that way when he purchased it. So he does not agree with cutting up the concrete because it would be very costly. However he would agree to the shrubbery along the fences and trees in the front.

Vicki Stogdill asked what type of material is along the fence.

John Scieszinski stated it is concrete.

Greg Wattier asked what came out of the neighborhood meeting.

John Scieszinski stated that no one showed up. He got a couple of written responses saying they had no problem with his request and he has verbally talked to the insurance company, Fort Des Moines Church and the auto supply store.

Greg Jones stated that if the applicant does not agree to condition #2 the Commission will probably recommend denial.

John Scieszinski stated his health has been a difficulty and he does not have the funds to spend thousands of dollars to cut out concrete, which was previously approved by the City in the 1980's.

Greg Wattier stated he would like to be provided with a plan showing what the applicant would be willing to do so the Commission understands.

John Scieszinski stated there is a wide swatch between the parking lot and Army Post. There is also a wide swatch on the west side which contains a sidewalk but a great deal more on 12th Street. The concrete goes up to the fence line on the east side of the building all the way back to the fence line in the rear of the "L" and down and around and all of that has a privacy fence that he put in.

Shirley Daniels stated that maybe a continuance is what is needed in order for the applicant to bring back a plan so the Commission can see actually what is going on.

Mike Ludwig stated that the site plan from the 1980's that is being passed around shows a 10 foot setback around the perimeter. The applicant does not have that today. That is the approved plan. At this point staff has had quite lengthy enforcement history on this property. It is staff's opinion that the additional pavement is what is allowing some of this illegal parking/storage. The applicant stated that this has not happened for years but the aerial photo was taken in 2012 and shows that vehicles were being stored on this property at that time.

John Scieszinski stated that there are no vehicles stored on his property, it is impossible because they have a fence there and they have portable buildings there since 2006.

Mike Ludwig pointed out that the 2012 aerial it shows that there were vehicles there. This aerial was obtained from the Polk County Assessor's website. Staff stands by their recommendation.

Jacqueline Easley asked the applicant if he was notified about the April 4, 2013 Plan and Zoning meeting.

John Scieszinski stated that he has bad health problem and he asked for a continuance in an email.

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 that the requested rezoning is not in conformance with the Des Moines' 2020 Community Character Plan.

Motion Passed 14-0.

Greg Jones moved staff recommendation Part B) to approve the amendment of the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development, and **APPROVAL** of Part C) to rezone the property from "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway Oriented Commercial District, to allow continued use of the property for highway commercial uses, including offices, retail, and small engine repair subject to the following conditions:

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