

Date June 24, 2013

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 May 2, 2013, the members voted 9-1 to recommend **APPROVAL** of a request from Scott Hartsook and Dennis Groenenboom (purchasers) to amend the Des Moines' 2020 Community Character Plan to revise the existing future land use designation from Low-Density Residential to Commercial, Pedestrian-Oriented, Neighborhood Node for property located at 3500 Kingman Boulevard.

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 approved.

MOVED by _____ to approve the proposed amendment.

FORM APPROVED:



 Michael F. Kelley
 Assistant City Attorney

(21-2013-4.11)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	

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.

 Mayor

 City Clerk

May 7, 2013

Date 5/7/13
 Agenda Item 50A
 Roll Call # 13-0940

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 May 2, 2013, the following action was taken regarding a request from Scott Hartsook and Dennis Groenenboom (purchasers) to rezone property at 3500 Kingman Boulevard, to rezone property at 3500 Kingman Boulevard. The subject property is owned by Parker Street Foundation and Harold Wells.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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 existing Des Moines' 2020 Community Character Plan designations of Low-Density Residential.

By separate motion Commissioners recommended 9-1 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			



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
Greg Jones	X			
William Page	X			
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 existing future land use designation from Low-Density Residential to Commercial, Pedestrian-Oriented, Neighborhood Node; and Part C) to approve the rezoning from "R1-60" One-Family Low-Density Residential District to a Limited "NPC" Neighborhood Pedestrian Commercial District, to allow use of the property for assembly and small office uses, subject to the following conditions:(ZON2013-00052 & 21-2013-4.11)

1. The use of the property shall be limited to the following:
 - a) Any use as allowed and limited in the "R1-60" District.
 - b) Office space.
 - c) Events center for meeting, reception, or assembly space.
2. Any use of the site and any future site modifications shall be in accordance with a Site Plan under the Design Guidelines for the "NPC" District as approved by the Plan & Zoning Commission.
3. Any use of the building must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities.
4. In order to comply with minimum parking requirements, any use of the premises for an office and/or events center use shall occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.
5. The existing structure shall not be expanded and shall not be modified to alter the existing residential character.
6. The property shall not be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. However, caterers, residents, renters, and guests may serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements.
7. Hours of operation shall be limited to between 7:00 AM to 12:00 AM, with all events ending by 11:00 PM.
8. A 6-foot tall solid wood fence shall be provided along the west property line within the rear yard area, located on either the subject property or the adjoining property.
9. Signage on the premises shall be limited a monument sign not to exceed 24 square feet.
10. The Site shall operate in compliance with article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).

11. Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City's Neighborhood Inspections Division.

12. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

13. A buffer be provided that is deemed suitable by the applicant, neighbor and staff.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan designations of Low-Density Residential.

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the existing future land use designation from Low-Density Residential to Commercial, Pedestrian-Oriented, Neighborhood Node.

Part C) Staff recommends approval of the requested rezoning, subject to the following conditions:

1. The use of the property shall be limited to the following:
 - a) Any use as allowed and limited in the "R1-60" District
 - b) Office space.
 - c) Events center for meeting, reception, or assembly space.
2. Any use of the site and any future site modifications shall be in accordance with a Site Plan under the Design Guidelines for the "NPC" District as approved by the Plan & Zoning Commission.
3. Any use of the building must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities.
4. In order to comply with minimum parking requirements, any use of the premises for an office and/or events center use shall occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.
5. The existing structure shall not be expanded and shall not be modified to alter the existing residential character.
6. The property shall not be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. However, caterers, residents, renters, and guests may serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements.
7. Hours of operation shall be limited to between 7:00 AM to 12:00 AM, with all events ending by 11:00 PM.

8. A 6-foot tall solid wood fence shall be provided along the west property line within the rear yard area, located on either the subject property or the adjoining property.
9. Signage on the premises shall be limited a monument sign not to exceed 24 square feet.
10. The Site shall operate in compliance with article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).
11. Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City's Neighborhood Inspections Division.
12. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

Written Responses

7 In Favor

3 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow use of the property for office space and/or an events center space. The property has been operating as an events center known as the "Thoreau Center" since approximately 1979, although neither the applicant nor City Staff have been able to find documentation of any action to legally establish such use on a property zoned "R1-60" One-Family Low-Density Residential District. It is speculated that the use of the property initially began as a religious institution, which morphed over time into a commercial use.

If rezoned to "NPC" District, any commercial use of the site and any future site modifications would require approval of a Site Plan and building elevations by the City's Plan and Zoning Commission in accordance with the "NPC" Design Guidelines. The "NPC" District regulations are intended to allow pedestrian-oriented uses and allow for a reduction to the number of required parking spaces.

The applicants have indicated they would operate the Thoreau Center as a community center to host meetings, classes, or events such as weddings, receptions, fundraisers, graduations, baby showers, anniversaries, or retirements. They would lease the upper level of the building as office space for tenants such as writers, attorneys, and accountants. The applicants do not intend to construct any building additions or make significant site modifications. They would retain the existing paved area to the rear (south) of the structure in order to provide approximately three (3) off-street parking spaces, including a handicap-accessible parking space.

2. **Size of Site:** 184 feet by 150 feet (27,600 square feet or 0.63 acre).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.

4. **Existing Land Use (site):** The site contains a 3,606-square foot building with a 460-square foot attached garage. The structure was originally constructed as a single-family dwelling that has been converted to an assembly use.

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

North – “R1-60”; Uses are one- and two-family residential dwellings.

South – “R1-60”; Use is Des Moines Fellowship Church.

East – “R-3”; Use is a 4-unit multiple-family residential structure.

West – “R1-60”; Use is a single-family residential dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located along Kingman Boulevard in an area that includes a mix of residential uses. A single-family dwelling located adjacent to the west and a church is located adjacent to the south.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Drake Neighborhood. This neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on April 12, 2013 and a Final Agenda on April 26, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on April 12, 2013 (20 days prior to the hearing) and April 22, 2013 (10 days prior to the hearing) to the Drake 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(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Drake Neighborhood Association notices were mailed to Deric Gourd, 2422 Drake Park Avenue, Des Moines, IA 50311.

The applicants held their required neighborhood meeting on April 23, 2013.

8. **Relevant Zoning History:** None.

9. **2020 Community Character Land Use Plan Designation:** The subject property is located within an area designated in the Des Moines’ 2020 Community Character Plan as Low-Density Residential. The applicant has requested that the designation be amended to Commercial, Pedestrian-Oriented, Neighborhood Node to allow for the proposed rezoning.

In 2011, the City adopted the Drake Neighborhood Action Plan to guide future development and redevelopment within the neighborhood. The plan calls for preserving the low-density residential character of the residential areas that are not located along the major corridors, such as University Avenue and Forest Avenue. Another goal of this plan is to provide quality pedestrian-oriented commercial uses within in the Drake Neighborhood. Therefore, staff believes the proposed rezoning to “NPC” District is appropriate so long as there are the proper zoning limitations to ensure future use of the building is compatible with the nearby residential uses.

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 Land Use Plan:** The proposed “NPC” District requires the Des Moines’ 2020 Community Character Plan to be amended to revise the future land use designation for the property from Low Density Residential to Commercial, Pedestrian-Oriented, Neighborhood Node. In order for this commercial designation to be compatible with the surrounding residential neighborhood, staff recommends that the zoning conditions listed in the Staff Recommendation section of this report be adopted to regulate any commercial use.

- 2. Permitted Uses:** The applicants agree to limit permitted uses on the property to any use as allowed and limited in the “R1-60” District; office use; and/or an events center use for meeting, reception, or assembly space.

Given the proximity of the residential property to the west, Staff recommends that if the premise is used for an events center, the subject property shall not be permitted to be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. Caterers, residents, renters, and guests would be permitted to serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements. Staff also recommends that hours of operation be limited to between 7:00 AM to 12:00 AM, with all events ending by 11:00 PM. Staff also recommends that a 6-foot tall solid wood fence be located along the west property line within the rear yard area, which can be provided on either the subject property or the adjoining property.

Furthermore, any use of the building for an events center use must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities. The site must also operate in compliance with article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).

- 3. Urban Design:** The applicant does not anticipate any building additions or significant modifications to the structure. Staff recommends a zoning condition to state that the existing structure shall not be expanded and shall not be modified to alter the existing residential character.

There is an existing monument sign for the “Thoreau Center” in front of the building. While it is not anticipated that this sign would be replaced, Staff recommends that signage on the premises be limited to a monument sign not to exceed 24 square feet in area.

- 4. Parking & Access:** The parking standards for the “NPC” District allow for a 40% reduction to the required off-street parking and allow for on-street parking spaces to be counted towards meeting the parking requirement if they adjoin the subject property.

The applicants intend to utilize approximately 1,041 square feet of area within the structure for office space and approximately 1,900 square feet of area within the structure for assembly space. Under typical zoning requirements, this would require 16

parking spaces, including 3 spaces for the office space (1 per 400 square feet) and 13 spaces for the assembly space (1 per 150 square feet). However, the 40% reduction permitted by the "NPC" District regulations would reduce the off-street parking requirement to 10 spaces.

The property can provide 10 parking spaces, including three (3) spaces within the existing paved parking area to the south (rear) of the structure and seven (7) on-street spaces within a 145-foot stretch along adjoining Kingman Boulevard. In order to comply with minimum parking requirements in an "NPC" District, any use of the premises for an office and events center use could occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.

- 5. Permit & Development Center Comments:** Any renovation of the building must be in compliance with all applicable building and fire codes, with issuance of all necessary permits by the Permit and Development Center.

Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City's Neighborhood Inspections Division.

- 6. Site Plan Requirements:** Any commercial use of the property must conform to the City's site plan requirements, including those regarding stormwater management, landscaping, and screening of adjoining residential properties.

Any trash enclosure on the site must conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.

- 7. NPC Design Guidelines:** Should the property be rezoned to "NPC" District, a Site Plan and building elevations must be submitted for review and approval by the Plan and Zoning Commission under the following design guidelines applicable to development in the "NPC" District. *(A Site Plan has not been submitted for consideration at this time.)*

- A) Buildings should frame the street and maintain a minimal setback from the street.
- B) The front facade of the first floor of the building on the primary commercial street should have a ratio of at least 40 percent window and window display area to total street facade.
- C) The front entrance should be oriented to the street. On a corner lot, the building should have a well-defined entrance on the primary commercial street.
- D) Materials should be brick, stone, tile, stucco, or horizontal wood clapboard with a maximum width of six inches. Two-story buildings are encouraged.
- E) Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays of between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details.
- F) Building frontage should occupy at least 50 percent of the primary street frontage.
- G) Off-street loading and parking spaces should be provided in compliance with sections 134-1376 and 134-1377 of the zoning chapter, subject to the following modifications:
 - a. The minimum number of off-street parking spaces is 60 percent of the number of spaces otherwise required by subsection 134-1377(a).
 - b. Parking should not exceed the amount otherwise required by section 134-1377 of this Code.

- c. Parking should not use the front yard but should be concentrated along the side and in back of the building in the predominant pattern of character defining buildings.
 - d. Shared parking among businesses or between business and residential projects will be allowed, provided a shared parking plan is presented at the time of application, signed by the property owners, ensuring nonduplication of parking. The shared parking must be within 300 feet of the business or dwelling.
 - e. On-street parking directly adjacent to the occupant frontage shall count toward the minimum off-street parking requirement. Elimination of such on-street parking by the city shall have no effect on an approved site plan.
 - f. Tandem parking spaces shall count toward the minimum off-street parking requirement if a parking plan demonstrates that the parking will be for employees and will be occupied for over four hours between changes.
 - g. An emphasis of trees, shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the building, parking area and any pedestrian areas.
- H) The following bulk regulations should be observed:
- a. Minimum lot area:
 - i. Single-family detached dwelling, 5,000 square feet.
 - ii. Single-family semidetached dwelling, 3,000 square feet.
 - iii. Two-family dwelling, 6,000 square feet.
 - iv. Multiple dwelling, 10,000 square feet.
 - v. Mixed-use project, 10,000 square feet.
 - vi. Shelter for the homeless, 8,000 square feet.
 - vii. No minimum requirement for permitted nonresidential uses.
 - b. Minimum lot area per dwelling unit:
 - i. Row and multiple dwellings, 2,000 square feet.
 - ii. Shelter for the homeless, 300 square feet of lot size for each resident.
 - c. Front yard: minimum of zero feet.
 - d. Side yards: minimum of zero feet.
 - e. Rear yard: None required, except when adjoining any R or C-0 district or portion of a PUD designated for residential use, in which case ten feet.
 - f. Height: minimum of 15 feet, maximum of 45 feet.
 - g. Number of stories:
 - i. Residential uses, a maximum of four stories.
 - ii. All other permitted uses, a maximum of two stories.
- I) Signs, which are attached or projecting from the building and designed for the character of the building, are preferred. Monument signs are allowed.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

John "Jack" Hilmes asked if the kybo shown in the picture was there because it is part of the facility and for parties held there or is there a temporary construction project underway.

Jason Van Essen stated he was not sure. However, he believes that the recommended condition that states any use of the building must be in compliance with all City Building and Fire codes including those related to occupancy loads, emergency exits, and rest room facilities. Therefore, if the level of people dictate more restrooms than what is in the

property the applicant would either have to provide more restrooms or have less people in order to comply with the conditions that are recommended.

John "Jack" Hilmes asked how many square feet of assembly space are there and if there is a rental certificate presently issued for residential occupancy of this building?

Jason Van Essen stated the building in its entirety is 3,606 square feet and he believes there is not currently a rental certificate for residential occupancy of this building. However, condition #11 regarding any residential dwelling unit having to have a rental certificate would address that situation if it were to occur.

CJ Stephens asked if staff had investigated the number of incidents that are referred to in Mr. Knapp's letter.

Jason Van Essen stated a police ran a report for this property and the area around the property for the past 12 months and none of the reports staff received was for the subject property.

CJ Stephens asked about condition #6 if they are currently serving alcohol there or is staff just taking the opportunity to give some guidance.

Jason Van Essen stated yes, the applicants who want to purchase this property want to operate it very similar to what has been there. Therefore, this is an opportunity to place conditions on the operations through zoning.

Greg Wattier asked if any of the suggested requirements would force any undue burden on the applicant.

Jason Van Essen stated the applicants agree with the staff recommendation.

Ted Irvine asked about the proposed restrictions on alcohol were any different than anyone's residence in the City of Des Moines.

Jason Van Essen stated that is a fair statement.

Scott Hartsook and Dennis Groenenboom 1134 38th Street. Scott Hartsook stated they have lived about five blocks from the Thoreau Center for about 25 years. Previously, the Thoreau Center has been used for an event center and has become an important institution in the Drake neighborhood. Weddings, retirement parties and birthday parties to name a few have been held there. He explained that there is no liquor license for the property. The applicant's intention is to rent out the space where people can bring in their own food and any beverages i.e. wine they want to serve. This has been the use of this building since 1979. He believes that Harold Wells, the current owner possibly did not go through the appropriate approval process. Therefore, they contacted the City of Des Moines and asked if they would be able to continue using this property the way it was currently being used. They were told that they would have to go through the rezoning process to get it rezoned "NPC". NPC allows all types of uses and they told City staff that they were not interested in all those uses. They were only interested in having this property be a community event center and the three rooms on the second floor be rented out to non-profits or other organization for office use. They do not intend to make any changes to the building. No additions and no new construction is proposed. The only changes they propose to make is to take the gravel out and turn it in to grass or a flower

garden. The applicant has talked to the church next door and they ask that their parking lot is not used on Sunday mornings, Wednesday evenings and whenever they have something going on. The church did have some concerns about trash after events. The applicant intends to be a good neighbor.

The applicant did hold a neighborhood meeting last week. There was six neighbors in attendance. There are a couple of neighbors that have concerns and were others who are excited about them wanting to continue having the Thoreau Center be an event center. He requested that the Commission approve the rezoning.

Will Page stated that from the response cards that have been passed around there is a general sense of good will towards this facility in the neighborhood. Do they plan on keeping the name.

Scott Hartsook stated yes they do plan on keeping the Thoreau Center name.

Greg Wattier asked if they are in agreement with staff recommendations.

Scott Hartsook stated they have worked with staff and their recommendations are completely acceptable.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

Deric Gourd 2422 Drake Park Avenue, Drake Neighborhood Association stated the neighborhood supports the applicant's request. He believes that because this property was seen as a residential property and there were no strict rules a lot of times some things were allowed to happen. There were residents at the neighborhood meeting that had some concerns with late night parties, people pulling up and bringing their beer kegs and then selling beer out the back of their truck for the party. They would like some stricter enforcement than before. The conditions that are recommended by staff will give the neighborhood association a strong enforcement policy. The neighborhood association work with their NBSD officers, the City and with the police force on applying those rules.

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

Eric Knapp 3518 Kingman stated he and his family lives immediately adjacent to the subject property and have experienced the following:

- Excessive noise late at night
- Trash and debris in his yard from the parties at the subject property
- Fights/physical altercations
- Gun shots
- Overflow parking on adjoining streets
- And physically retrieving his children's toys from guests who are attending parties and functions at the subject property

He also stated that the owner has always had a tenant on the property to generate some income without the need for a lot of extracurricular events. The applicants have no intent on having someone stay on the property. Therefore, the applicants will have more events than before.

To address the reason there is a kybo on the property is because there is not enough room in that facility to house the type of parties that happen there.

He asked that the Commission keep in mind his concerns and consider the safety of the children in the neighborhood, the safety of the neighbors as well as the integrity of the neighborhood when making a decision.

Will Page asked how many times Mr. Knapp had to call the police about an incident or otherwise complained to the City.

Eric Knapp stated that they have always been able to work with the onsite tenant that lived on the property, and his understanding is the applicants have no intention of having someone live onsite.

John "Jack" Hilmes asked if he attended the neighborhood meeting that was held.

Eric Knapp stated yes he and his wife attended the neighborhood meeting and also sat down with the applicants for about an hour prior to the meeting to try to come to some resolution. He believes the applicants do understand his concerns but with this zoning there is no way to mandate, govern or police these types of issues that they have.

John "Jack" Hilmes asked if the applicants gave him any idea as to how to manage those enforcement questions that he had in lieu of having a resident live on the property to manage the property.

Eric Knapp stated there was some discussion and ideas. Some of them were doable and others the applicant does not find to be realistic in terms of not having someone living onsite or someone being onsite for parties. He believes it is not feasible for someone to show up after a party where people have been drinking and expect they will leave right away. He is okay with the applicant's plan to rent the second floor to non-profits or small office space.

Kay Meyer 3520 Kingman Blvd stated she agrees with Mr. Knapp. She is also concerned with the noise and trash. There are very good neighbors in the neighborhood and would hate to lose that. She does believe that the applicants want to do a great job, but with her concerns she does not support of the applicant's request.

Rebuttal

Scott Hartsook stated they do not want to increase the parties and that is why they want to get the rooms on the second floor rented for office use. They would like to rent to employers for employee retreats. In order to get a good long-time manager that wants to live on the property it would cost a lot of money. If they have to pay the manager then there would have to be more parties.

The applicants intend to be better managers of this property having more control as to what happens on the property. The three things they intend to do is comply with all of the conditions that staff have recommended, have specific set of rules to go over with renters; and they plan to enforce the rules by being there or have a representative there.

Ted Irvine asked if they would be willing to sit down with the Mr. Knapp and some of the other neighbors to go over the set of rules. Also, can staff speak to the enforcement of

having a different zoning in place and having the recommended conditions whether that is an improvement.

Mike Ludwig stated having a manager on site for large gatherings, especially when alcohol is being served might be one way of addressing some of the concerns. The Commission may want to be more specific about serving of alcohol and stipulate that it can only be served by a license caterer. Condition #3 limits the square footage that can be used for certain uses in the building. It touches on the fact that restroom facilities have to be provided; but if the portable restroom is a concern that condition could be more specific to require all restroom facilities in the building which may require some alterations to the interior of the building. At the Commission's direction the conditions can be more specific.

CJ Stephens stated that perhaps the conditions could stipulate a requirement for parties over a certain number.

Vicki Stogdill asked if the applicants are open to a prohibition on service of alcohol at the property.

Scott Hartsook stated they would not want to restrict service of alcohol beyond that noted in the staff recommendation. They also would not like limiting a caterer only to serve alcohol. The cost would also increase making it difficult. However, they would consider adding a restriction that states that if alcohol is served they would have someone onsite to make sure it is used properly.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Wattier stated he likes the mix of land uses in this neighborhood. He believes that people should be careful. If they are not receptive to having mixed uses like this proposal they will become a little bit too suburban in an attitude of separating and creating bedroom communities. This is part of the flavor of these types of streets and neighborhoods. He welcomes new ownership taking over and would like to see if the twelve conditions can be more specific per staff's suggestions. He does not believe there should be additional restriction on service of alcohol.

Ted Irvine stated that the ongoing conversation between the applicant, neighbors and staff is a chance to lessen concerns and preserve an opportunity to enforce the conditions.

Vicki Stogdill stated she believes buyers have good intention. However, she believes that the conditions need to be more specific. She is not against the use she just believes additional alcohol limitations would be good.

John "Jack" Hilmes stated he believes that the Commission can do nothing to guarantee that all of the ills they would seek to prevent would not happen. Calling police might be a good solution. Too many calls lead to enforcement actions and then the party is over. The rezoning is a good idea.

Shirley Daniels stated she commends the applicant for their undertaking. She believes that alcohol will not be served at every event. With staff recommendation and the statement of the applicants she believes this rezoning to be a real win, win situation. She would support the applicant's request.

CJ Stephens asked for a friendly amendment to add that the restrooms would be provided in the building.

Mike Simonson stated he does not accept the friendly amendment. He believes that the applicant will have to do things to the toilet rooms inside the building anyway and he would not want to see a large portion of the first floor consumed with toilets to accommodate an occasional outdoor gathering. That would not be a fair burden.

Greg Wattier asked if the Commission should require a better buffer.

Mike Simonson would support a better buffer with the approval of the applicant, staff and the adjoining neighbor.

COMMISSION ACTION:

Mike Simonson moved Part A) to find the requested rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan designations of Low-Density Residential.

Motion passed 10-0.

Mike Simonson moved Part B) to approve the request to amend the the Des Moines' 2020 Community Character Plan to revise the existing future land use designation from Low-Density Residential to Commercial, Pedestrian-Oriented, Neighborhood Node.

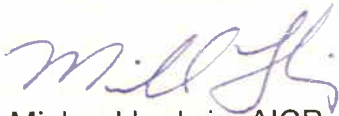
Part C) Staff recommends approval of the requested rezoning, subject to the following conditions:

1. The use of the property shall be limited to the following:
 - a) Any use as allowed and limited in the "R1-60" District
 - b) Office space.
 - c) Events center for meeting, reception, or assembly space.
2. Any use of the site and any future site modifications shall be in accordance with a Site Plan under the Design Guidelines for the "NPC" District as approved by the Plan & Zoning Commission.
3. Any use of the building must be in compliance with all City Building and Fire Codes, including those related to occupancy loads, emergency exits, and restroom facilities.
4. In order to comply with minimum parking requirements, any use of the premises for an office and/or events center use shall occupy no more than 1,200 square feet of area for office space and no more than 1,950 square feet of assembly space.
5. The existing structure shall not be expanded and shall not be modified to alter the existing residential character.
6. The property shall not be a permanent licensed establishment for selling alcoholic liquor, wine, and/or beer. However, caterers, residents, renters, and guests may serve and consume alcoholic liquor, wine, and/or beer in accordance with all City and State requirements.

7. Hours of operation shall be limited to between 7:00 AM to 12:00 AM, with all events ending by 11:00 PM.
8. A 6-foot tall solid wood fence shall be provided along the west property line within the rear yard area, located on either the subject property or the adjoining property.
9. Signage on the premises shall be limited a monument sign not to exceed 24 square feet.
10. The Site shall operate in compliance with article IV of chapter 42 of the Municipal Code (Noise Control Ordinance).
11. Any residential dwelling unit within the structure shall be in accordance with any necessary Rental Certificate as issued by the City's Neighborhood Inspections Division.
12. Any trash enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with steel gates.
13. A buffer be provided that is deemed suitable by the applicant, neighbor and staff.

Motion passed 9-1 (Vicki Stogdill voted in opposition)

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

13-0946

Request from Scott Hartsook and Dennis Groenenboom (purchasers) to rezone property at 3500 Kingman Boulevard. The subject property is owned by Parker Street Foundation and Harold Wells.				File # ZON2013-00052	
Description of Action	Approval to rezone property from "R1-60" One-Family Low-Density Residential District to a Limited "NPC" Neighborhood Pedestrian Commercial District, to allow use of the property for assembly and small office uses subject to conditions.				
2020 Community Character Plan	Low-Density Residential (current) Commercial; Pedestrian-Oriented Neighborhood Node (proposed)				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	"R1-60" One-Family Low-Density Residential District				
Proposed Zoning District	"NPC" Neighborhood Pedestrian Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	7	3			
Outside Area					
Plan and Zoning Commission Action	Approval	9-1	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Parker Street Foundation/Harold Wells (Thoreau Center) -
3500 Kingman Boulevard

ZON2013-00052



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Item ZON2013-00052

Date 4/23/2013

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

(Circle One)

Print Name Bretchen R Kauffman

Signature Bretchen R Kauffman

Address 3414 Kingman Blvd, DM

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

The owners have told me about their
plans to improve the property.
Better to have the property rezoned than
to continue illegally. I'm disappointed
that Harold Wells, the former owner, skirted the
law for so long.

Item ZON2013-00052

Date _____

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

(Circle One)

Print Name Thomas N Trisler

Signature Thomas Trisler

Address 3571 Kingman Blvd

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

It's Been That Way for the last 20 years

Item ZON2013-00052

Date 24 April, 2013

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

RECEIVED

COMMUNITY DEVELOPMENT

Print Name CHARLES W. DICKSON, JR.

Signature Charles W. Dickson Jr.

APR 29 2013

Address 3515 Kingman Blvd.

DEPARTMENT

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

This is a good use for this particular
property.

Item ZON2013-00052

Date 04-24-2013

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

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COMMUNITY DEVELOPMENT

Print Name Viki Cameron

Signature Viki Cameron

APR 29 2013

Address 3609 Kingman Blvd.

DEPARTMENT

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

The property at 3500 Kingman Blvd. has been a good
venue for "social events" and it would be good to
continue that use. (plus it's always had a couple small
offices which seems appropriate.)

Item ZON2013-00052

Date 4-24-13

~~SOA~~
SLA

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

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COMMUNITY DEVELOPMENT

Print Name Herrington V. Harter

APR 29 2013

Signature [Handwritten Signature]

DEPARTMENT

Address 3513 Kingman Blvd

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

I live right across the street from the Thoreau Center
I haven't had any problems. It's a very good thing
for our neighborhood + community.

Item ZON2013-00052

Date 4/28/13

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

(Circle One)

Print Name Julie Struck

Signature [Handwritten Signature]

Address 3415 School St

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

I am in favor of this request b/c it continues
the use of the house. Also this petition/vote
shows that the potential new owners are
knowledgeable about how to zone their
property for intended use.

Item ZON 2013-00052

Date April May 1, 2013

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

RECEIVED
COMMUNITY DEVELOPMENT
(Circle One)

MAY 01 2013

Print Name Sharon Meyer

Signature [Signature]

DEPARTMENT

Address 3520 Kingman Blvd

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

We've experienced some issues with
loud music, late night entertainment
and trash. Once zoned, not sure
if next owner. We would hate to
lose our neighbor

Item ZON2013-00052

Date 4/23/13

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

(Circle One)

Print Name Sharon Sickles

Signature [Signature]

Address ~~1015~~ 1017 35th St Omaha 68111
own Duplex 1015+1017

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

WE LIVE DIRECTLY EAST OF THE CENTER & HAVE FOR 20 YRS.
THE THOREAU CTR. HAS ALWAYS BEEN A VIBRANT PART OF
THE COMMUNITY & IT WOULD BE A LOSS IF THE REQUEST TO
REZONE WAS DENIED!
THE CENTER HAS BEEN A GREAT NEIGHBOR!

Item ZON2013-00052

Date 1 MAY 2013

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

(Circle One)

Print Name LAVERNE ANDERSON

Signature Laverne Anderson

Address 944-35TH ST

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

I WOULD LIKE RESIDENTIAL. THIS IS A BEAUTIFUL SINGLE FAMILY HOME THAT WOULD ADD VALUE TO THE NEIGHBORHOOD. AS COMMERCIAL THERE IS NOT ENOUGH PARKING ON THE PROPERTY. THIS WOULD LESSON VALUE OF THE NEIGHBORHOOD.

Item ZON2013-00052

Date 4/28/13

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Name Eric Krapp

MAY 01 2013

Signature Eric Krapp

DEPARTMENT

Address 3510 Kingman Blvd.

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

Please see attachment.

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SuAnn Donovan
Des Moines Permit & Development Department
City of Des Moines
602 Robert Ray Drive
Des Moines, IA 50309

Dear Ms. Donovan,

It has come to our attention that the Thoreau Center at 35th and Kingman was recently put up for sale. The Thoreau Center has been a landmark in the Drake Neighborhood for several decades. Countless weddings, art shows, birthday parties, and other events in the neighborhood have all been hosted at the Thoreau Center. The Drake Neighborhood Association has used it as a meeting place and to host events for residents. We were saddened at the prospect that this gem would cease to be.

We were thus excited to hear that the new prospective buyers were Scott Hartsook and Dennis Groenenboom, long-time residents of the neighborhood and active members of the Drake Neighborhood Association. Scott and Dennis came before the board in February to seek our support in continuing the use of the Thoreau Center as Harold Wells has used it these many years. We were informed by Scott Hartsook that City staff could not support the current use without a change in zoning. The Drake Neighborhood Association supports the request of Scott Hartsook and Dennis Groenenboom for a zoning to NPC that will allow the Thoreau Center at 3500 Kingman Boulevard in Des Moines to continue to be used as a community event center as it has been used for the last several decades. There are some NPC allowed uses, like the sale of alcohol, that have never been a part of the Thoreau Center, and we like to see those uses excepted from the zoning. The NPC parking accommodations will allow the building to preserve the landscaped front lawn that helps this property fit in so well with the neighborhood.

The Thoreau Center is an important part of the Drake Neighborhood. The Center provides residents of the Drake Neighborhood with an affordable and convenient place to hold events. Many of our neighbors have held weddings, retirements, graduations, anniversaries, and birthday parties at the Center during the last several decades. In addition, the Thoreau Center has been used to provide non-profit groups with a low-cost place to maintain offices, hold meetings and social, political and cultural events. The second floor of the Center has also been used for residential purposes.

The Drake Neighborhood looks forward to a revitalized Thoreau Center serving the neighborhood for many years to come.

Thank you,

Deric Gourd
President
Drake Neighborhood Association

13-0940

LOVING PEOPLE
LOVING LIFE

DES MOINES
Fellowship

950 35th Street
Des Moines, IA 50312
515-255-5528

April 17, 2013

Bert Drost
Community Development Center
602 Robert D. Ray Drive,
Des Moines, IA 50309

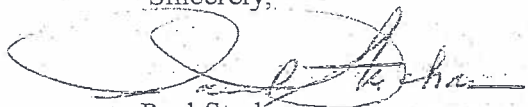
Dear Bert,

This letter is written in regard to the request by Scott Hartsook and Dennis Groenenboom for a zoning interpretation that will allow the Thoreau Center at 3500 Kingman Boulevard in Des Moines to continue to be used as a community event center as it has been used for the last several decades. We are not opposed to this rezoning request, based on our past relationship with the Thoreau Center.

Des Moines Fellowship is located at 950 35th Street, where we have been located since 1993. Our church is adjacent to the south side of the Thoreau Center. We have a large parking lot in the front of our church. We strive to be good neighbors to others in our church neighborhood, so we have allowed people who attend events at the Thoreau Center to use our parking lot, subject to certain restrictions, such as the lot not being available on Sunday mornings or during other events when the church is using the lot. Basically, the Thoreau Center has been allowed to use our parking lot when their events have not conflicted with Des Moines Fellowship events. If the Thoreau Center continues to use its property for the same uses that it has been used in the past, Des Moines Fellowship intends to continue to allow guests at the Thoreau Center to use our parking lot.

However, while we intend to continue to offer the use of the lot, if the city of Des Moines is going to make the zoning change based on the absolute assurance that our lot will always be available based on this informal agreement, we would like to be on record that we reserve the right to terminate this informal arrangement/agreement with the Thoreau Center at any time based on our discretion.

Sincerely,


Paul Strahan

And

Des Moines City Council

Re: Item No. ZON2013-00052

Hello. My name is Eric Knapp and I live at 3518 Kingman Blvd here in Des Moines. My wife Alicia and I have an 8 year old son and a 5 year old daughter. My wife and I were born and raised in Des Moines and are both graduates of Roosevelt High School. We both grew up in the Roosevelt / Kingman area and relocated to the area upon graduating from college. We are very familiar with the Kingman Blvd / Drake Neighborhoods.

We received notice that the property (**3500 Kingman Blvd**) located immediately adjacent to our home is being considered for re-zoning from "R1-60" One Family Low-Density Residential District to "NCP Neighborhood Pedestrian Commercial District". The re-zoning of the home is intended to allow for use of the property for "assembly" and small office uses. As property owners living immediately adjacent to this property we are well aware of how this property has been used in the past albeit without proper zoning.

For the past 16 years this property has been used primarily as a rental dwelling with occupants occupying 3 small bedrooms located on the second floor. In addition to habitation uses the property has been used to host a large number of wedding receptions, anniversary parties, graduation parties, retirement parties, Halloween parties, super bowl parties, election parties and about any other type of party you can imagine. I would like to stress the word "party" with respect to how this property has been used in the past. I'd also like to stress this has been done without proper zoning and permits from the city as prior to purchasing our home we confirmed the property was not zoned to be used for parties.

As a neighbor with 2 small children living directly next door to this property my wife and I have some very strong concerns with the idea of re-zoning 3500 Kingman Blvd to NPC Neighborhood Pedestrian Commercial District. Over the past number of years many of the events and parties held at 3500 Kingman have had a negative impact on our family as well as a negative impact on our property. Since we've lived directly adjacent to this property we've encountered the following problems:

1. ~ Large gatherings which has created a great deal of excess noise late into the night. The property itself is not large enough to accommodate the number of people or size of parties and gatherings therefore guests will congregate outside in yard of the 3500 Kingman property. There have also been large wedding tents and DJ equipment / speakers set up outside which again causes excess noise in the evening and later night hours.
2. ~ Parties where alcohol is being served. As a result we've had to continuously clean up after the guests (beer cans, cups, plates, food containers, cigarette butts, etc) which has been discarded in our yard. With alcohol being served there has never been anyone on site to manage underage or excessive serving of alcohol to guests. We've had intoxicated guests knock on our door to ask to use our phone, use the bathroom etc. We've watched and heard intoxicated drivers drive their cars at excess speeds in front of our home as well as in the parking lot behind our home.
3. ~ Fights / physical altercations - with alcohol being served we've observed many late night arguments as well as physical fights on the grounds next door which have also carried over into our yard as well as to the church parking lot behind 3500 Kingman Blvd.
4. ~ Gun shots - at one party within the last 2 years there was a large fight which took place during a party at 3500 Kingman. There were several gun shots fired during the altercation. Police were called however due to the gun shots the crowd had disbursed prior to police arriving. After this incident we contacted the City Plan and Zoning Commission and were informed again that the property was not zoned for parties and the manner of which it had been used. Nothing had been done from that time on to limit or stop the illegal use of this property. With alcohol being served

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with no monitoring of age or amount served we take this very serious as neighbors with small children.

5. Parking - with little to no parking on the 3500 Kingman Property guests / customers park on the street. Often times during events at 3500 Kingman cars will park on both sides of the approach to our drive way. With a boulevard located in the middle of Kingman it makes it difficult if not impossible at times to get in and out of our drive way as are approach is partially blocked by guests parked on the street.
6. Theft - during parties taking place at 3500 Kingman we've had to physically retrieve our kids bicycles, scooters and yard toys from guests attending parties and functions at 3500 Kingman.

This list of concerns above is not a complete list of occurrences which has taken place as a result of the functions being held at 3500 Kingman. Our concern with re-zoning this property will allow for increased usage for parties and large gatherings which in turn will multiply or increase the problems or concerns noted above. As mentioned we have 2 smaller children in our home and operating a rental facility next door where unmonitored alcohol is being served is not in the best interest of our children or the other children living in the surrounding homes. Re-zoning the property to allow for "assembly use" means parties. This means small parties to large parties without any way to limit or govern the nature of these parties. Simply because this property has been used illegally in the past does not make it right to legitimately allow this type of gathering so close to others who live in the neighborhood.

- Last, the NPC zoning does not encompass or was not intended for a rental center or smaller version of the Val Air Ballroom. This type of operation is not suited or intended for a residential neighborhood and does not fit the foot print of our existing neighborhood. Wedding receptions, birthday parties, anniversary parties, Halloween parties, super bowl parties etc are not intended uses for NPC zoned structures and allowing assembly use at this property invites these types of parties to our neighborhood. We understand there would be additional uses such as small office space and business meetings for non-profit groups however living immediately adjacent I can attest to how this property has been used in the past and how it will be used moving forward if zoned NPC Commercial. This is a neighborhood property and most of those renting it for parties are not from our neighborhood but come from other neighborhoods due to the low cost and lack of regulations in place.

As concerned parents and home owners living immediately adjacent to this property we appreciate your attention and consideration to our concerns. We hope the safety of our children as well as our neighbors and their children as well as the integrity of our neighborhood will be a factor in this review.

Thank you

