



Date August 12, 2013

WHEREAS, on July 29, 2013 by Roll Call No. 13-1199, it was duly resolved by the City Council that the application of Brace, LLC (owner) represented by Alex Langstraat (officer) to rezone certain property located in the vicinity of 901 Bell Avenue from the R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District, to Limited NPC Neighborhood Pedestrian Commercial District classification, more fully described below, be set down for hearing on August 12, 2013, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on August 1, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with the notice those interested in the proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

South 42.5 feet of Lots 39 and 40, Bell Place Plat No. 2, an Official Plat, and the West 60 feet of Lot D, Southwest 9<sup>th</sup> Street Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

from the R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District, to Limited NPC Neighborhood Pedestrian Commercial District classification, subject to the following conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of the property and are binding upon the owners and their successors, heirs and assigns as follows:

- (1) Prohibit the use of the property for gas stations, liquor stores, taverns and nightclubs, and off-premises advertising signs.
- (2) Preserve existing shared vehicular driveway access onto Southwest 9<sup>th</sup> Street with the property adjacent to the north and preserve existing vehicular cross-access through the property to driveway access onto Bell Avenue from the adjacent property to north.



**Roll Call Number**

**Agenda Item Number**

35


**Date** August 12, 2013

-2-

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property from R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District, to Limited NPC Neighborhood Pedestrian Commercial District classification have been considered, the hearing is closed, and the proposed rezoning to the Limited NPC Neighborhood Pedestrian Commercial District classification is hereby APPROVED.

Moved by \_\_\_\_\_ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

  
\_\_\_\_\_  
Michael F. Kelley  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
<b>TOTAL</b>				

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

13-1199  
21  
35

REGISTER  
ORDER NO. 8488

ROLL  
CALL LEGAL

BULLETIN  
BOARD

FOLLOW UP

### NOTICE OF HEARING

Notice is hereby given that on August 12, 2013, at 5:00 P.M., in the Council Chambers at City Hall at 400 Robert D. Ray Drive, Des Moines, Iowa, a hearing will be held by the City Council concerning a request from Brace, LLC (owner) represented by Alex Langstraat (officer) to rezone property located at 901 Bell Avenue from "R1-60" One-Family Low-Density Residential District and "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District to allow for development of a new 1,200-square foot restaurant building.

A map and legal description of the subject property is on file and available for public inspection in the office of the City Clerk.

At the above designated time and place, opportunity to be heard will be given to proponents and opponents of the proposed rezoning.

CITY OF DES MOINES, IOWA

By: T.M. Franklin Cownie, Mayor

ATTEST: Diane Rauh, City Clerk

Published in the Des Moines Register on August 1, 2013.

July 24, 2013

Date August 12, 2013

Agenda Item 35

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 July 18, 2013, the following action was taken regarding a request from Brace, LLC (owner) represented by Alex Langstraat (officer) to rezone property located at 901 Bell Avenue.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-0-1 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
Greg Jones	X			
William Page	X			
Christine Pardee	X			
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

**APPROVAL** of Part A) to find the proposed rezoning is in conformance with the existing Des Moines' 2020 Community Character Plan and Part B) to rezone the property from "R1-60" One-Family Low-Density Residential District and "C-1" Neighborhood Retail Commercial District to the "NPC" District subject to the following conditions: (ZON2013-00225)

1. Prohibit the use of the property for gas stations, liquor stores, taverns and nightclubs, and off-premises advertising signs.
2. Preserve existing shared vehicular driveway access onto Southwest 9<sup>th</sup> Street with the property adjacent to the north and preserve existing vehicular cross-access through the property to driveway access onto Bell Avenue from the adjacent property to north.



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

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the requested rezoning to the "NPC" District subject to the owner agreeing to the following conditions:

1. Prohibit the use of the property for gas stations, liquor stores, taverns and nightclubs, and off-premises advertising signs.
2. Preserve existing shared vehicular driveway access onto Southwest 9<sup>th</sup> Street with the property adjacent to the north and preserve existing vehicular cross-access through the property to driveway access onto Bell Avenue from the adjacent property to north.

### Written Responses

2 In Favor

0 In Opposition

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to demolish the existing restaurant building and construct a 30-foot by 40-foot (1,200 square feet) restaurant building. The applicant is also proposing to provide customer parking and a drive-thru lane. In order to place the building toward the street and have the drive-thru function to the west along with the off-street parking, the applicant is requesting to have the entire split zoned site rezoned to the "NPC" District. The revised request has also incorporated additional land purchased from the Des Moines Public Schools to the west to better accommodate landscaping and internal traffic circulation.
2. **Size of Site:** 11,152 square feet (0.256 acres)
3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District, "R1-60" One Family Low-Density Residential District, "GGP" Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Vacant restaurant building and paved parking lot.
5. **Adjacent Land Use and Zoning:**
  - North** – "R1-60", Use is a law office.
  - South** – "R1-60" & "C-1", Use is Lincoln High School.
  - East** – "C-1", Use is a multi-tenant commercial center with a formal wear shop, insurance office, and launderette.
  - West** – "R1-60", Use is parking lot and open space for Lincoln High School.



6. **General Neighborhood/Area Land Uses:** The subject property is located on a commercial node of the Southwest 9<sup>th</sup> Street mixed-use corridor in the vicinity of where Lincoln High School is the predominant use on the corridor.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Grays Lake Neighborhood and within 250 feet of the Indianola Hills Neighborhood. These neighborhoods were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on July 1, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on June 28, 2012 (20 days prior) and July 8, 2013 (10 days prior to the scheduled hearing) to the Grays Lake Neighborhood Association, Indianola Hills Neighborhood Association, and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Grays Lake Neighborhood Association mailings were sent to Evan Shaw, 2615 Druid Hill Drive, Des Moines, IA 50315. The Indianola Hills Neighborhood Association mailings were sent to Nancy Watson, 326 East Broad Street, Des Moines, IA 50315. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on July 12, 2013.

The applicant is responsible for conducting a neighborhood meeting inviting representatives of the Grays Lake Neighborhood Association, Indianola Hills Neighborhood Association, and surrounding property owners within 250 feet. This meeting is currently scheduled for July 15, 2013 by the applicant who will provide a summary of the meeting at the public hearing.

8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto Oriented; Small Scale Stripe Development.
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 INFORMATION

1. **Natural Features:** The site is currently built and has no landscaping material other than turf covered open space.
2. **Utilities:** There is direct access to public storm sewer and sanitary sewer for the property within the adjoining street right-of-way. The most logical connections for both would be on the Bell Avenue side. There is a Des Moines Waterworks public water main extending from the west in Bell Avenue through the middle of the site to Southwest 9<sup>th</sup> Street. The ultimate building location and site design may necessitate the relocation of this main as part of the redevelopment.

3. **Drainage/Grading:** The amount of proposed impervious surfaces such as building or paving will not exceed thresholds that will require special measures for stormwater management. Any stormwater collected will require piping to the public storm sewer which is located adjacent to the site on the south within Bell Avenue. Should the applicant be seeking commercial tax abatement, one of the options for meeting the criteria would be to provide water quality stormwater management for the one-and-a-half inch or less frequency rain events. This includes methods such as rain gardens or other infiltration systems which collect storm water and put it back into the groundwater system.
4. **Landscaping:** With approval of the requested rezoning, redevelopment of the property will require landscaping in accordance with “NPC” District design guidelines which indicate a “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.” Staff typically recommends using the “C-1”/“C-2” requirements as a baseline for this guideline, with flexibility applied in the Site Plan consideration by the Plan and Zoning Commission.
5. **Traffic/Street System:** Vehicular access is provided to the property from both Southwest 9<sup>th</sup> Street and Bell Avenue. The Southwest 9<sup>th</sup> Street driveway access is shared with the law office property to the north, and the driveway access from Bell Avenue into the site provides for additional cross access to allow the property to the north to have access to Bell Avenue as well. From a practical and circulation standpoint, staff believes it is important to protect this shared and cross access arrangement by keeping the same accesses or similar accesses with a site redevelopment. It is unknown whether there are any private easements for the benefit of the applicant or the property owner to the north formalizing these access conditions. Under the requested NPC District zoning, these access points and cross access would also be reviewed as part of the Site Plan by the Commission.
6. **2020 Community Character Plan:** The proposed “NPC” District zoning is a pedestrian oriented type commercial zoning which is more restrictive than the commercial uses and development pattern that are intended by the Commercial: Auto-Oriented Small-Scale Strip Development future land use designation of the property. Since the existing designation for future land use is less restrictive than the proposed zoning, staff recommends that the commission find the proposed rezoning in conformance with the Des Moines’ 2020 Community Character Plan. However, because of proximity to adjoining residential areas, staff believes there are a few uses that are permitted in “NPC” Districts which would not be appropriate in the specific location. Therefore it is recommended that the uses of gas stations, liquor stores, taverns and nightclubs, and off-premises advertising signs be prohibited.

## **SUMMARY OF DISCUSSION**

*There was no discussion.*

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

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

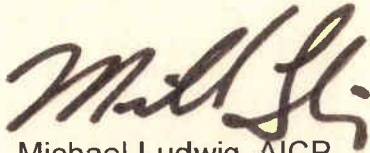
**COMMISSION ACTION:**

CJ Stephens moved staff recommendation Part A) to find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan and Part B) to approve the requested rezoning to the "NPC" District subject to the owner agreeing to the following conditions:

1. Prohibit the use of the property for gas stations, liquor stores, taverns and nightclubs, and off-premises advertising signs.
2. Preserve existing shared vehicular driveway access onto Southwest 9<sup>th</sup> Street with the property adjacent to the north and preserve existing vehicular cross-access through the property to driveway access onto Bell Avenue from the adjacent property to north.

Motion passed 10-0-1 (Greg Wattier abstained).

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

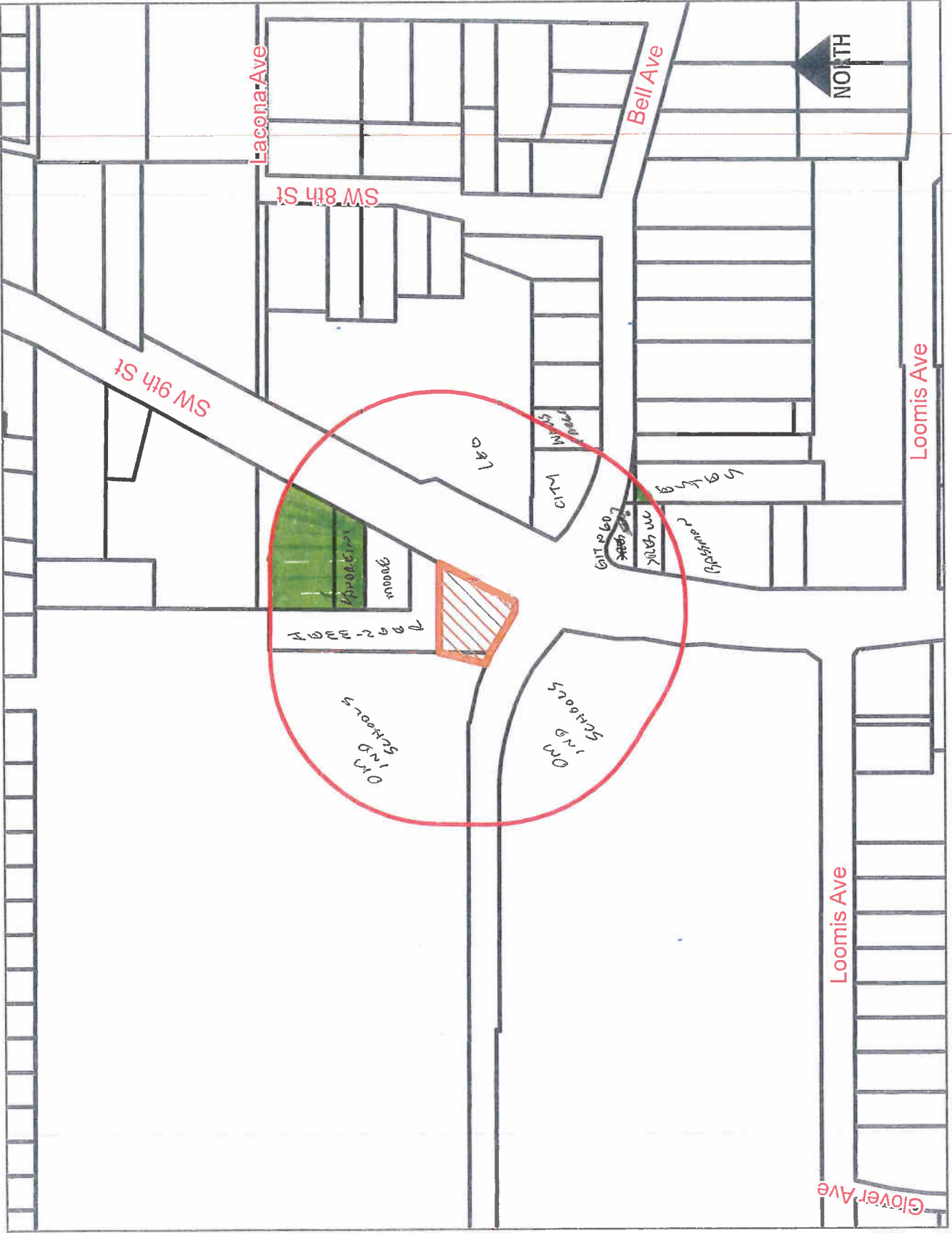
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Attachment



Brace LLC - 901 Bell Avenue

ZON2012-00225



Request from Brace, LLC (owner) represented by Alex Langstraat (officer) to rezone property located at 901 Bell Avenue.				<b>File #</b> <b>ZON2013-00225</b>	
<b>Description of Action</b>	Approval to rezone from "R1-60" One-Family Low-Density Residential District and "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District to allow for development of a new 1,200-square foot restaurant building subject to conditions.				
<b>2020 Community Character Plan</b>	Commercial: Auto-Oriented Small-Scale Strip Development (current & no change proposed)				
<b>Horizon 2035 Transportation Plan</b>	SW 9 <sup>th</sup> Street from Raccoon River to Army Post Road to widen from 4 lane undivided to 5 lane undivided				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District and "C-1" Neighborhood Retail Commercial District				
<b>Proposed Zoning District</b>	"NPC" Neighborhood Pedestrian Commercial District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2	1			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	10-0-1	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Brace LLC - 901 Bell Avenue

ZON2012-00225



Item ZON2012-00225

Date July 13-13

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

**RECEIVED**  
(Circle One)  
COMMUNITY DEVELOPMENT

Print Name GILBERT ANDREINI

Signature Gilbert Andreini

Address 2440 5109<sup>th</sup> ST

JUL 17 2013

DEPARTMENT

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

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

Item ZON2012-00225

Date 7-11-13

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

**RECEIVED**  
(Circle One)  
COMMUNITY DEVELOPMENT

Print Name Lola Estes

Signature Lola Estes

Address 816 Bell

JUL 15 2013

DEPARTMENT

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

I hope it is a success this time. One was located on  
D.W. 9<sup>th</sup> for several years.

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