

Date..... November 18, 2013

**RESOLUTION APPROVING AMENDMENT TO THE
DES MOINES 2020 COMMUNITY CHARACTER PLAN**

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 October 3, 2013, the members voted 13-0 to recommend **APPROVAL** of a request from Galinsky Family Real Estate, LLC (purchaser) represented by Gary Galinsky (officer) to amend the Des Moines 2020 Community Character Land Use Plan to revise the existing future land designation from Commercial: Auto-Oriented Small-Scale Strip Development to Planned Business Park for property located at 5035 Hubbell Avenue, as more specifically shown by the accompanying map. The subject property is owned by Homemakers Plaza, Inc.

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 adopt and approve the proposed amendment.

FORM APPROVED:



Roger K. Brown
Assistant City Attorney

(21-2013-4.20)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
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.

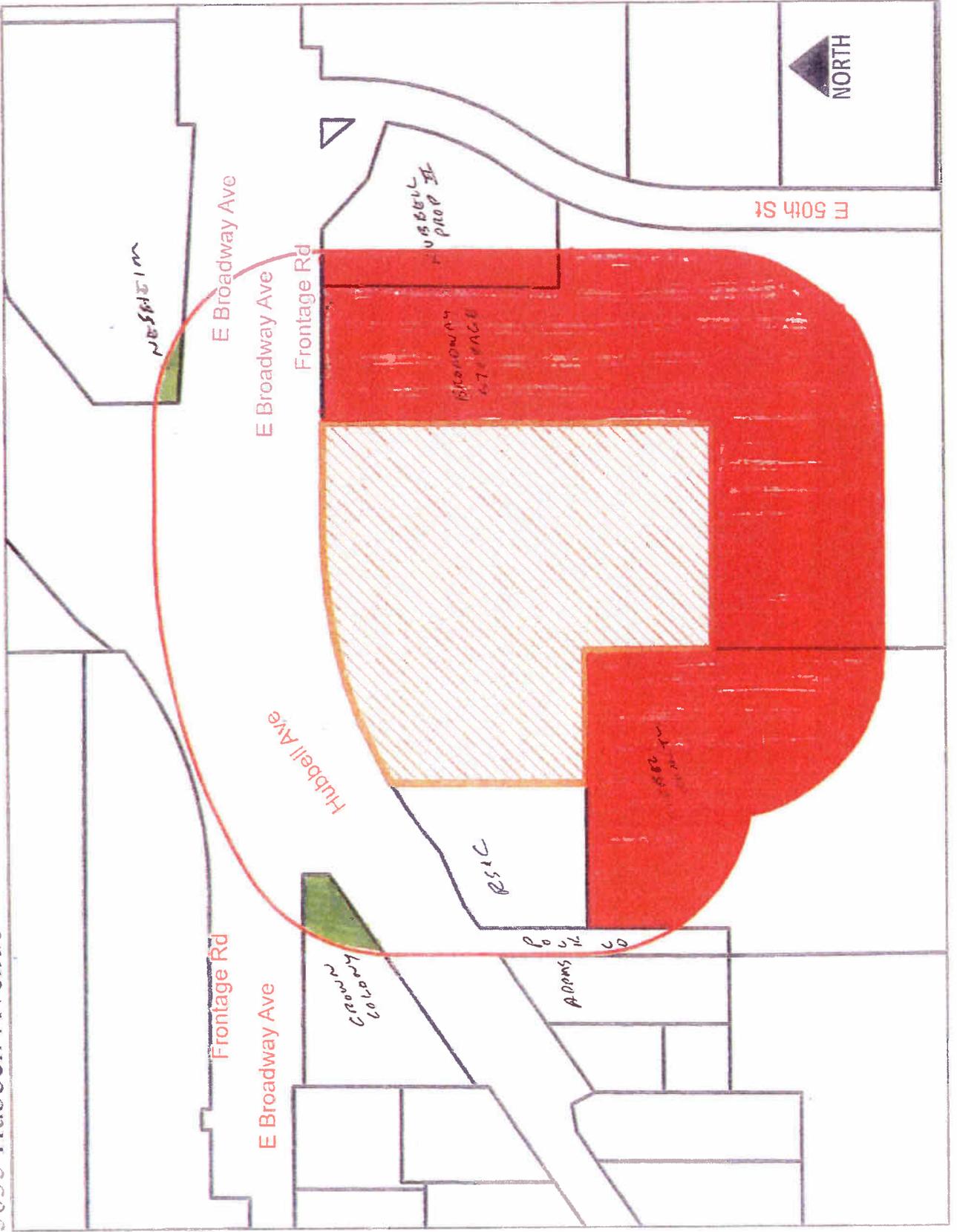
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

Homemakers Plaza Inc. (Galinsky Family Real Estate LLC) -
5035 Hubbell Avenue

ZON2013-00156



487A
42A

487.A

October 11, 2013

Date _____

Agenda Item 42A

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 October 3, 2013, the following action was taken regarding a request from Galinsky Family Real Estate, LLC (purchaser) represented by Gary Galinsky (officer) to rezone property located at 5035 Hubbell Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1887
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1984
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			
Jann Freed	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 to find the requested rezoning is not in conformance with the existing Des Moines' 2020 Community Character Plan future land use designations of Commercial: Auto-Oriented Small-Scale Strip Development; to approve the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Commercial: Auto-Oriented Small-Scale Strip Development to Planned Business Park; and approval of the requested rezoning to "Limited M-1" Light Industrial District subject to the applicant agreeing to the following conditions:

(21-2013-4.20 & ZON2013-00156)

A. The following uses of structures and land shall be prohibited upon the Property:

1. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted.

2. Farms, except growing crops on any land that has not been improved.
3. Asphalt or concrete mixing or production facilities.
4. Refining, smelting or mining operations, including, but not limited to gravel extraction, or drilling for or extraction of subsurface substances.
5. Electrical, or gas generating facilities, except for use primarily on the premises where the same is generated.
6. Cemeteries.
7. Adult entertainment businesses.
8. Arcades or game rooms as a substantial portion of a business.
9. Taverns and nightclubs.
10. Animal rendering or slaughter facility.
11. Off-premises advertising signage.
12. Sanitary sewer treatment facility (other than for waste material generated on the premises) or solid waste disposal facility.
13. Jail, prison, or any other correctional facility of any kind.
14. Any public or private nuisance or illegal activity.
15. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks.
16. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is "unreasonable" shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
17. Temporary structures of any kind other than during construction for construction purposes, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
18. Pole buildings, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
19. Package goods store for the sale of alcoholic beverages.
20. Vehicle display lots, including but not limited to used car sales lot.
21. Pawn brokerages.
22. Financial institutions where the majority of revenue is derived from lending guaranteed by collateral of future payroll or vehicle titles.

- B. The following standards shall apply to any building hereafter constructed for miniwarehouse use:
1. All storage unit building walls facing external to the site shall consist of a stone, masonry, or brick exterior material, or other durable material as approved by the Community Development Director.
 2. No storage access doors shall be oriented toward a public street, any adjoining residential zoning or development, or toward the west property line.
- C. Any fencing along the north, west, and south perimeter of the site shall consist of wrought iron style fencing unless providing a privacy fence is necessary to provide screening for an adjoining property.
- D. Outside storage on the premises shall be prohibited.
- E. Provision of downward directed, shielded lighting to avoid shining obtrusively onto adjoining properties.
- F. All facades on the exterior wall of any building facing a public street must be comprised of no less than 20% in windows, doors, or masonry materials such as brick, cut stone, or decorative pre-cast concrete units, unless unique in architectural design and such design is approved by the Community Development Director as being comparable in overall quality.
- G. All overhead doors and loading docks on any principal or accessory building shall not face Hubbell Avenue or East Broadway Avenue, unless determined by the Community Development Director that no other reasonable location for the overhead doors and loading docks exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
- H. Any development of the property shall comply with the City's Landscaping Standards applicable to the "C-2" District.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan future land use designations of Commercial: Auto-Oriented Small-Scale Strip Development.

Part B) Staff recommends approval of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Commercial: Auto-Oriented Small-Scale Strip Development to Planned Business Park.

Part C) Staff recommends approval of the requested rezoning to "Limited M-1" Light Industrial District subject to the applicant agreeing to the following conditions:

- A. The following uses of structures and land shall be prohibited upon the Property:
1. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential

facility of any kind, except that hotels and motels who rent to transient guests are permitted.

2. Farms, except growing crops on any land that has not been improved.
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13. Jail, prison, or any other correctional facility of any kind.
14. Any public or private nuisance or illegal activity.
15. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks.
16. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is "unreasonable" shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
17. Temporary structures of any kind other than during construction for construction purposes, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
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- B. The following standards shall apply to any building hereafter constructed for miniwarehouse use:
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- G. All overhead doors and loading docks on any principal or accessory building shall not face Hubbell Avenue or East Broadway Avenue, unless determined by the Community Development Director that no other reasonable location for the overhead doors and loading docks exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
- H. Any development of the property shall comply with the City's Landscaping Standards applicable to the "C-2" District.

Written Responses

3 In Favor

3 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant wishes to demolish a portion of the existing building and reuse the site for a mix of minwarehousing and warehousing. The submitted site sketch indicates that three rows of miniwarehouse storage units would be constructed to the west of the remaining portion of the existing building and that a new 35,520-square foot warehouse building would be constructed to the east of the existing building.

2. **Size of Site:** 256,297 square feet or 5.88 acres.
3. **Existing Zoning (site):** "A-1" Agricultural District.
4. **Existing Land Use (site):** The site contains a vacant 77,160-square foot building formally occupied by Homemakers Furniture.

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

North - "A-1", Uses are a motel and warehousing.

South - "Summersfield PUD" & "Limited M-1", Uses are an undeveloped portion of the Summersfield single-family residential development and a miniwarehouse facility.

East - "Limited M-1", Use is a minwarehouse facility.

West - "A-1", Use is a motel.

6. **General Neighborhood/Area Land Uses:** The proposed development is located at the Broadway Avenue and Hubbell Avenue intersection. This area contains a mix of highway commercial, industrial, and agricultural uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not within a recognized neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on September 13, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on September 13, 2013 (20 days prior) and September 23, 2013 (10 days prior to the originally scheduled hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on September 27, 2013.
8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented, Small-Scale Strip Development.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning boundaries or regulations 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 make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Miniwarehouse Requirements:** Construction of any miniwarehouse structure that is over 150 feet in length or that is closer than 10 feet from another building would require approval by the Zoning Board of Adjustment as regulated by Section 134-3 of the Zoning Ordinance.

Sec. 134-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Miniwarehouse means a building or group of buildings separated from each other by at least ten feet, no more than 25 feet in height and not having any other dimension greater than 150 feet per building, containing varying sizes of individualized, compartmentalized, and controlled stalls or lockers for the dead storage of customers' goods or wares, excluding junk, explosive or flammable materials, and other noxious or dangerous materials, including, if any, caretaker's or supervisor's quarters as an accessory use. No business activities other than rental of storage units shall be conducted on the premises.

2. **Landscaping & Buffering:** Any development of the site is subject to administrative approval of a site plan by the City's Permit & Development Center. The site plan must be in compliance with the Des Moines Landscape Standards, including provision of perimeter planting and at least 20% open space. Staff believes the site should be developed in accordance with the landscape standards for the "C-2" District given the significant visibility of the site along the Hubbell Avenue corridor. The "C-2" standards generally require a high number of plantings than the "M-1" standards.
3. **Drainage/Grading:** The applicant is required to demonstrate compliance with the City's stormwater management requirements to the satisfaction of the Permit & Development Center. All grading is subject to an approved grading permit and soil erosion control plan. Any tree removal is subject to compliance with the City's Tree Preservation and Mitigation Ordinance. The proposed development would require the submittal of a tree removal and mitigation plan in accordance with Section 42-554 of the City Code.
4. **Access and Parking:** Access to the site would continue to be provided from the Hubbell Avenue-Broadway Avenue frontage road that runs along the northern perimeter of the site. The submitted site sketch shows the parking lot between the building and the frontage road in the same general configuration as it currently exists.
5. **2020 Community Character Plan:** The properties in the adjoining Broadway Business Park are zoned "Limited M-1" District based on the prohibition of the following uses.
 1. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted.
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 3. Asphalt or concrete mixing or production facilities.
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22. Financial institutions where the majority of revenue is derived from lending guaranteed by collateral of future payroll or vehicle titles.

Staff believes that these use restrictions should be applied to the site as they would keep the subject property within the spirit and intent of the Planned Business Park designation as defined by the Des Moines' 2020 Community Character Plan.

6. **Urban Design:** Staff recommends that basic design standards be applied as a condition of approval given the high visibility of the site and its impact on the area. Section III of this report contains design standards that have been applied to other similar requests including the request to expand the adjoining miniwarehouse development to the east.

All overhead doors and loading docks on any principal or accessory building shall not face Hubbell Avenue or East Broadway Avenue, unless determined by the Community Development Director that no other reasonable location for the overhead doors and loading docks exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal. The proposed layout as submitted with the rezoning application would likely need to be modified to meet this requirement.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Greg Wattier noted that the two letters from adjoining property owners share the same concerns about potential auto display and auto part salvage. Ask if condition #20 addresses this.

Jason Van Essen stated yes and that he believes those letters came in prior to the owners receiving a copy of the staff recommendation that he emailed to them. He did hear back from Broadway Mini-Storage who still had some concerns and he did not hear back from Hubbell Realty.

Jared Johnson 3870 Timberline Drive showed pictures of what they are trying to do. The idea is to get this site zoned industrial and then they will look for a user and base what they end up doing off what the user's needs are.

Gary Galinsky 3501 Aspen Dr. West Des Moines stated the zoning needs to be changed or they cannot proceed with anything since the property is zoned A-1. They have no intentions of doing anything auto related on this site.

Shirley Daniels asked if the applicant was in agreement with staff recommendation.

Gary Galinsky stated their only concern is that there is the possibility they may lease space to a contractor who would want to have outdoor storage.

CHAIRPERSON OPENED THE PUBLIC HEARING

Dave Merschman 4605 80th Place, president of Homemaker Furniture spoke in favor of the applicant's request. Stated this site served their company well for 35 years. They outgrew the site and moved. Stated the sketches and the plans that he has seen for this project are very encouraging. The part of the building that they are proposing to tear down is the oldest and the portion that is being retained is the portion that Homemaker Furniture built in 1978.

Brad Vander Linden 4933 NE 46th Avenue owner of Broadway Storage spoke in opposition of the applicant's request. He believes that on the surface it would seem like an identical use of self storage would be a good use of the property. They did a 50,000 square foot expansion in 2010 and looked at this property as a possible alternative at that time. They did not think the project was feasible. He believes that the Commission should look to see if this project is bankable. This is a prime corner with promising redevelopment potential if a "R-3" zoned site for apartments.

Gary Galansky stated he is confused by the comment that this property's only potential would be as an "R-3" zoned site for apartments when Mr. Vander Linden told the realtor that he had made an offer to buy the property to expand his business. As far as this project being bankable, he does not need outside financing to implement their project.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Tim Fitzgerald stated that he did not want to see outside storage and will support the staff recommendation.

Greg Wattier asked if staff would be supportive of the Commission allowing outdoor storage if it was enclosed by a solid fence.

Jason Van Essen recommended the Commission be consistent with the restrictions that have been placed on the properties in the adjoining Broadway Business Park and prohibit outdoor storage.

COMMISSION ACTION:

Greg Jones moved staff recommendation to find the requested rezoning is not in conformance with the existing Des Moines' 2020 Community Character Plan future land use designations of Commercial: Auto-Oriented Small-Scale Strip Development; to approve the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Commercial: Auto-Oriented Small-Scale Strip Development to Planned Business Park; and approval of the requested rezoning to "Limited M-1" Light Industrial District subject to the applicant agreeing to the following conditions:

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D. Outside storage on the premises shall be prohibited.

E. Provision of downward directed, shielded lighting to avoid shining obtrusively onto adjoining properties.

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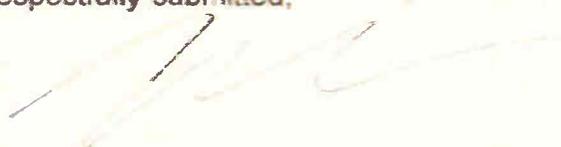
design and such design is approved by the Community Development Director as being comparable in overall quality.

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48-IA

- G. All overhead doors and loading docks on any principal or accessory building shall not face Hubbell Avenue or East Broadway Avenue, unless determined by the Community Development Director that no other reasonable location for the overhead doors and loading docks exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
- H. Any development of the property shall comply with the City's Landscaping Standards applicable to the "C-2" District.

Motion passed 13-0.

Respectfully submitted,



Jason Van Essen, AICP
Senior City Planner

JMV:cw

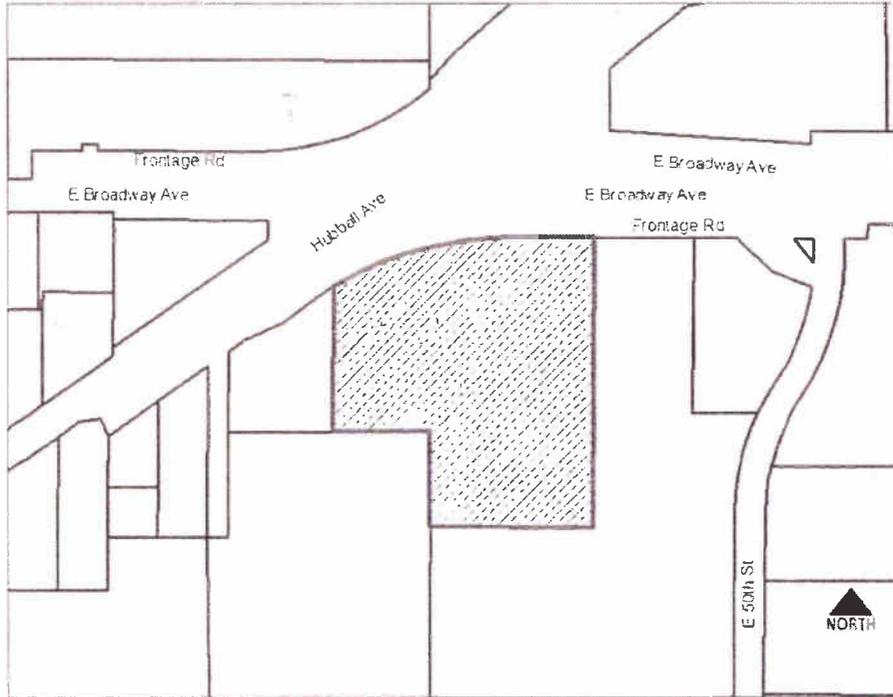
Attachment

427A

Request from Galinsky Family Real Estate, LLC (purchaser) represented by Gary Galinsky (officer) to rezone property located at 5035 Hubbell Avenue. The subject property is owned by Homemakers Plaza, Inc..			File # ZON2013-00156	
Description of Action	Approval to rezone from "A-1" Agricultural District to "M-1" Light Industrial District to allow reuse and redevelopment of the property for warehousing and mini-warehousing subject to conditions.			
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development (current) Planned Business Park (proposed)			
Horizon 2035 Transportation Plan	No Planned Improvements			
Current Zoning District	"A-1" Agricultural District			
Proposed Zoning District	"M-1" Light Industrial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	3	3		
Outside Area				
Plan and Zoning Commission Action	Approval	13-0	Required 6/7 Vote of the City Council	Yes
	Denial			No
				X

Homemakers Plaza Inc. (Galinsky Family Real Estate LLC) -
5035 Hubbell Avenue

ZON2013-00156



ZON2013-00156

Item _____ Date 9-25-13

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

RECEIVED
(Circle One)

COMMUNITY DEVELOPMENT

Print Name Dave Merschman - President - Homekeeper

OCT 01 2013

Signature Dave Merschman

Address 9035 Hubbell Ave

DEPARTMENT

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

The Galinsky Family will put the vac-
building to good use.

ZON2013-00156

Item _____ Date 9/27/13

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

RECEIVED
(Circle One)

COMMUNITY DEVELOPMENT

Name Broadway Storage, LLC

OCT 03 2013

Signature Michael [Signature]

Address 1400 North 7th Street, Indianapolis, IN 46205

DEPARTMENT

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

See previous email to Erik Lundy
that should trigger the
requirement under Town Code 414.5
for super-majority City Council Approval.

ZON2013-00156

Item _____

Date

9/23/13

481A
~~42A~~

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

(Circle One)

RECEIVED

COMMUNITY DEVELOPMENT

Print Name

Kenneth Nesheim

Signature

[Handwritten Signature]

OCT 03 2013

Address

4965 Nubbed Avenue

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

NICE TO SEE AN EMPTY BUILDING
BEING PUT TO USE.

ZON2013-00156

Item _____

Date

9-27-13

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

(Circle One) RECEIVED

COMMUNITY DEVELOPMENT

Print Name

John W Grubb

Signature

[Handwritten Signature]

OCT 01 2013

Address

15815 Northview Dr, Urbandale

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

50378

Re: OBJECTION TO October 3, 2013, 6:00 pm, PUBLIC HEARING, (Zon2013-000156)

TO THE CITY CLERK, CITY PLAN AND ZONING COMMISSIONERS, AND MAYOR AND MEMBERS OF THE DES MOINES CITY COUNCIL:

Broadway Storage, LC, is objecting because we feel the present retail use of the existing lands within the A-1 designation, or possible R-3 rezoning to allow new multi-family development at this location, would better benefit the existing and planned commercial activities on our lands and further enhance the value of adjacent residential development.

Moreover, we feel the M-1 designation could allow a potentially wide array of unknown industrial uses that could have a negative impact on present adjacent uses. For instance, Broadway Storage, LC, does not want a used car dealership or auto salvage parts warehouse/retail outlet in the location, or other potential uses that could result in environmental contamination of existing lands.

Thank you for consideration of our concerns.

Broadway Storage, LC



Brad Vander Linden
Managing Member

1400 North 14th Street
Indianola, IA 50125
Mobile: (515) 689-0423
Office: (515) 961-5710
Fax: (515) 280-2000

Email: brad.vander.linden@gmail.com



Community Development Department

SEP 30 2013

RECEIVED

48-IA
#2A

Community Development Department

SEP 30 2013

RECEIVED



Monday, September 30, 2013

Des Moines City Council
Des Moines Planning and Zoning Commission
Attn. Bert Drost /Erik Lundy
602 Robert D. Ray Drive
Des Moines, IA 50309
United States of America



Dear City Council and members of the Planning and Zoning Commission,

Hubbell Realty has received notification and petition cards from the City of Des Moines in regard to the rezoning of the Homemaker's site, owned by Homemaker's Plaza, Inc.

Please consider this letter as Summersfield LLC and Hubbell Properties II's opposition to the rezoning request. Hubbell Realty Company is the managing member of these ownership entities.

Hubbell is in the position that the rezoning could negatively impact Broadway Business Park and the Summersfield subdivision.

Uses permitted under the proposed district could have a negative impact on value to the residential development to the south. Hubbell has not been presented with a plan that would properly mitigate value loss to future residential uses.

The proposed zoning designation also permits a vast array of industrial uses that could have a negative impact on adjacent land uses and established business. For instance, Hubbell Realty Company does not want a used car dealership or auto salvage parts warehouse/retail outlet in the location. These uses could devalue existing properties in the Broadway Business Park.

Please submit Hubbell Realty Company's opposition on behalf of Summersfield LLC and Hubbell Properties II to the public record.

Sincerely,

Joe Pietruszynski
Vice President of Land Development
Hubbell Realty Company, managing member
6900 Westown Parkway
West Des Moines, Iowa 50266