

.....
Date January 13, 2014.....

RESOLUTION CLOSING HEARING ON REQUEST FROM DIVERSITY INSURANCE, INC., TO REZONE PROPERTY IT OWNS AT 1533 AND 1541 E. GRAND AVENUE, FROM THE "C-2" GENERAL RETAIL AND HIGHWAY ORIENTED COMMERCIAL DISTRICT TO A LIMITED "NPC" NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT, AND CONDITIONALLY APPROVING SAME.

WHEREAS, on November 18, 2013, by Roll Call No. 13-1844, the City Council closed the public hearing on the request from Diversity Insurance, Inc. (owner), represented by Juan Rodriguez (officer), to rezone property it owns at 1533 and 1541 E. Grand Avenue, and more specifically described as follows:

All Lots 18, 19 and 20, Block 45, Stewarts Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

from the "C-2" General Retail and Highway Oriented Commercial District to a Limited "NPC" Neighborhood Pedestrian Commercial District, to allow a 5,500 square foot expansion of the existing building at 1541 E. Grand Avenue for pedestrian-oriented mixed-neighborhood level retail or office uses, subject to the limitations on the allowed uses permitted on the Property identified below; and,

WHEREAS, the limitations on the allowed uses permitted on the Property was not incorporated into Ordinance No. 15,241 passed December 9, 2013, which rezoned the Property to the "NPC" District without any special limitations; and

WHEREAS, the publication of Ordinance No. 15,241 has been delayed to allow the City Council to consider this matter at a new hearing; and,

WHEREAS, on December 23, 2013, by Roll Call No. 13-1963, it was duly resolved by the City Council that the proposed rezoning be set down for a new hearing on January 13, 2014, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on January 2, 2013, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said 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 Property described above from the "C-2" General Retail and Highway Oriented Commercial District to a Limited "NPC" Neighborhood Pedestrian Commercial District, subject to the following limitations which are agreed to and accepted by

Date January 13, 2014

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execution of an Acceptance of Rezoning Ordinance in writing by all owners of the Property and is binding upon the owners and their successors, heirs and assigns as follows:

The following uses of structures and land shall not be permitted on the Property:

- a) Liquor stores;
- b) Taverns and nightclubs; and,
- c) Off-premises advertising signs.

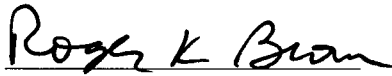
NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to a Limited "NPC" Neighborhood Pedestrian Commercial District are hereby overruled, and the hearing is closed.

2. The proposed rezoning is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan.

MOVED by _____ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRAY				
HENSLEY				
MAHAFFEY				
VOSS				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

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

MOTION CARRIED

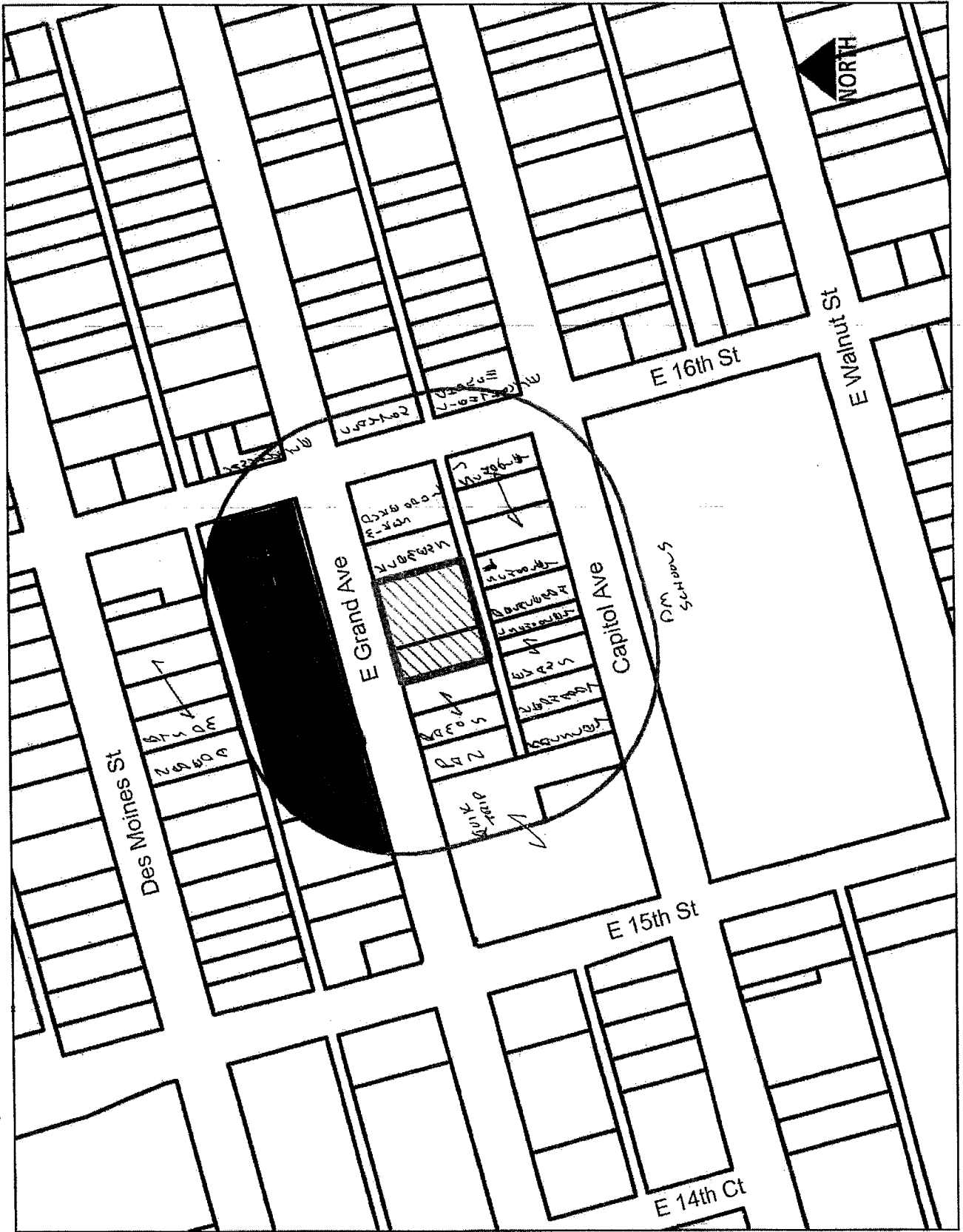
APPROVED

Mayor

City Clerk

ZON2013-00160

Diversity Insurance Inc - 1533 East Grand Avenue



~~1533~~

Date November 4, 2013

October 29, 2013

Agenda Item 19

SS

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 17, 2013, the following action was taken regarding a request from Diversity Insurance, Inc. (owner) represented by Juan Rodriguez (officer) to rezone property located at 1533 and 1541 East Grand Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Tim Fitzgerald				X
Dann Flaherty	X			
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 proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan and to approve the requested rezoning to the "NPC" District subject to the property owner agreeing to prohibit the use of the property for liquor stores, taverns and nightclubs, and off-premises advertising signs. (ZON2013-00160)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

Part B) Staff recommends approval of the requested rezoning to the "NPC" District subject to the property owner agreeing to prohibit the use of the property for liquor stores, taverns and nightclubs, and off-premises advertising signs.



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

Written Responses

- 1 In Favor
- 0 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant is proposing to develop a 5,500-square foot pedestrian-oriented commercial center adjoining and to the west of an existing 3,069-square foot insurance office. The commercial center is proposed to have a mix of office and retail uses. Any future development would be subject to review of a Site Plan under design guidelines in NPC Districts, by the Plan and Zoning Commission.
- 2. Size of Site:** 19,800 square feet (0.45 acres)
- 3. Existing Zoning (site):** "C-2" General Retail and Highway Oriented Commercial District.
- 4. Existing Land Use (site):** Insurance office building with paved off-street parking and vacant property.
- 5. Adjacent Land Use and Zoning:**
 - North** – "NPC", Uses are mixed retail, restaurant, and office businesses (Creaciones beauty salon, Rolling Wok Café, Confidence hair and beauty, and OrderExpress check cashing/wire transfer financial institution) within a pedestrian-oriented commercial center.
 - South** – "R1-60", Uses are single-family dwellings.
 - East** – "C-2", Uses are an off-street parking lot and a garage for general motor vehicle repair (Duke of Oil).
 - West** – "C-2", Use is a free standing parking lot and open space.
- 6. General Neighborhood/Area Land Uses:** The subject property is located on the East Grand Avenue commercial corridor east of the State Capitol complex and East 14th Street. The area has experienced significant pedestrian oriented commercial development in the past 10 years.
- 7. Applicable Recognized Neighborhood(s):** The subject property is within the Capitol East Neighborhood. This neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on September 27, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on September 27, 2012 (20 days prior) and October 7, 2013 (10 days prior to the scheduled hearing) to the Capitol East 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 Capitol East Neighborhood Association mailings were

sent to Peggy Ingram, 1441 Capitol Avenue #10, Des Moines, IA 50316. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on October 11, 2013.

The applicant is responsible for conducting a neighborhood meeting inviting representatives of the Capitol East Neighborhood Association and surrounding property owners within 250 feet. This meeting is currently scheduled for October 12, 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: Pedestrian-Oriented; Neighborhood Commercial Center.
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. **Natural Features:** The east property within the site is currently built and has mature trees on the southern portion. The western property is restored to an open space turf condition from demolition of a previous residential structure. There is a mature tree on the southern portion of this property that was preserved.
2. **Utilities:** There is direct access to a public sanitary sewer main and Des Moines Water Works water main for the property within the center of East Grand Avenue. There is not direct access to any public storm sewer.
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 release on the subject property at velocities that are not erosive and to a location which does not flow onto adjoining private property. 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." Since there is not a recognized or planned streetscape concept for this area, 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 available to the property from both East Grand Avenue and from an east/west alley to the south which is semi-improved. The eastern property has a developed driveway access from East Grand Avenue and from the alley to the south. There is also a cross-access drive connection along the East Grand Avenue frontage of this property accessing the paved parking lot to the east. It is unknown whether there are any private easements for the benefit of the applicant or the property owner to the east formalizing this access condition. The western property does not currently have any developed vehicular access. Under the requested NPC District zoning, any access points and cross-access would be reviewed as part of a Site Plan by the Commission.

2020 Community Character Plan: The proposed "NPC" District zoning is a pedestrian oriented type commercial zoning which would be considered in conformance with the Commercial: Pedestrian-Oriented; Neighborhood Commercial Center future land use designation of the property. 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 to the south, staff believes that use of the property for liquor stores, taverns and nightclubs or off-premises advertising signs would not be appropriate in the specific location. Therefore it is recommended that these uses be prohibited as a condition of the rezoning.

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:

Dory Briles moved staff recommendation to find the requested rezoning in conformance with the existing Des Moines' 2020 Community Character Plan; and approval of the requested rezoning to the "NPC" District subject to the property owner agreeing to prohibit the use of the property for liquor stores, taverns and nightclubs, and off-premises advertising signs.

Motion passed 12-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

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Request from Diversity Insurance, Inc. (owner) represented by Juan Rodriguez (officer) to rezone property located at 1533 and 1541 East Grand Avenue.			File # ZON2013-00160	
Description of Action	Approval to rezone from "C-2" General Retail and Highway Oriented Commercial District to "NPC" Neighborhood Pedestrian Commercial District to allow a 5,500-square foot expansion of the existing building at 1541 East Grand Avenue for pedestrian-oriented mixed-neighborhood level retail or office uses subject to the property owner agreeing to prohibit the use of the property for liquor stores, taverns and nightclubs, and off-premises advertising signs.			
2020 Community Character Plan	Commercial: Pedestrian-Oriented Neighborhood Commercial Center (current & no change proposed)			
Horizon 2035 Transportation Plan	No Planned Improvements			
Current Zoning District	"C-2" General Retail and Highway Oriented Commercial District			
Proposed Zoning District	"NPC" Neighborhood Pedestrian Commercial District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	1	0		
Outside Area				
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Diversity Insurance Inc - 1533 East Grand Avenue

ZON2013-00160



ZON2013-00160

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Item

Date

10/14/13

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

RECEIVED
COMMUNITY DEVELOPMENT

OCT 21 2013

Print Name Neighborhood Development Corp

Signature [Handwritten Signature]

Address 3209 Ingersoll Ave Suite 205

DEPARTMENT

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

We own the property across the street and fully support these owners.

