



Date June 23, 2014

**RESOLUTION APPROVING REQUEST BY JEFFREY TUCKER TO AMEND THE
DES MOINES 2020 COMMUNITY CHARACTER LAND USE PLAN FOR
PROPERTY HE OWNS AT 4044 EAST 14TH STREET**

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 15, 2014, the members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from Jeffrey Tucker (owner) to amend the Des Moines 2020 Community Character Land Use Plan to revise the future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial for property owned by Jeffrey Tucker at 4044 East 14th Street, as shown by the accompanying map.

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

(21-2014-4.04)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

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

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

_____ City Clerk

57A



May 22, 2014

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 15, 2014, the following action was taken regarding a request from Jeffrey Tucker (owner) to rezone property located at 4044 East 14th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	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 of staff recommendation to find the proposed rezoning not in conformance the existing Des Moines' 2020 Community Character Plan; **APPROVAL** of staff recommendation to amend the Des Moines' 2020 Community Character Plan existing future land use designation from Commercial: Auto-Oriented Small-Scale Strip Development to General Industrial; and **APPROVAL** of the requested rezoning to "Limited M-1" Light Industrial District subject to the applicant agreeing to the following conditions:
(21-2014-4.04 & ZON2014-00063)

1. The permitted uses from the "M-1" District shall be warehousing and outdoor contractor storage yard.

2. The following uses permitted within a “C-2” District shall be prohibited upon the Property:
 - a) Adult entertainment businesses.
 - b) Taverns and nightclubs.
 - c) Off-premises advertising signs.
 - d) Package goods store for the sale of alcoholic beverages.
 - e) Pawn brokerages.
 - f) Delayed Deposit services.
3. Existing non-conforming outdoor storage areas on the premises shall be reduced to be outside of any required front yard setback and “R” District protection setback.
4. All new overhead doors on any principal or accessory building shall not face residentially zoned property, unless determined by the Community Development Director that no other reasonable location for the overhead doors exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
5. Any development of the property shall comply with the City’s Landscaping Standards applicable in a “C-2” District.
6. Any outdoor storage of loose landscaping material shall be kept within containment as approved during Site Plan review.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning not in conformance with the Des Moines’ 2020 Community Character Plan future land use designation 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 existing future land use designation from Commercial: Auto-Oriented Small-Scale Strip Development to General Industrial.

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:

1. The permitted uses from the “M-1” District shall be warehousing and outdoor contractor storage yard.

2. The following uses permitted within a "C-2" District shall be prohibited upon the Property:
 - a) Adult entertainment businesses.
 - b) Taverns and nightclubs.
 - c) Off-premises advertising signs.
 - d) Package goods store for the sale of alcoholic beverages.
 - e) Pawn brokerages.
 - f) Delayed Deposit services.
3. Existing non-conforming outdoor storage areas on the premises shall be reduced to be outside of any required front yard setback and "R" District protection setback.
4. All new overhead doors on any principal or accessory building shall not face residentially zoned property, unless determined by the Community Development Director that no other reasonable location for the overhead doors exists and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
5. Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.
6. Any outdoor storage of loose landscaping material shall be kept within containment as approved during Site Plan review.

Written Responses

- 2 In Favor
0 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking reuse the site for a landscaping contractor business that would involve on-site retail sales as a component. The predominant use of the property will be to house the offices of the business along with the outdoor storage of landscaping equipment, materials, and planting stock. This set of uses necessitates the requested rezoning to a Limited "M-1" Light Industrial District. In the application the owner has agreed to prohibit the use of the property for a tavern, an adult entertainment business, a pawn brokerage, and delayed deposit services.
2. **Size of Site:** 1.54 acres.
3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District, "R1-60" One-Family Low Density Residential District and "VDL" Vehicle Display Lot Overlay District.

4. **Existing Land Use (site):** The site was previously used for Eddy Walker Equipment which sold and serviced street cleaning vehicles and equipment. The property contains three buildings totaling 12,240 square feet, with 1,200 square feet for commercial offices, 1,736 square feet for retail, 2,480 square feet of warehouse, and 6,824 square feet for repair shop uses. The buildings are approximately 35 feet from East 14th Street, and approximately 115 feet from the adjoining residential property to the west. There is a zero setback from East Shawnee Avenue to the north. There is existing overhead door access to the building from East Shawnee Avenue as well.

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

North - "C-2" & "R1-60", Uses are a trailer sales and display lot and a single-family residence.

South - "C-2" & "R1-60", Use is a gas station/convenience store.

East - "C-2" & "M-1", Use is a Budget Storage miniwarehouse complex.

West - "R1-60", Use is a mobile home single-family residence with accessory structures.

6. **General Neighborhood/Area Land Uses:** The site is located at the intersection of East Shawnee Avenue and East 14th Street (U.S. Hwy 69), which is a major highway and mixed commercial and industrial corridor.

7. **Applicable Recognized Neighborhood(s):** The subject property is within the Highland Park Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on April 25, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on April 25, 2014 (20 days prior) and May 5, 2014 (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. The Highland Park Neighborhood mailings were sent to Andy Anderson, 4011 North Union Street, Des Moines, IA 50313.

The applicant held a neighborhood meeting on May 1, 2014. The applicant will provide a summary of the meeting at the public hearing.

8. **Relevant Zoning History:** The City Council approved the "VDL" Vehicle Display Lot Overlay District for the property on September 28, 2009.

9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented, Small-Scale Strip Development. This covers all portions of the property including the portion currently zone "R1-60" One-Family Low-Density Residential District.

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. 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. Because of the location of the subject property on a landscape enhancement corridor, all landscaping must be in accordance with standards applicable in "C-2" Districts. The "C-2" standards increase the required number of plantings as compared to the "M-1" standards.

Because of the proposed change of use for the property to a contractor equipment storage yard, the entire site would be required to conform with the landscape standards. This includes proposed paving and dustless surfaces for outdoor storage. Outdoor storage areas will be subject to open space and bufferyard planting and screening requirements.

2. 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. These reviews are conducted administratively by Permit and Development Center staff. There is not currently any indication of tree removal by the owner.

3. Access and Parking: Access to the site would continue to be provided from the existing access drives approaches, including one from East 14th Street and two from East Shawnee Avenue. The submitted site sketch shows the parking lot between the building and the frontage road in the same general configuration as it currently exists.

4. Outdoor Storage: The site previously had gravel or rock surface outside storage related to the street cleaning equipment sales and repair business. The proposed site sketch submitted with the rezoning application proposes to shift this storage away from the residential property to the west. A minimum 10-foot setback is required. Storage would also not be allowed within the north 25 feet along East Shawnee Avenue. However, off-street parking for employees or customer could be within 10 feet of East Shawnee Avenue if it is fully paved. Staff recommends that this be a condition of the rezoning. Through the administrative site plan review, areas used for storage of loose landscaping materials such as rock, mulch, and compost will require containment structures to prevent scattering of material from the site by wind and vehicle tracking.

5. 2020 Community Character Plan: While the site is located on a high-volume commercial corridor, it is also located in close proximity to residential development to the north and west. In order to determine that the proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan, the future land use designation must be amended from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial. The subject property is not directly adjoining any industrially zoned property, but is at the periphery and in close proximity to industrially zoned areas to the east and north. Additionally, the most recent use of the property was an industrial outdoor storage use that has lost its legal non-conforming rights, so the proposed rezoning would not alter the existing character. Due to site landscaping and paving requirements, the character of the property would be improved.

There have been two other rezoning considerations to "M-1" nearby on the East 14th Street in the past few years: One at 4141 East 14th Street to allow for a new chrome plating operation which was denied and one at 4140 East 14th Street to allow expansion of an existing legal non-conforming contractors storage yard for a fueling apparatus contractor. While both of these were located along the East 14th Street corridor intended for Small-Scale Strip Development by the 2020 Community Character Plan, there were distinct differences that affected the determination by the City Council to rezone or not rezone.

The request at 4141 East 14th Street was denied due to the fact that the proposed new use to the area was hazardous in nature due to the chemicals involved. Fire prevention staff had strong concern regarding the safety of the proposed business without the owner providing a good plan for necessary compliance with Building and Fire Codes. By contrast the request at 4140 East 14th Street involved an existing non-hazardous industrial business that was operating under legal non-conforming rights. This business was further seeking to expand outdoor contractor storage while also bringing the site more into conformance with current standards, improving the overall site in the process.

The subject rezoning request is more similar to the previously granted rezoning at 4140 East 14th Street. It is different in the fact that the previous industrial use of the subject site ceased, causing loss of legal non-conforming rights. However the site is still generally built and configured for outdoor storage and the applicant is proposing to bring the property more into conformance with the Site Plan requirements. In addition, the applicant proposes a retail component to the business that will follow the intent of the existing 2020 Community Character Plan. Although a Comprehensive Plan amendment to General Industrial is recommended, staff believes that the Limited "M-1" (Light Industrial) zoning as recommended retains a predominantly commercial character. The General Industrial land use plan designation is unique and defensible but ultimately might not be necessary.

In order to protect the nearby residential district staff believes that only "M-1" District permitted use should be the contractor equipment storage yard and warehousing. In addition to that limitation, the owner has also agreed to prohibit taverns and night clubs, adult entertainment businesses, pawn brokerages and delayed deposit services. Used car lots are already prohibited by the VDL Overlay District. Additionally, staff recommends prohibiting the following uses in order to protect the nearby residential

areas: package goods liquor store for the sale of alcoholic beverages and off-premises advertising signs.

- 6. Urban Design:** Given the high visibility of the site and its proximity to residential uses, staff recommends that as a condition of the requested rezoning that any additional developed overhead doors on any principal or accessory building shall not directly face residentially zoned properties. It is recommended that this be required unless no other reasonable location for the overhead doors exists, as determined by the Community Development Director, and so long as they are adequately screened and designed in such a manner that their visual impact would be minimal.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

COMMISSION ACTION:

Greg Jones moved staff recommendation to find the requested rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan future land use designation 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 General Industrial; and approval of the requested rezoning to "Limited M-1" Light Industrial District subject to the applicant agreeing to the following conditions:

1. The permitted uses from the "M-1" District shall be warehousing and outdoor contractor storage yard.
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impact would be minimal.

5. Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.
6. Any outdoor storage of loose landscaping material shall be kept within containment as approved during Site Plan review.

Motion passed 10-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment