★ Roll Call Number

Agenda Item Number 62B

Date March 9, 2015

RESOLUTION HOLDING HEARING ON REQUEST FROM DES MOINES PEDIATRIC AND ADOLESCENT CLINIC, PLC TO REZONE PROPERTY LOCATED AT 2301 BEAVER AVENUE, 2313 BEAVER AVENUE, AND 2300 40TH PLACE FROM "C-0" COMMERCIAL-RESIDENTIAL DISTRICT AND "R1-60" ONE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT TO LIMITED "C-1" NEIGHBORHOOD RETAIL COMMERCIAL DISTRICT

WHEREAS, on February 23, 2015, by Roll Call No. 15-0293, the City Council received and filed a communication from the Plan and Zoning Commission advising that a public hearing was held by the Commission on February 5, 2015, regarding a request from Des Moines Pediatric and Adolescent Clinic, PLC ("Owner"), represented by Brian Waggoner, M.D. (officer), to rezone property locally known as 2301 Beaver Avenue, 2313 Beaver Avenue, and 2300 40th Place (collectively "Property") from "C-0" Commercial-Residential District and "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail Commercial District, to allow expansion and reconstruction of the existing medical clinic parking lot and site improvements; and

WHEREAS, said communication further advised that a majority of the members of the City Plan and Zoning Commission in attendance at the meeting were unable to agree upon a recommendation regarding the proposed rezoning; and

WHEREAS, the Owner has agreed to the following conditions on the proposed rezoning, as set forth in an executed Acceptance of Rezoning Ordinance:

1. Compliance with all applicable Site Plan regulations including provision of all required landscaping and screening with a 6-foot minimum height solid wooden fence to provide the required screening along the north and east property lines, and a refuse collection container enclosure that complies with current standards for masonry construction and solid metal gates;
2. Any replacement or additional signs on the premises may only be Type A signs (indirectly illuminated only);
3. Prohibit hours of operation for any business use between the hours of 9:00 p.m. and 6:00 a.m.;
4. The following uses are prohibited:
   a) Bakeries;
   b) Delicatessens;
   c) Gas stations;
   d) Grocery Stores/Supermarkets (Limited, General, and Large food sales establishments);
   e) Launderettes and coin-operated dry cleaning establishments;
   f) Locker plants;
   g) Restaurants;
   h) Theaters;
   i) Automotive accessory and parts stores;
   j) Lawn mower/small-engine repair;
   k) Upholstery shops; and

(continued)

WHEREAS, in addition to the above-listed conditions, the Owner has suggested the following supplemental conditions on the proposed rezoning, also set forth in an executed Acceptance of Rezoning Ordinance:

1. The following uses are prohibited:…
   l) Pharmacies; and
   m) Banks; and
2. In addition to the foregoing conditions, any structure(s) located on that portion of the Property locally known as 2300 40th Place and existing at the date of recording of the Acceptance of Rezoning Conditions shall be used solely for residential purposes, until such time as said structure(s) are demolished or destroyed; and

WHEREAS, on February 23, 2015, by Roll Call No. 15-0293, it was duly resolved by the City Council that the application of Des Moines Pediatric and Adolescent Clinic, PLC, to rezone the Property, as legally described below, be set down for hearing on March 9, 2015 at 5:00 P.M., in the Council Chamber at City Hall; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, 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 and continuance, 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 located at 2301 Beaver Avenue, 2313 Beaver Avenue, and 2300 40th Place, legally described as:

Lot 9 (except the West 10 feet thereof); Lots 10, 11 and 12 (except that part conveyed to the City of Des Moines in Book 1434, Page 177 and Book 4118, Page 477); and Lot 13 (except the South 8 feet thereof); all in Block 1 of Broadmoor, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

from "C-0" Commercial-Residential District and "R1-60" One-Family Low-Density Residential District to Limited "C-1" Neighborhood Retail Commercial District, to allow expansion and reconstruction of the existing medical clinic parking lot and site improvements, subject to the conditions stated above as agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by the owner of the Property, which is binding upon the owner and the owner's successors, heirs and assigns.

(continued)

Roll Call Number

Agenda Item Number
62B

Date March 9, 2015

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, and any and all statements of interested persons and arguments of counsel, any objections to the proposed rezoning of the Property to Limited "C-1" Neighborhood Retail Commercial District with conditions as set forth above are hereby overruled, and the hearing is closed.

2.The proposed rezoning of the Property to Limited "C-1" Neighborhood Retail Commercial District with conditions as set forth above is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

MOVED BY _____ TO ADOPT.

FORM APPROVED:
Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(ZON2015-00003)

NOTE: *Six affirmative votes are required to approve the proposed rezoning, due to the written protest against the rezoning as signed and submitted by owners of twenty percent or more of the property which is located within 200 feet of the exterior boundaries of the property to be rezoned. Des Moines City Code §134-3(ii).*

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

MOTION CARRIED APPROVED

_____ Mayor

CERTIFICATE

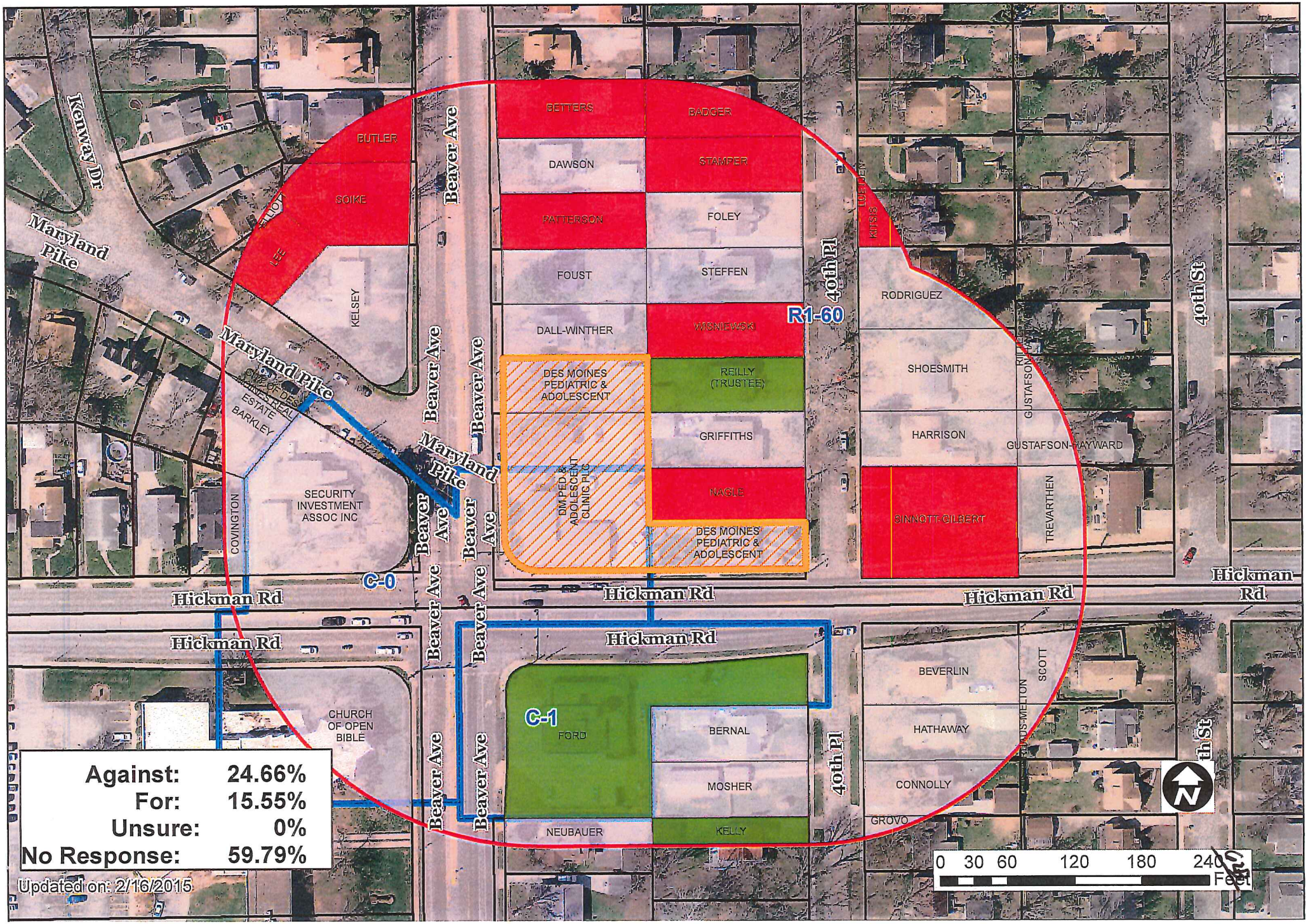
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

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

_____ City Clerk

Des Moines Pediatric & Adolescent Clinic PLC, 2301 Beaver Avenue

ZON2015-00003



62B

CITY OF DES MOINES
COMMUNITY DEVELOPMENT

February 12, 2015

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 February 5, 2015, the following action was taken regarding a request from Des Moines Pediatric and Adolescent Clinic, PLC (owner) represented by Brian Waggoner, M.D. (officer) to rezone property located at 2301 Beaver Avenue, 2313 Beaver Avenue, and 2300 40th Place.

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			
Jacqueline Easley	X			
Tim Fitzgerald				X
Jann Freed	X			
John "Jack" Hilmes			X	
Greg Jones	X			
William Page	X			
Jonathan Rosenbloom	X			
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

APPROVAL of staff recommendation Part A) that the requested rezoning be found not in conformance with the current Des Moines' 2020 Community Character Plan's future land use designation of Low-Density Residential.

By separate motion Commissioners recommended 6-4-1 as follows.

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Jann Freed	X			
John "Jack" Hilmes			X	
Greg Jones	X			
William Page		X		
Jonathan Rosenbloom		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 revising the current future land use designation from Low-Density Residential District to Commercial: Pedestrian-Oriented, Neighborhood Node. (21-2015-4.02)

The Motion failed 6-4-1 as a minimum of 8 affirmative votes were required.

By separate motion Commissioners recommended 5-5-1 as follows.

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Jann Freed		X		
John "Jack" Hilmes			X	
Greg Jones	X			
William Page		X		
Jonathan Rosenbloom		X		
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdill		X		
Greg Wattier		X		

DENIAL of Part B) to amend the Des Moines' 2020 Community Character Plan revising the current future land use designation from Low-Density Residential District to Commercial: Pedestrian-Oriented, Neighborhood Node

The motion failed 5-5-1 due to the lack of a simple majority.

By separate motion Commissioners recommended 5-5-1 as follows.

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Jann Freed		X		
John "Jack" Hilmes			X	
Greg Jones	X			
William Page		X		
Jonathan Rosenbloom		X		
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdill		X		
Greg Wattier		X		

APPROVAL of Part C) to rezone the subject property to a Limited "C-1" District subject to the owner of the property agreeing to the following conditions: (ZON2015-0003)

1. Compliance with all applicable Site Plan regulations including provision of all required landscaping and screening with a 6-foot minimum height solid wooden fence to provide the required screening along the north and east property lines, and a refuse collection container enclosure that complies with current standards for masonry construction and solid metal gates. To bring the site plan back to the Plan and Zoning Commission.

2. Any replacement or additional signs on the premises may only be Type A signs (indirectly illuminated only).

3. Prohibit hours of operation for any business use between the hours of 9:00 p.m. and 6:00 a.m.

4. The following uses are prohibited:

   a) Bakeries;
   b) Delicatessens;
   c) Gas stations;
   d) Grocery Stores/Supermarkets (Limited, General, and Large food sales establishments);
   e) Launderettes and coin-operated dry cleaning establishments;
   f) Locker plants;
   g) Restaurants;
   h) Theaters;
   i) Automotive accessory and parts stores;
   j) Lawn mower/small-engine repair; and
   k) Upholstery shops.

The motion failed 5-5-1 due to the lack of a simple majority. No other motions were made.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested Rezoning be found not in conformance with the current Des Moines' 2020 Community Character Plan's future land use designation of Low-Density Residential.

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

Part C) Staff recommends approval of rezoning to a Limited "C-1" District subject to the owner of the property agreeing to the following Conditions:

1. Compliance with all applicable Site Plan regulations including provision of all required landscaping and screening with a 6-foot minimum height solid wooden fence to provide the required screening along the north and east property lines, and a refuse collection container enclosure that complies with current standards for masonry construction and solid metal gates.

2. Any replacement or additional signs on the premises may only be Type A signs (indirectly illuminated only).

3. Prohibit hours of operation for any business use between the hours of 9:00 p.m. and 6:00 a.m.

4. The following uses are prohibited:

    a) Bakeries;
    b) Delicatessens;
    c) Gas stations;
    d) Grocery Stores/Supermarkets (Limited, General, and Large food sales establishments);
    e) Launderettes and coin-operated dry cleaning establishments;
    f) Locker plants;
    g) Restaurants;
    h) Theaters;
    i) Automotive accessory and parts stores;
    j) Lawn mower/small-engine repair; and
    k) Upholstery shops.

Written Responses
4 In Favor
12 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to allow expansion of the existing medical clinic site for additional off-street parking and landscaping.

2. **Size of Site:** 30,646 square feet (0.7 acres).

3. **Existing Zoning (site):** "C-0" Commercial-Residential District and "R1-60" One-Family Low-Density Residential District.

4. **Existing Land Use (site):** The Des Moines Pediatric and Adolescent Clinic within a 3,600-sqaure foot office building, a single-family dwelling, and vacant property where a single-family dwelling was demolished within the last six months.

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

   North – "R1-60", Uses are single-family dwellings.

   South – Limited "C-1", Uses are retail, Tim Ford Insurance, and off-street parking.

   East – "R1-60", Uses are single-family dwellings.

   West – "C-0 & R1-60", Use is a conversion multiple-family dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located at the northeast corner of the intersection of Beaver Avenue and Hickman Road. The area serves as a small neighborhood service and commercial node with a church, a medical clinic, a small retail store and an insurance office all fronting the intersection.

7. **Applicable Recognized Neighborhood(s):** The subject property is within the Beaverdale Neighborhood. All recognized neighborhoods were notified of the meeting by mailing of the Preliminary Agenda on January 16, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on December 16, 2014 (20 days prior) and January 26, 2015 (10 days prior to the hearing) to the Beaverdale Neighborhood Association contact and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on January 30, 2015.

   All agendas and notices are mailed to the contact person(s) designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Beaverdale Neighborhood Association mailings were sent to Sean Bagniewski, 4005 Forest Avenue, Des Moines, IA 50310.

   The applicant conducted a neighborhood meeting January 26, 2015 and will be able to provide a summary of the events at the public hearing.

8. **Relevant Zoning History:** On November 14, 1967, the Zoning Board of Adjustment denied an appeal that would have allowed extension of the "C-0" District zoning 40 feet into the adjoining property at 2311 Beaver Avenue, zoned "R-2" One and Two-Family Residential District.

   On October 24, 1990, the Zoning Board of Adjustment granted a Variance to allow entrance and exit of off-street parking through the more restrictive district ("R-2") when

parking serving the less restrictive district ("C-0") is established 100 feet into the more restrictive district. This allowed a driveway access onto Beaver Avenue within the "R-2" District zoned property.

On November 27, 1991 the Zoning Board of Adjustment granted an Exception of 2.5 less than the minimum required 30 feet front yard setback from Beaver Avenue to allow a 16-foot by 28-foot addition to the clinic building having a 3.5-foot roof overhang.

9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential.

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. **Landscaping:** The applicant is required to provide landscaping in accordance with the Des Moines' Landscape Standards, as part of a Site Plan for any expansion or modification of the existing off-street parking lot for the existing clinic. This would also be applicable for any future expansion of the clinic that would exceed 50% of its current valuation in cost.

   These landscaping requirements would involve buffer yard plantings and screening on the north and east property lines adjoining residential uses, and perimeter parking lot landscaping along Beaver Avenue and Hickman Road. If a parking lot expansion design would include 50 parking spaces or more, there will also be a requirement for interior lot planting islands. Staff believes that with the rezoning, a solid wood fence is most appropriate way to achieve the screening requirement given the context of the adjacent residences.

   The existing site does not provide an enclosure for screening existing refuse collection containers. Any required Site Plan will trigger the provision of such an enclosure in accordance with currently standards to include masonry construction and solid metal access gates.

2. **Parking/Access:** The site currently has right-in/right-out drive access from both Beaver Avenue and Hickman Road. The existing clinic building requires one (1) parking space per 400 square feet or a minimum of nine (9) spaces to allow occupancy of the entire building for office/retail and beauty salon. The existing Site Plan provides 23 spaces currently with the proposal to expand this number to allow more employees and customers to park on-site rather than overflow onto nearby public streets. There is currently no on-street parking permitted on adjoining Beaver Avenue and Hickman Road.

Any expansion or modification of off-street parking, or provision of separate or relocated drive entrances shall be in accordance with a Site Plan as approved by the Permit and Development Center.

3. **Urban Design/Signage:** The existing "C-0" and proposed Limited "C-1" Zoning Districts both allow for Type B signs, which are internally illuminated. The Zoning Ordinance prohibits this type of signage on a building façade which is oriented toward directly adjoining properties in an "R" District.

   The current medical clinic has non-illuminated building mounted signs on both the south façade facing Hickman Road and on the west façade facing Beaver Avenue. These signs were allowed by right under the current "C-0" District regulations.

   The rezoning, as currently proposed, would allow internally illuminated signs by right on the south and west facades of the building and with any earned freestanding monument signs. Staff has concern that internally illuminated signs on this property may have a negative impact on the character of the surrounding neighborhood. Staff recommends that any future or additional signs only be Type A signs (indirectly illuminated only).

4. **2020 Community Character Plan:** The requested Rezoning requires that the current Des Moines' 2020 Community Character Plan future land use designation be amended from Low-Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node. This necessary designation is defined in the Plan as small-scale commercial serving primarily the adjacent neighborhood. Staff believes that this amendment would be appropriate given the intent of that designation in the Plan and given the existing uses at the intersection of Beaver Avenue and Hickman Road.

   However, the requested "C-1" District zoning would allow for some uses that staff believes will not be appropriate for the specific property given proximity to the immediately adjacent residential neighborhood. Uses that staff believes are not compatible due to their intensity and potential negative impacts would include: Bakeries, Delicatessens, Gas stations, Grocery Stores/Supermarkets (Limited, General, and Large food sales establishments), Launderettes and coin-operated dry cleaning establishments, Locker plants, Restaurants, Theaters, Automotive accessory and parts stores, Lawn mower/small-engine repair, and Upholstery shops.

   The "C-1" District allows business operations to occur except between the hours of 2:00 a.m. and 6:00 a.m. Staff believes that these hours should be further restricted to prohibit operation between 9:00 p.m. and 6:00 a.m. in order to protect the character of the neighborhood.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Jason Van Essen presented the staff report and recommendation.

Mike Simonson asked for the buffering requirements along the street to the parking lot.

Jason Van Essen stated for any parking lot that fronts a street, the zoning ordinance requires a minimum of 5' setback but the landscaping standards require 7' or 10' setback based on total number of parking spaces.

Greg Wattier asked if staff saw the concern expressed on one of the letters received claiming that there was some stipulation that there could be no further rezoning and if there is any accuracy to that claim.

Jason Van Essen stated he is not aware of the context of that claim. There may have been dialogue to that affect and there may have been some conditions or some thought that would have restricted further expansion into an area that is not already zoned. In the past parking was allowed to be extended into residential districts by-right. It now requires review by the Plan and Zoning Commission. Staff is not aware of any restrictions on an applicant requesting any zoning conditions to be changed. It is a new zoning application.

Jonathan Rosenbloom asked staff to research the claim in regards to a stipulation that there could be no further rezoning. He asked if there is a requirement for the fencing along 40th Place.

Jason Van Essen stated the applicant would be required to provide screening where the parking adjoins residentially zoned property.

CJ Stephens asked if the site plan will return to the Plan and Zoning Commission.

Jason Van Essen stated it is an administrative site plan.

Mike Simonson asked if the Plan and Zoning Commission can request that the site plan return to them.

Jason Van Essen stated yes they could request that the site plan return to the Plan and Zoning Commission, but the applicant must agree in writing prior to the Council hearing and the City Council would ultimately decide.

CJ Stephens stated she would like to request that the site plan return to the Plan and Zoning Commission for review. She believes when a 6' minimum height solid wood fence is required, that is not very attractive. She believes a discussion with the neighbors as to what they would like believe is necessary, if that has not happened. She also suggested that the parking lot include some islands with trees, not just the minimum requirement of shrubs.

Daniel Manning 317 6th Avenue, Suite 300 representing the applicant stated they are in agreement with staff's recommendation and conditions. They believe that their request is a

positive contribution to the neighborhood and they understand the concerns of neighbors. The applicant is requesting the rezoning in order to continue their success.

Greg Wattier asked how the discussion at the neighborhood meeting went and was there any dialogue with those neighbors who are in opposition of the applicant's request.

Daniel Manning stated he was unable to answer that question because he was not the one who attended the neighborhood meeting. Bill Lillis, his colleague was the one who was scheduled to be here. However, due to family illness he was unable to attend tonight. He only knows there was discussion about the fence and the commitment to build a fence.

Jonathan Rosenbloom asked for more information about the eastern lot and why it is a part of the request. He questions if the applicant is keeping this lot for residential use, then why the need to change the zoning.

Daniel Manning stated he cannot answer that question either. His understanding is that it will continue to be used for residential use.

Mike Ludwig noted that the applicant previously indicated an intent to put stormwater detention in the rear of the yard of that house for the parking lot area. On their site plan, a couple of the spaces may extend over the lot line. If they do not get the rezoning then they would be back in front of the Commission with a site plan to extend parking into a residential zoned district.

Jacqueline Easley asked if the applicant's practice increased in the last few years and where do the patients and employees currently park.

Daniel Manning stated he believes the increase in practice is one reason they are requesting an expansion of the parking lot.

Greg Jones stated he has observed while driving by that people run across the street and employees park in front of the neighbors' homes. He believes that if this was his business he would want people to park closer.

CHAIRPERSON OPENED THE PUBLIC HEARING

Robert Fornoff 1907 SW 17th Street, Ankeny stated he is one of the physicians at the Des Moines Pediatric and Adolescent Clinic. Their primary goal is to make it safer for the employees, patients and neighbors. The current parking lot is not big enough. They have grown enough to have patients fill the parking lot and thus making the employees park on the surrounding streets. This is not ideal for several reasons. He believes that the neighbors do not want a car in front of their homes all the time. There is increased traffic going around the block, and in some cases the patients have to cross the street making this a safety concern. The applicant's believe if the parking lot is made bigger it would eliminate the on-street parking. It would be safer because they do not have to cross the streets and they are trying to make it look nicer by repaving the existing parking lot, expanding it, and providing the landscaping and the fencing that is required. They are also in agreement with staff's recommendation and conditions.

Jonathan Rosenbloom asked if the residential property on 40th Place can be severed from this request.

Robert Fornoff stated the history is that house became available before the lot to the north became available and their thought was maybe that would be the way to expand their parking in the future so they acquired that property. A year or two later the house to the north became available and that one fits the design better for making that into the parking lot. They do not have any plans currently to tear down the house to the east or to make a parking lot out of it.

Jacqueline Easley asked how long has the Des Moines Pediatric and Adolescent Clinic been in that location.

Robert Fornoff stated he believes it has been there for approximately 40 plus years.

Jacqueline Easley pointed out with that many years at one location it is unlikely they are going to sell this business.

Robert Fornoff stated that he does not anticipate them selling this business and noted there are no other pediatric offices near this area.

Greg Wattier asked how the discussion at the neighborhood meeting went and was there any dialogue with those neighbors who are in opposition of the applicant's request.

Jason Van Essen pointed out the email received from the neighborhood president indicating that their board voted to support the applicant's request subject to the conditions staff listed plus a couple more.

Mike Ludwig stated that neighborhood's email listed uses they want to allow on the property and the staff report lists the uses that are prohibited. He believes the neighborhood would also like to prohibit use of the property for a pharmacy or bank.

Mike Simonson asked if this request were to be approved can the patients and staff be parked on this property or will they still have cars parked on the street.

Robert Fornoff stated he cannot recall when they may have overflow. In normal circumstances they will be able to get all the patients and employees on the new parking lot.

CJ Stephens asked if there was a meeting of the neighborhood association or just a meeting of the board.

Jason Van Essen pointed out the communication from the board president indicates it was a vote of the board. He also pointed out the applicant was provided a list that included the neighborhood association and all property owners within 250 feet. Staff's understanding is the neighborhood association meeting was held on January 26, 2015 and they would not have necessarily voted at that meeting.

Mark Barkley 4116 Maryland Pike stated he is in favor of the safety aspect of this plan. The corner lot which is a larger facility is an older home that has been turned into rental

property with not enough space in their lot to park all the cars for the people that live in that apartment building. Yes there are people having to run across Beaver every morning. There are cars parked on the street all day. He believes that the house the applicant demolished was not necessary because now they have a dirt parking lot and he believes that they should have gotten permission to tear it down.

Jacqueline Easley stated if the person owns the house they can tear it down subject to obtaining a demolition permit.

Mark Barkley stated a 6' wooden fence seems awful. Even though he is excited about not having cars parked in front of his home he is disappointed in the process of how this works. It seems that either it is yes they can have a parking lot or there is a dirt hole.

Lowell Soike 2402 Beaver Avenue stated the applicant's business has additional clinics in Clive and Ankeny and now wants to enlarge its operations in this traditional residential neighborhood. He points out that a request for rezoning was attempted in the 1990s after tearing down a residence to the north of Beaver Avenue. He states that the neighbors' opposition persuaded the City to retain the empty parcel as "R1-60". He believes that it is happening again with the Clinic buying property and demolishing the house and trees to the north on Beaver and persuading the previous owner of the house on 40th Place to sell her house to them. A list of concerns are:

- He believes that this intrusion into the neighborhood will discourage residents to invest in home improvements and also threaten their property values.
- He believes that the rezoning to "C-1" is contrary to the policies and recommendations of the 2020 Community Character Plan. He points out that according to the 2020 Community Character Plan it describes Beaverdale as a major neighborhood district. This block in question is considered a "residential protection corridor". This means that the City is supposed to pay close attention to any requests for commercial rezoning.
- He believes that if this is allowed there will be more request for commercial rezoning spreading down the street.
- He believes if the residential corridors are to be protected defined policies must be developed for expansion of commercial zoning and development.
- He points out that the 2020 Community Character Plan recommends that the City "eliminate the extension of parking 100' into a residential zone as a matter of right."
    - "The public access to the commercial business should be from the major corridor not from an adjacent side street, and it is inappropriate to introduce commercial traffic into or through a residential area. The impacts of such commercial expansion upon the adjacent residential neighborhood…should be a primary consideration in determining the appropriateness of the development request."
- He believes that it is time for the Clinic to shift its business to a nearby predominantly commercial area and ask that the Commission oppose the applicant's request.

Will Page asked staff to explain triggers for a 6/7th vote by the City Council.

Jason Van Essen stated if the owners of more than 20% of the land within 200' of the subject property object a 6/7th vote by the City Council is required. Currently, there is 16%

opposition. This number may change if more response cards are received before going to the City Council hearing.

Will Page asked Mr. Soike does he have any insights to the neighborhood association meeting.

Lowell Soike stated that the person who sits on the board was at the neighborhood association meeting on the January 26, 2015 and he stated the board met and visited about this on that was all that he mentioned.

Karen Soike 2402 Beaver Avenue stated they moved in their home in 1983. In 1990 they received notice that a house in their neighborhood was being demolished and the parcel rezoned commercial. She gave a history of the house the doctor office purchased and the one the doctor office purchased and demolished. She stated the clinic was not a good neighbor and did not maintain their property and the biggest tragedy was when they chose to demolish an $110,000 house for a parking lot.

Mike Simonson stated the clinic is part of a community also. They are struggling with whether they park on the street or do they expand their parking lot. If they were granted an expanded parking lot what measures would be adequate or reasonable to help protect neighbors in terms of buffering, places for them to pile snow and managing storm water runoff. Asked if she rather they park on the street or park on an expanded lot.

Karen Soike stated she prefers they do neither. She noted the Woodsmith Store came into Beaverdale and built a beautiful building. Their business grew, they did not demolish houses or request further commercial zoning. Instead they went out to Hickman took over Payless Lumber Yard and made a beautiful store. She believes when a business outgrows their current location they should move.

Bruce Butler 2420 Beaver Avenue, he also owns 2408, 2412 and has a contract for 2305 and there are two buildable lots in between. He asked the Commission why the City should reward people for demolishing houses. He showed the Council agenda from 1990 and read the wording of what was to be discussed. "Rezoning property in the vicinity of Beaver Avenue and Hickman Road from "R-2" one and two family residential to Limited "C-0" commercial residential subject to conditions at the owner agreeing not to further expansion including parking north of the property". Because of this he believes the clinic is in violation and questions the Commission if they are going to reward the applicant for reneging on their word and violating the ordinance and for demolishing the house. He pointed out that when he was president of the Beaverdale Neighborhood Association Stockard and Engler was an important consideration in Des Moines that they were interested in housing stock. Housing stock was the key to salvation of Beaverdale. He wonders why staff did not mention a word about the residences on Beaver. They said this is a commercial node, commercial activity and go on north into the heart of Beaverdale where the primary commercial district in Beaverdale. He believes they have no concern for the housing stock. He believes that this request is not in accordance to the 2020 Comprehensive Plan that says this is a protected residential corridor which means the houses are protected from encroachment of commercial property because it is in the best interest of the City of Des Moines to promote housing. Instead he believes this request is in violation and believes the applicant and staff is twisting the 2020 Comprehensive Plan ignoring the needs of landowners.

Mark Barkley 4116 Maryland Pike asked how the percentages on the consent map is figured.

Greg Jones stated it is the percentage of land area within 200' of the subject property.

Will Page asked about the Lee property that looks like it abuts the inner ring and whether or not the part that abuts is included in the 16%.

Mike Ludwig clarified for example the Betters property appears to be outside of the 200' feet calculation. The Lee property is approximately 75% outside of the 200' boundary. When the opposition is calculated it is based on the land area under state code that is inside the 200' line. It is not calculated by the number of response cards or number of people who have signed cards.

Pamela Stamper 2406 40th Place stated she believes the rezoning should not be extended to the 40th Place residence. Her concern is the increased traffic on 40th Place.

Mike Ludwig explained that cross hatching is used to indicate conditional zoning on the City's zoning map. There is no cross hatching for this property on the City's zoning map. Staff will confirm prior to the Council hearing as to whether any conditions exist. What was shown was the September 17, 1990 Council Agenda but he has not seen the actual decision of the City Council. The existing parking lot extends into an "R1-60" district and the staff report did identify how that occurred. Since 1990 several things have changed. The 2020 Comprehensive Plan was adopted in 2000 and there have been numerous changes to the zoning and development regulations to implement that plan. Some comments were made that this rezoning is not consistent with the 2020 Community Character Plan. Staff's recommendation was that the request is consistent with the 2020 Community Character Plan. The Beaver Avenue corridor is classified as a Design Integrity Corridor with the 2020 Community Character Plan. There have been several code changes adopted to implement that policy. The existing building predated the 2020 Comprehensive Plan. Since then the City has required parking lot expansion to require site plan review by the Planning and Zoning Commission instead of going to the Zoning Board of Adjustment and the tax abatement standards for commercial development address some of the design quality outlined under this policy. He proceeded to talk about each bullet point under the proposed policies for the Design Integrity Corridors:

- *To preserve the character of Gateway Corridors and Design Integrity Corridors, develop special design standards that address connections among neighborhoods, entrances into highly imagable districts, and entrances to the downtown. The standards for review should include compatibility of materials, scale, and relation of building to the street. Metal buildings will not be allowed along Gateway or Design Integrity Corridors.* No new building proposed. The existing building predated. The new parking expansion must comply with landscape and buffer standards adopted after the 2020 Plan was approved. The design standards for tax abatement was also adopted.
- *To encourage continuity and visual interest along corridors, develop special landscaping elements for public property that can be implement through both public and private activities, such as the East University Design Guidelines.* No public

streetscape is proposed by the City at this time. Landscape standards were adopted by the City.

- *Prohibit the erection of pole signs and off-premises signs along any of the specially designated corridors in the City.* The City adopted an overlay district that prohibits any new pole signs. In addition a recommended condition of approval is that only Type A (indirectly illuminated) sign be permitted on this site.
- *Promote the burial of utility lines where feasible along new streets and with street improvement projects.* No street improvement project is proposed.
- *Revisit the Metropolitan tree planting standards to ensure that the species of trees recommended for planting are overstory trees with a height of maturity that can create a strong street canopy.* Landscape standards were adopted in 2004.
- *Include street trees and sidewalks as an integral part of all street improvements.* No street improvements proposed. Landscaping will be provided on private property per Landscape Standards.

The fence requirement is in the zoning code and it would just be along the north property line and he east property line. It would not run along Beaver Avenue or Hickman Road.

Mike Simonson asked if a fence would be required along the eastern parcel.

Mike Ludwig stated if the parcel to the east was rezoned to "C-1" it would have to extend along that north lot line of the parcel that fronts on 40th Street. The proposed policies of the Residential Protection Corridors under the requests for rezoning from residential to commercial he pointed out the implementation bullet points:

- *Enhance the existing commercial development. The proposal should not ignore existing vacant buildings or underused space that can be used for redevelopment.* Expansion of the parking lot makes continued use of existing building as medical office more viable.
- *Provide a focus for neighborhood activities. Under conditional zoning, the proposed development can be evaluated in terms of hours of operation….taking place in a specific building.* Condition of approval #3 prohibits hours of operation for any business use between the hours of 9:00 p.m. and 6:00 a.m.
- *Provide transition area, physical barriers, and landscaping between commercial development and residential according to the transition standards developed in this plan.* Landscape standards were adopted in 2004 and city code requires trash enclosures and provisions of a buffer between commercial and residential zoned properties.
- *Be architecturally compatible with adjacent housing and buildings.* Existing building is in scale with existing neighborhood.
- *Promote unique solutions to the problem of finding adequate parking that are compatible with neighboring uses. Shared parking facilities and use of on-street parking are two solutions.* No on-street parking allowed on Hickman and Beaver. Overflow of parking on residential streets is creating greater impact on surrounding neighborhood than new on-site parking.

The code does not prohibit the demolition of a single-family house. The applicant obtained a demolition permit. Currently, there is only right in access from Hickman and from Beaver Avenue into this property. Cars are ultimately circulating through the residential neighborhood to get on the right side of the street to access the property. The use of the

property, hours of operations, parking demands, conflict, nature of activity taking place are all addressed in the staff recommendation. He stated that staff does look at the 2020 Comprehensive Plan when the report is being written. There is a due process available that does not prohibit applicants and owners of property for asking for rezoning.

Rebuttal

Daniel Manning stated the applicant would be in agreement with adding, pharmacy and banks to the list of prohibited uses. He believes that the applicant is trying to address an existing problem and their request is a means to do so.

CHAIRPERSON CLOSED THE PUBLIC HEARING

JoAnne Corigliano asked what is to keep them from expanding further into the neighborhood.

Mike Ludwig stated it would require similar consideration and action by the Commission and City Council to rezone any additional property.

Jonathan Rosenbloom stated assuming the 1990 request went through it would be an approval of zoning with a condition. He believes that condition needs to be addressed as well.

Mike Ludwig reiterated that staff will clarify whether there is any existing zoning condition. However, the applicant is in front of the Commission tonight with a new rezoning proposal for the property and the City would be effectively lifting any previous condition if the new zoning was approved.

Will Page referred to a card that was handed out to the Commission regarding upcoming meetings for the City 2040 Plan. He pointed out one of the question which ask "How will our neighborhoods keep their character while new homes and businesses are built?" He stated if someone acquires a property legally and tears down what is on the property and then comes to the Commission for approval of a rezoning, then it seems the Commission is being held hostage to an action already done without their control.

Greg Wattier stated he loves the mix of zoning and uses in the neighborhood. There is always going to be controversy which makes the neighborhood. He agrees that the site plan should come back to the Commission and believes there is an opportunity for a good compromise and solution.

Jann Freed asked could the 40th Place piece could be excluded from this rezoning request.

Greg Jones stated it could be if the applicant is not going to use it for part of their site development.

Glenna Frank stated the applicant would have to agree to such a condition.

Mike Simonson left the meeting @7:27 p.m.

Greg Wattier asked the applicant if the piece on 40th Place could be severed from their request.

Dann Manning stated it is needed in order to deal with the stormwater and parking issues. Based on what he knows right now he is not in the position to agree to that.

Jonathan Rosenbloom stated he plans to vote in opposition of the applicant's request primarily because of the lot on 40th Place. He has not heard of any reason as to why that property needs to be part of this rezoning except for potential storm water management. If they are willing to expand the property then deal with the runoff on site. He also believes that this is a self-created problem in that the clinic came to the neighborhood knowing what the zoning was at the time, sought a variance and got that, purchased another piece of property knowing what the property was zoned at that time and sought to expand it and demolish the other building which was self-created. Therefore, unless the applicant is willing to sever off the 40th Place piece he will vote no.

Jacqueline Easley stated she plans to vote in support of the applicant's request. She understands the neighbors arguments but thought it was a compelling point that one of the response cards noted that at least this is not a tattoo parlor. She believes that if this zoning is not approved the property owner has every right to sell this property to whomever.

COMMISSION ACTION:

CJ Stephens moved approval of Part A) that the requested Rezoning be found not in conformance with the current Des Moines' 2020 Community Character Plan's future land use designation of Low-Density Residential.

Motion passed 10-0-1 (John "Jack" Hilmes did not participate in the hearing).

CJ Stephens moved approval of Part B) to amend the Des Moines' 2020 Community Character Plan revising the current future land use designation from Low-Density Residential District to Commercial: Pedestrian-Oriented, Neighborhood Node.

Motion failed 6-4-1 (Jonathan Rosenbloom, Greg Wattier, Vicki Stogdill and Will Page voted in opposition and John "Jack" Hilmes did not participate in the hearing).

Mike Ludwig noted that a minimum of 8 votes in support of a land use plan amendment are necessary.

Glenna Frank asked that if there is going to be a denial then they should vote to deny.

Greg Wattier moved to deny the requested amendment to the Des Moines' 2020 Community Character Plan revising the current future land use designation from Low-Density Residential District to Commercial: Pedestrian-Oriented, Neighborhood Node.

CJ Stephens stated that the Commission is asking for the site plan to come back and perhaps with a design that property could still be excluded.

Motion failed 5-5 -1 (Jann Freed, Jonathan Rosenbloom, Greg Wattier, Vicki Stogdill and Will Page voted in opposition and John "Jack" Hilmes did not participate in the hearing).

CJ Stephens moved approval of Part C) approval of rezoning to a Limited "C-1" District subject to the owner of the property agreeing to the following Conditions:

1. Compliance with all applicable Site Plan regulations including provision of all required landscaping and screening with a 6-foot minimum height solid wooden fence to provide the required screening along the north and east property lines, and a refuse collection container enclosure that complies with current standards for masonry construction and solid metal gates. To bring the site plan back to the Plan and Zoning Commission.

2. Any replacement or additional signs on the premises may only be Type A signs (indirectly illuminated only).

3. Prohibit hours of operation for any business use between the hours of 9:00 p.m. and 6:00 a.m.

4. The following uses are prohibited:
   a) Bakeries;
   b) Delicatessens;
   c) Gas stations;
   d) Grocery Stores/Supermarkets (Limited, General, and Large food sales establishments);
   e) Launderettes and coin-operated dry cleaning establishments;
   f) Locker plants;
   g) Restaurants;
   h) Theaters;
   i) Automotive accessory and parts stores;
   j) Lawn mower/small-engine repair; and
   k) Upholstery shops.

Motion failed 5-5 -1 (Jann Freed, Jonathan Rosenbloom, Greg Wattier, Vicki Stogdill and Will Page voted in opposition and John "Jack" Hilmes did not participate in the hearing).

Respectfully submitted,

Michael G. Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

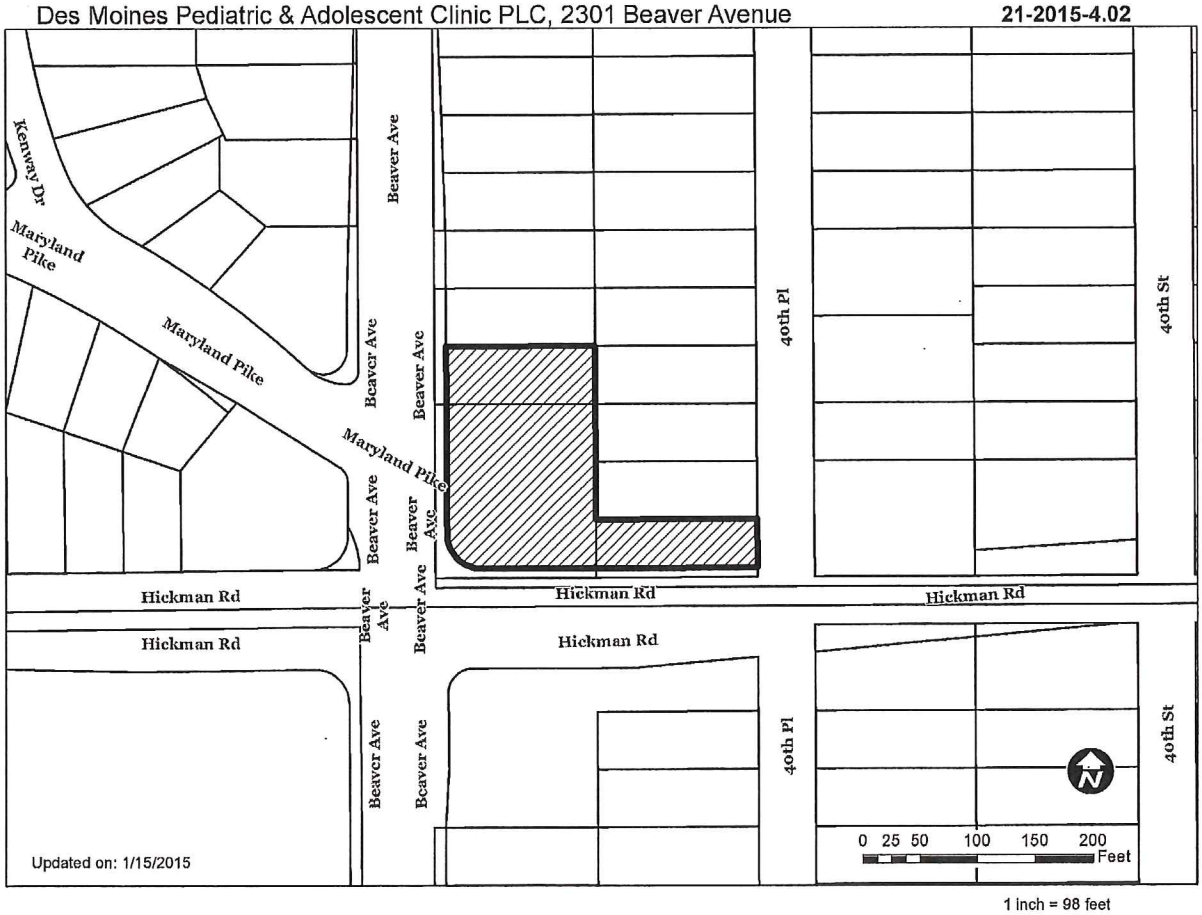
Des Moines Pediatric and Adolescent Clinic, PLC (owner) represented by Brian Waggoner, M.D. (officer) for property located at 2301 Beaver Avenue, 2313 Beaver Avenue, and 2300 40th Place.	File # 21-2015-4.02

Description of Action	Approval to amend the Des Moines' 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node. Motion Failed.
2020 Community Character Plan	Current: Low Density Residential. Proposed: Commercial: Pedestrian-Oriented, Neighborhood Node.
Horizon 2035 Transportation Plan	No planned improvements.
Current Zoning District	"C-0" Commercial-Residential District and "R1-60" One-Family Low-Density Residential District.
Proposed Zoning District	"C-1" Neighborhood Retail Commercial District.

Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	4	12		
Outside Area				

Plan and Zoning Commission Action			**Required 6/7 Vote of the City Council**		
	Approval	5-5-1		Yes	
	Denial			No	

Des Moines Pediatric & Adolescent Clinic PLC, 2301 Beaver Avenue **21-2015-4.02**



1 inch = 98 feet

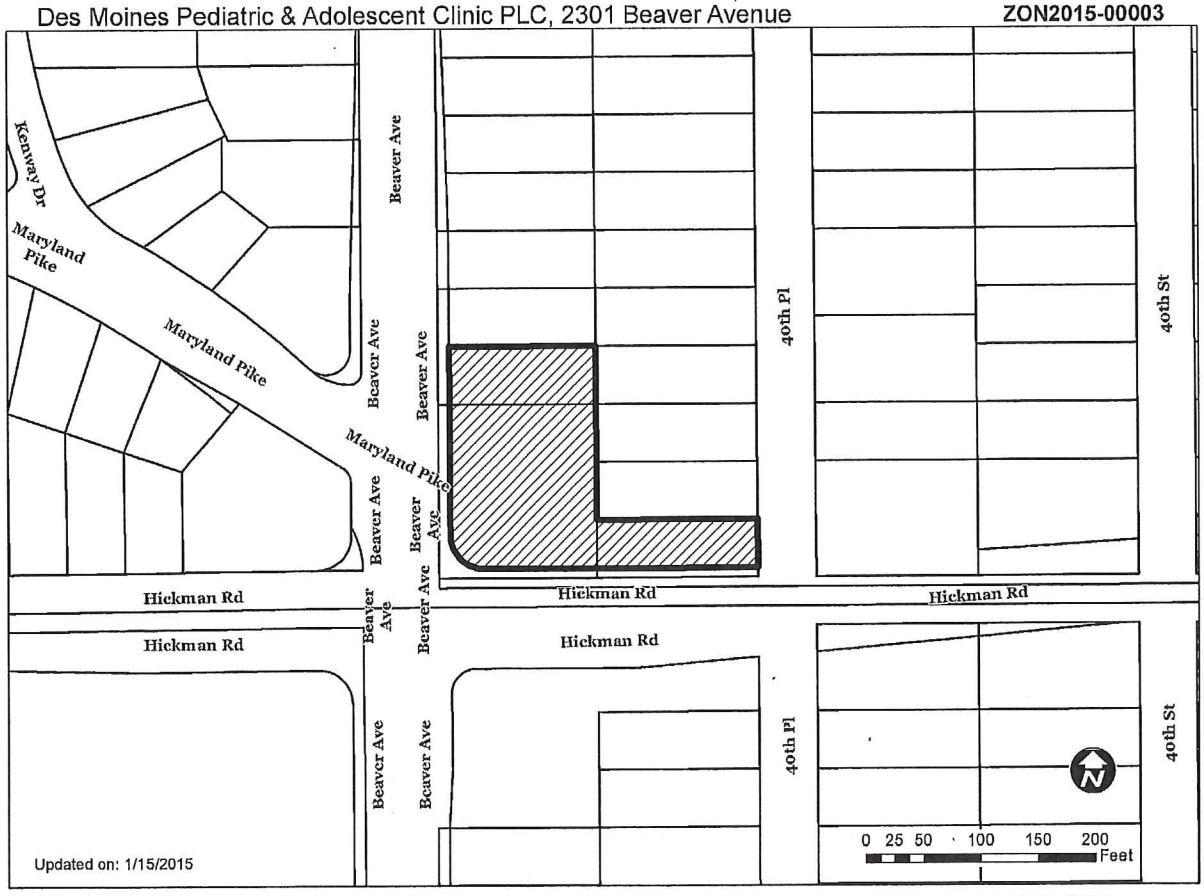
62B

Des Moines Pediatric and Adolescent Clinic, PLC (owner) represented by Brian Waggoner, M.D. (officer) for property located at 2301 Beaver Avenue, 2313 Beaver Avenue, and 2300 40th Place.	File # ZON2015-00003
Description of Action	Approval to rezone property from "C-0" Commercial-Residential District and "R1-60" One-Family Low-Density Residential District to "C-1" Neighborhood Retail Commercial District, to allow expansion and reconstruction of the existing medical clinic parking lot and site improvements. Motion failed.
2020 Community Character Plan	Current: Low Density Residential. Proposed: Commercial: Pedestrian-Oriented, Neighborhood Node.
Horizon 2035 Transportation Plan	No planned improvements.
Current Zoning District	"C-0" Commercial-Residential District and "R1-60" One-Family Low-Density Residential District.
Proposed Zoning District	"C-1" Neighborhood Retail Commercial District.

Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	4	12		
Outside Area				

Plan and Zoning Commission Action	Approval	5-5-1	**Required 6/7 Vote of the City Council**	Yes	
	Denial			No	

Des Moines Pediatric & Adolescent Clinic PLC, 2301 Beaver Avenue ZON2015-00003



Item ZON2015-00003 Date Feb. 2-2015

I (am) (am not) in favor of the request. Received after 2/5 P&Z

(Circle One)

Print Name Todd Patterson

Signature [signature]

Address Owner of 2401 Beaver Ave.

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

We would like to see this area remain residential vs. commercial.

Item ZON2015-00003 Date 1-31-15

I (am) (am not) in favor of the request. Received after 2/5 P&Z

(Circle One)

Print Name Bernard Stamper

Signature Bernard N. Stamper, Jr

Address 2406 40th Place, Des Moines, IA 50310

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

Strongly opposed. I believe the proposed rezoning is incompatible with the basic residential character of the district, and will decrease nearby residential property values. Dont allow this to become another Rice field outcome. Forbes called Beaverdale "one of America prettiest neighborhoods." Let's keep it that way.

Item ZON2015-00003 Date 2-3-2015

Received after 2/5 P&Z

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

STRONGLY

(Circle One)

Print Name Shelley Kitsis

Signature Shelley Kitsis

Address 2401 40th place DSM, IA.

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

This Dr. office has been at this since I moved here in 1988. They failed, due to the long time-conscientious generatio of Beaverdale residents. Beaverdale is a DSM "STAPLE" — known for it's "homey", quiet, safe RESIDENTIAL neighborhoods family, gaaint, Beaverdale BRICKS!! NOW WAGGONER comes in like a bully with his high priced, intimidating lawyers and refuses on LOSING! SHAMEFUL!! Let him move west like all the other clinics have, if he wants to expand! He will NOT STOP, if he gets what he wan this time! My home value will dramatically go down. My neighbo What is MOST appalling, is how he has bought off councilman Grey Grey was elected by NW DSM Residents — to represent THEIR best interests!!! WAGGONER did not vote/elect him! SHAME, SHAME on Grey!!!

Item ZON2015-00003 Date 1-27-15

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

(Circle One)

Print Name Nancy Betters

Signature Nancy Betters

Address 2411 Beaver Ave

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

If they need more space to grow they should move to a non residential business site

Item ZON2015-00003 Date 1/28/15

Received after 2/5 PEZ

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

(Circle One)

Print Name LAUREN BADGER

Signature

Address 2410 4th PLACE

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

Further development of this area should be approved by the residents (not businesses) It should stay a neighborhood with minimal business encroachment.

Item ZON2015-00003 Date Jan. 29 2015

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

(Circle One)

Print Name Mary Lee

Signature Mary Lee

Address 4121 Maryland Pike

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

I am concerned regarding the increasing build up + commercialization of the Beaverdale neighborhood. Tearing down a house + cutting down mature trees for a parking lot is appalling

Item ZON2015-00003 Date 1/27/15

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

(Circle One)

Print Name Robert Wisniewski

Signature

Address 2318 40th Place

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

Keeping Beaver Dale family oriented & the already busy Beaver Ave. less busy. The tearing down of the house North of the office has already increased the noise and blown trash into our back yard.

62B

Item ZON2015-00003 Date 1-27-15

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

(Circle One)

Please Donot put my children at risk

Print Name Lesley Luetjen

Signature

Address 2407 40th PL

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

40th PL is a family Street there are 9 children who play on thise Street just 4 to 5 houses daon from where they want to put a lot The traffic will be to dangerous. Kids!

Item ZON2015-00003 Date 1-29-15

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

(Circle One)

Print Name Guy A Nagle

Signature

Address 2306 - 40th Place

Reason for opposing or approving this request may be listed below: we have 200 feet adjoining - the most of anyone. We're already Adversely Affected when they push snow on the setback And thru the fence, when it melts it makes a swamp of our backyard. If 2308 was rezoned and they put retention pond in the backyard - as they mentioned at their meeting Monday night - it would be a mosquito pond since they do nothing but mow grass in property care. They ignore weeds and scrub trees They dont need rezoning to redo the parking lot.

Rezoning would Adversely Affect Our Property Value

Item ZON2015-00003 Date 1/28/2015

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT
JAN 30 2015
DEPARTMENT

Print Name Tim Ford

Signature [signature]

Address 2217 Beaver Ave DSM

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

Item ZON2015-00003 Date 1/29/15

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

(Circle One)

Print Name Joe Kelly

Signature [signature]

Address 2206 40th PL

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

Item ZON2015-00003 Date 1/30/15

I (am) (am not) in favor of the request, with restrictions below
Received after 2/5 PZ

(Circle One)

Print Name SEAN BARNIEWSKI

Signature SRB

Address 4005 Forest Ave.
Neighborhood Assoc.

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

All restrictions included in the staff report, with the inclusion of pharmacies, hardware stores, banks, adult schools, and department stores also being excluded uses

Item ZON2015-00003 Date 1/27/15

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

(Circle One)

Print Name KATHY LEE REILLY

Signature Kathy Lee Reilly

Address 2312 40th Place

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

The DMP&AC is a good neighbor and a good element of our B'dale community. If they are growing and need more room for parking, this is also good for our neighborhood. It's not like they are a tattoo parlor! Please vote to approve their request.

Reasons Opposed:

1. An earlier request for rezoning of a portion of this property from R-1 to C-0 was conditioned upon NO further expansion. The current request for expansion should be judged from the perspective of the property reverted to R-1 60.
2. Property lies in a "protected residential corridor" designated by the comprehensive plan. According to the comprehensive plan, this residential corridor is in need of protection because commercial development will lead to piecemeal erosion of R-1 housing stock, and R-1 housing stock is important in the corridor, because it introduces the residential nature of the area, calms and slows traffic.
3. Piecemeal zoning violates Iowa Code Chapter 144, which requires planning through a comprehensive plan, and piecemeal zoning is by definition not planning.
4. Piecemeal zoning amounts to spot zoning. Spot zoning is illegal when it benefits only the developer, and does not benefit the community at large. To note that the applicant is a practicing physician is a non-squitter. To some extent, all permitted uses under the zoning ordinance are beneficial to the public. The zoning ordinance does not permit uses wholly inimical to the public. R-1 and C-1 are useful zones for the public. The question of the public interest arises in relation to the comprehensive plan. The comprehensive plan is presumed to organize zones in a way which is particularly beneficial to the public given the make upon of the municipality. There exist no reason to alter the plan to permit encroachment upon the R-1 district, when much C-1 zoned property is available. This developer destroyed a large house in good condition to make a parking lot. The developer should be required to leave the property green, or rebuild according to R-1, in order to preserve the residential character of the area.
5. The use intended by the applicant is irrelevant. This is not a request for a planned unit development or the commercial variant. It is a request for C-1 zoning, which will allow all C-1 permitted uses. The municipality will have no control over the nature of this, or subsequent, development upon the site, as long as a developer complies with C-1 zoning and the building code.
6. Remaining R-1 60 is more in balance with the objective of the "Tomorrow Plan" by avoiding skewing the unique balance of residential and commercial uses within our neighborhoods, AND avoiding a parking lot retards the flood risks attendant to increased use of impervious surfaces.

Item ZON2015-00003 Date 2/3/15

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

(Circle One)

Print Name Bruce & MaryAlice Butler

Signature B.L. Butler MaryAlice Butler

Address 2420 Beaver Ave.

Owns 2408, 2412 & 2420 Beaver

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

see Attached.

FILED
2015 FEB -4 PM 3:42
CITY CLERK
DES MOINES, IA

COMMENTS ON PROPOSED C-1 REZONING FOR DES MOINES PEDIATRIC AND ADOLESCENT CLINIC

Lowell Soike
2402 Beaver Avenue, Des Moines
February 5, 2015

The request you have before you concerns a property owned by an expansion-minded Clinic that already has offices in Clive and Ankeny and now wants to again enlarge its operations in this traditional residential neighborhood. This reach for C-1 Commercial Zoning is not new for it was attempted in 1990 after it tore down a residence to the north on Beaver Avenue but neighbors' opposition successfully persuaded the city to retain the empty parcel as R1-60 zoned. Now we see the clinic again buying and knocking down the next residence and trees to the north on Beaver and financially persuading the woman at 40th Place and Hickman to sell them her residence. When asked at an informal meeting of some neighbors with Clinic members why the Clinic had bought her place, the spokesman waffled, saying first they bought it because they could, then saying they might eventually tear it down and build driveway access to 40th Place for entry onto Hickman, and then made some vague reference to using the back yard as part of parking lot drainage. Carving a new access into the residential area is hardly in keeping with the 40th Place Street's traditional use. In fact, this steady commercialization intruding into the neighborhood will not only discourage residents to invest in house improvements but will also threaten their property values.

From a broader neighborhood standpoint, C-1 zoning of this property is contrary to the policies and recommendations of the "Des Moines 20-20 Community Character Plan," which was prepared by the Plan and Zoning Department and adopted by the City Council. Let's look at a few specifics about this expanded corner property in relation to the city plan.

The 20-20 Plan describes Beaverdale as "a major neighborhood district," given its sense of time and place. Beaver Avenue itself is considered a "design integrity corridor." Indeed this very block of Beaver is identified as a "residential protection corridor." To deal with such a "protection corridor" the plan calls for the city to pay close attention to "requests for commercial rezoning" because "if strong residential protection policies are not adopted, uncertainty about future uses encourages speculative purchase and disinvestment."

More specifically, states the plan, when "some developers anticipate commercial rezoning along a residential corridor," consequences necessarily follow. "As soon as one property on a corner develops commercially, it is assumed the commercial zoning will spread down the block. Rental property is often allowed to decline in anticipation of rezoning to commercial adding a look of depression to a corridor. In order to concentrate commercial uses at nodes and protect the residential corridors, well defined policies must be developed for expansion of commercial zoning and development." Today you are considering a precise example of this threat toward the "residential protection corridor" of Beaver Avenue.

Now let's look at how such a commercial zoned property should relate to the adjoining residences of a traditional neighborhood. The 20-20 plan recommends that the city "eliminate the extention of parking 100' into a residential zone as a matter of right." As for public access to the commercial business, it should be from "the major corridor not from an adjacent side street" such as the Clinic is contemplating for 40th Place. As the plan states, "it is inappropriate to introduce commercial traffic into or through a residential area. The impacts of such commercial expansion upon the adjacent residential neighborhood . . . should be a primary

consideration in determining the appropriateness of the development request."

A lot of work went into the department's development of the Des Moines 20-20 plan and I expect the Plan and Zoning Commission will consider seriously its findings and recommendations. This property is no longer the neighborhood's modest doctors' office of the 1980s with a couple physicians and a nurse; the Clinic has become a thriving commercial business with seven professional members plus support staff and additional offices elsewhere. It's time that this business shift to a nearby predominantly commercial area so it won't further screw up this residential block in pursuit of their commercial visions.

Item ZON2015-00003 Date January 31, 2015

I (am) (am not) in favor of the request. Returned after 2/5 PBZ

(Circle One)

Print Name Lowell J. Soike and Karen M. Soike

Signature Lowell J. Soike Karen M Soike

Address 2402 Beaver Ave., Des Moines IA 50310

Reason for opposing or approving this request may be listed below: ① The clinic's build up threatens the low intensity intent of a corner business office for this predominantly residential area, so keep zoning status as it is with the clinic's business growth desires met at a more suitable nearby C-1 commercial district. ② C-1 rezoning will depreciate residents' property values. ③ C-1 rezoning will make it easier for the owner to obtain C-1 commercial status for each new adjacent residential parcel bought and added to their expanding ownership. ④ C-1 rezoning will discourage rehabilitation investment in nearby residences by their owners.

PSC 561 Box 1317

FPO, AP 96310

ZON2015-00003

February 4, 2015

Dear City of Des Moines Development Department:

I am the owner of 2305 40th Place, the house directly across from 2300 40th Place. I purchased my home in Beaverdale on 40th Place in the spring of 2002. The neighborhood has the very much desired 'residential feel.' It is close to the downtown Beaverdale 'happenings,' but the neighborhood still has the quiet, enjoyment that one desires in a neighborhood for raising a family.

My apologies that I cannot be in attendance at the February 5th zoning meeting. I currently work for the Department of Defense overseas on Marine Corps Air Station in Iwakuni, Japan. Therefore, I cannot be there in person to express my concern of rezoning of the neighborhood. However, please accept this letter in opposition to the rezoning of property 2300 40th Place from a One Family Low-Density Residential (C-0) to Neighborhood Retail Commercial District (C-1) category.

Although I do not currently live at that address, it was my first home that I purchased and lived with my son. When moving into Des Moines, we first shopped in Sherman Hill area, then in Beaverdale. I am still happy with our decision to buy in Beaverdale. Since leaving Iowa to teach overseas, I have had only a few renters in my home, however, each set of renters have had families and been very family oriented people, half of them having young kids. My current tenant is a single dad with two kids. It is very much my desire to keep this portion of 40th Place the current status of residential neighborhood. Not only for my quality of life upon return to Iowa, but for the concerns and safety for the families that rent from me.

I have concern of the increased traffic to the neighborhood if converted to commercial. Rezoning the area and the expansion of the clinic definitely changes the livability of the neighborhood. Residents want the quiet enjoyment of life at home, not of businesses and traffic. There are additional reasons for keeping this area residential, the values of homes in the area, possible fewer opportunities for revitalization, etc.

I hope that the City of Des Moines will help protect the quaint neighborhoods that homeowners desire in the Beaverdale area. If a small business wants to grow, please allow them to do, but do so elsewhere if it outgrows its original area and needs to take over people's homes to do so.

Again, please accept this letter on my behalf in opposition to the re-zoning of the property, to keep 2300 40th Place and surrounding area a One Family Low Density Residential District.

Sincerely,

Angela M Sinnott

Angela Sinnott

angie_on_kwaj@yahoo.com

81-803720-1972

Joel Templeman

From: Sean Bagniewski <seanbagniewski@outlook.com>
Sent: Friday, January 30, 2015 5:17 PM
To: Katie Dall-Winther; Joel Templeman
Subject: RE: C-1 Restrictions for 3 Parcels belonging to the Des Moines Pediatric and Adolescent Clinic

Thanks for passing this along, Katie. The Beaverdale board just voted to endorse your support with the restrictions you stated.

As always, be sure to let me know if there's anything else we can do to help.

-Sean

556-9111 Cell

Sean Bagniewski
Beaverdale Neighborhood Association President
Des Moines Neighbors President

"It is common sense to take a method and try it; if it fails, admit it frankly and try another. But above all, try something." Franklin D. Roosevelt

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Date: Wed, 28 Jan 2015 16:57:37 -0600
Subject: C-1 Restrictions for 3 Parcels belonging to the Des Moines Pediatric and Adolescent Clinic
From: dq4katie@gmail.com
To: jtempleman@lolaw.com; seanbagniewski@outlook.com; dq4katie@gmail.com

Joel,

Here is the attachment with the restrictions. Please keep me informed as to what the final proposal contains.

Thanks,
Mark and Katie Dall-Winther
2319 Beaver Ave.

G2B

*****Some retail business or service establishments have been removed from the following list. The following are restrictions for the 3 parcels belonging to the Des Moines Pediatric and Adolescent Clinic located on 2301 Beaver Ave as requested by the residents of 2319 Beaver Ave (Mark and Katie Dall-Winther).**

Sec. 134-842. - Principal permitted uses.

Only the following uses of structures or land shall be permitted in the C-1 neighborhood retail commercial district.

(1) Any use permitted in and as limited in the C-0 and R-4 districts.

(2) Retail business or service establishments such as the following:

a. Antique shops.

b. Apparel shops.

c. Art shops.

d. Baby and children's stores.

e. Bakeries with a retail sales area where all products produced on the premises are available fresh daily, provided the product preparation and storage area does not exceed 5,000 square feet of gross floor area. Distribution of products to other premises is permitted; however, no semitrailer trucks shall be used for distribution purposes.

f. Bicycle shops, sales and repairs.

g. Bookstores.

h. Camera stores.

i. Clothes cleaning and laundry pickup stations.

j. Collection office of public utility.

k. Confectionery stores, including ice cream or snack bars.

l. Dairy stores, retail only.

m. Delicatessens.

n. Dance studios.

p. Dry goods stores.

q. Florist shops and greenhouses.

r. Furniture stores.

t. Gift shops.

w. Hobby shops.

x. Household appliances, sales and repair.

y. Jewelry stores and watch repair shops.

z. Key shops.

cc. Leather goods stores.

dd. Music stores.

ee. Music studios.