



Roll Call Number

Agenda Item Number

53A

Date October 12, 2015

RESOLUTION ON REQUEST FROM LYMAN ENTERPRISES, LC TO AMEND THE DES MOINES' 2020 COMMUNITY CHARACTER PLAN FUTURE LAND USE DESIGNATION (2 HARTFORD AVENUE)

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, on September 28, 2015, by Roll Call No. 15-1608, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held September 17, 2015, its members voted 10-0 to recommend **APPROVAL** of a request from Lyman Enterprises, LC, represented by Anthony Lyman (officer), to amend the Des Moines' 2020 Community Character Plan existing future land use designation for real property locally known as 2 Hartford Avenue from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node.

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, as described above, is hereby **approved / denied**.

MOVED by _____ to adopt and **APPROVE / DENY** the proposed amendment.

FORM APPROVED:



Glenna K. Frank, Assistant City Attorney

(21-2015-4.19)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| 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.

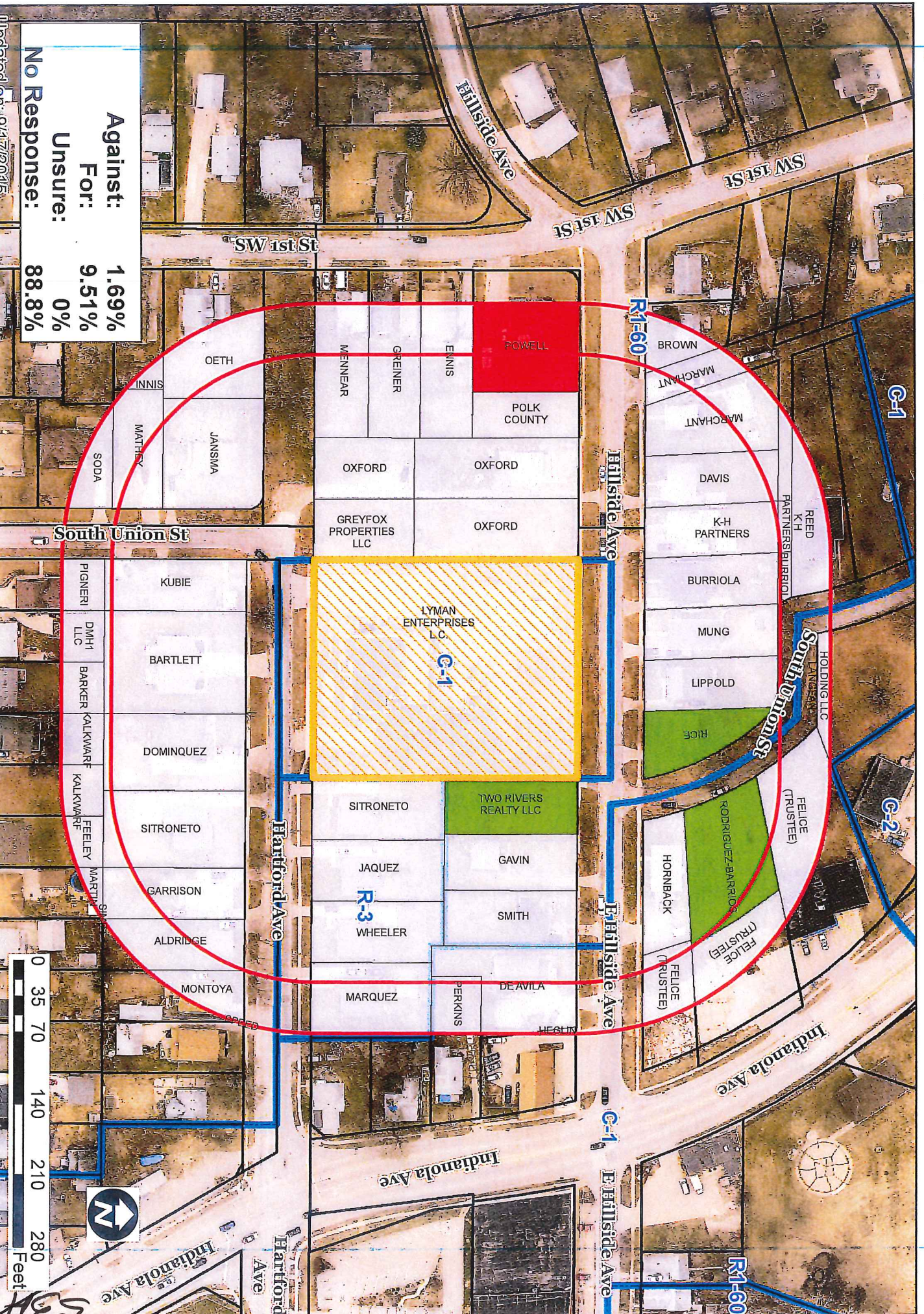
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

Mayor

City Clerk



Against: 1.69%
 For: 9.51%
 Unsure: 0%
 No Response: 88.8%

Map data provided by: QGIS/Mapbox

534



September 23, 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 September 17, 2015, the following action was taken regarding a request from Lyman Enterprises, LC (owner) represented by Anthony Lyman (officer) to rezone property located at 2 Hartford Avenue.

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 | | | |
| Jann Freed | X | | | |
| John "Jack" Hilmes | X | | | |
| Greg Jones | X | | | |
| Sasha Kamper | X | | | |
| Brian Millard | | | | X |
| William Page | X | | | |
| Jonathan Rosenbloom | X | | | |
| Mike Simonson | | | | X |
| CJ Stephens | | | | X |
| Greg Wattier | | | | X |

APPROVAL of the staff recommendation regarding Part A) that the proposed rezoning is not in conformance with the existing Des Moines 2020 Community Character Plan; Part B) **APPROVAL** of the request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node; Part C) **APPROVAL** of a rezoning of the property from a Limited "C-1" District to a revised Limited "C-1" District, subject to the following conditions: (21-2015-4.19 & ZON2015-00165)

1. Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices.
2. The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking.
3. Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area.
4. Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the proposed rezoning is not in conformance with the existing Des Moines 2020 Community Character Plan.

Part B) Staff recommends approval of the request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node.

Part C) Staff recommends approval of a rezoning of the property from a Limited "C-1" District to a revised Limited "C-1" District, subject to the following conditions:

1. Only the following uses of structures or land shall be permitted upon the Property:
 - a. Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
 - b. Daycare facilities.
 - c. Dance studios.
 - d. Artist studios.
 - e. Offices.
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4. Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

Written Responses

3 In Favor

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow the permitted to uses of the building to include 1) any use allowed in and as limited in the "R-3" Multiple-Family Residential District, 2) daycare facilities, 3) dance studios, 4) office, and 5) artist studios.
2. **Size of Site:** 1.29 acres.
3. **Existing Zoning (site):** Limited "C-1" Neighborhood Retail Commercial District, "FSO" Free Standing Sign Overlay District, and "GGP" Gambling Games Prohibition District.
4. **Existing Land Use (site):** The site contains a 2-story structure that was originally constructed as "Washington School". The building was most recently occupied by daycare and dance studio uses.
5. **Adjacent Zoning and Land Use:**
 - North* – "R1-60"; Uses consist of single-family dwellings.
 - South* – "R1-60"; Uses consist of single-family dwellings.
 - East* – "R1-60" & "R-3"; Uses consist of single-family dwellings.
 - West* – "R1-60"; Uses consist of single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located within a predominantly low-density residential area to the west of Indianola Avenue.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Indianola Hills Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on August 28, 2015. A Final Agenda was mailed to the neighborhood association on September 11, 2015. Additionally, separate notifications of the hearing were mailed on August 28, 2015 (20 days prior to the hearing) and on September 4, 2015 (10 days prior to the hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the subject property.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Indianola Hills Neighborhood Association notices were mailed to Libbie Willert, 626 Pleasant View Drive, Des Moines, IA 50315.

The applicant is required to conduct a neighborhood meeting with the surrounding property owners and neighborhood representatives and will be available to provide a summary of the events at the public hearing.

8. **Relevant Zoning History:** On June 29, 1988, the City Council approved Ordinance Number 11,200, to rezone the property to Limited "C-1" Neighborhood Retail Commercial District, with the condition that use of the property is limited to those uses allowed in the "R-3" District and daycare facilities.

On January 9, 2006, the City Council approved Ordinance 14,536 to rezone the property from Limited "C-1" Neighborhood Retail Commercial District to a revised Limited "C-1" Neighborhood Retail Commercial District, with the following conditions:

Only the following uses of structures or land shall be permitted upon the Property:

- (1) Any use allowed in and as limited in the "R-3" Multiple Family Residential District.
- (2) Daycare facilities.
- (3) Dance studios.

The parking spaces within any parking lot upon the Property shall be striped in conformance with the City's standards for parking.

Buffering shall be installed on the eastern boundary of the Property if the adjoining portion of the Property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area.

Any change in use of the Property shall be made in compliance with all applicable codes and with all necessary permits, including obtaining a Certificate of Occupancy for the new use.

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

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, and taking into consideration the criteria set forth in Chapter 18B 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. **Des Moines' 2020 Community Character Plan:** The 2020 Community Character Land Use Plan currently designates that subject property as Low-Density Residential. Therefore, the requested rezoning to a Limited "C-1" District requires the future land use designation to be revised to Commercial: Pedestrian-Oriented, Neighborhood Node. Staff believes that this designation is appropriate so long as any use of the property is in compliance with the recommended the zoning conditions. Staff believes that the impacts of allowing additional use of the property for art studios and offices would be comparable to the uses that are currently allowed on the property, including dance studio, daycare, and multiple-family residential uses.
2. **Parking & Access:** There is an existing off-street parking lot to the west of the building that contains approximately 26 parking spaces. The applicant is not proposing to modify

the existing site and would not change the access location. Prior to issuance of the any Certificate of Occupancy for future reuse of the building, the applicant will be required to submit a parking analysis that demonstrates they satisfy the minimum off-street parking requirements contained in City Code Section 134-1377(a). If additional parking spaces are required, the applicant must provide additional parking spaces in accordance with all site plan requirements, unless the Zoning Board of Adjustment grants an appeal to reduce the number of required off-street parking spaces.

Staff recommends retention of the current zoning condition that requires “buffering to be installed on the eastern boundary of the property if the adjoining portion of the property is utilized for parking, to eliminate intrusion of vehicle lights onto the adjoining residential area”.

- 3. Permit & Development Center Comments:** Any construction on the site and/or building renovations shall be in compliance with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center. Any new construction may also require review and approval of a Site Plan by the Permit and Development Center.

If at any time the structure is used for multiple-family residential, a Site Plan that satisfies the Design Guidelines for Multiple-Family Residential must be reviewed and approved by the Plan & Zoning Commission.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Sasha Kamper asked if the owner has made any improvements since taking ownership.

Erik Lundy stated they have taken out permits to improve the interior of the building.

Sasha Kamper stated the exterior pictures shown imply the lawns are not being maintained.

Erik Lundy stated he is not aware of any code violations in terms of the appearance or whether the property has been a nuisance structure.

Sasha Kamper stated there have been multiple requests to rezone this property and the scope seems to keep creeping and it looks like most of the surrounding area is residential.

Erik Lundy stated that previous changes have been incremental so that future changes go through the same process. When it was initially rezoned to just allow the daycare, it was previously “R3” giving it some ability to convert to apartment buildings. Now with the dance studio it has been difficult to get an occupant to the building so they would like to add artist studios and office uses.

Anthony Lyman 3401 SW 14th Street stated when he purchased the property, the inside was converted and utilized for a daycare for about a 10 year stint. He acquired the property just because he lived in the area, saw it for sale and saw that it was getting actioned off. The primary goal is to extend usages so there are more options to keep the

building occupied. A daycare occupied the property until the past year. The building itself has always been maintained. However, there have been recent break-ins and vandalism to the property. There has been interest shown for the property. Daycares, dance studios, art studios and office uses have been the expressed interest.

John "Jack" Hilmes asked if the building was currently vacant and if so how long has it been vacant.

Anthony Lyman stated yes it is currently vacant and has been empty for approximately one year of a permitted use. He had his office there until he was informed that office is not a permitted use. He can only have a daycare or a dance studio.

John "Jack" Hilmes stated there is a response card that suggest the building needs some improvements in order for occupancy and the expense would probably be beyond the applicant's capability.

Anthony Lyman stated the substance architecture went through for the art studio and they had an extensive estimate of \$798,000 to \$1,000,000 to take that building and bring it up to current standards across the board. To rip out the entire parking lot, put in a new drainage system and reinstall it would be approximately \$340,000. He is not sure how much material or anything. He has let that architectural group go through the building a bunch of times. They have had people walk in and talk when he has not been there, so maybe someone picked up on that information. In addition, he did loan the building to the Iowa State University, Architecture 401 class to come in and do diagrams of what the building could be. He believes the response card may be referring to the series of four break-ins with significant damage inside the building. Currently, there are permits active to fix the damage to the building. The structure itself is phenomenal and he could not see doing anything to the exterior of the building.

John "Jack" Hilmes asked if it is feasible that the uses asked for now will be able to occupy the building based upon the cost of bringing it back to code.

Anthony Lyman stated yes, he has a letter of intent for a daycare to go back in there.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

CHAIRPERSON CLOSED THE PUBLIC HEARING

Tim Fitzgerald stated he supports the arts. He does not believe the request will be detrimental to the neighborhood.

JoAnne Corigliano stated she is glad to see the owner wants to keep this building viable. She supports the applicant's request.

Sasha Kamper stated she also applauds the effort in doing whatever he can to save a historical building. She encouraged the applicant to maintain the grounds.

John "Jack" Hilmes stated he hopes the applicant can pull it off because his observation has been from time to time the Commission votes affirmatively on these projects and rezoning request and then six, eight, ten months or a year later you are driving by the property that you know you have been concerned with and you were very excited to see something happen and nothing happens.

COMMISSION ACTION:

Jann Freed moved staff recommendation Part A) to find the proposed rezoning is not in conformance with the existing Des Moines 2020 Community Character Plan; Part B) approval of the request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node and Part C) approval of a rezoning the property from a Limited "C-1" District to a revised Limited "C-1" District, subject to the following conditions:

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Motion passed 10-0.

Respectfully submitted,



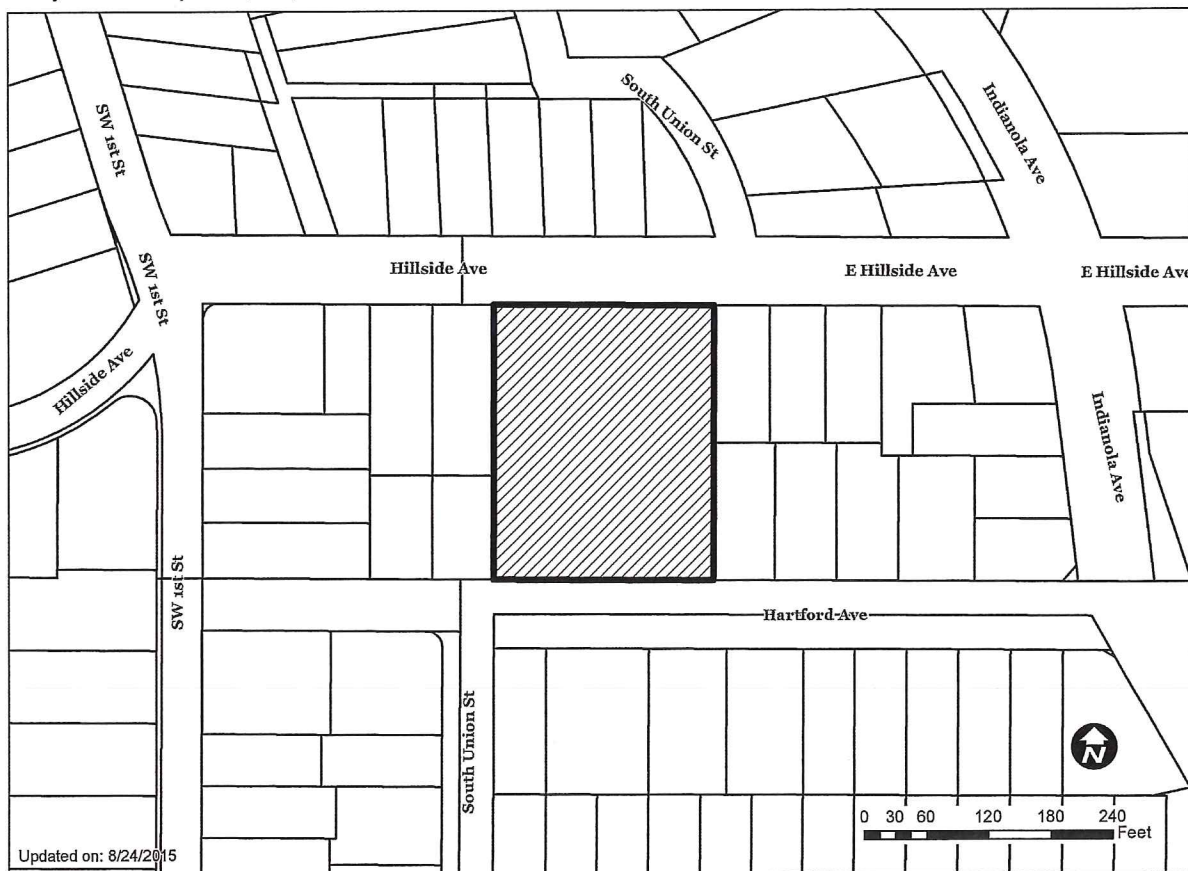
Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

| | | | | |
|---|--|--------------|--|--------------|
| Lyman Enterprises, LC (owner) represented by Anthony Lyman (officer) property located at 2 Hartford Avenue. | | File # | | |
| | | 21-2015-4.19 | | |
| Description of Action | Approval of request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented, Neighborhood Node. | | | |
| 2020 Community Character Plan | Current: Low Density Residential. Proposed: Commercial: Pedestrian-Oriented, Neighborhood Node. | | | |
| Mobilizing Tomorrow Transportation Plan | No Planned Improvements. | | | |
| Current Zoning District | Limited "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District. | | | |
| Proposed Zoning District | Limited "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District. | | | |
| Consent Card Responses | In Favor | Not In Favor | Undetermined | % Opposition |
| Inside Area | 3 | 1 | | |
| Outside Area | | | | |
| Plan and Zoning Commission Action | Approval | 10-0 | Required 6/7 Vote of the City Council | |
| | Denial | | Yes | No |
| | | | | X |

Lyman Enterprises, LC, 2 Hartford Avenue

21-2015-4.19



1 inch = 109 feet

| | | | | |
|---|---|--------------|--|--------------|
| Lyman Enterprises, LC (owner) represented by Anthony Lyman (officer) property located at 2 Hartford Avenue. | | | File # | |
| | | | ZON2015-00165 | |
| Description of Action | Approval of request to rezone property from Limited "C-1" Neighborhood Retail Commercial District with allowance of "R-3" District permitted uses, daycare center, and dance studio uses to Limited "C-1" Neighborhood Retail Commercial District with the additional allowance of office and art studio/shop uses subject to conditions. | | | |
| 2020 Community Character Plan | Current: Low Density Residential. Proposed: Commercial: Pedestrian-Oriented, Neighborhood Node. | | | |
| Mobilizing Tomorrow Transportation Plan | No Planned Improvements. | | | |
| Current Zoning District | Limited "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District. | | | |
| Proposed Zoning District | Limited "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Signs Overlay District. | | | |
| Consent Card Responses | In Favor | Not In Favor | Undetermined | % Opposition |
| Inside Area | 3 | 1 | | |
| Outside Area | | | | |
| Plan and Zoning Commission Action | Approval | 10-0 | Required 6/7 Vote of the City Council | Yes |
| | Denial | | | No |

Lyman Enterprises, LC, 2 Hartford Avenue

ZON2015-00165



1 inch = 123 feet

Item: ZON2015-00165 Date: 9/5/2015 53A

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name: Jeff Clayton - owner
Two Rivers Realty

SEP 14 2015

Signature: [Signature]

DEPARTMENT

Address: 10. E. Hillside

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

Very hopeful this will be office or art studios and not housing!

Item: ZON2015-00165 Date: 9-8-15

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name: William Power DeCasse

SEP 14 2015

Signature: [Signature] EXECUTOR

Address: 1973 SW 15

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

HE HAS NO MONEY TO MAKE IMPROVEMENTS TO PROPERTY FOR THE ZONING HE WANTS THIS IS JUST A TRICK TO MAKE THE PROPERTY MORE ATTRACTIVE TO SELL

Item ZON2015-00165 Date 9-8-15

I (am) (am not) in favor of the request. NO ANSWER

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name WILLIAM DAVIS

Signature William Davis

Address 23 S.W. HILLSIDE AVE.

SEP 14 2015

DEPARTMENT

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

Item ZON2015-00165 Date 09/8/15

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name Alondra Martinez

Signature Alondra Martinez

Address 1971 S. Union St

SEP 14 2015

DEPARTMENT

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

Approving.

53A

Item ZON2015-00165 Date Sept 9, 2015

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

RECEIVED

COMMUNITY DEVELOPMENT

Print Name James P Rice

Signature James P. Rice

Address 5 Hillside Ave DSM, IA

SEP 14 2015

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

50315

