



Date May 9, 2016

**RESOLUTION SETTING HEARING ON REQUEST FROM NEIGHBORHOOD DEVELOPMENT CORPORATION TO REZONE PROPERTY LOCATED AT 2619 SW 9<sup>TH</sup> STREET FROM "C-1" NEIGHBORHOOD RETAIL COMMERCIAL DISTRICT TO LIMITED "NPC" NEIGHBORHOOD PEDESTRIAN COMMERCIAL DISTRICT**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on April 21, 2016, its members voted 10-0 to recommend **APPROVAL** of a request from Neighborhood Development Corporation (owner), represented by Abbey Gilroy (officer), to rezone property located at 2619 SW 9th Street ("Property") from "C-1" Neighborhood Retail Commercial District to Limited "NPC" Neighborhood Pedestrian Commercial District, to allow commercial development of the site, subject to the following conditions:

1. Any development shall be in accordance with a Site Plan under the Design Guidelines applicable to the "NPC" District.
2. The following uses shall be prohibited on the property:
  - a. Taverns and nightclubs;
  - b. Billiard parlors/game rooms;
  - c. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
  - d. Delayed deposit services;
  - e. Pawn brokers;
  - f. Gas stations/convenience stores;
  - g. Off premises advertising signs; and,
  - h. Liquor stores; and

**WHEREAS**, the Property is legally described as follows:

Lot 5 in HATTON ACRES PLAT 2, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa, at 5:00 p.m. on May 23, 2016, at which time the City Council will hear both those who oppose and those who favor the proposal.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

★ Roll Call Number

Agenda Item Number

23

Date May 9, 2016

-2-

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

  
Glenna K. Frank, Assistant City Attorney

(ZON2016-00048)

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

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

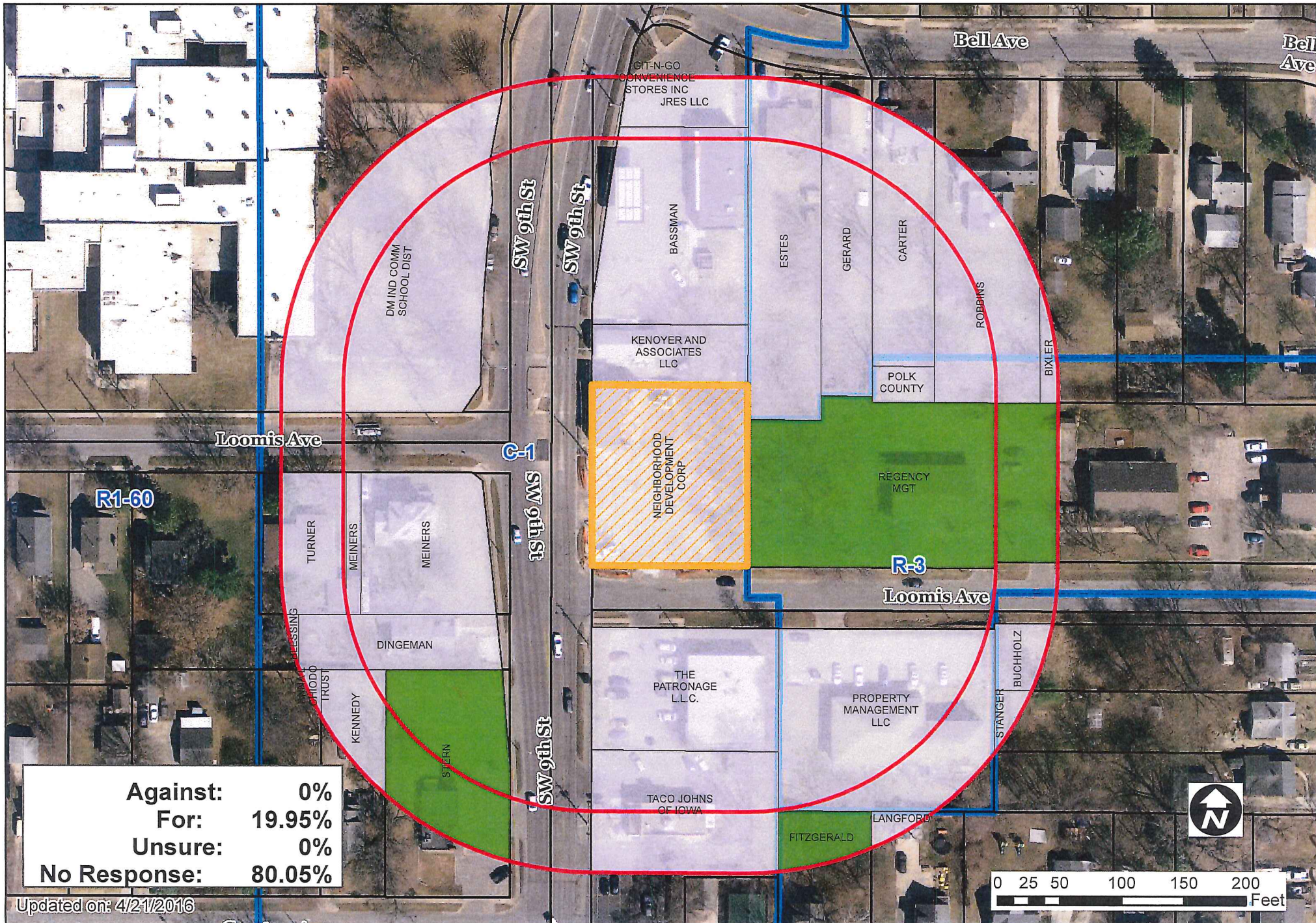
**CERTIFICATE**

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.

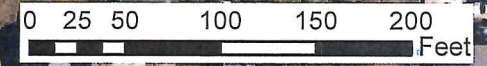
\_\_\_\_\_  
City Clerk





Against:	0%
For:	19.95%
Unsure:	0%
No Response:	80.05%

Updated on: 4/21/2016



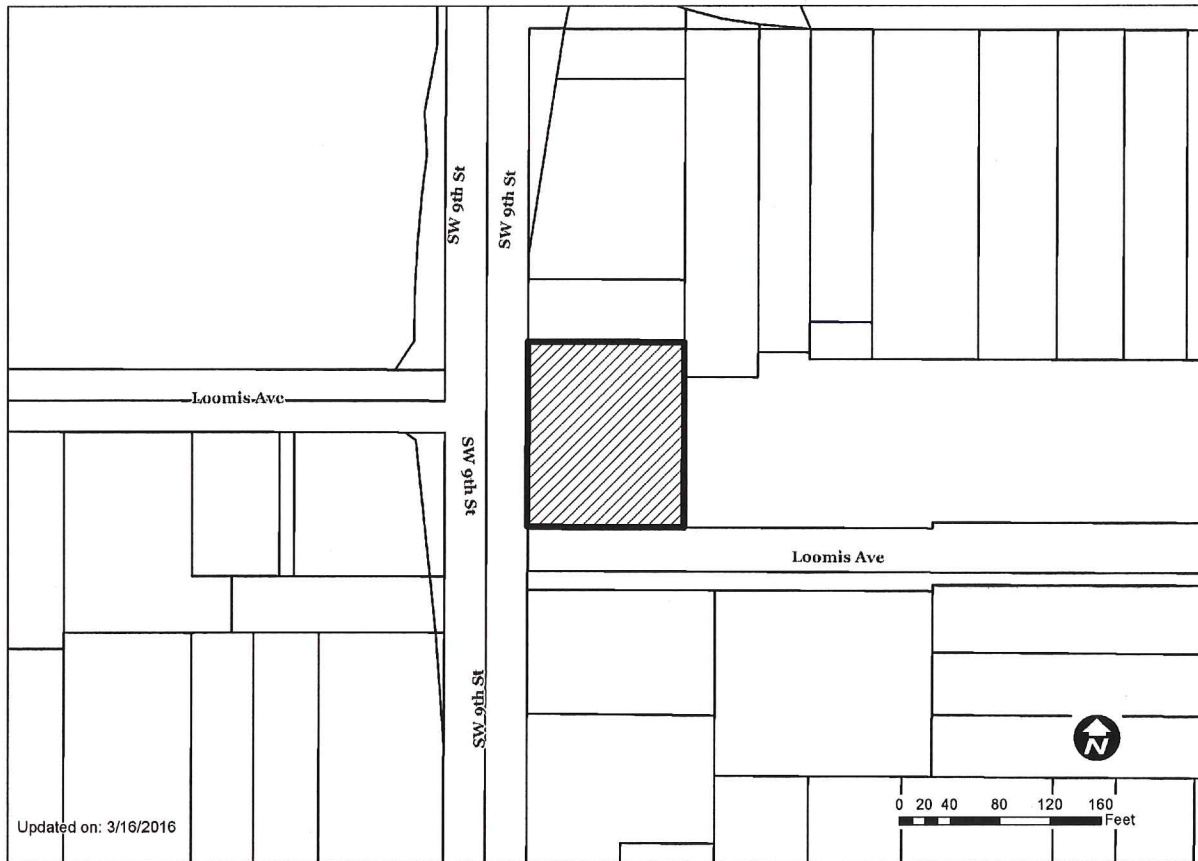
23



<b>Request from Neighborhood Development Corporation (owner) represented by Abbey Gilroy (officer) for property located at 2619 Southwest 9th Street.</b>		<b>File #</b> ZON2016-00048		
<b>Description of Action</b>	Approval of request to rezone property from "C-1" Neighborhood Retail Commercial District to "NPC" Neighborhood Pedestrian Commercial District to allow commercial development of the site, subject to conditions.			
<b>2020 Community Character Plan</b>	Current: Commercial: Auto-Oriented, Small-Scale Strip Development. Proposed PlanDSM: Community Mixed-Use.			
<b>Mobilizing Tomorrow Transportation Plan</b>	2035-2050: SW 9 <sup>th</sup> Street Widening, 4 to 5 lanes.			
<b>Current Zoning District</b>	"C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition District, and "FSO" Freestanding Signs Overlay District.			
<b>Proposed Zoning District</b>	"NPC" Neighborhood Pedestrian Commercial District, "GGP" Gambling Games Prohibition District, and "FSO" Freestanding Signs Overlay District.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	4			
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	10-0	<b>Required 6/7 Vote of the City Council</b>	
	Denial		Yes	
			No	X

Neighborhood Development Corporation, 2619 Southwest 9th Street

ZON2016-00048



1 inch = 90 feet



April 27, 2016

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 April 21, 2016, the following action was taken regarding a request from Neighborhood Development Corporation (owner) represented by Abbey Gilroy (officer) to rezone property located at 2619 Southwest 9th Street.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri				X
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed				X
John "Jack" Hilmes				X
Greg Jones	X			
Sasha Kamper	X			
William Page	X			
Mike Simonson	X			
CJ Stephens				X
Greg Wattier	X			

**APPROVAL** of staff recommendation Part A) the proposed rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan designation of Commercial: Auto-Oriented Small-Scale Strip Development Corridor and the proposed PlanDSM: Creating Our Tomorrow Plan designation of Community Mixed Use and approval of Part B) the requested rezoning to "NPC" District, subject to the following conditions:  
(ZON2016-00048)

1. Any development shall be in accordance with a Site Plan under the Design Guidelines applicable to the “NPC” District.
2. The following uses shall be prohibited on the property:
  - a. Taverns and nightclubs;
  - b. Billiard parlors/game rooms;
  - c. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
  - d. Delayed deposit services;
  - e. Pawn brokers;
  - f. Gas stations/convenience stores;
  - g. Off premises advertising signs; and,
  - h. Liquor stores.

### **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the proposed rezoning be found in conformance with the existing Des Moines’ 2020 Community Character Plan designation of Commercial: Auto-Oriented Small-Scale Strip Development Corridor and the proposed PlanDSM: Creating Our Tomorrow Plan designation of Community Mixed Use.

Part B) Staff recommends approval of the requested rezoning to “NPC” District, subject to the following conditions:

1. Any development shall be in accordance with a Site Plan under the Design Guidelines applicable to the “NPC” District.
2. The following uses shall be prohibited on the property:
  - a. Taverns and nightclubs;
  - b. Billiard parlors/game rooms;
  - c. Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
  - d. Delayed deposit services;
  - e. Pawn brokers;
  - f. Gas stations/convenience stores;
  - g. Off premises advertising signs; and,
  - h. Liquor stores.

#### Written Responses

5 In Favor

0 In Opposition



## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed rezoning would allow the property to be redeveloped with a commercial structure that has a minimal setback along Southwest 9<sup>th</sup> Street, whereas the current “C-1” District regulations would require the building to be setback at least 25 feet from the front property line. The reduced front yard setback would allow the development to have its parking lot behind the building rather than in front of the building. The conceptual site sketch submitted with the rezoning application demonstrates that a one-story commercial structure would generally measure 40 feet by 112 feet with three (3) commercial bays. While the proposed PlanDSM future land use plan calls for developing mixed-use structures along Southwest 9<sup>th</sup> Street, the applicant indicates that the site is not large enough to accommodate the additional parking that would be necessary if residential dwelling units were added above the proposed commercial structure.

If the property is rezoned to “NPC” District, any future redevelopment would require approval of a Site Plan and building elevations by the City’s Plan and Zoning Commission in accordance with the “NPC” Design Guidelines.

2. **Size of Site:** 148 feet by 125 feet (18,488 square feet).
3. **Existing Zoning (site):** “C-1” Neighborhood Retail Commercial District.
4. **Existing Land Use (site):** The site has been cleared for redevelopment.
5. **Adjacent Land Use and Zoning:**

**North** – “C-1”; Use is a built-as single-family dwelling that has been converted to a multiple-family residence with three (3) residential dwelling units.

**South** – “C-1”; Use is a commercial structure with three (3) retail bays.

**East** – “R-3”; Use is a multiple-family residential structure with eight (8) dwelling units.

**West** – “C-1”; Uses include Lincoln High School and a two-family residential dwelling.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the east side of the southwest 9<sup>th</sup> Street corridor, in an area that includes a mix of commercial, residential, and educational uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Indianola Hills Neighborhood and within 250 feet of the Gray’s Lake Neighborhood. These neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on March 22, 2016 and by mailing of the Final Agendas on April 1, 2016 and April 15, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on March 18, 2016 (20 days prior to initial public hearing) and

March 28, 2016 (10 days prior to the initial public hearing) to the Indianola Hills and Gray's Lake Neighborhood Associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Indianola Hills Neighborhood Association notices were mailed to Libbie Willert, 626 Pleasant View Drive, Des Moines, IA 50315, and the Gray's Lake Neighborhood Association notices were mailed to Evan Shaw, 2615 Druid Hills Drive, Des Moines, IA 50315.

The applicant held their neighborhood meeting on April 12, 2016. The applicant will report on their neighborhood meeting at the hearing.

**8. Relevant Zoning History:** None.

**9. 2020 Community Character Land Use Plan Designation:** The subject property is located within an area designated on the Des Moines' 2020 Community Character Plan future land use map as Commercial: Auto-Oriented Commercial Corridor. The plan defines this category as "Small-to-moderate commercial in a linear pattern that serves the passing motorist. Individual building may be over 35,000 square feet with individual modules from 2,000 to 20,000 square feet". The proposed "NPC" District does not require this classification to be amended.

**10. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject property is located within an area designated on the proposed PlanDSM future land use map as Community Mixed Use. The plan defines this category as "Small- to medium-scale mixed-use development located on high capacity transit corridors or at the intersection of commercial corridors. Community mixed use areas include both a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers". The proposed "NPC" District does not require this classification to be amended.

**11. Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

**II. ADDITIONAL APPLICABLE INFORMATION**

- 1. Permitted Uses:** Given the location of the site in close proximity to residential and educational uses, staff recommends that the following uses be prohibited:
- a) Taverns and nightclubs;



- b) Billiard parlors/game rooms;
- c) Communication towers/antennas (excluding an extension of 20 feet or less from an existing structure);
- d) Delayed deposit services;
- e) Pawn brokers;
- f) Gas stations/convenience stores;
- g) Off premises advertising signs; and,
- h) Liquor stores.

**2. Site Plan Requirements:** Any development of the property must conform to the City's site plan requirements, including those regarding stormwater management, landscaping, and screening of adjoining residential properties. Storm water, sanitary sewer and water lines are available in the adjoining right-of-ways. All outdoor lighting fixtures will be required to be downward directional, sharp cut-off type fixtures. Any trash enclosure constructed shall consist of masonry walls and 100% opaque steel gates.

**3. NPC Design Guidelines:** Should the property be rezoned to "NPC" District, a site plan and building elevations must be submitted for review and approval by the Plan and Zoning Commission under the following design guidelines applicable to development in the "NPC" District.

- A) Buildings should frame the street and maintain a minimal setback from the street.
- B) The front facade of the first floor of the building on the primary commercial street should have a ratio of at least 40 percent window and window display area to total street facade.
- C) The front entrance should be oriented to the street. On a corner lot, the building should have a well-defined entrance on the primary commercial street.
- D) Materials should be brick, stone, tile, stucco, or horizontal wood clapboard with a maximum width of six inches. Two-story buildings are encouraged.
- E) Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays of between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details.
- F) Building frontage should occupy at least 50 percent of the primary street frontage.
- G) Off-street loading and parking spaces should be provided in compliance with sections 134-1376 and 134-1377 of the zoning chapter, subject to the following modifications:
  - a. The minimum number of off-street parking spaces is 60 percent of the number of spaces otherwise required by subsection 134-1377(a).
  - b. Parking should not exceed the amount otherwise required by section 134-1377 of this Code.
  - c. Parking should not use the front yard but should be concentrated along the side and in back of the building in the predominant pattern of character defining buildings.
  - d. Shared parking among businesses or between business and residential projects will be allowed, provided a shared parking plan is presented at the time of application, signed by the property owners, ensuring nonduplication of parking. The shared parking must be within 300 feet of the business or dwelling.

- e. On-street parking directly adjacent to the occupant frontage shall count toward the minimum off-street parking requirement. Elimination of such on-street parking by the city shall have no effect on an approved site plan.
  - f. Tandem parking spaces shall count toward the minimum off-street parking requirement if a parking plan demonstrates that the parking will be for employees and will be occupied for over four hours between changes.
  - g. An emphasis of trees, shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the building, parking area and any pedestrian areas.
- H) The following bulk regulations should be observed:
- a. Minimum lot area:
    - i. Single-family detached dwelling, 5,000 square feet.
    - ii. Single-family semidetached dwelling, 3,000 square feet.
    - iii. Two-family dwelling, 6,000 square feet.
    - iv. Multiple dwelling, 10,000 square feet.
    - v. Mixed-use project, 10,000 square feet.
    - vi. Shelter for the homeless, 8,000 square feet.
    - vii. No minimum requirement for permitted nonresidential uses.
  - b. Minimum lot area per dwelling unit:
    - i. Row and multiple dwellings, 2,000 square feet.
    - ii. Shelter for the homeless, 300 square feet of lot size for each resident.
  - c. Front yard: minimum of zero feet.
  - d. Side yards: minimum of zero feet.
  - e. Rear yard: None required, except when adjoining any R or C-0 district or portion of a PUD designated for residential use, in which case ten feet.
  - f. Height: minimum of 15 feet, maximum of 45 feet.
  - g. Number of stories:
    - i. Residential uses, a maximum of four stories.
    - ii. All other permitted uses, a maximum of two stories.
- I) Signs, which are attached or projecting from the building and designed for the character of the building, are preferred. Monument signs are allowed.

*A Site Plan will be submitted for review by the Plan and Zoning Commission at a later date.*

## **SUMMARY OF DISCUSSION**

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

JoAnne Corigliano asked if SW 9<sup>th</sup> Street is a highway designation.

Mike Ludwig stated no SW 9<sup>th</sup> Street is not a highway designation.



**COMMISSION ACTION:**

Mike Simonson moved staff recommendation for approval of Part A) the proposed rezoning be found in conformance with the existing Des Moines' 2020 Community Character Plan designation of Commercial: Auto-Oriented Small-Scale Strip Development Corridor and the proposed PlanDSM: Creating Our Tomorrow Plan designation of Community Mixed Use and approval of Part B) the requested rezoning to "NPC" District, subject to the following conditions:

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  - d. Delayed deposit services;
  - e. Pawn brokers;
  - f. Gas stations/convenience stores;
  - g. Off premises advertising signs; and,
  - h. Liquor stores.

Motion carried 10-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

ZON2016-00048

23

Item \_\_\_\_\_ Date 3/30/16

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

RECEIVED  
COMMUNITY DEVELOPMENT  
DEPARTMENT

APR 05 2016

Print Name EVAN STALL - GRAYS LAKE NEIGH

Signature [Signature]

Address 2215 DRUID HILL DR.

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

THE CLNA IS IN FAVOR OF THIS PROPOSAL  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ZON2016-00048

Item \_\_\_\_\_ Date 3/30/16

I  (am) (am not) in favor of the request. Get-N-Go Stores, Inc.

RECEIVED  
COMMUNITY DEVELOPMENT  
DEPARTMENT

APR 05 2016

Print Name Dennis Flora

Signature [Signature]

Address 2716 Indiana Ave, D.M.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



ZON2016-00048

Date 3-31-16

Item

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

(Circle One)

Print Name

Signature

Address 2224 EVERGREEN

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

RECEIVED  
COMMUNITY DEVELOPMENT DEPARTMENT  
APR 04 2016

Timothy Fitzgerald  
2224 Evergreen Ave.  
Des Moines, IA 50320

COMMUNITY DEVELOPMENT DEPARTMENT

APR 04 2016

ZON2016-00048

Date 3-30-16

Item

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

(Circle One)

Print Name

Signature

Address 701 711 801 SW Lewis Ave

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

RECEIVED  
COMMUNITY DEVELOPMENT DEPARTMENT  
APR 04 2016

Jaymes Carlin

701 711 801 SW Lewis Ave

This will be a great ASM.  
Thank you one more.

ZON2016-00048

Item

Date 3/29/16

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

(Circle One)

Print Name

Signature

Address

Alan Stern

[Signature]

2920 S.W. 9th

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

It is always good to get  
more property on the tax rolls

RECEIVED  
COMMUNITY DEVELOPMENT DEPARTMENT

APR 04 2016

DEPARTMENT