

Date May 9, 2016

**RESOLUTION SETTING HEARING ON REQUEST FROM ROBERT FESSLER TO REZONE PROPERTY LOCATED AT 2012 AND 2016 EAST OVID AVENUE FROM "FW" FLOODWAY DISTRICT TO "M-1" LIGHT INDUSTRIAL DISTRICT**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on April 7, 2016, its members voted 10-0 to recommend **APPROVAL** of a request from Robert Fessler (owner) to rezone property located at 2012 and 2016 East Ovid Avenue ("Property") from "FW" Floodway District to "M-1" Light Industrial District to allow for development of an industrial building on the site outside the regulatory flood hazard areas; and

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

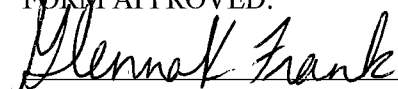
Commencing at the Northeast Corner of Lot 12 in OVID HEIGHTS, an Official Plat; thence South 00°18'35" East along the East Line of said Lot 12, a distance of 7.10 feet; thence North 89°49'07" West, a distance of 69.00 feet, to the Point of Beginning; thence South 17°34'57" East, a distance of 87.56 feet; thence North 89°50'49" West, a distance of 53.93 feet; thence South 00°21'01" East, a distance of 36.00 feet; thence North 89°49'07" West, a distance of 103.00 feet; thence North 00°21'10" West, a distance of 119.42 feet; thence South 89°49'07" East, a distance of 131.00 feet to the Point of Beginning; 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.

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

FORM APPROVED:

  
 Glenna K. Frank, Assistant City Attorney

(ZON2016-00058)

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

Date \_\_\_\_\_

Agenda Item 24

Roll Call # \_\_\_\_\_



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 Robert Fessler (owner) to rezone property located at 2012 and 2016 East Ovid Avenue.

**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 General Industrial and the proposed PlanDSM: Creating Our Tomorrow Plan designation of Industrial and approval of Part B) the requested rezoning to "M-1" District.

(ZON2016-00058)

## 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 General Industrial and the proposed PlanDSM: Creating Our Tomorrow Plan designation of Industrial.

Part B) Staff recommends approval of the requested rezoning to "M-1" District.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to rezone the portion of the property that is outside of the FEMA-designated regulatory flood hazard areas. The proposed rezoning to "M-1" Light Industrial District would allow the construction of a building to be used for storage accessory to the existing industrial use of the property (Fessler Carbonic Gas, Co).

If the property is rezoned to "M-1" District, any future redevelopment would require approval of a Site Plan by the City's Permit and Development Center.

2. **Size of Site:** The two parcels comprising the subject property contain 36,240 square feet. However, the area that is proposed for rezoning contains approximately 20,000 square feet.
3. **Existing Zoning (site):** "FW" Floodway District.
4. **Existing Land Use (site):** The portion of the property that is proposed for rezoning contains a paved driveway and open space.
5. **Adjacent Land Use and Zoning:**
  - North* – "M-1"; Use is a warehouse.
  - South* – "FW"; Use is a City-owned stormwater drainage ditch.
  - East* – "M-1"; Use is an auto repair business.
  - West* – "FW"; Use is a City-owned stormwater drainage ditch.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the north side of East Ovid Avenue in an industrial area along Delaware Avenue.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Fairmont Park Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on April 1, 2016 and by mailing of the Final Agendas on 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 Fairmont Park 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 designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Fairmont Park Neighborhood Association notices were mailed to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317.

The applicant has held their neighborhood meeting and 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 General Industrial. The proposed "M-1" 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 "Accommodate industrial development and limited supporting commercial uses". The proposed "M-1" District would 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. Flood Hazard:** The existing business on the premise operates within an existing building on the southern portion of the property. This building is within the FEMA-designated regulatory flood hazard area. Therefore, any modifications to this portion of the property must comply with Chapter 50 of the City Code pertaining to floodplain development.

The applicant has prepared a survey that identifies the portion of the property that is outside of the FEMA-designated regulatory flood hazard areas. This resulted in a legal description for the portion of the property that can be rezoned from "FW" Floodway District to "M-1" Light Industrial District. Staff believes it is reasonable to rezone this area to "M-1" Light Industrial District.

2. **Site Plan Requirements:** If the property is rezoned to "M-1" District, any future redevelopment must be in accordance with a Site Plan as approved by the City's Permit and Development Center. Any development must conform to the City's site plan requirements, including those regarding stormwater management and landscaping. Any trash enclosure constructed shall consist of masonry walls and 100% opaque steel gates.

## **SUMMARY OF DISCUSSION**

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

## **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 General Industrial and the proposed PlanDSM: Creating Our Tomorrow Plan designation of Industrial and approval of Part B) the requested rezoning to "M-1" District.

Motion carried 10-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

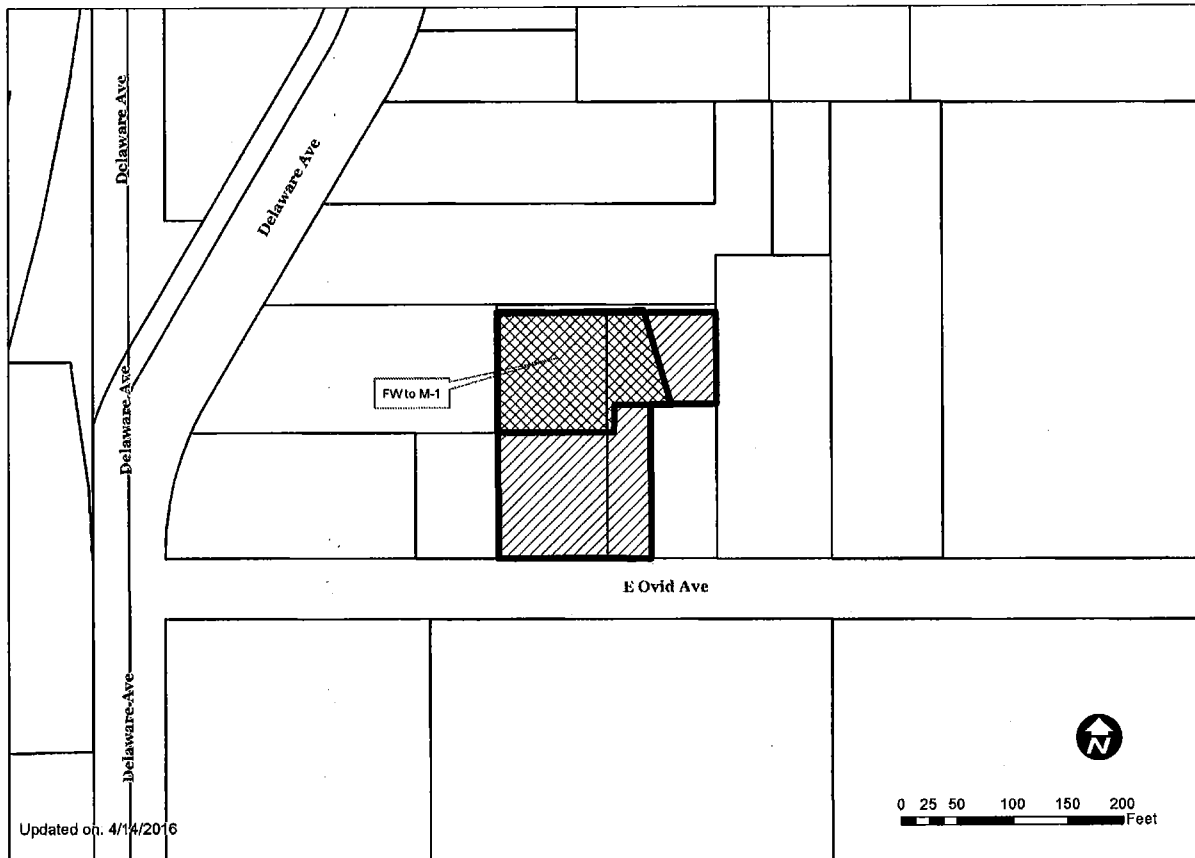
MGL:clw

Attachment

Robert Fessler (owner) for property located at 2012 and 2016 East Ovid Avenue.			File #	
			ZON2016-00058	
<b>Description of Action</b>	Approval of request to rezone property from "FW" Floodway District to "M-1" Light Industrial District to allow for development of an industrial building on the site. The property requested for rezoning is outside the regulatory flood hazard areas.			
<b>2020 Community Character Plan</b>	Current: General Industrial. Proposed PlanDSM: Industrial.			
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"FW" Floodway District and "FSO" Freestanding Signs Overlay District.			
<b>Proposed Zoning District</b>	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	10-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

Fessler, 2012 and 2016 Ovid Avenue

ZON2016-00058



1 inch = 103 feet

