



Date July 25, 2016

RESOLUTION SETTING HEARING ON REQUEST FROM CORE CORP. TO REZONE PROPERTY LOCATED AT 120-133 HUGHES AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 7, 2016, its members voted 11-0 in support of a motion to recommend APPROVAL of a request from Core Corp. (owner), represented by John and Charlene Fritzel (officers), to rezone property located at 120-133 Hughes Avenue ("Property") from "R-2" One- and Two-Family Residential District to Limited "R-3" Multiple-Family Residential District, to allow assemblage of the parcels containing six (6) existing two-family dwellings and an off-street parking lot, subject to the following conditions:

- 1. All parcels within the Property shall be combined into a single parcel;
2. There shall be no more than 12 residential units configured within six (6) two-family dwellings on the Property; and
3. Any off-street parking shall conform to a Site Plan reviewed by the Permit and Development Center in accordance with the Site Plan Ordinance and any relief granted by the Zoning Board of Adjustment; and

WHEREAS, the Property is legally described as follows:

Lots 4 through 10, BROOKMONT CIRCLE ESTATES, an Official Plat, all 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 at the Richard A. Clark Municipal Service Center (MSC), located at 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa, at 5:00 p.m. on August 8, 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.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

MOVED BY _____ TO ADOPT.

(ZON2016-00101)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL. Includes MOTION CARRIED and APPROVED labels.

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.

Mayor

City Clerk



July 12, 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 July 7, 2016, the following action was taken regarding a request from Core Corp. (owner) represented by John and Charlene Fritzel (officers) to rezone property located at 120-133 Hughes Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 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			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Mike Simonson	X			
CJ Stephens				X
Steve Wallace	X			
Greg Wattier				X

APPROVAL of staff recommendation Part A) that the proposed rezoning be found not in conformance with the existing PlanDSM future land use designation of Low Density Residential approval of Part B) the requested amendment to the PlanDSM future land use designation from Low Density Residential to Low/Medium Density Residential, and

approval of Part C) the requested rezoning to a Limited "R-3" Multiple-Family Residential District subject to owner agreeing to the following conditions:

1. All parcels within the subject property shall be combined into a single parcel.
2. There shall not be any more than 12 residential units configured within six (6) two-family dwellings on the subject property.
3. Any off-street parking shall conform to a Site Plan reviewed by the Permit and Development Center in accordance with the Site Plan Ordinance and any relief granted by the Zoning Board of Adjustment. (ZON2016-00101)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing PlanDSM future land use designation of Low Density Residential.

Part B) Staff recommends approval of the requested amendment to the PlanDSM future land use designation from Low Density Residential to Low/Medium Density Residential.

Part C) Staff recommends approval of the requested rezoning to a Limited "R-3" Multiple-Family Residential District subject to owner agreeing to the following conditions:

1. All parcels within the subject property shall be combined into a single parcel.
2. There shall not be any more than 12 residential units configured within six (6) two-family dwellings on the subject property.
3. Any off-street parking shall conform to a Site Plan reviewed by the Permit and Development Center in accordance with the Site Plan Ordinance and any relief granted by the Zoning Board of Adjustment.

Written Responses

3 In Favor

1 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to allow continued use of the northwestern property for off-street parking to serve existing two-family dwellings owned in common along the same public street cul-de-sac. These dwellings are currently maintained by the applicant as rental properties. The proposed rezoning would also bring the property more into conformance with zoning by allowing ability to develop shared off-street parking to meet minimum off-street parking count requirements.
2. **Size of Site:** Approximately 1.54 acres.

3. **Existing Zoning (site):** “R-2” One and Two-Family Low-Density Residential District and “FSO” Freestanding Signs Overlay District.
4. **Existing Land Use (site):** The subject property is comprised of seven parcels, six of which have two-family dwellings. The seventh is semi-developed with gravel surface and a paved drive-approach. It has been used for several years for non-conforming off-street parking.
5. **Adjacent Land Use and Zoning:**
 - East** - “R-2”; Uses are two-family (duplex) dwellings.
 - West** - “R1-60”; Uses are open space (City-owned) and single-family dwellings.
 - North** - “R1-60”; Uses are single-family dwellings.
 - South** - “R-2”; Uses are two-family (duplex) dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located in a neighborhood area that is developed primarily with single-family and two-family residential uses. The subject property is part of a “duplex” court developed in the early 1970s.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located in or within 250 feet of a recognized neighborhood area. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on June 20, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on June 17, 2016 (20 days prior to the hearing) and June 27, 2016 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning. A Final Agenda for the meeting was mailed to all recognized neighborhood associations on July 1, 2015.

The applicant is required to hold a neighborhood meeting. They have indicated that this was held on May 25, 2016 at the Southside Public Library. The applicant will be present at the Plan and Zoning Commission hearing and will provide a summary of the neighborhood meeting if requested by the Commission.
8. **Relevant Zoning History:** N/A.
9. **PlanDSM 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. PlanDSM Creating Our Tomorrow:** The future land use designation for the property is currently Low Density Residential, which is defined as areas developed with single-family and two-family units up to 6 units per net acre. The proposed rezoning would require the requested amendment to the Low/Medium Density Residential designation as the existing two-family dwellings are developed at a density of 7.8 units per acre. This designation would accommodate a Limited "R-3" District zoning if the conditions did not allow more than 12 units per acre. In this instance staff recommends that the condition limit the property to the existing 12 units which would keep it at 7.8 units per acre. Based on the previous recommendation, the Commission could also consider making a finding that a rezoning that does not allow more than the existing units could be found in conformance with the existing Low Density Residential designation since it would not allow an increase the existing density.
- 2. Additional Information:** The applicant owns the two-family dwelling (duplex) properties to the east and south at 120-131 Hughes Avenue. The existing two-family dwellings are currently non-conforming as they do not provide a minimum of one off-street parking space per dwelling unit on the same lot as the dwelling. There is no evidence of previous Zoning Board of Adjustment relief that would have waived this requirement.

The applicant has indicated that there has been parking occurring on a gravel surface on the undeveloped parcel at the northwest corner of the subject property since they purchased the property in 1984. The matter of the legitimacy of the parking was identified during a recent terminated purchase offer in their effort to sell one of the duplex properties. There is no evidence of any allowance for an unimproved, stand-alone off-street parking area within the subject property.

The subject property was platted in 1969. The applicant has alleged that the City owned the duplex properties at some point prior to the applicant, and further alleges that the City developed the rental units. Staff has researched this claim with the City Housing Services Department. There is no indication that the properties were ever owned or developed by the City or its predecessor, the non-profit Des Moines Municipal Housing Agency. It is possible there may have been public funding for its development by a private owner.

For future sale purposes, the applicant wants to obtain letters from the Zoning Enforcement Officer, which state that the non-conforming duplex structures can be rebuilt regardless of the reason for, or percentage of, their demise.

Staff suggested that the applicant request the previous continuance of this item in order to modify their request to the current application boundary and to notify additional surrounding property owners. By rezoning the illegal parking area and the non-conforming duplex properties to a Limited "R-3", Multiple-Family Residential District, the applicant could become more conforming. If the Limited "R-3" zoning were approved, the applicant could request to combine all of the properties into a single parcel. If this were approved, it would then reduce the non-conformities and the number and degree of requests for relief necessary from the Zoning Board of Adjustment. In any instance whether the requested rezoning is approved by the City Council or not, there will be

need for some zoning appeals in order to allow the ongoing use of the property in conformity.

- 3. Staff Rationale:** The proposed Low/Medium Density Residential designation for the property would be surrounded by existing Low Density Residential designation. PlanDSM does not contemplate adding additional residential density in the adjoining or nearby area. Therefore, staff believes that the requested "R-3" District zoning would be a suitable request to bring the illegal off-street parking area and existing two-family dwellings more into conformity as it would not require an amendment to a mixed use designation on the PlanDSM Future Land Use Map. Finally, combining the illegal parking parcel with the two-family dwelling parcels as a single parcel would avoid creation of a permanent free-standing parking lot and would reduce the number and degree of requests for relief from the Zoning Board of Adjustment.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

John "Jack" Hilmes moved staff recommendation for approval of Part A) that the proposed rezoning be found not in conformance with the existing PlanDSM future land use designation of Low Density Residential approval of Part B) the requested amendment to the PlanDSM future land use designation from Low Density Residential to Low/Medium Density Residential, and approval of Part C) the requested rezoning to a Limited "R-3" Multiple-Family Residential District subject to owner agreeing to the following conditions:

1. All parcels within the subject property shall be combined into a single parcel.
2. There shall not be any more than 12 residential units configured within six (6) two-family dwellings on the subject property.
3. Any off-street parking shall conform to a Site Plan reviewed by the Permit and Development Center in accordance with the Site Plan Ordinance and any relief granted by the Zoning Board of Adjustment.

Motion carried 11-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

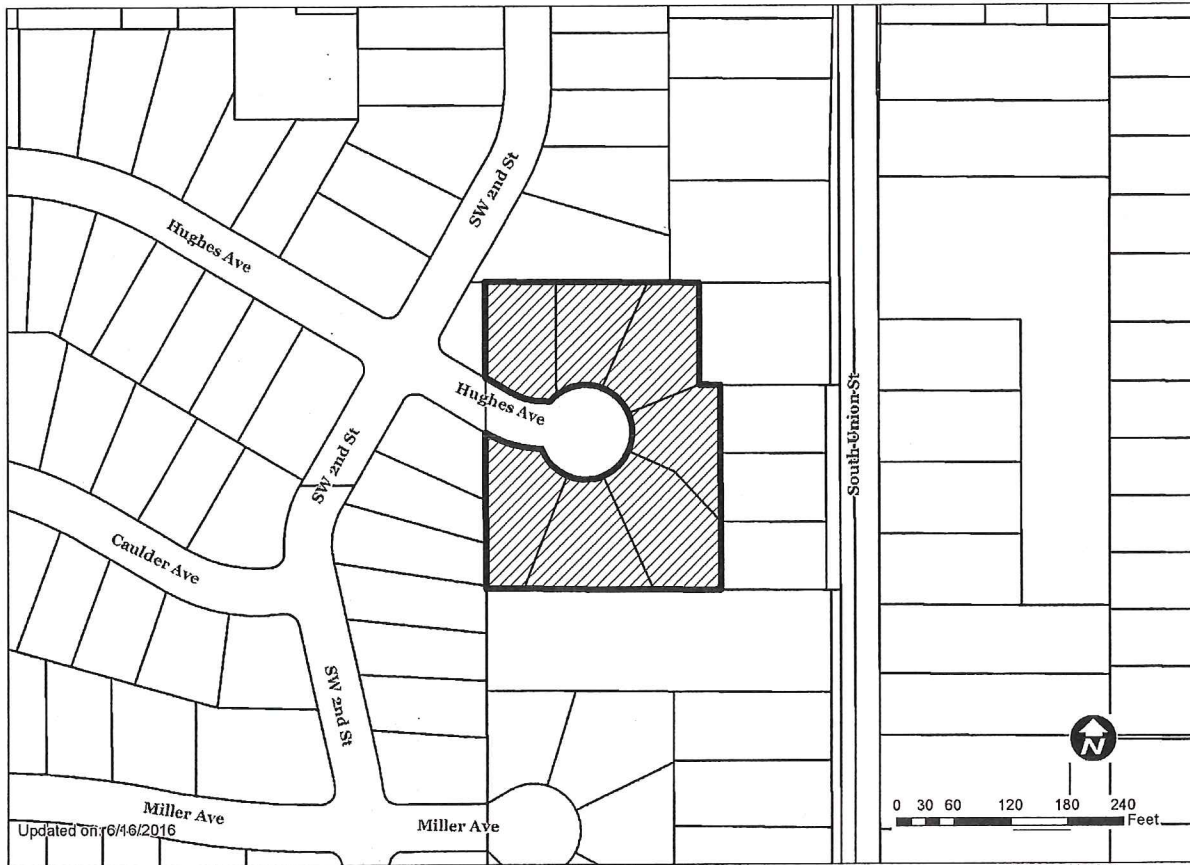
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Attachment

Core Corp. (owner) represented by John and Charlene Fritzel (officers) for property located at 133 Hughes Avenue.		File # ZON2016-00101			
Description of Action	Approval of request to rezone property from "R-2" One- and Two-Family Residential District to "R-3" Multiple-Family Residential District, to allow assembly of the parcels containing six (6) existing two-family dwellings and an off-street parking lot, subject to conditions.				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Low/Medium Density Residential.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"R-2" One and Two-Family Residential District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"R-3" Multiple-Family Residential 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	11-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Core Corp., 120-133 Hughes Avenue

ZON2016-00101

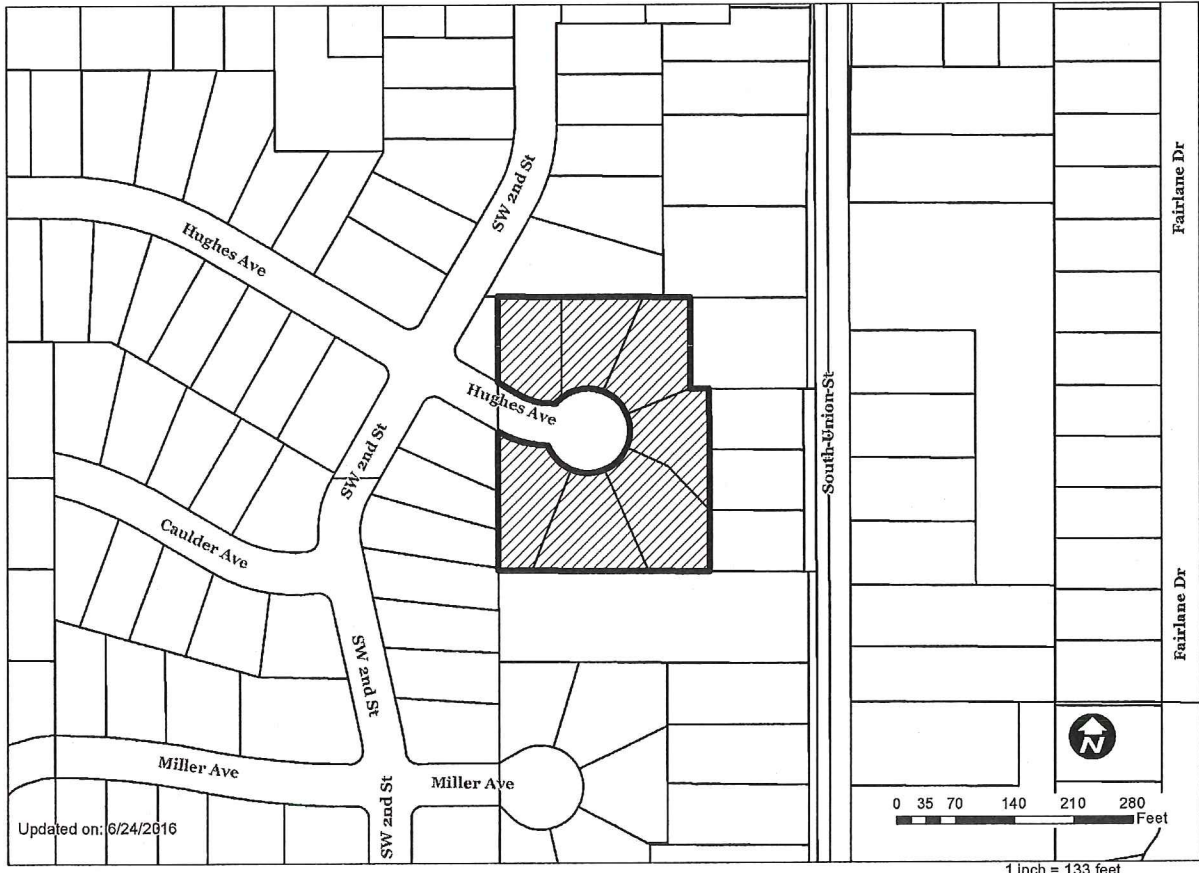


1 Inch = 119 feet

Core Corp. (owner) represented by John and Charlene Fritzel (officers) for property located at 120-133 Hughes Avenue.				File #	
				21-2016-4.06	
Description of Action	Approval of request to amend the existing PlanDSM: Creating Our Tomorrow Plan future land use designation from Low Density Residential to Low/Medium Density.				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Low/Medium Density Residential.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"R-2" One and Two-Family Residential District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"R-3" Multiple-Family Residential 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	11-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Core Corp., 120-133 Hughes Avenue

21-2016-4.06



Updated on: 6/24/2016

1 inch = 133 feet

ZON2016-00101

RECEIVED
COMMUNITY DEVELOPMENT
(am) (am not) in favor of the request
JUL 0 2016

Date 6/29/2016
Applicant
Char Fritzel, Pres
Core Corp, John Fritzel VP

Print Name Char Fritzel, Pres
Signature Char Fritzel, Pres
Address 4408 SW 29th St
1302 131 HUGHES

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

We own 7 of the lots on Hughes Circle. 133
Hughes has been used as a parking area for the
32 years we have owned it & prior to our purchase
No other location is available for parking on
Sundays & garbage days for the 12 tenants in
the 5th strip between & between

ZON2016-00101

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

RECEIVED
COMMUNITY DEVELOPMENT
(am) (am not) in favor of the request
JUL 05 2016

Date 6-30-2016

Print Name Donna Deeds
Signature Donna Deeds
Address 204 SW Hughes Ave

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

of course I do not want these
people parking on the street.
The parking ~~area~~ they would
have should continue to be
available to them.

ZON2016-00101

Date 6-30-16

Print Name Walter Groff

Signature Walter Groff

Address 132 E McKinley Av. Des Moines IA 5031

COMMUNITY DEVELOPMENT
RECEIVED
(am) (am not) in favor of the request

JUL 05 2016

DEPARTMENT

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

City of Des Moines should help small business owners
this is a chance for the city of Des Moines to do good
In my opinion the city of Des Moines is putting
burdens on small business. Please allow the request

ZON2016-00101

18

Item _____ Date June 28, 2016

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

REMOVED
COMMUNITY DEVELOPMENT

JUL 05 2016

DEPARTMENT _____ Address 3415 S 13 2nd St

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

The owner shall provide each unit with a driveway and limit 2 autos per unit.
~~From~~ #7 - empty lot could better be served as a park for the whole neighborhood to benefit from.

Item _____ Date 15 Jun 16

I (am) **FOR** in favor of the request. Re Revision Card

COMMUNITY DEVELOPMENT

JUN 21 2016

DEPARTMENT _____ Address 3415 and 3404 SW 2nd St

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

Provided email statement to prop owners & Mr. Lindy w/ objections.

