

Date November 21, 2016

**RESOLUTION HOLDING HEARING ON REQUEST FROM
KENNETH DEEVER TO REZONE PROPERTY LOCATED AT
245 AND 247 EAST 19TH STREET**

WHEREAS, on November 7, 2016, by Roll Call No. 16-1899 the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on October 6, 2016, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Kenneth Deever (owner) to rezone property located at 245 and 247 East 19th Street ("Property") from "R1-60" One-Family Low-Density Residential District to Limited "M-1" Light Industrial District, to allow for development and use for outside contractor storage yard and warehouse, subject to the following conditions:

1. Permitted uses on the Property shall be limited to the following:
 - a) Uses as permitted in the "C-2" District, but prohibiting adult entertainment businesses, vehicle display lots, taverns or nightclubs, liquor stores, off-premises advertising signs, pawn brokers, and delayed deposit services.
 - b) Contractor business with office, warehouse and outdoor storage components.
2. Any outdoor storage on the Property shall comply with the following requirements:
 - a) Outdoor storage shall be designed to prohibit any stored material, vehicles or equipment from encroaching into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
 - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6-foot high solid opaque wooden fence from any adjoining residential ("R") district, and shall be set back a minimum of 25 feet from any adjoining streets and alleys; and, shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in Chapter 82.
 - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as approved by the City Engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
 - d) Outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by section 134-3 is prohibited.
3. Issuance of a Certificate of Occupancy by the Permit and Development Center for the existing 4,000 square foot shop/warehouse building on the Property is required.
4. The outside storage or expansion of the contractor business on the Property shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
5. Any development of the Property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District; and

WHEREAS, on November 7, 2016, by Roll Call No. 16-1899, it was duly resolved by the City Council that the application from Kenneth Deever to rezone the Property be set down for hearing on November 21, 2016 at 5:00 P.M., in the Council Chamber at the Municipal Service Center; 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



Date November 21, 2016

WHEREAS, in accordance with said notice, 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 locally known as 245 and 247 E. 19th Street, legally described as:

The North ¼ of Lot 20 (except the West 15 feet) and the West 158 feet of the South ¾ of Lot 19 (except the west 15 feet) of the Official Plat of the N/E ¼ Section 2, Township 78 North, Range 24 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Polk County, Iowa

to Limited "M-1" Light Industrial District, to allow for development and use for outside contractor storage yard and warehouse, 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 its successors, heirs and assigns.

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 "M-1" Light Industrial District with conditions as set forth above, are hereby overruled, and the hearing is closed.
2. The proposed rezoning of the Property to Limited "M-1" Light Industrial District with conditions as set forth above, is hereby approved, subject to final passage of an ordinance rezoning the Property as set forth herein.

(Council Comm. No. _____)

MOVED BY _____ TO ADOPT.

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(ZON2016-00178)

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

MOTION CARRIED APPROVED

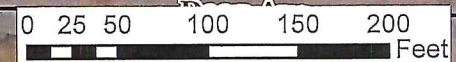
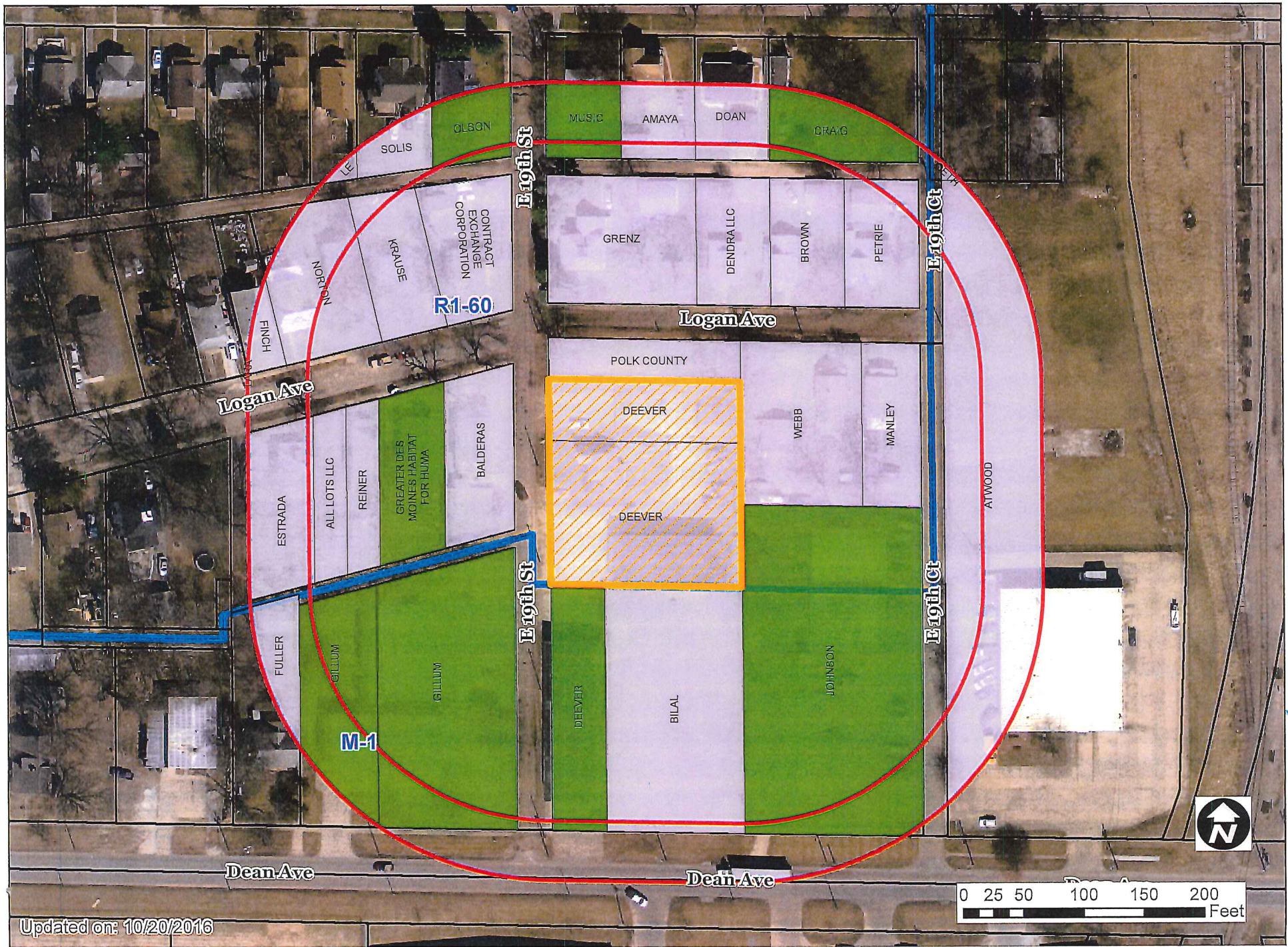
CERTIFICATE

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

Mayor



SDB

SOB



October 27, 2016

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning regarding request from Kenneth Deever (owner) to rezone property located at 245 & 247 East 19th Street from "R1-60" One-Family, Low-Density Residential District to "M-1" Light Industrial District, to allow property to be developed and used for outside contractor storage yard and warehouse.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed				X
John "Jack" Hilmes	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			

APPROVAL of staff recommendation Part A) find the requested rezoning to "M-1" Light Industrial District not in conformance with the PlanDSM: Creating Our Tomorrow future land use plan, approval of Part B) to amend the PlanDSM: Creating Our Tomorrow to revise the future land use designation from Low Density Residential to Industrial and approval of Part C) the requested rezoning subject to the following conditions:

(21-2016-4.12 & ZON2016-00178)

1. Permitted uses shall be limited to the following:
 - a) Uses as permitted in the "C-2" District, but prohibiting adult entertainment businesses, vehicle display lots, taverns or nightclubs, liquor stores, off-premises advertising signs, pawn brokers, and delayed deposit services.
 - b) Contractor business with office, warehouse and outdoor storage components.
2. Any outdoor storage on the property shall comply with the following requirements.
 - a) Shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the City Engineer.
 - b) All areas used for outside parking of vehicles shall be set back a minimum of 10 feet and screened by a 6 foot high solid opaque wooden fence from any adjoining R district, shall be set back a minimum of 25 feet from any adjoining streets and alleys; and, shall be maintained with both a dustless surface and a drainage system approved by the City Engineer, unless a higher standard is imposed by the Site Plan regulations in Chapter 82.
 - c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement as approved by the City Engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
 - d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by section 134-3.
3. Issuance of a Certificate of Occupancy by the Permit and Development Center for the existing 4,000 square foot shop/warehouse building.
4. The outside storage or expansion of the contractor business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
5. Any development of the property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning to "M-1" Light Industrial District not in conformance with the PlanDSM: Creating Our Tomorrow future land use plan.

Part B) Staff recommends approval of an amendment to the PlanDSM: Creating Our Tomorrow to revise the future land use designation from Low Density Residential to Industrial.

Part C) Staff recommends approval of the requested rezoning subject to the following conditions.

1. Permitted uses shall be limited to the following:
 - a) Uses as permitted in the "C-2" District, but prohibiting adult entertainment businesses, vehicle display lots, taverns or nightclubs, liquor stores, off-premises advertising signs, pawn brokers, and delayed deposit services.
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5. Any development of the property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

Written Responses

9 In Favor

0 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The rezoning would allow the property to be used legally for the owner's roofing contractor business. The applicant is seeking to remove the existing single-family dwelling on the property and continue to use a garage and shop warehouse building in association with the business. An accessory garage cannot be allowed to stand alone on a residentially zoned property. Furthermore, the applicant is seeking to bring an existing shop/warehouse building into conformance with current Code.
2. **Size of Site:** 46,173 square feet or 1.06 acres.
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** The property is comprised of two parcels containing a one-story single-family dwelling, a 30-foot by 30-foot (900 square feet) detached residential garage, and a 4,000-square foot building used for the applicant's roofing contractor business.
5. **Adjacent Land Use and Zoning:**
 - North** – "R1-60", Use is an undeveloped Polk County-owned parcel with frontage on Logan Avenue.
 - South** - "M-1", Use is an implement retail business with outdoor storage (Farm & City Supply).
 - East** – "R1-60", Uses are single-family dwellings and Johnson's Garage vehicle repair shop.
 - West** – "R1-60", Uses are single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located in a transition area between the Dean Avenue industrial corridor and the Capitol East residential neighborhood to the north.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Capitol East Neighborhood. The neighborhood was notified of the original October 6, 2016 meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on September 20, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on September 16, 2016 (20 days prior to the original hearing) and October 7, 2016 (13 days prior to the October 20, 2016 hearing due to error in the previous notice), to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the October 20, 2016 meeting was mailed to all the recognized neighborhood associations on October 14, 2016.

All agendas and applicable notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Capitol East Neighborhood Association mailings were sent to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.

The applicant requested the continuance of the hearing to allow their neighborhood meeting scheduled for October 10, 2016. The applicant will be able to provide a summary of the neighborhood meeting at the continued hearing.

- 8. Relevant Zoning History:** The property for roofing business has been split-zoned "M-1" District and "R1-60" District (previously "R-2" District) for an extended period of time. A 4,000-square foot shop/warehouse building was built circa 1993 on the northern "R1-60" zoned portion of the property. No record of a building permit for the building nor a Site Plan for its development is on file with the Permit and Development Center. There is record of a building permit for the 30-foot by 30-foot residential garage constructed in 1994. The requested rezoning would legalize expansion of the roofing business into the residentially zoned portion, subject to compliance with Building Code and Site Plan Ordinance.
- 9. PlanDSM: Creating Our Tomorrow Plan 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 Plan Land Use Plan Designation:** The subject property is designated as Low Density Residential. The proposed rezoning to "M-1" Light Industrial District would require an amendment of the future land use plan to the Industrial designation. Staff believes that this would be appropriate to allow a minimal expansion of the existing contractor business where there is transition between the residential neighborhood and the industrial area to the south, so long as the permitted uses of the property are limited to uses as permitted in the "C-2" District (excluding adult entertainment businesses, vehicle display lots, taverns or nightclubs, liquor stores, off-premises advertising signs, pawn brokers, and delayed deposit services.) and a contractor business with office, warehouse and outdoor storage components.

Staff believes that the proposed contractor use would present minimal impacts on the surrounding residential properties so long as any outdoor storage on the property complies with a Site Plan approved under provisions in the "M-1" District for a contractor equipment storage yard.

- 2. Permit and Development Center Comments:** Any construction or change of use on the site must be in compliance with the City's Site Plan regulations, including those regarding storm water management; off-street parking grading and soil erosion protection; tree removal and mitigation; landscaping and buffering, pavement design; and traffic and fire access.

The proposed demolition of the single-family dwelling structure must be in accordance with a demolition permit. Staff recommends that the existing 4,000-square foot shop/warehouse building, in which there is no building permit or record of inspection for occupancy on file, be reviewed by the City's Permit & Development Center under applicable Building and Fire Codes This should include issuance of all necessary permits and a Certificate of Occupancy.

- 3. Landscaping & Buffering:** Any development of the site will require landscaping in accordance with the City's Landscape Standards. These standards generally include open space, bufferyard, and parking lot plantings. Staff believes that if the property is rezoned to "M-1" District that any future development or reuse of the site should be in compliance with the landscaping requirements for the "C-2" District to ensure compatibility with the surrounding "C-2" zoning. Staff notes that any future Site Plan would be required to provide a minimum of a 7-foot landscaped paving setback along the front property line. Because the site is not very deep, relief of setbacks may need to be sought from the Zoning Board of Adjustment for future location of outdoor storage areas.

Future development of the site would also be subject to the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).

- 4. Drainage/Grading:** Any additional development of the site must also comply with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan.
- 5. Utilities:** There is an existing 8-inch water main in the Logan Avenue Right-Of-Way approximately 100 feet to the north. The existing office for the building to the south has water service from the existing 8-inch main in Dean Avenue. There is public sanitary sewer in East 19th Street and there is public storm sewer within East 19th Street that extends through the southwest corner of the subject property.
- 6. Access or Parking:** The site has two existing access drives to East 19th Street. There is also non-conforming maneuvering/backing from the subject property into East 19th Street. Any Site Plan for the property would be required to remove existing backing and maneuvering on the public street and pave all parking and maneuvering aisles.

SUMMARY OF DISCUSSION

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

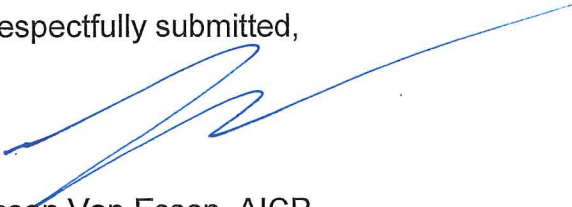
COMMISSION ACTION:

Mike Simonson moved staff recommendation for approval of Part A) find the requested rezoning to "M-1" Light Industrial District not in conformance with the PlanDSM: Creating Our Tomorrow future land use plan, approval of Part B) to amend the PlanDSM: Creating Our Tomorrow to revise the future land use designation from Low Density Residential to Industrial and approval of Part C) the requested rezoning subject to the following conditions.

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4. The outside storage or expansion of the contractor business on the site shall be brought into conformance with a Site Plan as reviewed and approved by the Permit and Development Center.
5. Any development of the property under a Site Plan shall comply with the City's Landscaping Standards as applicable in the "C-2" General Retail and Highway Oriented Commercial District.

Respectfully submitted,



Jason Van Essen, AICP
Senior City Planner

JMV:clw

Attachment

Kenneth Deever (owner) for property located at 245 & 247 East 19th Street.			File #	
			21-2016-4.12	
Description of Action	Approval of request to Amend the existing PlanDSM: Creating Our Tomorrow Plan future land use designation from Low Density Residential to Industrial.			
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Industrial.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	9	0		
Outside Area				
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Deever, 245 & 247 East 18th Street

21-2016-4.12

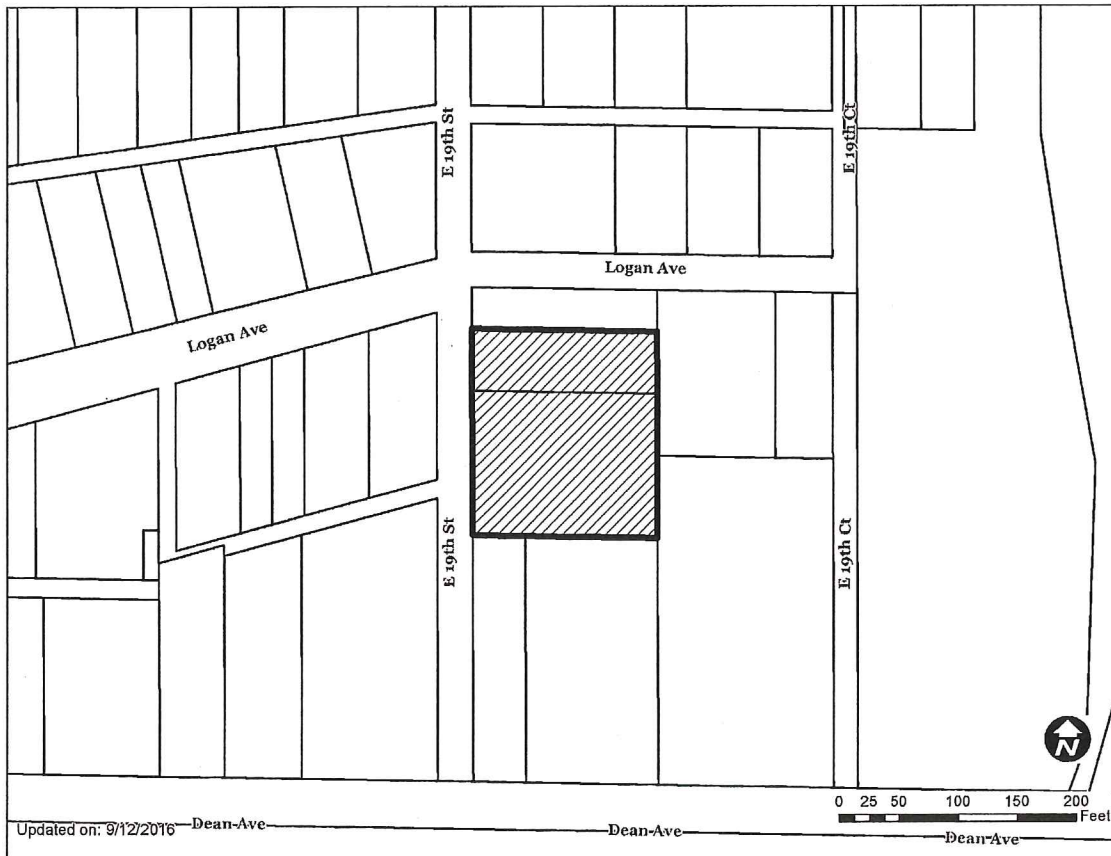


1 inch = 84 feet

Kenneth Deever (owner) for property located at 245 & 247 East 19th Street.		File #		
		ZON2016-00178		
Description of Action	Approval of request to rezone property from "R1-60" One-Family, Low-Density Residential District to "M-1" Light Industrial District, to allow property to be developed and used for outside contractor storage yard and warehouse, subject to conditions.			
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Industrial.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	9	0		
Outside Area				
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Deever, 245 & 247 East 19th Street

ZON2016-00178



1 inch = 95 feet

ZON2016-00178

Item _____ Date 9/29/16

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

OCT 03 2016

Print Name Curt Gillum

Signature *Curt Gillum*

Address 212 E 19th St

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

ZON2016-00178

Item _____ Date 9/30/16

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

(Circle One)
COMMUNITY DEVELOPMENT

OCT 04 2016

Print Name GDM HABITAT FOR HUMANITY

Signature *J. [unclear]* → GDM Habitat

Address 1837 LOGAN AVE.

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

ZON2016-00178

Item _____ Date 9-29-16

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

RECEIVED
COMMUNITY DEVELOPMENT

OCT 06 2016

Print Name BRIAN JOHNSON

Signature [Signature]

Address 1916 DEAN

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

ZON2016-00178

Item _____ Date 10/12/2016

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

RECEIVED
COMMUNITY DEVELOPMENT

OCT 14 2016

Print Name Kenneth W Deever

Signature [Signature]

Address 2315 E meadow LN DMIA

50320

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

I Approve of the rezoning PLAN
to tear down house & save smaller
buildings and make it all light
commercial zoning.

ZON2016-00178

Item 245 & 247 E 19th St Date 10/12/16

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

RECEIVED
COMMUNITY DEVELOPMENT

OCT 17 2016

Print Name Charles R Olson

Signature [Signature]

Address 1855 E Walnut St.

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

ZON2016-00178R

Item _____

Date 10-13-16

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

RECEIVED

COMMUNITY DEVELOPMENT

Print Name Lowell Craig

Signature Lowell Craig

Address 1913 E Walnut

OCT 18 2016

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

ZON2016-00178R

Item _____

Date 10/13/16

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

RECEIVED

COMMUNITY DEVELOPMENT

Print Name Greater DSM Habitat for Humanity

Signature [Signature]

Address 1937 Logan

OCT 17 2016

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

ZON2016-00178R

Item _____

Date 10/21/16

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

RECEIVED

COMMUNITY DEVELOPMENT

Print Name Kirby Music

Signature [Signature]

Address 2917 E Grand

OCT 17 2016

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

Capitol East Neighborhood Association

Established in 1989
1921 Hubbell Avenue
Des Moines, Iowa 50316

To the City of Des Moines Zoning Board of Adjustments:

Capitol East Neighborhood met on October 12th 2016. The members voted to support Deever Roofing's request to change zoning at 245 East 19th Street. We support Deever Roofing's plan that includes: removal of the house, retention of the steel building at the back of the lot and landscape the front of the property. If you have any further questions, feel free to contact me at 202-4063 or jack@leachmanlumber.com.

Sincerely,



Jack Leachman
President, Capitol East Neighborhood

Deever Neighborhood Meeting

Monday, October 10, 2016

The neighborhood meeting started at 6:30 p.m. and there were 7 in attendance for the meeting. Deever discussed plans of the removal of the house, landscaping that area, keeping the garage and re-zoning it. The attendees saw plans of the project as well as a walk thru of the property to show the plan as well. The folks that attended the meeting were in favor of Deever's plans. They verbally spoke their opinions of not having a problem with Deever's intentions.

Thank you

Ken Deever

You are invited to attend a neighborhood meeting!

Kenneth Deever Jr and Ken Deever III are requesting a neighborhood meeting that is required by the City of Des Moines.

Subject: 245 E 19th St Des Moines, Iowa 50316
Requesting to demo existing home and continue use of existing garage and rezoning is required.

The neighborhood meeting will be held at:

**Deever Roofing Inc
1902 Dean Ave
Des Moines, Iowa 50316
(Corner of E.19th St and Dean Ave)
515-262-9240**

When: Monday, October 10, 2016
6:30-7:30 p.m.

Refreshments provided.

Thank you

To whom it may concern:

In regards to the property behind Deever Roofing's main building, we took out all the proper permits to build all the buildings, including a permit for the fence. Everything was approved by the city, including the north building (garage) that was built on a vacant lot at: 247 E 19th.

Ken Deever

A handwritten signature in blue ink that reads "Ken Deever". The signature is written in a cursive style with a long horizontal flourish at the end.