

Date July 24, 2017

**RESOLUTION SETTING HEARING ON REQUEST FROM ASA, LLC TO
REZONE PROPERTY AT 1501 KEOSAUQUA WAY AND 1157 15TH STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 6, 2017, its members voted 12-1 in support of a motion to recommend **APPROVAL** of a request from ASA, LLC d/b/a Action Auto Body (owner), represented by Chad Ogle, to rezone property locally known as 1501 Keosauqua Way and 1157 15th Street (collectively "Property") from "C-2" General Retail and Highway-Oriented Commercial District and "R-3" Multiple-Family Residential District to Limited "M-1" Light Industrial District, subject to the following conditions:

1. Use of the Property shall be limited to uses permitted in "C-2" Districts, auto-body repair shop, and warehouse; and the following uses are prohibited:
 - a) Adult entertainment businesses,
 - b) Auction businesses,
 - c) Automobile establishments for display, hire, rental, and sales,
 - d) Delayed deposit services,
 - e) Liquor stores,
 - f) Off-premises advertising signs,
 - g) Pawnbrokers,
 - h) Taverns and nightclubs, and
 - i) Tobacco stores.
2. Any auto-body repair shop or addition on the Property shall comply with all applicable Building and Fire Codes as well as Site Plan requirements, and with issuance of all necessary permits by the City's Permit and Development Center.
3. Any auto-body repair shop on the Property shall provide a minimum 4-foot tall brick, decorative block, or stone wainscot along the entire south and west building facades exclusive of door openings.
4. Any paint spray booth on the Property shall be of a waterborne, non-flammable technology; and

WHEREAS, the Property to be rezoned is legally described as follows:

Lots 27, 30, 31, & 32, and (Except the North 20 feet of the West 42.5 feet) Lots 34 & 35, Block 2, NORTHWESTERN HEIGHTS, 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.

Date July 24, 2017

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 14, 2017, 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

(ZON2017-00083)

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

MOTION CARRIED

APPROVED

 Mayor

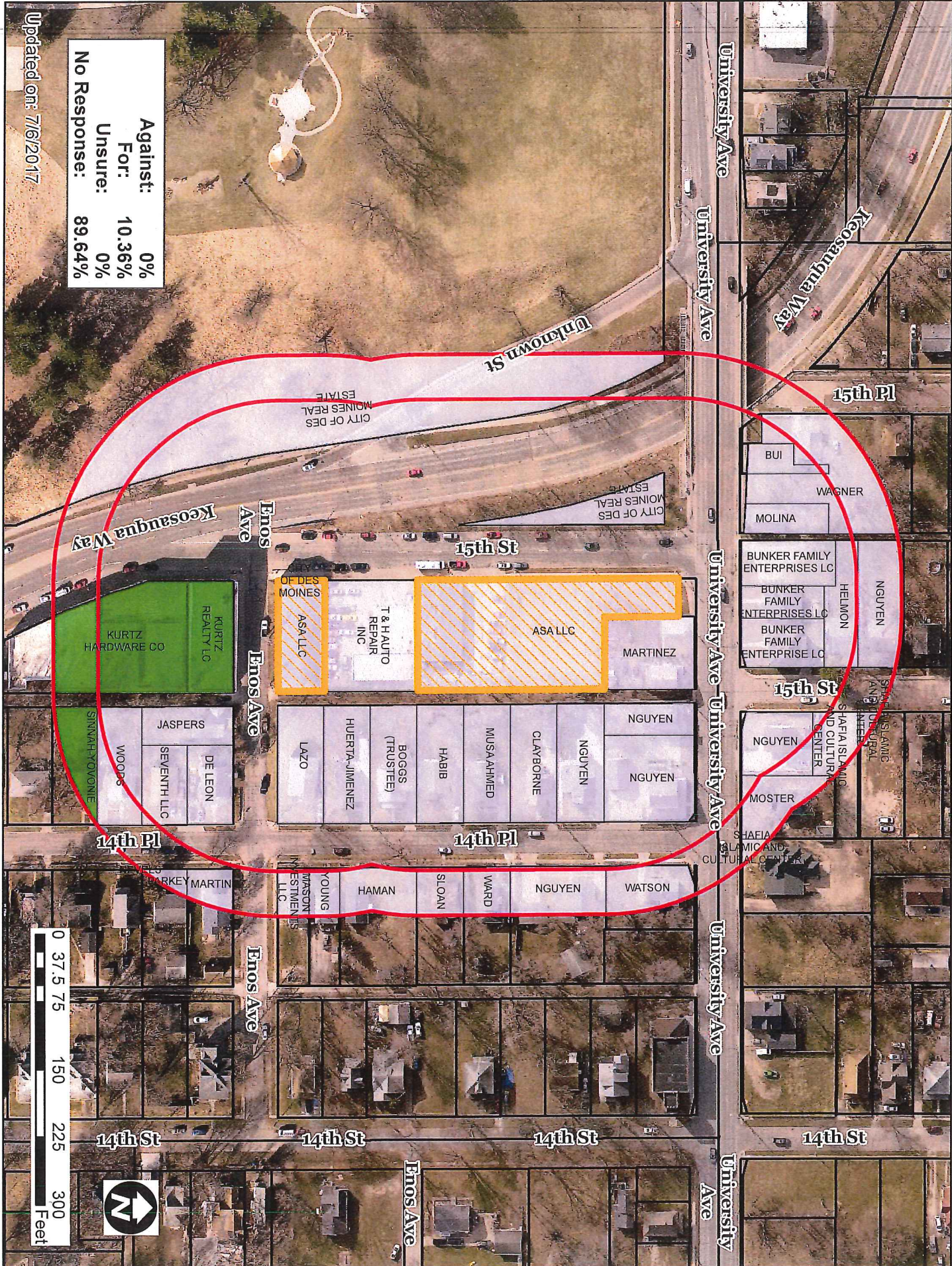
CERTIFICATE

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

ASA LLC, dba Action Auto Body, 1501 Keosauqua Way and 1157 15th Street ZON2017-00083



Against:	0%
For:	10.36%
Unsure:	0%
No Response:	89.64%

Updated on: 7/6/2017



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ASA, LLC dba Action Auto Body (owner) represented by Chad Ogle for property at 1501 Keosauqua Way and 1157 15th Street.			File #	
			21-2017-4.03	
Description of Action	Approval of request to amend the existing PlanDSM Creating Our Tomorrow 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	"C-2" General Retail and Highway-Oriented Commercial District and "R-3" Multiple-Family Residential District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	"M-1" Light Industrial District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Subject Property	3	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	12-1	Required 6/7 Vote of the City Council	Yes
	Denial			No

ASA, LLC dba Action Auto Body, 1501 Keosauqua Way and 1157 15th Street 21-2017-4.03



1 inch = 142 feet

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ASA, LLC dba Action Auto Body (owner) represented by Chad Ogle for property at 1501 Keosauqua Way and 1157 15th Street.				File # ZON2017-00083	
Description of Action	Approval of request to rezone property from "C-2" General Retail and Highway-Oriented Commercial District and "R-3" Multiple-Family Residential District to "M-1" Light Industrial District, subject to conditions.				
PlanDSM Future Land Use	Current: Low Density Residential. Proposed: Industrial.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"C-2" General Retail and Highway-Oriented Commercial District and "R-3" Multiple-Family Residential District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"M-1" Light Industrial District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property	3	0			
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval	12-1	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

ASA LLC, dba Action Auto Body, 1501 Keosauqua Way and 1157 15th Street ZON2017-00083



Updated on: 5/24/2017

1 inch = 142 feet

July 10, 2017

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from ASA, LLC dba Action Auto Body (owner) represented by Chad Ogle to rezone property at 1501 Keosauqua Way and 1157 15th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-1 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
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page				X
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			

APPROVAL of Part A) to find the requested rezoning to the "M-1" Light Industrial District to be not in conformance with the PlanDSM Creating Our Tomorrow existing future land use designation and approval of Part B & C the requested amendment to PlanDSM and the requested rezoning subject to the owner agreeing to the following conditions:
(21-2017-4.03 & ZON2017-00083)

1. Permitted Uses shall only be those permitted in "C-2" Districts, auto-body repair shop, and warehouse; except the following uses are prohibited:

a) Adult entertainment businesses,

- b) *Auction businesses,*
 - c) *Automobile establishments for display, hire, rental, and sales,*
 - d) *Delayed deposit services,*
 - e) *Liquor stores,*
 - f) *Off-premises advertising signs,*
 - g) *Pawnbrokers,*
 - h) *Taverns and nightclubs, and*
 - i) *Tobacco stores.*
2. *Any auto-body repair shop or addition shall comply with all applicable Building and Fire Codes as well as Site Plan requirements, with issuance of all necessary permits by the City's Permit and Development Center.*
 3. *Any auto-body repair shop shall provide a minimum 4-foot tall brick, decorative block, or stone wainscot along the entire south and west building facades exclusive of door openings.*
 4. *Any paint spray booth on the premises shall be of a waterborne, non-flammable technology.*

Written Responses

4 in Favor

0 in Opposition

STAFF RECOMMENDATION

This item is continued from the June 15, 2017 meeting of the Commission.

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

Part B & C) Staff recommends **denial** of the requested amendment to PlanDSM and the requested rezoning. The Industrial designation is not appropriate for these properties given the close proximity of residential uses to the north and east. Light industrial uses typically create higher levels of noise, traffic, and other impacts for adjoining areas than commercial development and, therefore, require greater separation from residential uses. Industrial development should be focused in the areas the City has already designated for those types of uses. If the zoning request is denied by City Council, the applicant can seek a Use Variance from the Zoning Board of Adjustment.

Should the Commission render a recommendation for approval of Parts B and C, then Staff recommends that the Commission consider recommending that the owner agree to the following conditions of approval:

1. ***Permitted Uses shall only be those permitted in "C-2" Districts, auto-body repair shop, and warehouse; except the following uses are prohibited:***
 - a) ***Adult entertainment businesses,***
 - b) ***Auction businesses,***

- c) *Automobile establishments for display, hire, rental, and sales,*
 - d) *Delayed deposit services,*
 - e) *Liquor stores,*
 - f) *Off-premises advertising signs,*
 - g) *Pawnbrokers,*
 - h) *Taverns and nightclubs, and*
 - i) *Tobacco stores.*
2. *Any auto-body repair shop or addition shall comply with all applicable Building and Fire Codes as well as Site Plan requirements, with issuance of all necessary permits by the City's Permit and Development Center.*
 3. *Any auto-body repair shop shall provide a minimum 4-foot tall brick, decorative block, or stone wainscot along the entire south and west building facades exclusive of door openings.*
 4. *Any paint spray booth on the premises shall be of a waterborne, non-flammable technology.*

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The rezoning would allow the existing auto body repair operation to expand on property located at 1157 15th Street. The existing auto-body repair business is considered to be a legal non-conforming use in the "C-2" District as major auto-body repair, which requires an "M-1" Light Industrial District zoning classification. The proposed business expansion would include a new 80-foot by 78-foot (6,240 square feet) building constructed within the open space to the north of the existing parking lot. A Use Variance to allow the expansion was granted, by the Zoning Board of Adjustment but is set to expire on November 4, 2017. The applicant is concerned that their financing for the project may not be in place to initiate construction before that date.

The application also includes a request to use property located at 1501 Keosauqua Way for storage of vehicles and equipment related to their business. The Zoning Enforcement Officer considers this a warehouse use, which would require "M-1" Light Industrial District zoning. The property was previously an auto repair shop which is allowed in the "C-2" District and did not carry any legal non-conforming rights for any use which required "M-1" District zoning.

Should the requested rezoning be denied by the City Council, the applicant would be eligible to apply for a Use Variance from the City's Zoning Board of Adjustment.

2. **Size of Site:** 25,376 square feet (1157 15th Street). 6,368 square feet (1501 Keosauqua Way)

- 3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District, "R-3" Multiple-Family Residential District, "FSO" Freestanding Signs Overlay District, and "GGP" Gambling Games Prohibition Overlay District.
- 4. **Existing Land Use (site):** The property contains the Action Auto body business, which includes a 4,558-square foot building and a surface parking lot.

5. **Adjacent Land Use and Zoning:**

North – "R-3", Uses are an undeveloped parcel and a single-family dwellings.

South - "C-2", Use is "T & H Auto Repair" business and "AC Heating & Cooling" mechanical contractor business.

East – "R-3", Uses are single-family dwellings.

West – "R-3", Uses are 15th Street and open space along Keosauqua Way.

- 6. **General Neighborhood/Area Land Uses:** The subject properties are located along the east side of 15th Street in between Keosauqua Way and University Avenue. The property is located at north end of a commercial node that includes a mechanical contractor business, an auto repair businesses and a hardware store.
- 7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Cheatom Park Neighborhood and is within 250 feet of the King Irving Neighborhood and Good Park Neighborhood. The neighborhoods were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood on May 26, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on May 26, 2017 (20 days prior) and June 5, 2017 (10 days prior to scheduled hearing) to the neighborhood associations 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 meeting was mailed to all the recognized neighborhood associations on June 9, 2016.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Cheatom Park Neighborhood Association mailings were sent to Susan Wells, 1157 14th Place, Des Moines, IA 50314. The King Irving Neighborhood Association mailings were sent to Ramona Bates, 1321 Norton Street, Des Moines, IA 50314. The Good Park Neighborhood Association mailings were sent to Stacey Nichols, 1129 19th Street.

The applicant was advised to conduct a neighborhood meeting and will be available to provide a summary at the public hearing. The have scheduled it for June 13, 2017.

- 8. **Relevant Zoning History:** On September 14, 2015, the City Council denied a request to rezone the property at 1157 15th Street to the "M-1" Light Industrial District to allow the appellant to expand the auto-body repair operation by adding a 6,240-square foot shop building on the northern portion.

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On October 28, 2015 the Zoning Board of Adjustment approved a Use Variance of the permitted uses in a C-2” General Retail and Highway-Oriented Commercial District and an “R-3” Multiple-Family Residential District (to allow an auto body repair shop), an Exception of 12 feet less than the minimum required 30-foot front yard setback, an Exception of 11 feet less than the minimum required 35-foot rear yard setback, and Exception of 7 parking spaces less than the minimum 18 off-street parking spaces required for 10,923 square feet of auto body repair use (1 space per 600 square feet).

This allowed expansion of an existing auto body repair shop use (Action Auto Body) at 1157 15th Street to include a new structure measuring 78 feet by 80 feet (6,240 square feet), which would be within 18 feet of the west (front) property line, within 25 feet of the north (side) property line, and within 24 feet of the east (rear) property line. The existing building measured 86 feet by 54.45 feet (4,683 square feet), resulting in a combined 10,923 square feet of building area for the proposed auto body repair use. The site contained 11 off-street parking spaces. The relief will expire if construction of the expansion is not commenced by November 4, 2017.

9. Plan DSM Future Land Use Designation: Low-Density Residential.

10. 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, and. 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: The proposed rezoning to the “M-1” District is not compatible with the Low-Density Residential future land use designation of the PlanDSM Creating Our Tomorrow Comprehensive Plan. Therefore, the applicant has requested the future land use designation be amended to Industrial. Staff does not believe that the Industrial designation is appropriate given the close proximity of residential uses to the north and east. Light industrial uses typically create higher levels of noise, traffic, and other impacts for adjoining areas than commercial development and, therefore, require greater separation from residential uses. Industrial development should be focused in the areas the City has already designated for those types of uses.

Should the rezoning be denied by the City Council again, the applicant would have the ability to request a Use Variance from the Zoning Board of Adjustment again. A Use Variance cannot be considered by the Board until after a rezoning has been denied. A Use Variance would not require the Land Use Plan to be amended.

2. Site Plan Requirements: Any future development of the site at 1157th Street must conform to 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.

3. Additional Information: Should the Commission recommend approval of the request, the applicant would still need to seek approval of revised setback appeals from the Zoning Board of Adjustment for the proposed expansion project. They would be based on more restrictive setback requirements in the "M-1" Light Industrial District.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Greg Wattier asked about condition #3 (*Any auto-body repair shop shall provide a minimum 4-foot tall brick, decorative block, or stone wainscot along the entire south and west building facades exclusive of door openings*) whether it was something that staff came up with or something from the Zoning Board of Adjustment process.

Jason Van Essen stated he believes it originates from staff from a couple of years ago. However, this was also included in a decision order from the Zoning Board of Adjustment.

Chad Ogle 920 E. Diehl stated he agrees with the conditions. He showed a site plan with the drawing of the building with condition #3 already implemented. He pointed out his plans for improving the area. However, he pointed out that the south section of the building, which has a zero lot line with his neighbors so they will do the portion that obviously opened and exposed. Where his neighbors building starts there is nothing he can do with that.

Rocky Sposato reiterated that the neighborhood association is in support of the applicant's request, there has been positive response, they have already relocated once and they do good business.

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

JoAnne Corigliano she is pleased with the efforts that have been made to make this acceptable all the way around.

Rocky Sposato stated the applicant has the neighborhood's support. He has relocated once and all of the information that has been shared with the Commission. The neighbors like the applicant, he does good business, he wants to stay in the City of Des Moines so he would not agree with staff's recommendation to deny the applicant's request.

David Courard-Hauri stated he believes it is a great project and the neighborhood supports it. However, he is going to vote in opposition of the applicant's request because he believes this item belongs at the Zoning Board of Adjustment or at least the City Council because it is a significant change to the zoning.

COMMISSION ACTION:

JoAnne Corigliano moved approval of Part A) to find the requested rezoning to the "M-1" Light Industrial District to be not in conformance with the PlanDSM Creating Our Tomorrow existing future land use designation, approval of Part B & C) the requested amendment to PlanDSM and the requested rezoning subject to the owner agreeing to the following conditions:

1. Permitted Uses shall only be those permitted in "C-2" Districts, auto-body repair shop, and warehouse; except the following uses are prohibited:
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 - b) Auction businesses,
 - c) Automobile establishments for display, hire, rental, and sales,
 - d) Delayed deposit services,
 - e) Liquor stores,
 - f) Off-premises advertising signs,
 - g) Pawnbrokers,
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4. Any paint spray booth on the premises shall be of a waterborne, non-flammable technology.

Motion carried 12-1. David Courard-Hauri voted in opposition.

Respectfully submitted,

Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

24 Item ZON2017-00083 Date 4/14/2017
 (am) (am not) in favor of the request.
 (Circle One)
 COMMUNITY DEVELOPMENT Print Name Jamie Sinnah-Yorvone
 JUN 16 2017 Signature Jamie Sinnah-Yorvone
 Address 1124-14th PL

Reason for opposing or approving this request may be listed below.
Trying to expand business in
neighborhood. Would like to keep
"good" neighbors in area.

Item ZON2017-00083 Date 6-6-17
 (am) (am not) in favor of the request.
 (Circle One)
 COMMUNITY DEVELOPMENT Print Name Robert B. Kurtz
 JUN 12 2017 Signature Robert Kurtz
 Address 1473 KEO, 1495 KEO
1479 KEO

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

Item ZON2017-00083 Date 6/13/17
 (am) (am not) in favor of the request. CONCERNED PROPERTY
 (Circle One)
 COMMUNITY DEVELOPMENT Print Name Michelle G. Picelli
 JUN 13 2017 Signature Michelle G. Picelli
 Address 1157 15th St
Diamond Bar, CA 91764

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

June 15, 2017

City of Des Moines Planning and Zoning:

My name is Susan Wells and I represent the Cheatom Park Neighborhood Association. . I am unable to attend this evenings meeting as it is the night of our monthly meeting as well. I am writing this letter expressing our support in regards to Action Auto located at 1157 15th street.

We support the advancement of commercial business in our community, especially that of good, responsible business. Action Auto goes above and beyond being a good neighbor. An example of this fact is demonstrated by the fact that they actually pick up the trash that is deposited on the street and parking along 15th street regularly. I can only imagine what that street, part of the northern gateway from downtown would look like if not for their efforts. The fact that their plans of expansion include being environmentally green also shows the commitment to care of the community. As well as their desire to stay in the community.

Again, we fully support the re zoning required to help Action Auto expand their business and hope this will expedite the progress of their plan without further delay.

Sincerely,

Susan M. Wells

1157 14th Place

Des Moines, Ta. 50314

(515) 288-5263