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Date February 9, 2009

WHEREAS, on January 5, 2009 by Roll Call No. 09-017 it was duly resolved that the application of Hubbell Realty Company (developer) represented by Steve Neibuhr (officer) to rezone property located at 5525 SE 14th Street, from Limited R-3 Multiple-Family Residential District to R-3 Multiple-Family Residential District, removing the limitation of senior residential housing on multiple-family dwellings and allowing for 240 apartments would be considered at a public hearing in Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on January 26, 2009; and

WHEREAS, the above described application was considered by the City Plan and Zoning Commission on January 15, 2009 at which time the Commission DENIED the application by voting 5 members in favor and 5 members opposed on a motion to approve the application. No further motion on this matter was brought forward; and

WHEREAS, due notice of the January 26th hearing before the City Council was published in the Des Moines Register on January 29, 2009 as provided by law, setting forth the time and place for hearing on the proposed application; and

WHEREAS, on January 26, 2009 by Roll Call No. 09-130, the City Council continued the hearing on the proposed rezoning to the February 9, 2009 Council meeting at 5:00 p.m. and directed the City Manager to report at that time on watershed and traffic issues, and the possibility of establishing a TIF district to serve the area; and

WHEREAS, City staff have arranged and facilitated meetings attended by the developer, surrounding property owners and recognized neighborhood associations at which the concerns raised by the City Council as well as other issues were discussed, as set forth in more detail in the accompanying Council Communication; and

WHEREAS, in accordance with the published notice and Roll Call continuing the date of the hearing, those interested in the proposed rezoning, both for and against, have been given the opportunity to be heard with respect thereto and have presented their views to the City Council.

Except the West 400 feet, and except the East 510 feet of the South 538.64 feet, and Except the South 4.5 feet of the East 240.75 feet of the West 1033.5 feet – the South 25 acres of Lot 5, Official Plat of the Northwest Quarter of Section 26, Township 78 North, Range 24 West of the 5th P.M.; and, except the West 30 feet and except the East 10.2 feet – Lot 7, Capitol View Acres, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

★ **Roll Call Number**

Agenda Item Number

44

Date February 9, 2009

NOW THEREFORE BE IT RESOLVED by the City Council of the City of the City of Des Moines that upon due consideration of the facts and statements of interested persons and arguments of counsel, the hearing is closed and the application to rezone the above-described property by removing the limitation of senior residential housing as set forth herein is hereby:

(Six votes needed for approval)

APPROVED: _____

DENIED: _____

(Council Communication No. 09-075 attached)

Moved by _____ to _____

APPROVED AS TO FORM:



Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

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.

MOTION CARRIED

APPROVED

Mayor

City Clerk

Date _____

January 16, 2009

Agenda Item 44

Roll Call # _____

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 January 15, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-1 as follows:



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels				X
Jacqueline Easley				X
Dann Flaherty		X		
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson	X			
Kent Sovern	X			

APPROVAL of a request from Hubbell Realty Company (developer) represented by Steve Niebuhr (officer) Donald White, Jr. (owner) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan. .

A separate motion **FAILED** by a vote of 5-5 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus		X		
JoAnne Corigliano		X		
Shirley Daniels				X
Jacqueline Easley				X
Dann Flaherty		X		
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Jim Martin		X		
Brian Millard		X		
Mike Simonson	X			
Kent Sovern	X			

APPROVAL of a request to rezone property located at 5525 Southeast 14th Street from Limited "R-3" Multiple-Family Residential District to "R-3" Multiple-Family Residential District, removing the limitation of senior residential housing on multiple-family dwellings subject to applicant agreeing to the following conditions: (ZON2008-00191)

1. No removal of trees 6" inches or larger in diameter from the subject property until review of a tree inventory and mitigation plan with any site plan submittal or grading permit application.
2. Any development of the site is subject to provision of storm water management in accordance with State Wide Urban Design and Specifications (SUDAS) standards for a two-year frequency storm event developed release rate in addition to requirements for management of more frequent rain events.
3. Any development of the subject property will incorporate conservation design methods for mitigation of storm water from more frequent than two-year storm events.
4. Any Site Plan submittal or platting of the subject property for multiple residential units shall include an update to the professionally prepared traffic study for the property.
5. Primary vehicular access for any multiple family residential development shall be from SE 14th Street through the property adjoining to the west in accordance with all applicable Fire and Building codes.
6. Design and materials for any multiple-family structure built on the subject property shall be determined to be compatible with the adjoining residential properties by the Plan and Zoning Commission as part of Site Plan review.

Written Responses

3 In Favor

7 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the requested rezoning subject to applicant agreeing to the following conditions:

1. No removal of trees 6" inches or larger in diameter from the subject property until review of a tree inventory and mitigation plan with any site plan submittal or grading permit application.
2. Any development of the site is subject to provision of storm water management in accordance with State Wide Urban Design and Specifications (SUDAS) standards for a two-year frequency storm event developed release rate in addition to requirements for management of more frequent rain events.
3. Any development of the subject property will incorporate conservation design methods for mitigation of storm water from more frequent than two-year storm events.
4. Any Site Plan submittal or platting of the subject property for multiple residential units shall include an update to the professionally prepared traffic study for the property.
5. Primary vehicular access for any multiple family residential development shall be from SE 14th Street through the property adjoining to the west in accordance with all applicable Fire and Building codes.
6. Design and materials for any multiple-family structure built on the subject property shall be determined to be compatible with the adjoining residential properties by the Plan and Zoning Commission as part of Site Plan review.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is conceptually proposing to develop six 36-unit and one 24-unit multiple-family dwellings. This is a density of approximately 13.8 units an acre. The applicant proposes three-story construction, and is seeking to remove the existing Zoning condition that only permits senior living multiple-family residential use. The Development of any proposal involving multiple-family residential dwellings will require review and approval of a Site Plan by the Commission under design guidelines for multiple-family residential.
2. **Size of Site:** Approximately 13.8 acres.
3. **Existing Zoning (site):** Limited "R-3" Multiple-Family Residential District.
4. **Existing Land Use (site):** Vacant land used for agricultural purposes.
5. **Adjacent Land Use and Zoning:**

North – Limited "C-2", Use is Dino's Storage mini-warehousing.

South – "R1-80", Uses are single-family residential.

East – "R1-80", Uses are open space and parkland.

West – "C-2", Uses are vacant land and off-premises advertising sign.

6. **General Neighborhood/Area Land Uses:** The subject property is located just east of commercial property fronting the SE 14th Street major commercial corridor. The property is just west of the Ewing Park complex.
7. **Applicable Recognized Neighborhood(s):** Easter Lake Area Neighborhood and South Park Neighborhood.
8. **Relevant Zoning History:** The subject property was rezoned by the City Council to Limited "R-3" on October 9, 2006 with the following conditions accepted by the owner:
 - A. Only the following uses of structures and land shall be permitted upon the Property:
 1. Any use allowed in and as restricted in the "R1-80" One-Family Residential District.
 2. Multiple-family senior residential housing.
 - B. None of the trees over 4 inch in caliper measured one foot above the ground shall be removed from the Property until a tree mitigation plan is approved by the City incident to the approval of a site plan or grading permit.
 - C. Any development of the Property is subject to provision of storm water management in accordance with State Wide Urban Design and Specifications (SUDAS) standards for a two-year frequency storm event developed release rate.
 - D. Any development of the Property will incorporate conservation design methods for mitigation of storm water runoff from more frequent than two-year storm events.

E. Any site plan or platting of the Property for multiple-family residential use shall include a professionally prepared traffic study and access to the subject property shall be based on the traffic study as reviewed and approved by the City Traffic Engineer.

F. In the site plan review process, the design and materials for any multiple-family structure built on the Property shall be reviewed by the City for compatibility with the adjoining residential properties.

9. **2020 Community Character Land Use Plan Designation:** Medium Density Residential.

10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries 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 recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Natural Site Features:** The subject property is primarily cultivated land use for agriculture. There is some scattered timber along a drainage swale within the property and along the north, east and south boundary fence lines. A minor drainage way runs through the southern extension of the subject property fronting East Diehl Avenue. Staff recommends retention of the Zoning Condition prohibiting larger tree removal until an inventory and mitigation plan has been reviewed as part of site plan review or grading.
2. **Drainage/Grading:** Development of the site for housing will require approval of a grading and soil erosion control plan in conformance with City standards. Storm water management in accordance with site plan policies will be required prior to development as well. The Commission will review this at the Site Plan stage.

The drainage way to the south of the subject property has experienced some negative impacts during more frequent rain events (less than the five year storm) due to volumes from commercial development on SE 14th Street.

Due to the known problems in the drainage way to the south during more frequent storms, staff recommends retaining the Zoning condition requiring development releasing to this drainage way adhere to SUDAS standards which require storm water to be released at the rate of a two-year frequency storm event. Staff also recommends retention of the Zoning condition that any development of the subject property use low impact design or conservation design methods to keep storm water from more frequent than two-year storm events on the site putting it back into the ground instead of releasing it to the natural surface drainage away from the subject property. Consideration of water quality detention is now a requirement for sites over an acre during Site Plan review.

3. **Utilities:** Private utilities to serve the subject property are proposed to be extended through easements on the property to west from SE 14th Street. Private on site hydrants will be required in order to provide adequate fire protection. A private pumping station will likely be necessary for the developer to connect sanitary sewer to the public main in SE 14th Street.
4. **Landscaping & Buffering:** Development of the subject property will require compliance with the Des Moines Landscape standards. Conformance with these standards will be reviewed by the Commission at the Site Plan stage. Staff recommends that an emphasis be placed on any

bufferyard required to protect residential property to the south. This may involve additional plantings beyond the minimum required or concentration of some open space plantings within the buffer yard.

- 5. Traffic/Street System:** The applicant has provided a traffic study analyzing proposed development of the subject property along with the multiple-family development under review for the adjoining property to the west. The submitted development to the west and the proposed development of the subject property will generate 40% less vehicle trips than the previously proposed development, which consisted of senior housing with commercial strip development along Southeast 14th Street.

Traffic and Transportation and Fire Prevention staff have reviewed the study and have determined that outlet to Southeast 14th Street is sufficient for the projected volumes of traffic and that a separate access to East Diehl Avenue from the subject property or upgrade of East Diehl Avenue will not be necessary. Future phases of development should re-evaluate the traffic study to ensure the findings are still valid at that point in time.

- 6. Access or Parking:** While the actual required street frontage for the subject property under Zoning is along East Diehl Avenue, the applicant is conceptually proposing a single private driveway looping through development with two access connections to adjoining commercial property along Southeast 14th Street.

Preliminary evaluation of this concept from the Fire Prevention staff indicates that this is acceptable based on the proposed zoning densities and the fact that multiple-family units will require fire sprinklers in the building. Development of cross access drive connections through the adjoining property to the west to both the Tasty Tacos site and the Dino's storage site are mandatory to avoid a secondary outlet to East Diehl Avenue based on the proposed densities.

Minimum off-street parking will be required to be provided as part of each phase of development. Each dwelling unit will require 1.5 off-street parking spaces.

- 7. 2020 Community Character Plan:** The proposed concept for the rezoning indicates a range of elderly residential living at a density that is just less than 14 units per acre. The future land use designation for the subject property of Medium Density Residential provides for up to 17 dwelling units per acre. Staff believes that the property should be limited to a maximum of 14 units an acre in order to prevent a higher density which would generate more impervious parking surfaces.
- 8. Urban Design:** The applicant has not submitted any conceptual elevations for the architecture of the proposed multiple-family residential buildings. While staff has a concern about the scale of proposed three-story construction in proximity to single-family residences, this must be reviewed with the Site Plan along with the availability of proposed topographic data. The character of any of these buildings as proposed will be reviewed by the Commission under the design guidelines for multiple-family residential during Site Plan consideration.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

Bruce Heilman asked if the entrance was a right in and right out on East 14th.

Erik Lundy stated there is an opening in the median. Staff is also requiring frontage road access to Diehl through the Tasty Taco site and to SE 14th through the Dino's Storage site.

JoAnne Corigliano asked if this plan would require a deceleration lane from the property like the previous plan.

Erik Lundy explained that this plan would require a deceleration lane, which will be talked about on the next agenda item.

JoAnne Corigliano stated that she is concerned with the water runoff and asked if there is a plan to handle this problem.

Erik Lundy stated that the multi-family site plan will come back to the Commission. One of the requirements under the site plan provisions, which are tighter than they were at the previous time of rezoning, is that more frequent storm water events be handled.

Larry Hulse clarified that this project is already zoned "R-3" with some conditions on it. Removing those conditions and setting a maximum number of units that they are going to have is this step of the process. If the zoning is approved then they will go into the engineering of their site plan for Plan & Zoning review. The site plan is where they lay it out to look at details to address water concerns on their property.

Erik Lundy stated the same property owners will receive notification at the time the Commission reviews the site plan.

Doug Saltsgaver, ERG Inc, 2413 Grand Avenue, addressed some of the concerns. With regards to storm water management, staff has recommended a more restrictive standard than typically required on projects. My client is planning to comply with this requirement using conservation methods in addition to detention. With regard to traffic, a traffic study has projected a 40% reduction in traffic compared to the levels predicted on the previously approved development concept. The submitted site plan includes the recommended deceleration lane on SE 14th Street.

My client is not willing to make a secondary connection to E. Diehl for a number of reasons. It is too expensive to improve that connection and bring E. Diehl up to an urban standard between there and SE 14th Street. Also the steep topography, grading, and tree clearing necessary lend the property to being left in a natural state. Therefore, the recommended cross-access connections become the alternative to satisfy staff's recommendation.

Bruce Heilman asked how they will achieve a 40% reduction in traffic with these apartments over the retirement apartments.

Doug Saltsgaver stated that the previous proposal had commercial uses fronting SE 14th.

Bruce Heilman stated that this means that a big traffic increase for the east three-fourths of the site but a big traffic decrease for the frontage on SE 14th.

Dann Flaherty asked if soil testing has been done in this area, and the ability for infiltration.

Doug Saltsgaver stated that a soil study has been done and there are some challenges fairly close to SE 14th so it will have to be reworked. Infiltration varies throughout the site. We are going to try to rework the soil in some locations to loosen it up to promote water getting back in the ground.

Dann Flaherty asked when roads are being built throughout the project, will they be using permeable concrete?

Doug Saltsgaver stated no, because they still think there are issues with sand and silt getting into those and plugging them up.

