Council Communication

Department: Community Development Case #ZC-18-008 Applicant/Owner: John Butterbaugh 23003 Three Bridge Road Council Bluffs, IA 51503	Ordinance No. _____	City Council: 06/25/18 Public Hearing: 07/09/18 Planning Commission: 06/12/18

Subject/Title

Request: Repeal the BC/Bakken Commercial District contract zoning approved by Ordinance No. 5064 on property legally described as Lot 24 and Lot 25, except the North 10 feet thereof, Block 1, Hannan Park and to rezone said property to C-1/Neighborhood Commercial District.

Location: 4409 Piute Street, Council Bluffs, Iowa

Background/Discussion

In December 1986, Robert and Ruth Bakken filed an application to rezone Lots 5, 6, 24, 25 and 26, Block 1, Hannan Park Addition from R-3/Low Density Multi-family Residential District to C-2/General Commercial in order to expand their business (Manawa Bait and Tackle). The request (Case #ZC-87-003) was subsequently denied by the City Council out of concern it would 'spot-zoning' the subject properties. After five years of litigation, a settlement was reached between the Bakken family and the City of Council Bluffs. This agreement was approved the Council Bluffs City Council on January 27, 1992 (Ordinance No. 5064) and established the BC/Bakken Commercial District 'contract-zoning' over the subject properties stated above.

The applicant, John Butterbaugh, owns the property located at 4409 Piute Street, which is, zoned BC/Bakken Commercial District. He has operated an insurance agency at this location for nearly a decade and has a prospective buyer who would like use the property as a beauty salon. An insurance agency and a beauty salon are not permitted in the BC/Bakken Commercial 'contract-zoning'. The applicant has requested to repeal the BC/Bakken Commercial District 'contract zoning' and to rezone said property to C-1/ Neighborhood Commercial District (see Attachment B) in order to bring his insurance agency into conformance with City zoning requirements and to apply a commercial zoning designation that is more compatible with the surrounding area.

Land Use & Zoning

The subject property is comprised of 5,600 square feet (0.13 acres) of land and is zoned BC/Bakken Commercial District. A business professional office (insurance agency) operates on the subject property.). Surrounding zoning includes R-3/Low Density Multi-Family Residential District to the east, north and south along with A-2/Parks, Estates and Agricultural District to the west (see Attachment C). Existing land uses in the general vicinity include residential dwellings to the north, east and south along with a golf course (Council Bluffs Country Club) to the west.

The future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan designated the subject property as Low-Density Residential. The BC/Bakken Commercial District and the C-1/Neighborhood Commercial District are not consistent with the future land use plan of the Bluffs Tomorrow: 2030 Plan.

Exhibit A: Below is a 2016 aerial image of the subject property and surrounding area.



The following attachments are included with this report for reference purposes:
Attachment A: Copy of BC/Bakken Commercial District Ordinance No. 5064 dated January 27, 1992.
Attachment B: Copy of Chapter 15.14 C-1/Commercial District of the Municipal Code (Zoning Ordinance)
Attachment C: Zoning/location map

Comments

All property owners within 200 feet of the subject property were notified of the proposed rezoning. No comments for the rezoning have been received as of the date of this report. have been received for this request as of the date have been received as of the date of this report.

All City departments and local utility providers were notified of the proposed rezoning. The following comments were received:

1. Council Bluffs Building Division stated they have no comments for the proposed rezoning.
2. Council Bluffs Public Works Department stated they have no comments for the proposed rezoning.
3. Council Bluffs Fire Department stated they have no comments for the proposed rezoning.
4. Council Bluffs Community Development Department provided the following comments for the request:
   - The BC/Bakken Commercial District 'contract zoning' was applied to five properties (Lots 5-6 and Lots 24-26, Block 1, Hannan Park) when Ordinance No. 5064 was adopted by City Council on January 27, 1992. On March 8, 1999, the Council Bluffs City Council adopted Ordinance No. 5444 which rezoned property commonly known as 4407 Piute Street (Lots 5-6 and Lot 26 and all of Lot 25, except the North 10 feet, Block 1, Hannan Park) from BC/Bakken Commercial District to R-3/Low Density Multi-Family Residential District. The purpose of this rezoning was to allow Habitat for Humanity to build a new residential on the subject lots. With the passage of Ordinance No. 5444 the size of the BC/Bakken Commercial District was reduced from five lots to two lots and is now only applicable to property at 4409 Piute Street.

- The BC/Bakken Commercial District 'contract zoning' contains a list of 13 permitted uses and two conditional uses. All of the uses are very specific to a certain type of retail use and/or consumer service establishment. There are also few light-industrial land uses that are allowed in the BC District such as frozen food lockers and contractor shops. Rezoning the property from BC District to C-1/ Neighborhood Commercial District would remove the possibility of any light industrial land uses occurring on the property, which are not compatible with the surrounding neighborhood area. The proposed C-1/Neighborhood Commercial District would allow for the development of retail, offices and minor commercial facilities on the subject property that could provide a variety of goods and services to residents of Lake Manawa.

- The BC/Bakken Commercial 'contract zoning' references several Council Bluffs Municipal Code sections that are either non-existent or no longer applicable. Additionally, many of the development standards (e.g. lot size, building setbacks, building heights, etc.) stated in the BC District 'contract zoning' are unique to the subject properties and are not consistent with standards applied to other commercially zoned properties in the City. Repealing the BC District 'contract zoning' and rezoning the subject property to C-1/Neighborhood Commercial District allows a standardized list of development standards (e.g., building setbacks, land uses, signage, etc.) to be applied to the property. The proposed C-1 District development standards would allow the landowner to use their property for commercial purposes but in a manner that is compatible with surrounding residential land uses.

- It is the opinion of the Community Development Department that repealing the BC/Bakken Commercial 'contract zoning' and rezoning the subject property to C-1/Neighborhood Commercial District does not constitute 'spot-zoning'. The subject property is zoned BC/Bakken Commercial District and is surrounded by residential zoning to the north, east and south. The proposed C-1 District is intended to be located adjacent to neighborhood residential areas and is closely compatible to the purpose and intent of the BC District.

5. Council Bluffs Water Works (CBWW) stated they have no comments for the proposed rezoning request.
6. MidAmerican Energy Company stated they have no objection to the rezoning request.

Recommendation

The Community Development Department recommends repealing the BC/Bakken Commercial District 'contract zoning' approved by Ordinance No. 5064 on property legally described as Lot 24 and the Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park and rezoning said property C-1/Neighborhood Commercial District, based on reasons stated above.

Public Hearing

Speakers in favor:

1. John Butterbaugh, 23003 Three Bridge Road, Council Bluffs, IA 51503

Speakers against: None

Planning Commission Recommendation

The Planning Commission recommends repealing the BC/Bakken Commercial District 'contract zoning' approved by Ordinance No. 5064 on property legally described as Lot 24 and the Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park and rezoning said property C-1/Neighborhood Commercial District, based on reasons stated above.

VOTE: AYE 6 NAY 0 ABSTAIN 0 ABSENT 1 VACANT 4 Motion: Carried

Attachments

Attachment A: Copy of BC/Bakken Commercial District Ordinance No. 5064 dated January 27, 1992.
Attachment B: Copy of Chapter 15.14 C-1/Commercial District of the Municipal Code (Zoning Ordinance)
Attachment C: Zoning/location map

Prepared By: Christopher Gibbons, Planner, Community Development Department

COMPARED

9825 Fee 30.00

ORDINANCE NO. 5064

AN ORDINANCE CHANGING THE DESIGNATION OF CERTAIN GROUNDS, PROPERTY AND PREMISES LEGALLY DESCRIBED AS LOTS 5, 6, 24, 25 AND 26, BLOCK 1, HANNAN PARK ADDITION, COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM R-3 TO THE BAKKEN COMMERCIAL DISTRICT.

WHEREAS, it is the intent of this City Council to rezone Lots 5, 6, 24, 25 and 26, Block 1, Hannan Park Addition from R-3 to the Bakken Commercial District; and

WHEREAS, development of the Bakken Commercial District shall be in strict accordance with the Bakken Commercial District Contract attached as Exhibit "A" and incorporated by reference; and

WHEREAS, the Planning Commission has approved this rezoning; and

WHEREAS, City staff also recommends the approval of this rezoning request.

B E I T O R D A I N E D
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the zoning be and the same is hereby amended by changing the designation of certain grounds, property and premises legally described as Lots 5, 6, 24, 25 and 26, Block 1, Hannan Park Addition, Council Bluffs, Pottawattamie County, Iowa, from R-3 to the Bakken Commercial District.

Section 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as be law provided.

PASSED AND APPROVED January 27, 1992

Thomas P. Hanafan
THOMAS P. HANAFAN Mayor

Attest: Olga Arellano-Anderson
OLGA ARELLANO-ANDERSON City Clerk

FIRST CONSIDERATION: Dec. 30, 1991
SECOND CONSIDERATION: Jan. 13, 1992
PUBLIC HEARING: Jan. 27, 1992
THIRD CONSIDERATION: Jan. 27, 1992

ZC-91-010

STATE OF IOWA, Pottawattamie County
Filed for record the 3 day of March
1992 at 8 o'clock A M and recorded
in book 92 page 20353
John Sciortino Recorder
By Deputy

92 20353

4-M

ATTACHMENT A

COMPARED

Exhibit "A"

BAKKEN COMMERCIAL DISTRICT CONTRACT

This district is intended to provide for the orderly development of the area known as Block 1, Hannan Park Addition to the city of Council Bluffs, Iowa.

The parties to this contract are the city of Council Bluffs, Iowa (city) and Robert and Ruth Bakken parties in interest, or owners of lots 5, 6, 7, 24, and 25, Block 1, Hannan Park Addition to the city of Council Bluffs, Iowa.

In consideration of approval, the city and owners agree and covenant that the following uses shall be permitted in the Bakken Commercial District:

1. Bakeries
2. Camera shops
3. Cigar stores
4. Clubs and lodges of an eleemosynary or philanthropic nature
5. Confectionery stores
6. Custom dressmaking and tailor shops
7. Dress shop
8. Hardware stores
9. Hat or millinery shops
10. Jewelry stores
11. Music stores
12. Plumbing, electrical, cabinet, carpenter, sign painting and upholstery shops
13. Bait and tackle shops, which means a retail business which has as its purpose to supply to boaters, or fishers, goods or services including but not limited to the sale of beer subject to acquisition of the proper permit, the sale of oil, and other lubricants for use in boats, the sale of groceries, and the sale of products ordinarily and customarily used by boaters and fishers.

The above terms shall mean the same as they are defined in Title 15, Council Bluffs Municipal Code.

The following uses shall be permitted as conditional uses upon the approval of the Council Bluffs Zoning Board of Adjustment:

1. Fish markets
2. Frozen food lockers

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Signage utilized in the Bakken Commercial District must be in compliance with Chapter 15.33 Signs, Chapter 3.10 Billboards and Bulletin Boards, and Chapter 3.53 Signs and Sign Structures of the Municipal Code of Council Bluffs, Iowa, as adopted and amended.

This district shall be considered one zoning lot. The minimum lot size for this district shall be as follows:

The minimum area shall be sixteen thousand square feet.
The minimum width at the front of the building line shall be eighty feet.
The minimum depth shall be one hundred sixty feet.

This district shall meet the following setback requirements:

The front setback shall be at least fifteen feet for principal structures.
The sideyard setback shall be at least ten feet for principal structures.
The sideyard setbacks for other than principal structures shall be at least five feet.
The following accessory structures may be located in a required front or side yard **as long as said structures comply with all other applicable ordinances and resolutions:** attached canopies, signs, parking, loading and unloading areas, and landscaping/screening.
Other intrusions into required yards are permitted which comply with Section 15.20.040 of Title 15, Municipal Code of Council Bluffs.

In this district the maximum height of a building shall not exceed twenty-five (25) feet.

In this district buildings shall not occupy an area in excess of thirty (30%) percent of the total lot area upon which same is situated.

In this district, none of the adult entertainment activities as defined in Chapter 15.03, Municipal Code of Council Bluffs, and no taverns, fortune tellers, palm readers, spiritual mediums or seance centers shall be allowed.

In this district, unless waived by the abutting property owners, a fence shall be required on all sides of the property which abut residential uses. Another fence shall be required for any open storage area. Such a fence must block all view of

4-A

COMPARED

the storage area at or beyond the property line. The fences shall be provided by one of the following methods:

1. A wood and/or masonry fence, at least fifty (50%) percent opaque, six feet in height.

2. A vegetation fence capable of providing a substantially opaque barrier and attaining a height of six feet within three years of planting.

3. Any combination of the described methods that achieves a cumulative height of six feet.

Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.

Pursuant to section 414.5 Code of Iowa, the parties enter into this contract, and agree that the above conditions are imposed to satisfy public needs created by this change, and as outlined in section 414.3 Code of Iowa. Further, the parties agree that these conditions are reasonable.

Interpretations of this contract on the part of city officials shall be appealable to the Council Bluffs Zoning Board of Adjustment, and shall be conducted pursuant to chapter 15.24 Municipal Code of Council Bluffs, and Chapter 414, Code of Iowa.

This contract is subject to the approval of the City Council pursuant to chapter 414 Code of Iowa.

Dated this 14th day of NOVEMBER, 1991.

OWNERS:

Robert E Bakken
Robert Bakken

Ruth Bakken
Ruth Bakken

CITY:

George Scott
George Scott 04/19/91
Director of Community Development

Robert L O'Brien, 11/13/91
Asst City Atty

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92 20356

Chapter 15.14

C-1 COMMERCIAL DISTRICT

Sections:

15.14.010 Statement of intent
15.14.020 Principal uses
15.14.030 Conditional uses
15.14.040 Accessory uses
15.14.050 Site development regulations
15.14.060 Additional regulations
15.14.070 Signs

15.14.010 Statement of intent. The C-1 district is intended to provide for the development of retail, office, and minor commercial facilities adjacent to neighborhood residential areas. This district allows a large variety of commercial and service uses.

15.14.020 Principal uses. The following principal uses shall be permitted outright in a C-I district:

01. Business, professional office
02. Business service establishment
03. Club or lodge
04. Commercial recreation (indoor)
05. Consumer service establishment
06. Cultural service
07. Financial service
08. General government use
09. Local utility service
10. Parks and recreation service
11. Religious assembly
12. Restaurant (limited)
13. Retail shopping establishment
14. School
15. Veterinary service

(Ord. #6092, Sec. 1, 7/26/10)

15.14.030 Conditional uses. The following conditional uses shall be permitted in a C-I district, in accordance with the requirements set forth in Chapter 15.02
(Ord. #6092, Sec. 2, 7/26/10)

01. Automobile service establishment
02. Communication tower
03. Day care services
04. Restaurant (drive-in/fast food and general)

15.14.040 Accessory uses. The following accessory uses shall be permitted in a C-I district:

01. Uses of land or structure customarily incidental and subordinate to one of the principal uses in a C-I district, unless otherwise excluded.

15.14.050 Site development regulations

Minimum Lot size

Lot area:	5,000 square feet
Lot width:	50 feet
Lot depth	100 feet

Minimum Setbacks Structure	Principal Structure	Accessory
Front yard:	20 feet	20 feet
Interior side yard:	5 feet	5 feet
Street side yard:	15 feet	15 feet
Rear yard:	20 feet	5 feet
Maximum height:	35 feet	18 feet
Lot coverage - all structures	50% maximum	

15.14.060 Additional regulations

01. All business, service, repair, processing, storage, and merchandise display shall be conducted or located within an enclosed building, with the exception of off-street parking and loading areas, drive-in windows, and minor service for motor vehicles when accessory to a principal or approved conditional use.

15.14.070 Signs. Signage in this district shall comply with Chapter 15.33 "Signs".
(Ord. 5458, Sec. 1, 7/99)

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION
CASE #ZC-18-008 LOCATION/ZONING MAP

Map Legend

- CASE #ZC-18-008 Subject Property
- Parcels

0 50 100

1 Inch = 100 Feet

2016 Aerial Photograph



Note: Subject properties are highlighted in red.

Last Amended: 5/18/18

Council Bluffs Community
Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328.4629

DISCLAIMER
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ATTACHMENT C