Council Communication

Department: Community Development CASE # ZC-19-002 Applicant/Property Owner: Adnan Ibrahim Mohammed and Miriam Hodge 231 Benton Street Council Bluffs, IA 51503 Property Owners: Kenneth J. and Vivian A. Rostermundt Trusts 21888 Vineyard Hills Drive Council Bluffs, IA 51503 Donald W. Gottschalk 15013 South 27th Street Bellevue, NE 68123 David E. and Susan K. Parker 110 Vine Street Council Bluffs, IA 51503 John F. and Joann C. Peterson 11 Cryer Circle Council Bluffs, IA 51503 Matthew Harold Onzay 118 Vine Street Council Bluffs, IA 51503 R-R Equities LLC PO Box 121 Council Bluffs, IA 51502 Stephanie Rostermundt 419 Wendy Heights Road Council Bluffs, IA 51503 Michael S. Royce 15707 South 234th Street Gretna, NE 68028 Melissa Williams 2317 Washboard Road Council Bluffs, IA 51503 K-P Investments Inc. 17 Ethel Lane Council Bluffs, IA 51503	Ordinance No. _____	City Council: 6/10/2019 Public Hearing: 6/24/2019 Planning Commission: 5/14/2019

George M. Prine
7306 South 18th Street
Bellevue, NE 68147-2150

John R. and Maureen L. Eickholt
146 Vine Street
Council Bluffs, IA 51503

Johneus LLC
PO Box 358
Onawa, IA 51040

Kallie Diann Mendehall
152 Vine Street
Council Bluffs, IA 51503

Chad R. Taylor
1325 North Broadway Street
Council Bluffs, IA 51503

Subject/Title

Request: Public hearing on the request of Adnan Ibrahim Mohammed and Miriam Hodge to rezone properties described as Lots 1 and 2, except a strip of ground 2 feet in width off the North end, and Lot 3, except a strip of ground 1 foot in width off the North end, all in Original Plat Lot 83, Lots 5 through 8, Casady's Subdivision of Original Plat Lot 82, and Lot 223, except right-of-way, Original Plat of Council Bluffs, from C-4/Commercial District to R-3/Low Density Multifamily Residential District.

Location: 102, 104, 110, 116, 118, 126, 128, 130, 134, 140, 142, 146, 148, 150, 152 and 154 Vine Street.

Background

The Community Development Department has received an application from Adnan Ibrahim Mohammed and Miriam Hodge to rezone property they own at 148 Vine Street from C-4/Commercial District to R-3/Low Density Multifamily Residential District. The applicants expanded the request at the advice of the Community Development Department, and with the permission of adjacent property owners, to rezone adjacent properties, addressed as 102, 110, 116, 118, 128, 134, 140, 142, 150 and 152 Vine Street from C-4/Commercial District to R-3/Low Density Multifamily Residential District. The purpose of expanding the request was to avoid the consideration of rezoning a single small lot, which may be considered "spot zoning." The Community Development Department further expanded the request to include the properties addressed as 104, 126, 130, 146 and 154 Vine Street for zoning consistency purposes. The entirety of the area proposed to be rezoned is legally described as Lots 1 and 2, except a strip of ground 2 feet in width off the North end, and Lot 3, except a strip of ground 1 foot in width off the North end, all in Original Plat Lot 83, Lots 5 through 8, Casady's Subdivision of Original Plat Lot 82, and Lot 223, except right-of-way, Original Plat of Council Bluffs.

Currently, the subject properties are used as single-family residential dwellings, with the exception of the property addressed as 146 Vine Street, which contains a business, professional office. As per Chapter 15.17, *C-4/Commercial District*, of the Council Bluffs Municipal Code (Zoning Ordinance), a single-family residential dwelling is not a permitted use in a C-4 District. Therefore, the single-family dwellings located in the subject

area are considered non-conforming structures. The purpose of this request is to bring those dwellings into conformance with the City's Zoning Ordinance.

As per Section 15.26.010, *Purpose and Intent (Nonconformities)*, of the Municipal Code (Zoning Ordinance), the intent of a "nonconforming uses" clause in a zoning ordinance is: (1) to allow for the reasonable continuation of legally established uses which do not meet current use regulations of their respective zoning districts; and (2) to limit the continuation and provide for the gradual elimination of nonconforming uses. This is reinforced by Section 15.26.030(2), *Abandonment of Nonconforming Uses*, of the Municipal Code (Zoning Ordinance), which states that if any nonconforming use ceases for a continuous period of more than six months, any subsequent use shall conform to the regulations of this title. Since the residential structure on the applicants' property has been vacant for a period of more than six months, it would not be allowed to be used as a single-family dwelling under the current C-4 zoning. If rezoned, the applicants would be allowed to use their property as a single-family dwelling.

Land Use and Zoning

The following zoning and land uses surround the subject properties:

North: Undeveloped land that is zoned A-2/Parks, Estates and Agricultural District.
South: A second hand store, a two-family dwelling, two parking lots, undeveloped land and the 100 Block on West Broadway, all of which are zoned in the C-4/Commercial District.
East: A multi-family dwelling, which is zoned in the C-3/Commercial District.
West: The Omni Centre Business Park, which is zoned in the C-4/Commercial District.

The future land use plan of the Bluffs Tomorrow 2030 (Comprehensive Plan) designates the subject property as Local Commercial.

Public notices were mailed to all property owners within 200 feet of the request. The following comments were received:

1. John Eickholt, owner of the property addressed as 146 Vine Street, contacted the Community Development Department and stated he is in opposition of the request (see Attachment D).
2. Michael Royce, owner of the property addressed as 130 Vine Street, contacted the Community Development Department and had a general inquiry about the rezoning, and stated he is in favor of the request.
3. Aaron Rodenburg, owner of property addressed as 145 Vine Street, contacted the Community Development Department and asked to be included in the rezoning request. The Community Development Department declined Mr. Rodenburg's request to expand the rezoning request as (1) his property is located in the block south of Vine Street and (2) public notices to property owners within 200 feet of the request had already been mailed out.

All City Departments and local utilities were notified of the proposed rezoning. The following comments were received:

- The Permits and Inspections Division stated they are in opposition with the request. They stated that any change in use to another Occupancy classification will require the structures to be brought into compliance with current building code criteria for the new Occupancy. They also stated the subject properties are located in an AE Flood Zone, and if the cost of improvements exceeds 50% of the market value, the entire structure will be required to be brought into compliance with the Flood Plain Regulations of the City of Council Bluffs.
- The Public Works Department stated there is significant infrastructure within the general area, including the Indian Creek Box Culvert.
- Council Bluffs Water Works stated they have no comments on the request.
- Black Hills Energy stated they have no concerns with the request.
- MidAmerican Energy stated they have no objections to the request.
- Cox Communications stated they have no issues with the request.

The following attachments are included with the case staff report:

- Attachment A: Location/Zoning Map
- Attachment B: Location/Zoning Map (Detailed)
- Attachment C: Approval of Property Owners Included in the Rezoning Request
- Attachment D: Eickholt Opposition Letter
- Attachment E: 100 Block and Vine Street Development Plan – Downtown Plan 2003

Discussion

1. As per Section 15.17.050(a), lots and parcels of land less than 2 acres in area zoned in a C-4 District are not subject to minimum lot size requirements. Approval of the rezoning request will make the subject properties into nonconforming lots of record, as they do not meet the minimum lot size for single-family dwellings in an R-3/Low Density Multifamily Residential District (5,000 square feet), with the exception of the property addressed as 134 Vine Street, which is composed of 5,197 square feet of land.
2. The properties addressed as 154 and 152 Vine Street are 27 feet in width, while the property addressed as 150 Vine Street is 29 feet in width. Although there is no minimum lot width requirement in an R-3 District, these properties are not wide enough to build a single-family dwelling that is the required minimum 20 feet in width as they would be unable to meet the required 5-foot interior side yard setback, and in the case of the property addressed as 154 Vine Street, the required 15-foot street side yard setback. Therefore, if the existing single-family structure on each of the aforementioned lots were to be destroyed by 50 percent or more, another single-family structure could not be rebuilt in its place.
3. The average front yard setback along the subject area is 2 feet. As per Section 15.17.050(a), lots and parcels of land less than 2 acres in area zoned in a C-4 District are not subject to setback requirements. If rezoned, the existing structures would be considered nonconforming as they do not meet the minimum front yard setback in an R-3 District of 20 feet.
4. The Downtown Council Bluffs Plan, adopted in June 2003, identifies the Vine Street block as a priority site for redevelopment and envisions it as a transformative feature for Downtown Council Bluffs which reinforces the character of the 100 Block of West Broadway. Specifically, the Downtown Plan shows the Vine Street block and the land where the City parking lot is located as being redeveloped into a large multi-family housing development with no commercial uses. The proposed R-3 zoning can accomplish that goal. However, development along the 100 Block over the past decade has shifted the City's vision for this area, as shown in the future land use plan of the Bluffs Tomorrow 2030 (Comprehensive Plan), adopted in 2015. The City designates this area as Local Commercial to encourage uses oriented towards goods and services, such as grocery stores, convenience stores, pharmacies, banks, auto services, and small offices, within close the proximity of the 100 Block to serve the needs of its residents. The R-3 District only allows certain commercial uses, such as "business, professional office (when the floor area for such use does not exceed 2,000 square feet)," with a conditional use permit.
5. The current C-4 zoning is consistent with the Local Commercial classification and will allow for a variety of commercial uses that are commonly associated with a downtown setting, as well as the mixed-use development that is compatible with the recent redevelopment efforts along the 100 Block.
6. The property at 146 Vine Street is used as a business, professional office, which is allowed in the C-4 District. A business, professional office (when the floor area for such use does not exceed 2,000 square feet) is not a permitted use by right in the R-3 District. Therefore, if the request is approved, said property would no longer be in conformance with the City's Zoning Ordinance.
7. Seven (7) of the sixteen (16) structures located in the subject area are classified "Below Normal" or "Poor" by the County Assessor. Rehabilitation and repair efforts by property owners may be cost prohibitive since the subject properties are located in an AE Flood Zone, which would require compliance with the City's floodplain regulations.
8. Adequate utilities (e.g., water, sanitary sewer, electric, etc.) are available to accommodate the uses permitted in the R-3 District.

Recommendation

The Community Development Department recommends denial of the request to rezone properties described as Lots 1 and 2, except a strip of ground 2 feet in width off the North end, and Lot 3, except a strip of ground 1 foot in width off the North end, all in Original Plat Lot 83, Lots 5 through 8, Casady's Subdivision of Original Plat Lot 82, and Lot 223, except right-of-way, Original Plat of Council Bluffs, from C-4/Commercial District to R-3/Low Density Multifamily Residential District, based on reasons stated above.

Public Hearing

Speakers in favor:

1. Miriam Hodge, 148 vine Street, Council Bluffs, IA 51503
2. George Prine, 142 Vine Street, Council Bluffs, IA 51503
3. Terri Hallas, 104 Vine Street, Council Bluffs, IA 51503

Speakers against:

1. Gary Fischer, 524 Simms Ave, Council Bluffs, IA 51503
2. Matthew Onzay, 118 Vine Street, Council Bluffs, IA 51503

Planning Commission Recommendation

The Planning Commission recommends denial of the request to rezone properties described as Lots 1 and 2, except a strip of ground 2 feet in width off the North end, and Lot 3, except a strip of ground 1 foot in width off the North end, all in Original Plat Lot 83, Lots 5 through 8, Casady's Subdivision of Original Plat Lot 82, and Lot 223, except right-of-way, Original Plat of Council Bluffs, from C-4/Commercial District to R-3/Low Density Multifamily Residential District, based on reasons stated above.

VOTE: AYE 7 NAY 0 ABSTAIN 0 ABSENT 4 Motion: Carried

Attachments

Attachment A: Location/Zoning Map
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Prepared by: Moises Monrroy, Planner, Community Development Department