

City Council Communication

Department: Community Development CASES #ZC-20-010 and #CP-20-001 Applicant/Property Owner: City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503	Ordinance No. _____ Resolution No. _____	CASE #ZC-20-010 1 st Consideration: 09/28/2020 2 nd Consideration: 10/12/2020 3 rd Consideration: Request to be Waived CASE #CP-20-001 1 st Consideration: 10/12/2020 Planning Commission: 9/8/2020
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Subject/Title

Request: Combined public hearing on the following requests of the City of Council Bluffs:

1. Rezone properties legally described as Part of Lots 1, 13, 14, 17, and 18 and all of Lots 15 and 16, Block 21, Beer's Subdivision, along with part of the east/west vacated alleys adjacent, more particularly described as follows: Commencing on the Northeast corner of Lots 1, thence South 367.34 feet, thence West 181.25 feet, thence Northeast 398 feet, EXCEPT Indian Creek right-of-way, and thence East to the Point of Beginning; The East 48 feet of Lots 9 and 10 and all of Lots 14 through 20, Block 23, Beer's Subdivision, along with the east/west vacated alley abutting the Northerly line of said Lots 14 through 18, and the North 22 feet of vacated 1st Avenue right-of-way abutting the Southerly line of said Lots 14 through 18; Lots 1 through 6, Block 28, Beer's Subdivision; Lots 1 through 14, Block 29, Beer's Subdivision, along with the east/west vacated alley platted in said Block 29; Lots 1 through 14, Block 30, Beer's Subdivision, along with the east/west vacated alley platted in said Block 30; Lots 1 through 5, Block 1, Everett's Addition; Lots 1 through 5, Block 2, Everett's Addition, along with the West ½ of the vacated portion of South 18th Street right-of-way abutting the Easterly line of said Lot 5; Lots 1 through 5, the West 10 feet of Lot 9, and all of Lot 10, Block 5, Everett's Addition, along with the West ½ of the vacated portion of South 18th Street right-of-way abutting the Easterly line of said Lot 5; Lots 1 through 10, Block 6, Everett's Addition; Lots 3, 5, 7 and 10 through 12, Midland Addition, along with the West ½ of the vacated portion of South 18th Street right-of-way abutting the Easterly line of said Lot 3; Lots 1 through 11, Block 1, Sampson's Addition, along with the east/west vacated alley abutting the Northerly line of said Lots 1 through 11; Lots 1 through 22, Block 2, Sampson's Addition, along with the east/west vacated alley platted in said Block 2; Lots 1 through 3, Block 1, Cochran's Addition, along with the South ½ of the east/west vacated alley abutting the Northerly line of said Lot 1, and the north/south vacated alley abutting the Easterly line of said Lots 1 through 3 and said South ½ of the east/west vacated alley adjoining; Lots 1 through 6, Block 8, Cochran's Addition, along with the north/south vacated alley abutting the Easterly line of said Lots 1 through 6; Lots 9 through 26, Block 2, Twin City Place, along with the east/west vacated alley abutting the Southerly line of said Lots 9 through 17 and the Northerly line of said Lots 18 through 26, City of Council Bluffs, Pottawattamie County, Iowa from I-1/Light Industrial District to C-2/Commercial District; and
2. Amend the future land use plan of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) by reclassifying properties legally described as Lots 1 through 5, Block 1, Everett's Addition; Lots 1 through 10, Block 6, Everett's Addition; the West 149.48 feet of Lot 7, the West 198.49 feet of Lot 8 and all of Lots 9 through 12, Midland Addition; Lots 1 through 11, Block 1, Sampson's Addition, along with the east/west vacated alley abutting the Northerly line of said Lots 1 through 11, and the East 4.5 feet of the vacated north/south alley abutting the Westerly line of said Lot 11; Lots 1 through 22, Block 2, Sampson's Addition, along with the east/west vacated alley platted in said Block 2; Lots 2 and 3, Block 1, Cochran's Addition, along with the north/south vacated alley abutting the Easterly line of said Lots 2 and 3; Lots 1 through 6, Block 8, Cochran's Addition, along with the north/south vacated alley abutting the Easterly line of said Lots 1 through 6, from Light Industrial to Multi-Family/Mixed-Use.

Location: Generally along 1st Avenue, between South 13th Street and South 16th Street, between South 18th Street and South 21st Street, and between South 27th Street and South 28th Street.

Background

The Community Development Department is proposing to rezone properties located along 1st Avenue, legally described in Attachment ‘D,’ from I-1/Light Industrial District to C-2/Commercial District. The request is part of the ongoing effort to implement the long-range vision of the West Broadway Corridor Plan, which is to create a vibrant urban corridor that supports multi-modal transportation options, mixed-use development, and architecture that enhances the quality of life and attractiveness of the City of Council Bluffs. In this regard, the Community Development Department is also proposing to replace the existing West Broadway Corridor Design Overlay (CDO) standards with Chapter 15.32A, West Broadway Corridor Design Overlay, of the Council Bluffs Municipal Code (Zoning Ordinance) (see Case #ZT-20-004). Proposed Chapter 15.32A will clarify the boundary of the West Broadway CDO and will apply to the area geographically bounded on the north by the north right-of-way line of Avenue ‘A’; on the south by the south right-of-way line of 2nd Avenue; on the east by the west right-of-way line of South 13th Street; and on the west by the east right-of-way line of Interstate 29/480. All properties included in this rezoning are located within the proposed boundary of the West Broadway CDO.

There are 29 parcels of land included in the proposed rezoning. The City of Council Bluffs owns four of these parcels (see Attachment ‘A’). Other property owners with land included in the request are listed below:

- Pamela M. Bogardus – Bogardus Plumbing Co. (20 South 19th Street)
- Chicago Central and Pacific Railroad – undeveloped land
- Chicago Northwestern Railroad – undeveloped land
- Dennis E. and Diane M. Garrison – residential property (21 South 21st Street)
- GMB Investments LLC – residential property (108 South 15th Street)
- Michael S. May – Council Bluffs Work Staffing (1824 2nd Avenue)
- McIntosh Properties LLC – Iowa Rigger’s Loft/Chad & Tracey Construction LLC (110 South 18th Street)
- Lawanya Morgal – residential property (1422 2nd Avenue)
- Richard Rosas – M & R Welding (119 South 28th Street)
- John M. and Beverly A. Roth – commercial storage/contractor shop (29 South 21st Street)
- SHS Properties LLC – Katelman Steel Fabrication, Inc. (2030 2nd Avenue)
- Kathy S. Scott – communication tower/storage yard (2735 1st Avenue)
- Michael L. Scott – Affordable Storage (2714 2nd Avenue)
- Curtis E. Slama – undeveloped land
- Southside Auto Supply Inc. – undeveloped land
- TK3 Enterprises LLC – Creative Auto Solutions/Smart Start Ignition Interlock (20 South 15th Street)
- Valley View-Broadway Stores – Retail Rebel (1801 West Broadway)
- Value Foods LLC – Red Wheel Fundraising (16 South 15th Street)
- Timothy P. and Anna M. Varn – Montang Body Shop (1426 2nd Avenue)
- Verizon Wireless LLC – communication tower (2731 1st Avenue)
- John R. and Brenda L. Way – J & B’s Lounge (16 South 19th Street)
- David L. and Karen J. Wilson – Jeff’s Body Shop/American Auto Care Inc. (15 South 20th Street)

All property owners included in the request were mailed public notices detailing how the proposed zoning changes will or will not impact the future use(s) of their property. In total, the Community Development Department mailed out approximately 1,200 public notices to all affected property owners within the CDO boundary and those within 200 feet of said boundary which advised them on the proposed rezoning, the proposed updates to the CDO and the construction of the 1st Avenue trail. Thirty-four (34) letters were returned to the Community Development Department office as undeliverable. The Community Development Department hosted

an open house on August 27, 2020 to provide the public an informal opportunity to discuss the above items with Staff; 30-40 people attended the open house. At the time of this report, the Community Development Department has received fifteen (15) phone calls regarding the proposed actions along West Broadway, including the following comments regarding the proposed rezoning:

1. David L. Wilson, owner of property addressed as 15 South 20th Street, contacted the Community Development Department and had general inquiries on the proposed rezoning, updates to the West Broadway CDO and construction of the 1st Avenue trail;
2. John Roth, owner of property addressed as 29 South 21st Street, contacted the Community Development Department and stated that his property is currently used for commercial storage, as well as a contractor shop; and
3. Steve Skol, representing the owner of property addressed as 2030 2nd Avenue, contacted the Community Development and had general inquiries on the proposed rezoning, updates to the West Broadway CDO and construction of the 1st Avenue trail.

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

- The Public Works Department stated they have no comments on the requests.
- The Fire Department stated they have no comments on the requests.
- Council Bluffs Water Works stated they have no comments on the requests.
- MidAmerican Energy stated they have no objections to the requests.

Land Use and Zoning – The following zoning and land uses surround the subject properties:

Tract #1 (between South 13th Street and South 16th Street)

- North: Commercial properties that are zoned C-2/Commercial District, and Little Broadway right-of-way.
- South: The former Public Works building, which is zoned I-1/Light Industrial District, and residential properties that are zoned R-2/Two-Family Residential District.
- East: A commercial printing establishment that is zoned I-1/Light Industrial District, and undeveloped land that is zoned I-1/Light Industrial District and A-2/Parks, Estates and Agricultural District.
- West: Burger King, a contractor yard and an auto parts store, all of which are zoned C-2/Commercial District, as well as residential properties that are zoned R-2/Two-Family Residential District.

Tract #2 (between South 18th Street and South 21st Street)

- North: Commercial properties that are zoned C-2/Commercial District.
- South: Residential properties that are zoned R-3/Low Density Multifamily Residential District.
- East: A gas station and vacant property (formerly a recycling/can redemption center), both of which are zoned C-2/Commercial District, and residential properties that are zoned R-2/Two-Family Residential District.
- West: Cochran Park, which is zoned A-2/Parks, Estates and Agricultural District, and residential properties that are zoned R-3/Low Density Multifamily Residential District.

Tract #3 (between South 27th Street and South 28th Street)

- North: Council Bluffs Fire Station No. 2 and vacant property, both of which are zoned C-2/Commercial District.
- South: Residential properties that are zoned R-3/Low Density Multifamily Residential District.
- East: Commercial properties and vacant city-owned property, all of which are zoned C-2/Commercial District.
- West: Undeveloped city-owned property that is zoned R-4/High Density Multifamily Residential District. This parcel of land is the site of the proposed residential development by White Lotus Group.

The future land use plan of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) designates the subject properties as Public Park, Transportation/Utility, Low-Density Residential, High-Density Residential, Local Commercial and Light Industrial. The Community Development Department is proposing to amend the future land use plan by reclassifying the properties included in the proposed rezoning that are currently designated as Light Industrial to Multi-Family/Mixed-Use. The purpose of the amendment is to ensure that the future land use plan is consistent with the vision of the West Broadway Corridor Plan. Proposed amendment includes properties addressed as 20 South 19th Street, 15 South 20th Street, 29 South 21st Street and 2030 2nd Avenue.

Discussion

1. Ten (10) out of the twenty-nine (29) parcels included the proposed rezoning do not meet the minimum lot size requirements of the I-1/Light Industrial District, and thus are considered nonconforming lots of record. If request is approved, said parcels will be brought into conformance with the Zoning Ordinance as they exceed minimum lot size requirements of the C-2/Commercial District, with the following exceptions:
 - a. A vacant lot owned by GMB Investments LLC. Since this lot is 44 feet in width, as opposed to the required 50 feet in the C-2 District, it will remain as a nonconforming lot of record.
 - b. The property addressed as 1422 2nd Avenue and the parcel adjoining, both owned by Lawanya Morgal. Since each lot is 44 feet in width, as opposed to the required 50 feet, they will remain as nonconforming lots of record. The owner has the option to combine both these lots into one parcel of land which conforms to the minimum lot size requirements of the C-2 District as they serve as one premises.
 - c. A remnant parcel of land owned by Chicago Northwestern Railroad that contains 125 square feet in area, as opposed to the required 5,000 square feet, and thus is undevelopable.
2. As per Section 15.01.050(C), Uses Rendered Nonconforming, of the Council Bluffs Municipal Code (Zoning Ordinance), “if property is used in a manner that was a lawful use on or before the effective date of this ordinance, and this ordinance no longer classifies that use as either a permitted or conditional use in the zoning district in which it is located, that use shall be deemed a legal nonconforming use.” A significant number of current uses included in the request will be rendered nonconforming they are either (1) not ‘principal’ or ‘conditional’ uses in the C-2 District or (2) prohibited uses in the West Broadway CDO (see Case #ZT-20-004). Nonconforming uses are controlled by the provisions of Section 15.26.030, Nonconforming Uses, of the Municipal Code (Zoning Ordinance), which states:

Any legal nonconforming use existing on the effective date of the ordinance codified in this chapter may continue subject to the limitations of this section.

- A. Enlargement of Nonconforming Use. No nonconforming use shall be extended or enlarged to occupy a greater area of land or structure. No additional structure not conforming to the requirements of this title shall be erected in connection with a legal nonconforming use.*
- B. Abandonment of Nonconforming Use. 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.*
- C. Relocation of Nonconforming Use. No nonconforming use shall be moved in whole or in part to any other location, unless the nonconforming use meets the requirements of this title.*
- D. Change of Use. A legal nonconforming use may be changed only as allowed in CBMC 15.02.*
- E. Allowance for Repairs. If a structure occupied by a nonconforming use becomes unsafe for use and is declared by an authorized official to be unsafe for use, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of this title. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an authorized official. When a structure containing a nonconforming use is damaged to an extent of fifty (50) percent or less of the replacement cost, the structure shall be allowed to continue if actual construction to repair it is commenced within six months of the date the*

damage was incurred, and the work is carried on diligently to completion within one year of this commencement.

- F. For purposes of this chapter, the addition of an outdoor area of less than one hundred fifty (150) square feet for purposes of adding an outdoor dining or open air tavern area to a pre-existing liquor license establishment shall not be deemed an enlargement of a pre-existing use.*

A matrix outlining how each property will be affected by the proposed rezoning is included in this report as Attachment 'C.'

Example Scenario #1

If the 'manufacturing, general' establishment at 2030 2nd Avenue (Katelman Steel Fabrication, Inc.) ceases to operate for a period of more than six months, said use cannot be reestablished; only uses listed as 'principal' or 'conditional' in the C-2 District **AND** not expressly prohibited in the West Broadway CDO would be allowed at this site.

Example Scenario #2

If the owner of the 'manufacturing, general' establishment at 2030 2nd Avenue (Katelman Steel Fabrication, Inc.) sells the property, the successor would be allowed to use it for 'manufacturing, general' as long as the new establishment begins operating within six months of Katelman Steel Fabrication, Inc. closing.

3. As per Chapter 5, Land Use Plan, of the Bluffs Tomorrow: 2030 Comprehensive Plan, Multi-Family/Mixed-Use designated areas are intended to be distinct from typical multifamily areas and downtown mixed use area. In the Multi-family/Mixed-Use area, buildings may include ground-floor commercial uses, though not all buildings are anticipated to have commercial components, and the predominant use will be residential.
4. Proposed amendment to the future land use plan will not impact the conforming/nonconforming status of the subject properties.
5. The West Broadway Corridor Plan, adopted in September 2015 as Amendment No. 1 of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan), states that while current zoning districts along West Broadway "do match the existing land uses... they do not represent the future vision for the corridor as a more pedestrian-friendly environment with transit-oriented development." The West Broadway Corridor Plan outlines several recommendations to achieve this vision, including rezoning "industrial properties to accept a mix of uses." The proposed rezoning and amendment to the future land use plan will accomplish the goals and intent of the West Broadway Corridor Plan.

Recommendation

The Community Development Department recommends approval of the requests (1) to rezone properties legally described in Attachment 'D' from I-1/Light Industrial District to C-2/Commercial District and (2) to amend the future land use plan of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) by reclassifying properties legally described as Lots 1 through 5, Block 1, Everett's Addition; Lots 1 through 10, Block 6, Everett's Addition; the West 149.48 feet of Lot 7, the West 198.49 feet of Lot 8 and all of Lots 9 through 12, Midland Addition; Lots 1 through 11, Block 1, Sampson's Addition, along with the east/west vacated alley abutting the Northerly line of said Lots 1 through 11, and the East 4.5 feet of the vacated north/south alley abutting the Westerly line of said Lot 11; Lots 1 through 22, Block 2, Sampson's Addition, along with the east/west vacated alley platted in said Block 2; Lots 2 and 3, Block 1, Cochran's Addition, along with the north/south vacated alley abutting the Easterly line of said Lots 2 and 3; Lots 1 through 6, Block 8, Cochran's Addition, along with the north/south vacated alley abutting the Easterly line of said Lots 1 through 6, from Light Industrial to Multi-Family/Mixed-Use, based on reasons stated above.

Public Hearing

Staff speaker for the request:

1. Moises Monrroy, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503
2. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

General Public Inquiry:

1. Beverly Roth, 4 Ridge Drive West, Council Bluffs, IA 51503

Planning Commission Recommendation

The Planning Commission recommended approval of the requests (1) to rezone properties legally described in Attachment 'D' from I-1/Light Industrial District to C-2/Commercial District and (2) to amend the future land use plan of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) by reclassifying properties legally described as Lots 1 through 5, Block 1, Everett's Addition; Lots 1 through 10, Block 6, Everett's Addition; the West 149.48 feet of Lot 7, the West 198.49 feet of Lot 8 and all of Lots 9 through 12, Midland Addition; Lots 1 through 11, Block 1, Sampson's Addition, along with the east/west vacated alley abutting the Northerly line of said Lots 1 through 11, and the East 4.5 feet of the vacated north/south alley abutting the Westerly line of said Lot 11; Lots 1 through 22, Block 2, Sampson's Addition, along with the east/west vacated alley platted in said Block 2; Lots 2 and 3, Block 1, Cochran's Addition, along with the north/south vacated alley abutting the Easterly line of said Lots 2 and 3; Lots 1 through 6, Block 8, Cochran's Addition, along with the north/south vacated alley abutting the Easterly line of said Lots 1 through 6, from Light Industrial to Multi-Family/Mixed-Use, as per staff's recommendation.

VOTE: AYE 10 NAY 0 ABSTAIN 0 ABSENT 1 VACANT 0 Motion: Carried

Attachments

Attachment A: Location/Zoning Map

Attachment B: Land Uses in the I-1 and C-2 Districts

Attachment C: Impact of Proposed Rezoning and Updates to the West Broadway CDO

Attachment D: Legal Description for Properties Included in Proposed Rezoning

Prepared by: Moises Monrroy, Planner, Community Development Department