



STAFF REPORT
CITY COUNCIL
For the October 6, 2014 meeting

TO: City Council members
FROM: Sheena Danzer, Zoning Administrator
SUBJECT: RZN01-14: Rezoning of property at 1230 70th Street from R-1 to UC

PLANNING AND ZONING RECOMMENDATION

The Planning and Zoning Commission first met on Wednesday, August 27, 2014 at their regular Commission meeting to hear the rezoning application from Hy-Vee. At this meeting, there were 17 people who spoke in opposition of the rezoning and 1 in favor. The meeting was tabled as a traffic study had not been submitted in time to review. On Monday, September 29, 2014 a special meeting of the Planning and Zoning Commission was called and 8 people spoke in opposition of the rezoning and 1 in favor.

A representative from Shive-Hattery, who completed the traffic study, spoke on the findings in the study. Greg Roth, with Veenstra and Kimm who represents the city also spoke on the traffic study as he reviewed what was submitted. Greg noted he didn't see anything that was remarkable when studying the report. He mentioned the level of service was not increased; delays were increased, but not enough to move to a level B service or out of unacceptable ranges. Increasing lengths of turn for pedestrian signal has already been reconfigured- he noted the location is not significant enough where pedestrian levels would be high.

The Planning and Zoning Commission unanimously with a roll count vote, recommended to deny the rezoning application based on goals outlined in the city's Comprehensive Plan.

ACTION REQUESTED OF COUNCIL

Hold public hearing and vote on Hy-Vee's rezoning application. For the application to pass, a super majority roll count vote will be needed as required in our zoning ordinance for rezoning applications.

** In the next several pages you will find what was presented as staff findings to the Commission at their August 27, 2014 meeting date.

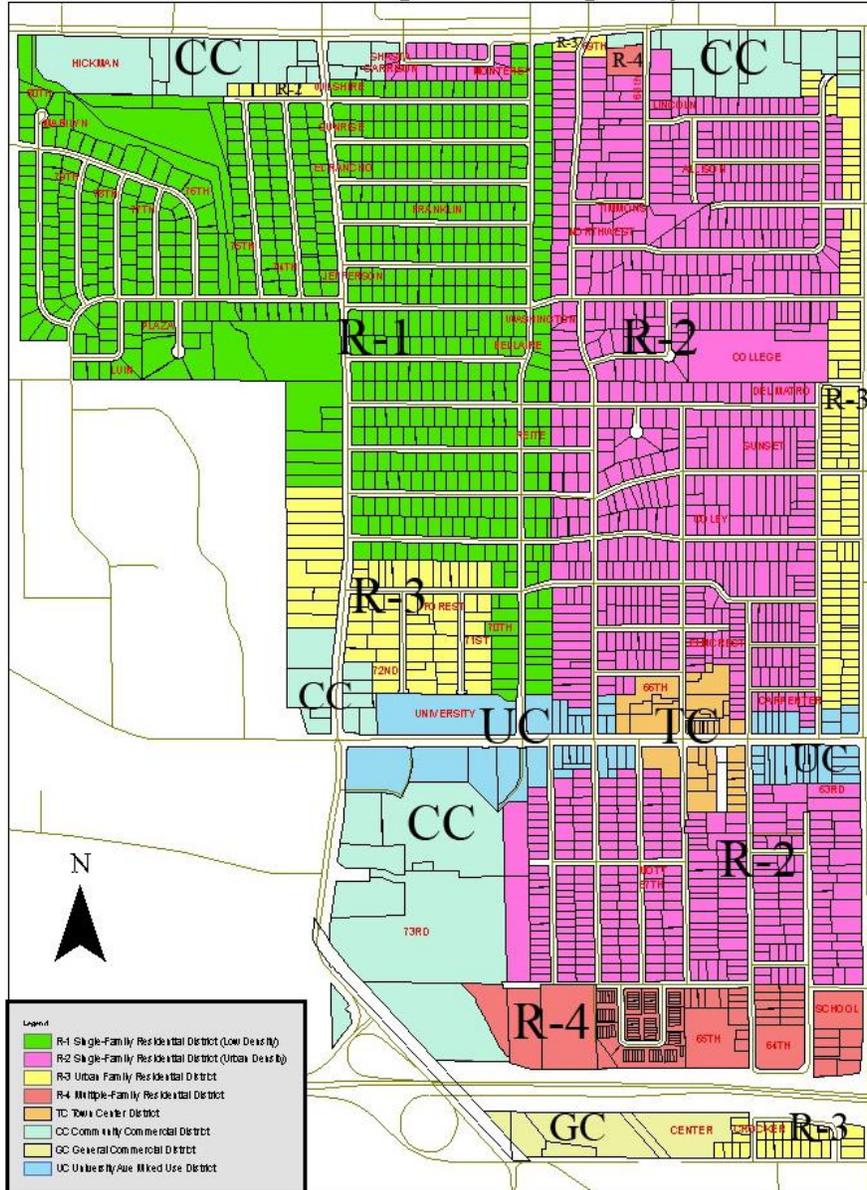
GENERAL INFORMATION

Applicant: Hy-Vee, Inc.
Requested Action: Rezoning from R-1, Single Family to UC, University Commercial for the proposed use for access to 70th Street and additional parking for Hy-Vee Food Store to consider a gas station/convenience store at the east end of the parking lot.
Location and size: 1230 70th Street
Owner: Jeraa LLC, 7204 Franklin Avenue
.0274 acres
*house was built in 1941



Bird's eye view of subject property

Windsor Heights Zoning Map



APPLICABLE SECTIONS

168.06 ZONING MAP.

1. Adoption of Zoning Map. Boundaries of zoning districts established by this Zoning Code shall be shown on the Zoning Map maintained by the City Clerk. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of and concurrent with this Code. The Zoning Map shall be prominently displayed in the Council Chambers and/or an area accessible to the public at City Hall.

2. Changes to the Zoning Map. The Zoning Map may be changed from time to time by ordinance, following the procedure set forth by Chapter 177. Such changes shall be reflected on the Zoning Map. The City Administrator shall keep a complete record of all changes to the Zoning Map.

177.04 AMENDMENT PROCEDURE. The amendment procedure describes the methods by which changes may be made in the text of this Zoning Code (text amendment) and/or the official boundaries of zoning districts (rezoning).

1. Initiation of Amendments.

- A. Text amendments may be initiated by the Planning and Zoning Commission or City Council.
- B. Rezoning may be initiated by a property owner or authorized agent, the Planning and Zoning Commission, or the City Council.

2. Rezoning Application Requirements. An application for a rezoning may be filed with the Zoning Administrator. The application shall include the following information:

- A. Name and address of the applicant.
- B. Owner, address, and legal description of the property.
- C. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
- D. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

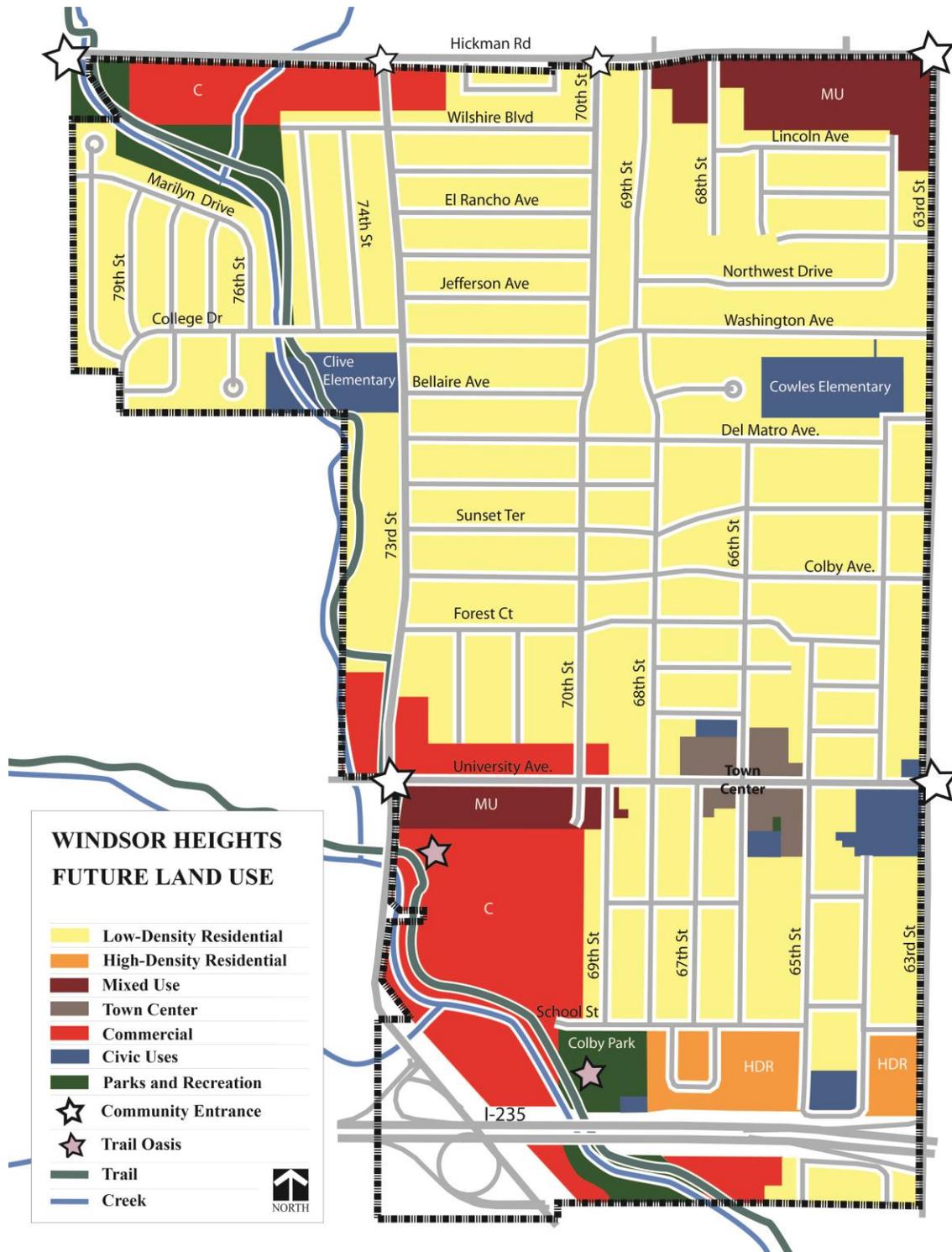
3. Amendment Process.

- A. The Planning and Zoning Commission, following 10 days notice and publication, shall hold a public hearing on each proposed text or rezoning and shall recommend action to the City Council.
- B. The City Council, after publication and public hearing, shall act on the proposed amendment. A majority vote of those members either elected or appointed to City Council is required for approval. If the proposed amendment is recommended for disapproval by the Planning and Commission, a majority vote plus one of the City Council shall be required for approval.
- C. Protest. If a valid protest petition opposing an amendment is filed with the City Clerk by eligible property owners, a majority vote plus one of those members either elected or appointed by City Council is required for approval. A valid protest petition must meet the following criteria:
 - (1) Submission of the petition in the office of the City Clerk within 14 days after the conclusion of the public hearing on the amendment by the Planning and Zoning Commission.
 - (2) Notarized signatures by at least one of the following:
 - (a) The owner or owners of at least 20% of the property proposed for rezoning.
 - (b) The owners of 20% of the total area, excepting public right-of-way and public property, within the zoning jurisdiction of the City and within 200 feet of the proposed rezoning.

LAND USE AND ZONING

Location	Existing Land Use	Current Zoning
Subject Site	Single family residential (low density)	R-1-low density
North	Single family residential	R-1-low density
South	Commercial	UC-University Commercial- Mixed Use
East	Residential (north east), Commercial (south east)	R-1,UC-University Commercial- Mixed Use
West	Residential	R-3-Urban Family Residential

Below is the recently adopted Future Land Use Plan (FLUM) which should be used when making decisions on future land uses and development applications. It is not intended to be a zoning map as shown earlier. The FLUM is meant to provide general guidance at a block level and is not meant to provide specificity at the individual property level. The commercial areas designated on the map are intended for commercial and office uses that are oriented toward automobile access. The mixed use areas on the map are intended for areas that encourage combinations of pedestrian-friendly commercial, office and residential. The low-density areas are designated areas with densities up to 8 units per acre, including single family homes, duplexes, or townhomes. Changing the zoning at the subject property from R-1 to UC would be appropriate as it falls within a block level of that zoning designation; i.e.- the property south of the subject property is currently zoned UC.



CASE HISTORY

An attempted rezoning of the subject property by the City in February of 1998 was initiated in a public hearing process. 1230 70th Street was the former Daryl Blythe property which the City acquired prior to February of 1998 as part of the University Avenue Redevelopment project. At the time, the property contained 2 separate zoning classifications. The south portion was zoned UC and the north was R-1. Originally, the intent was to bring the entire property to UC zoning, but at the meeting the public expressed concern that the property should remain residential. The Planning and Zoning Commission voted unanimously to keep the entire property under the R-1 zoning. The City Council then acted on the recommendation, and in April of 1999, the Council approved the rezoning to R-1 for the property. The City planned to sell the property to an individual to rehabilitate the home and resell it. The property was sold in 2001 and rehabilitated, and has since remained R-1.

Hy-Vee is now working with the current property owner to purchase the lot to use as additional parking and access for a gas station and convenience store. A gas station and convenience store is defined as Food Sales (Convenience) in the Zoning Ordinance and is permitted by a Conditional Use Permit. If recommendation for approval is desired by the Planning and Zoning Commission, a public hearing will be heard for the Conditional Use Permit and Site Plan for the gas station and convenience store, contingent that the City Council approves the final request for the rezoning.

THE FOLLOWING ANALYSIS SHOULD BE USED FOR ALL ASPECTS OF THE PROPOSED DEVELOPMENT; I.E. REZONING and if recommended for approval; CONDITIONAL USE PERMIT AND SITE PLAN REVIEW

*If the Planning and Zoning Commission feels more information is needed to make a decision; it can be requested.

ANALYSIS

Land Use:

The subject property has been residential in use since before the adoption of the Zoning Code in 1997. It has been designated on the zoning map as both UC and R-1. Staff believes at one point before the property sold to Daryl Blythe, the south portion of the property was going to be purchased by Hy-Vee, hence the UC designation. Hy-Vee never did purchase that portion, so it was decided it would remain R-1. As shown earlier, surrounding land uses are Hy-Vee to the south- built in 1997, residential to the north (house built in 1939), commercial tenants to the east (owned by Colby, built in 1972), and residential to the west (house built in 1947).

Layout:

As shown in the site plan, the applicant is proposing to utilize the lot to create additional parking, and access for a gas station/convenience store. The applicant will also use the space to buffer between adjacent land uses as required in the Zoning Code.

Scale:

Table 168-3 of the Zoning Ordinance:

*note- The Planning Commission may establish different regulators for sites within the UC and TC Districts, based on the recommendations of the Comprehensive Plan or on specific redevelopment plans or projects within the districts.

Front Yard- 25 feet

Street Side Yard- 25 feet

Interior Side Yard- 0 feet

Rear Yard- 10 feet

Staff has reviewed that these setbacks have been met.

Site Development

Buffer-

Based on the proposed layout, a 20 foot buffer would need to be provided along the north end of the subject property as the zoning designation to the north would still be residential (a less intensive land use). Based on the site plan, this has been met if the rezoning request is approved. Any parking facility that abuts a property in a residential district shall provide a fence, wall, landscape screen, or earth berm not than less than 4 feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to determination of the Planning Director.

Design and Landscaping-

As discussed in a pre-application meeting with the applicant and Development Review Team, any trees being removed will be replaced. The applicant is proposing a right-in, right-out onto 70th Street so trees would have to be removed and then replaced.

Unenclosed parking facilities shall provide a minimum landscaped buffer of 10 feet along any street property line.

Staff has not received elevation drawings from the applicant, but has inquired about gas canopy columns. The applicant intended to compare costs between brick posts and non-brick posts and get back with staff. It is not a requirement in the ordinance currently, but has been in discussion for future design guidelines. Requirements for building design state that the building materials should be compatible with surrounding areas or highly visible locations. The building design should be compatible with the current Hy-Vee Food Store.

Parking and Internal Circulation-

The Zoning Ordinance requires the subject property with its proposed use, have 1 space per 200 square feet.

As required in Section 171.05- all entrances and exits serving gasoline service stations and convenience stores offering gasoline sales shall be at least 150 feet from a residential use, as measured along any public street. Such access shall be at least 50 feet away from any intersection.

Adequate access to each parking facility shall be provided by a means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct nonresidential traffic away from residential areas. The applicant has shown a right-in, right-out to be placed onto University Avenue for tank trucks, which has been accepted by the City Engineer. Projects should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.

Stormwater management-

The development is disturbing less than 1 acre of land; therefore they will not be submitting a Notice of Intent to the Iowa DNR. The applicant will need to ensure the development can handle stormwater adequately to prevent overloading of the current system. The development should not inhibit development of other properties and should not increase probability of erosion, flooding, or other run-off related events.

Utilities-

There is currently a sanitary sewer easement that runs through the proposed building envelope. The City Engineer has requested a reroute of the sanitary sewer easement prior to approval.

Other-

Applicant is talking with the postmaster to relocate their facility. It is likely the drop box will remain at the Hy-Vee location.

Public Comments-

- Notice was posted at the property
- Notice was sent to property owners within 300 feet of the subject property.
- Notice was published in the Des Moines Register 2 times within 10 days of the public hearing
- Notice was posted at City Hall, Hy-Vee, and Banker's Trust



City of Windsor Heights

www.windsorheights.org

1133 66th Street • Windsor Heights, Iowa 50324 • 515-279-3662 • Fax 515-279-3664

City of
Windsor
Heights
the heart of it all

PETITION TO AMEND THE OFFICIAL ZONING MAP

need original signature

Date of Submission: 8-18-14 Fee Amount: \$125

PETITIONER NAME: Hy-Vee, Inc., Attn: Rob Wadle

PETITIONER ADDRESS: Hy-Vee, Inc., Attn: Rob Wadle

Name

5820 Westown Parkway

Address

West Des Moines

Iowa

50266

City

State

Zip

515.267.7889

RWadle@Hy-vee.com

Phone

Fax

Email

PROJECT LOCATION: 1230 70th St.
(street address or project location)

PROPERTY OWNER: James W Mooney

Name

1230 70th

Address

Windsor Heights Iowa

50324

City

State

Zip

Phone

Fax

Email

REQUEST: R-2 UC
Current Property Zoning Classification Requested Zoning Classification

Proposed Use for access to 70th street
and additional parking for Hy-Vee
food store.

LEGAL DISCRPTION OF PROPERTY: see attached

CERTIFICATION:

An application may be filed only the owner(s) of the property or by a person with the power of attorney from the owner authorizing the application, or by the attorney-at-law representing the owner. Indicate your authority.

I/We JAMES W MOONEY being duly sworn, depose and say that I/We, am/are the owner/owners of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the City of Windsor Heights City Code as printed herein and the statements and information above referred to are in all respects true and correct to the best of my/our knowledge. In addition I/We authorize the City of Windsor Heights to erect and install a notification sign on the subject property to inform the general public of the upcoming public hearing pursuant to Chapter 177.04.

[Handwritten Signature]
SIGNATURE

JAMES W MOONEY
PLEASE PRINT

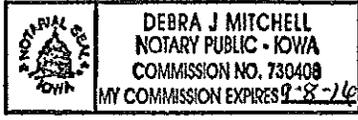
SIGNATURE

PLEASE PRINT

Mailing Address:

Subscribed and sworn to before me on this 17 day of August 2014.

[Handwritten Signature]
NOTARY PUBLIC



1230 70th St legally described as:

**PARCEL D BEG 50.29F N & 15F W OF SE COR LT 43
THN W 75.12F NW 78.35F W50.19F N32.95F
E195.45F SW 82.69F TO POB LTS 43 & 54 MOTT
PLACE**

NOTICE OF PUBLIC HEARING

The public is hereby notified that the Windsor Heights City Council will meet on **Monday, October 6, 2014** beginning at 6:00 p.m. in the **City Council Chambers**, 1133 66th Street, Windsor Heights, to consider the following items of business.

1. Public hearing for rezoning application RZN01-14 for Hy-Vee, requesting rezoning of .274 acres from R-1, Single-Family Residential (Low Density) to UC, University Commercial (Mixed Use District) of certain property described as: PARCEL D BEG 50.29F N & 15F W OF SE COR LT 43 THN W 75.12F NW 78.35F W50.19F N32.95F E195.45F SW 82.69F TO POB LTS 43 & 54 MOTT PLACE in Windsor Heights, Iowa 50324. This property is also known as 1230 70th Street, Windsor Heights, IA 50324 and is located north of the Hy-Vee at 7101 University Avenue.
2. Public hearing to amend table 168-2 in the Zoning Ordinance for Food Sales (Convenience) to be permitted as a conditional use in the community commercial (CC) zoning district instead of permitted by right.

Comments can be made prior to the meeting in written form at 1133 66th Street, Windsor Heights, Iowa or email directly to sdanzer@windsorheights.org. 515-279-3662.