

RESOLUTION NO. 91909-0212

A Resolution Setting a Public Hearing
on a Proposed Rezoning

RECITALS

A. The Planning and Zoning Commission of the City of Muscatine, Iowa, has been requested to rezone the real estate described on Exhibit A from R-1 Residential to S-3 Large Scale Mixed Use Development.

B. The Planning and Zoning Commission considered the request, found that all requirements of the City Code have been satisfied, and took action at its February 14, 2012, meeting to recommend the rezoning be approved as requested.

C. A public hearing should be held on the proposed rezoning; it is, therefore,

RESOLVED, by the City Council of Muscatine, Iowa, as follows:

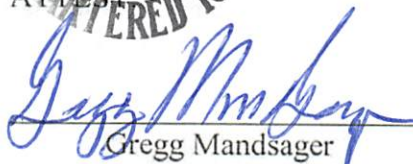
1. The City Council will hold a public hearing on the proposed rezoning at 7:00 p.m. on March 1, 2012, in the Council Chambers at City Hall, Muscatine, Iowa.

2. Notice of the proposed rezoning and public hearing will be given by publication of the Public Notice attached to this Resolution as Exhibit A; the notice will be published once in *The Muscatine Journal*, a newspaper printed, published, and of general circulation in the City of Muscatine, not less than 7 or more than 20 days before the meeting of the Council at which the proposal is to be considered.

3. Corporation Counsel is authorized and directed to review a proper ordinance to accomplish the rezoning, which ordinance will be presented to and considered by the Council at its meeting to be held following the public hearing.

READ, APPROVED, AND ADOPTED on February 16, 2012.




Gregg Mandsager
City Clerk

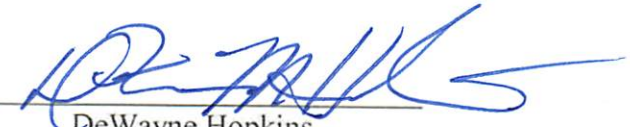

DeWayne Hopkins
Mayor

EXHIBIT A

PUBLIC NOTICE

TO THE CITIZENS OF MUSCATINE, IOWA:

Notice is given that rezoning has been requested, and the Planning and Zoning Commission of the City of Muscatine, Iowa, has recommended to the City Council of the City of Muscatine, Iowa, rezoning the following real estate, situated in the City and County of Muscatine, Iowa:

Parcel D located in the North Half of Section 28, Township 77 North, Range 2 West of the 5th P.M., in Muscatine County, Iowa, EXCEPT the following described portion of Parcel D:

Commencing at the North Quarter corner of Section 28; thence South 01° 22' 48" East 907.89 feet along the North-South Quarter Section line of Section 28 to the Southerly right-of-way of Primary Road No. U.S. 61 and the point of beginning; thence continuing South 01° 22' 48" East 508.85 feet along said Section line; thence South 89° 09' 00" West 438.13 feet to the Southerly right-of-way of Primary Road No. U.S. 61; thence North 36° 16' 27" East 568.50 feet along said right-of-way; thence North 57° 33' 17" East 106.63 feet along said right-of-way to the point of beginning, containing 2.810 acres.

The request is to rezone the real estate from R-1 Residential to S-3 Large Scale Mixed Use Development.

Notice is further given that the City Council of the City of Muscatine, Iowa, will hold a public hearing on the request and recommendation on March 1, 2012, at 7:00 p.m., in the Council Chambers in City Hall, Muscatine, Iowa, at which time your appearance may be made for or against the request and recommendation.

Gregg Mandsager
City Clerk

PROOF OF PUBLICATION

I, Jeff Lee, being duly sworn, on my oath, say that I am an advertising clerk at the *Muscatine Journal*, a newspaper of general circulation, published in the City of Muscatine, Muscatine County, Iowa; and that the following Notice:

Muscatine City Clerk
Public Notice
Planning & Zoning Commission Request

Of which the annexed printed slip is a true, correct and complete copy, was published in said *Muscatine Journal* one time having been made there in on:

February 20, 2012


Jeff Lee 

**STATE OF IOWA
MUSCATINE COUNTY**

Subscribed and sworn to before me this
20th day of February, 2012


Beth Lester, Notary Public

PUBLIC NOTICE
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Notice is given that rezoning has been requested, and the Planning and Zoning Commission of the City of Muscatine, Iowa, has recommended to the City Council of the City of Muscatine, Iowa, rezoning the following real estate, situated in the City and County of Muscatine, Iowa:
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The request to rezone the real estate from R-1 Residential to S-3 Large Scale Mixed Use Development.
Notice is further given that the City Council of the City of Muscatine, Iowa, will hold a public hearing on the request and recommendation on March 1, 2012, at 7:00 p.m. in the Council Chambers in City Hall, Muscatine, Iowa, at which time your appearance may be made for or against the request and recommendation.
Gregg Mandsager
City Clerk

	<p>Beth Lester Iowa Notarial Seal Commission number 745921 My Commission Expires 03/20/2013</p>
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1-800-858-8888
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1-800-858-8888

BOOKING # 9-1

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS
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STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS

[Handwritten Signature]

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JOAN U. AXEL
CHARLES R. COULTER
PATRICK W. DRISCOLL
TRISTA L. FOSTER
AMBER J. FREYERMUTH
STEVEN J. HAVERCAMP
STEVEN T. HUNTER
ERIC M. KNOERNSCHILD
DANIEL P. KRESOWIK
ERIC J. LONG
DAVID J. MELOY
CURT A. OPPEL
TIARR D. SWEERE
WENDY L. YOUNG

OF COUNSEL
ROBERT D. LAMBERT, P.C.
ROBERT L. LANDE
CLEMENS (CAL) A. WERNER, JR.

¹ ALSO ADMITTED IN ILLINOIS
² ADMITTED IN ILLINOIS ONLY

STANLEY, LANDE & HUNTER

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS

SUITE 400, 301 IOWA AVENUE
MUSCATINE, IOWA 52761

WWW.SLHLAW.COM

PHONE 563/264-5000 FAX 563/263-8775

December 29, 2011

SUITE 900
201 WEST SECOND STREET
DAVENPORT, IOWA 52801
FAX: 563/326-6266
563/324-1000

SUITE 400
301 IOWA AVENUE
MUSCATINE, IOWA 52761
FAX 563/263-8775
563/264-5000

SUITE 204
1101 FIFTH STREET
CORALVILLE, IOWA 52241
FAX 319/248-9001
319/248-9000

Writer's E-mail Address:
chuckcoulter@slhlaw.com

To: Planning and Zoning Commission
City of Muscatine

Re: Fridley Theatres at Muscatine

We enclose a Preliminary Development Plan for the Fridley Theatres at Muscatine Project in support of the company's request to rezone the R-1 Residential property by extending the S-3 Large Scale Mixed Use Development District East of Mulberry Avenue to this 15-acre tract across Mulberry Avenue to the West. The \$200 filing fee will be delivered separately.

Please include this request on the agenda for your January 10 meeting.

Thank you for your consideration.

STANLEY, LANDE & HUNTER

By 
Charles R. Coulter

CRC/me
M09935-1C

Enc.

Cc: R. L. Fridley Theatres, Inc.
Martin & Whitacre Surveyors & Engineers

CITY OF MUSCATINE, IOWA
APPLICATION FOR ZONING CHANGE

File No. E-130-12
Date Filed 12/29/11
Fee Paid 01/03/12
Receipt No. _____

Planning and Zoning Commission

Commissioners:

Pursuant to Section 10-22-7 of the City Code of the City of Muscatine, Iowa, the undersigned hereby requests that the following described real estate in the City of Muscatine, Iowa:

Legal Description: See Exhibit A attached

be rezoned from R-1 District to S-3 District.

The purpose of the rezoning request is expand the S-3 Large Scale Mixed Use District on the East side of Mulberry Avenue to the 15.029 acres on the West side of Mulberry Avenue to enable commercial development of the real estate described above, including a new multi-screen movie theatre.

Respectfully submitted,



Name Charles R. Coulter, Attorney for Owner

Address Suite 400, 301 Iowa Avenue
Muscatine, IA 52761

Phone 563.264.5000 (or 319.248.9000)

NOTE:

The following must be attached with this application, processing will not be initiated until received:

1. A copy of the Auditor's plat indicating all property within 200 feet of the perimeter of the above described real estate.
2. A list of all persons, with their current addresses, owning property within 200 feet of the perimeter of the above described real estate.
3. Application Fee: \$200.00

EXHIBIT A
LEGAL DESCRIPTION – CITY PARCEL

Parcel D located in the North Half of Section 28, Township 77 North, Range 2 West of the 5th P.M., in Muscatine County, Iowa, EXCEPT the following described portion of Parcel D:

Commencing at the North Quarter corner of Section 28; thence South 01° 22' 48" East 907.89 feet along the North-South Quarter Section line of Section 28 to the Southerly right-of-way of Primary Road No. U.S. 61 and the point of beginning; thence continuing South 01° 22' 48" East 508.85 feet along said Section line; thence South 89° 09' 00" West 438.13 feet to the Southerly right-of-way of Primary Road No. U.S. 61; thence North 36° 16' 27" East 568.50 feet along said right-of-way; thence North 57° 33' 17" East 106.63 feet along said right-of-way to the point of beginning, containing 2.810 acres.

**PRELIMINARY DEVELOPMENT PLAN
FOR
FRIDLEY THEATRES AT MUSCATINE**

DEVELOPMENT OVERVIEW

Fridley Theatres, Inc. (the "Developer"), has purchased 17.84 acres at the corner of Mulberry Avenue and the Highway 61 By-pass. The Developer intends to construct a multi-screen movie theatre containing approximately 35,000 square feet, along with required parking, site utilities, and site amenities. The initial phase the Project will include construction of the theatre building, parking and utilities; subsequent development is expected to include creation and development of commercial lots.

ANNEXATION

The Developer has requested voluntary annexation by the City of the Westerly 2.810 acres which currently lie outside the City's corporate limits.

ZONING

The remaining 15.029-acre site is currently zoned R-1 Residential. The Developer requests that the S-3 Large Scale Mixed Use Development District on the East side of Mulberry Avenue be expanded to include this 15.029-acre site on the West side of Mulberry Avenue. This will allow for mixed uses and provide flexibility in future development planning.

DEVELOPMENT APPROACH

The Developer plans to develop the theatre building and associated improvements without subdivision at this time. A plat of survey will be prepared for the theatre site to create a tax parcel for tax increment financing purposes. When demand develops for adjoining commercial development, lots will be subdivided and developed in accordance with the demand. All subdivision developments will follow City subdivision requirements and will be subject to site plan review.

A conceptual plan of expected developments is outlined below:

Initial Development - 2012

- Site Grading
- Theatre Building construction
- Site Paving
- Construction of a 44' wide street
- Installation of site utilities
- Transfer street ROW to City
- Detention Basin construction
- Landscaping per site plan

- Grand Opening of Fridley Theatres in Fall/Winter 2012
- Approximately 30 employees will be needed (part-time and full-time)

Future Development - 2012-2017

- Subdivision and sale of lots facing Mulberry Avenue
- Dedication of street and public utilities
- Approximately 50 additional employees for commercial developments

Future Development - 2017-2027

- Development of remainder of lots
- Approximately 75 additional employees for commercial development

TRAFFIC GENERATION

A traffic generation study is attached. The study estimates the expected traffic generated in three phases of the project.

INFRASTRUCTURE IMPROVEMENTS

Street

The Developer will construct a 44' wide street in accordance with the City's requirements for a "Collector" street. All design and construction will be in accordance with City and Iowa SUDAS requirements. An Acquisition Plat will be prepared, and the street right-of-way will be deeded to the City. The intersection at Mulberry Avenue will be coordinated with the City to allow for future improvements on Mulberry Avenue. The southern terminus of the 44' side street through the development will allow for an eventual future connection to Cedar Street.

At this time, the need does not exist for additional signaling or turning lanes off Mulberry. Traffic issues may need to be addressed in the future as part of a larger traffic study of Mulberry Avenue traffic.

Water Mains

An existing water main along Mulberry Avenue is inadequate for commercial development. The Developer is working with Muscatine Power and Water to supply the site with adequate water for both the initial phase of the Project and for future development. The Developer intends to construct water mains in accordance with MPW specifications so that they may become public mains in the future.

Sanitary Sewer

A sanitary sewer connection will be made to an existing sanitary sewer within the Mulberry Avenue right-of-way. The City has verified that the downstream lift station at Tipton Road has sufficient capacity to serve the added area. The sewer main will be designed and installed in accordance with Iowa DNR specifications so that it may be dedicated to the City at a later date.

Storm Sewer

Storm water management infrastructure will include intakes, piping, and overland flow. All storm water facilities will be designed in accordance with SUDAS and City design standards.

Storm Water Detention

A storm water detention basin will be constructed at the time of initial construction. The Westerly 13.6 acres will drain to the proposed basin. The detention basin will detain storm water in excess of City requirements. The Easterly portions will drain either to the Mulberry Avenue road ditch or the Highway 61 By-pass ditch. The Site Plan will address the specifics of the basin design including basin performance.

Erosion Control

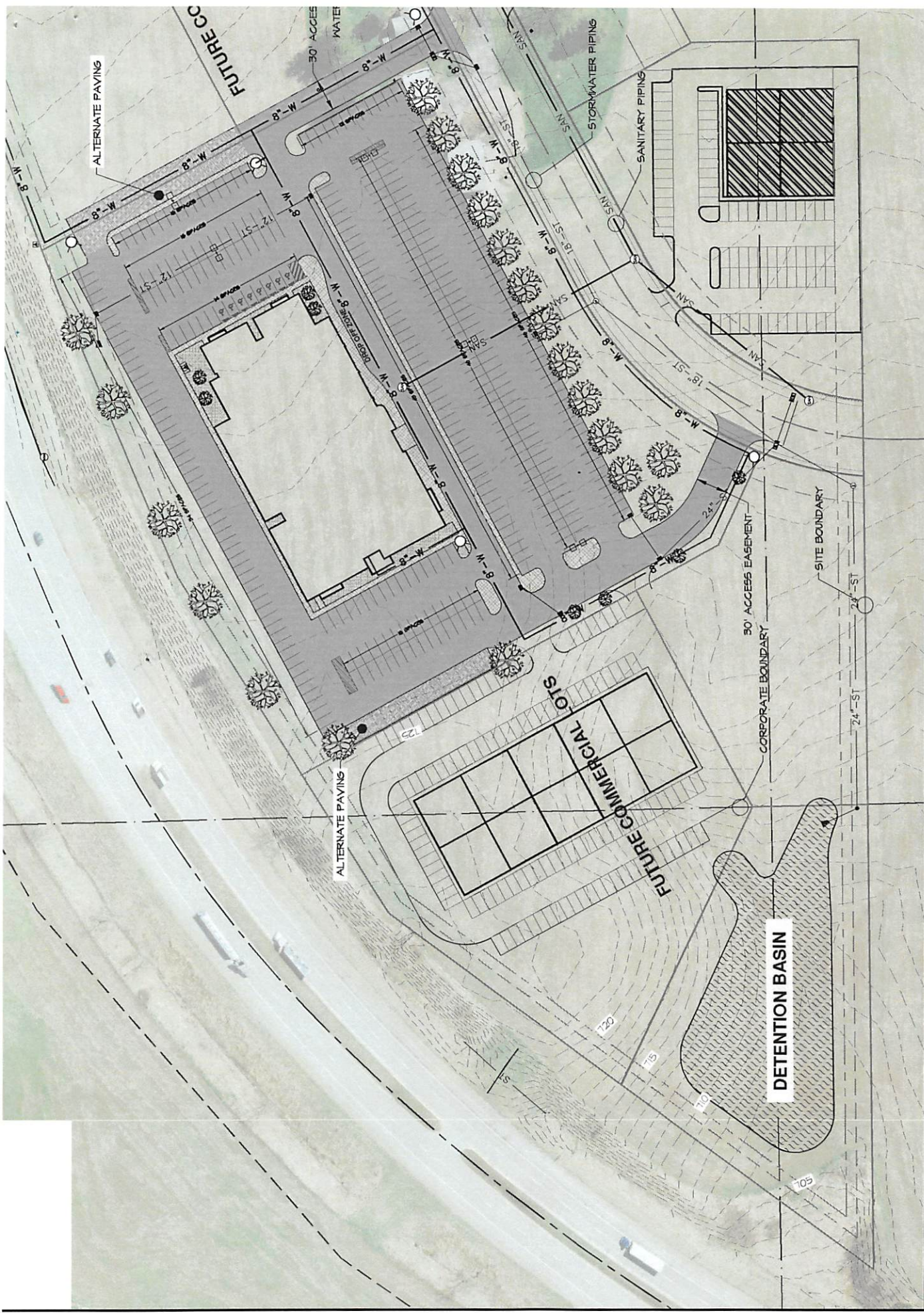
Due to the size of the Project, an NPDES General Permit No. 2 will need to be obtained prior to start of construction. An NPDES permit requires installation, management, and reporting of erosion control measures and allows for inspections by the DNR.

Electrical Service

The Developer has contacted REC regarding electrical service at the site and will coordinate service as needed.

SITE PLAN

On approval of rezoning from R-1 to S-3, the Developer will prepare and submit a Site Plan for staff review in accordance with Title 10, Chapter 2, Section 7 of the City Code.



NO.	REVISIONS	INITIALS	DATE

DRAWN BY:
 APPROVED:



DRAFT

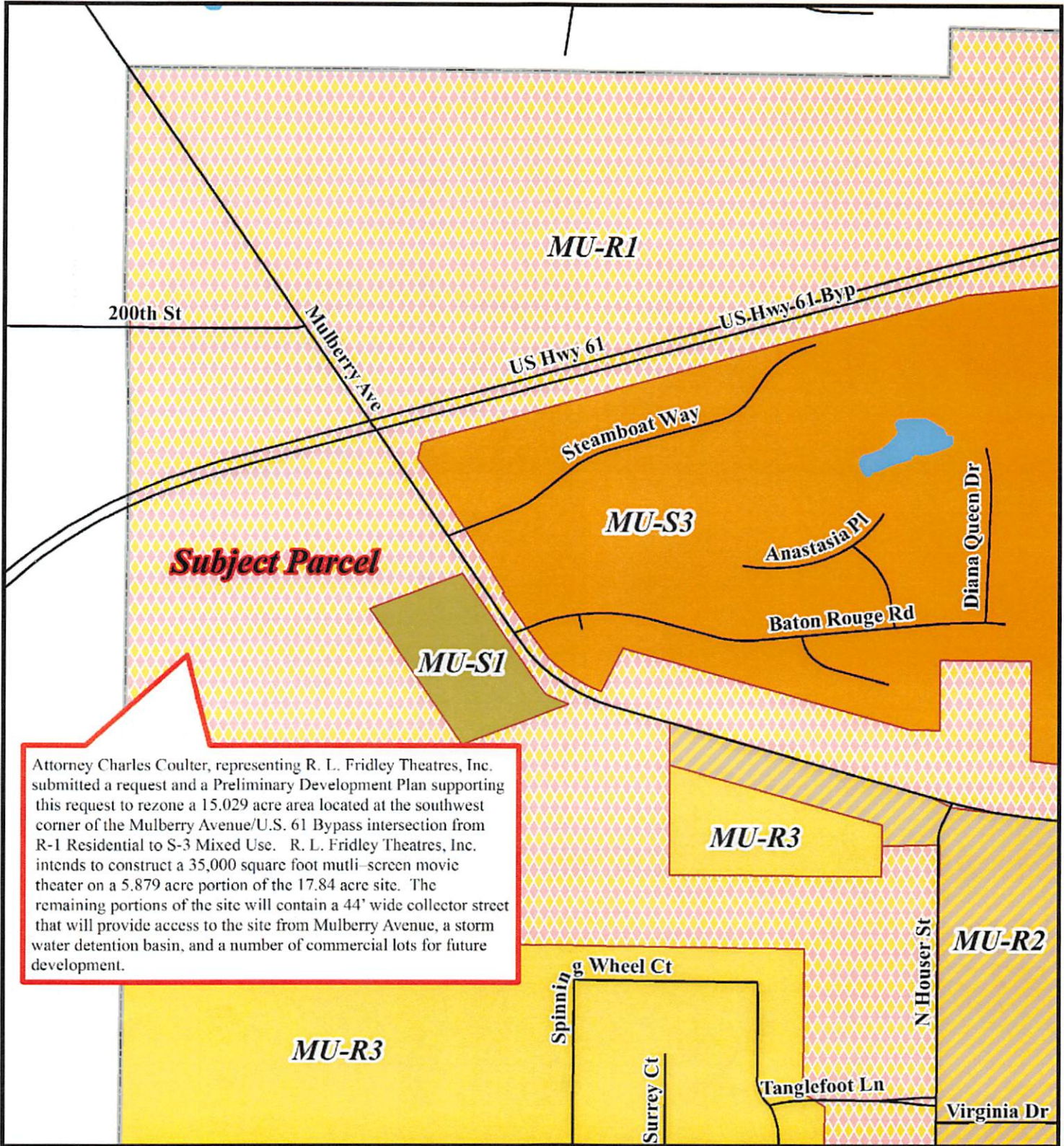
FRIDLEY THEATRES AT MUSCATINE

Daily Trip Generation Figures					Cumulative Total	
2012	Theatre Project					
Use:	Movie Theatre					
Size:	1400	Seats				
Max Filling:	1000	Seats				
Trip Generation Rate:	1.8	per Seat				
Total trips:	1800				1800	Per Day
Peak Hr Trips	144	8%			144	Max Hr
In trips	101	7:3			101	Max Hr In
Out trips	43	3:7			43	Max Hr Out
2012-2017	Development of Outlot(s)					
Uses:	Commercial/Retail		Restaurant			
Size:	15000	SF	4000			
Max Filling:						
Trip Generation Rate:	50	per 1000 SF	104	per 1000 SF		
Total trips:	750		416		2966	Per Day
Peak Hr Trips	75	10%	33	8%	252	Max Hr
In trips	38	5:5	17	5:5	156	Max Hr In
Out trips	37	5:5	16	5:5	96	Max Hr Out
2017-2027	Development of Remainder of Lots					
Uses:	Banking/Medical		Motel			
Size:	10000	SF	100	rooms		
Max Filling:						
Trip Generation Rate:	150	per 1000 SF	9	per room		
Total trips:	1500		900		5366	Per Day
Peak Hr Trips	150	10%	81	9%	483	Max Hr
In trips	75	5:5	32	4:6	263	Max Hr In
Out trips	75	5:5	49	4:6	220	Max Hr Out

Note: Trip Generation rates from ITE 2003

Note: All square footage and usage figures are estimates based upon previous development within Muscatine

DRAFT



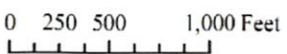
Attorney Charles Coulter, representing R. L. Fridley Theatres, Inc. submitted a request and a Preliminary Development Plan supporting this request to rezone a 15.029 acre area located at the southwest corner of the Mulberry Avenue/U.S. 61 Bypass intersection from R-1 Residential to S-3 Mixed Use. R. L. Fridley Theatres, Inc. intends to construct a 35,000 square foot multi-screen movie theater on a 5.879 acre portion of the 17.84 acre site. The remaining portions of the site will contain a 44' wide collector street that will provide access to the site from Mulberry Avenue, a storm water detention basin, and a number of commercial lots for future development.

Zoning District

- AG-Agricultural
- A-P-Airport
- C-1 Neighborhood & General Commercial
- C-2 Central Commercial
- C-3 Planned Commercial
- M-1 Light Industrial
- M-2 General Industrial

- R-1 Single-Family Residence
- R-2 Single-Family Residence
- R-3 Single-Family Residence
- R-4 Two-Family Residence
- R-5 Multi-Family Residence
- R-6 Multi-Family Residence
- R-L Large Scale
- S-1 Special Development 1

- S-2 Institutional Office
- S-3 Mixed Use
- R-3(A) Clinics Allowed as Conditional Use
- FC- Flood Channel (Floodway) District
- FP- Flood Plain District
- Corporate Limit



Zoning District Map



Date Source: Muscatine Area Geographic Information Consortium and City of Muscatine,
 Prepared by: Andrew Fangman
 Date: February 9, 2012



City Hall, 215 Sycamore St.
Muscatine, IA 52761-3840
(563) 262-4141
Fax (563) 262-4142

COMMUNITY DEVELOPMENT

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

MEMORANDUM

To: Mayor and City Council Members

Cc: Gregg Mandsager, City Administrator

From: Andrew Fangman, City Planner

Date: February 16, 2012

Re: Zoning Change – R-1, Single Family to S-3, Mixed Use – R. L. Fridley Theatres, Inc., 15.029 Acres – Attorney Charles Coulter – Mulberry Avenue and U.S. 61 Bypass.

INTRODUCTION: On December 29, 2011 Attorney Charles Coulter, representing R. L. Fridley Theatres, Inc. submitted a request and a Preliminary Development Plan supporting this request to rezone a 15.029 acre area located at the southwest corner of the Mulberry Avenue/U.S. 61 Bypass intersection from R-1 Residential to S-3 Mixed Use. See attached map for location details and current zoning of the subject parcel and surrounding area.

BACKGROUND: R. L. Fridley Theatres, Inc. has purchased 17.84 acres at the corner of Mulberry Avenue and the U.S. 61 Bypass, with the intent to construct a 35,000 square foot multi-screen movie theater on a 5.879 acre portion of the 17.84 acre site. The remaining portions of the site will contain a 44' wide collector street that will provide access to the site from Mulberry Avenue, a storm water detention basin, and a number of commercial lots for future development. The western most 2.811 acre portion of the site is not a part of this rezoning requested because it is currently located outside of the corporate limits and the voluntary annexation request that has been filed by the applicant on this area has not yet been finalized. The proposed rezoning is harmony with the future land use envisioned City of Muscatine Comprehensive Plan for the southwest corner of the Mulberry Avenue/U.S. 61 Bypass. The area located east of the subject area across Mulberry Avenue is currently zoned S-3 Mixed Use, matching the zoning being requested by R. L. Fridley Theatres, Inc. for this site.

RECOMMENDATION/RATIONALE: It is recommended that the City Council take action to approve the resolution setting a public hearing on the zoning change for the property located at the southwest corner of the Mulberry Avenue/U.S. 61 Bypass for Thursday, March 1, 2012.

BACKUP INFORMATION:

1. Resolution setting the Public Hearing
2. Public Notice
3. Site Map
4. Rezoning Application

"I remember Muscatine for its sunsets. I have never seen any on either side of the ocean that equaled them" — Mark Twain