



Agenda Item:

27

## COUNCIL COMMUNICATION City Manager's Office

### GENERAL INFORMATION

Agenda Date: 4/25/2005

Communication No.:

05-216

Agenda Item Type: Resolution

Roll Call

No.:

Submitted by: Larry Hulse, Community Development Director

### SUBJECT—

Setting date of Public Hearing regarding request from Jorge Morales (Owner) to rezone property located at 2218 E 9th Street. (05/09/05).

### SYNOPSIS—

This action sets the Public Hearing regarding a request from Jorge Morales (Owner) to rezone property located at 2218 E 9th Street from "C-1" Neighborhood Retail Commercial District to Limited "C-2" General Retail and Highway Oriented Commercial District, to allow the property to be used for a Garage for General Motor Vehicle Repair. On April 7, 2005 the Plan and Zoning Commission voted 12-0 to recommend denial of the requested land Use Plan Amendment and rezoning. The Commission believes that it is more appropriate that the use of the property be processed as a use variance from the Board of Adjustment rather than a rezoning. The City Code states that no appeal for a use variance shall be considered by the Board of Adjustment unless a proposed amendment to rezone the subject property to a district classification permitting such use has been considered and denied by the City Council within the preceding year. The decision of the Board of Adjustment regarding any use variance must be forwarded to the City Council.

### FISCAL IMPACT—

None

**RECOMMENDATION—**

Approval

**BACKGROUND—**

The subject property historically was used as a gas station with accessory garage for general motor vehicle repair. The tanks were removed in July 2002 thus changing the primary use of the property to general motor vehicle repair and eliminating their rights to exist as a legal non-conforming use. If the property were rezoned to the C-2, General Retail and Highway Oriented Commercial District, general motor vehicle repair would become a permitted use and would be allowed to operate on the property in perpetuity. If Council denies the rezoning, the applicant could request a use variance from the Board of Adjustment. The Board could recommend the same conditions on the use variance as could be required if the property were rezoned. In addition, the Board of Adjustment could recommend an expiration date for a use variance. Such an expiration date would retain the opportunity to fulfill the vision of the 2020 Community Character Plan Land Use Map designation for Low Density Residential on the subject property.