

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: August 13, 2012
	Agenda Item No. 64 Roll Call No. <u>12-1310</u> Communication No. <u>12-416</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Review of the July 25, 2012 decision of the Zoning Board of Adjustment to conditionally approve a use variance to allow use of the 133-foot by 120-foot (15,960 square feet) property in the vicinity of 2001 Clark Street for a general motor vehicle repair shop use.

SYNOPSIS:

The subject property is comprised of the parcels known as 2001 and 2009 Clark Street, and 1510 Martin Luther King, Jr. Parkway. The site is zoned Limited "C-1 (Neighborhood Retail Commercial)" and is owned by Jose Gonzalez, 1314 4th Street, Des Moines, Iowa 50314.

On July 25, 2012, the Zoning Board of Adjustment voted 5-0 to conditionally approve a use variance to allow use of a property in a Limited "C-1" (Neighborhood Retail Commercial) as a commercial business that involves general motor vehicle repair, subject to the following conditions:

1. Any display of vehicles for sale shall be prohibited.
2. Any outdoor repair or servicing of vehicles shall be prohibited.
3. Any outdoor display of automobile accessories and storage of materials or equipment, such as barrels, tires and tools, shall be prohibited.
4. Any refuse and trash disposal containers shall be contained within the building or an outdoor enclosure that complies with the Zoning Ordinance.
5. Submittal and review of a Site Plan in accordance with Site Plan regulations by September 28, 2012.
6. Installation of landscaping in accordance with standards in the Site Plan policies for "C-1" Districts as approved by the Community Development Director.
7. Substantial conformance with the approved Site Plan by December 31, 2012.
8. Any use of on-street parking spaces for customer or business vehicles shall be prohibited.
9. A signed copy of the Board's decision and order shall be recorded with Polk County at the appellant's expense as assurance that future property owners become aware of these conditions.
10. Hours of operation shall be between 7:00 AM and 6:00 PM.

11. The Board shall reconsider the Use Variance if it is found by the Zoning Officer that the appellant or their successors have not complied with all conditions of approval.

12. The Zoning Enforcement Officer shall have the authority to extend the deadlines in the aforementioned conditions so long as the property is actively working towards satisfying all of the conditions of approval.

The Decision and Order of the Zoning Board of Adjustment's action was executed under the signature of Chairman Bill Gray on July 31, 2012. Pursuant to Section 135-65 of the City Code, the City Council shall review the Board's decision within thirty (30) days after the decision is filed. After such review, the City Council may remand the decision to the Board for further study. If the City Council declines to remand the decision, that decision shall become final on the date of the City Council's action (August 13, 2012). Staff recommends that the City Council decline to remand the Board's decision.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The subject property measures 133 feet by 120 feet (15,960 square feet) and contains a 1,750-square foot, one-story commercial building. Historically the property was used as a printing shop. In 2005, a tortilla factory utilized the property for a short period. The site is located in the Drake Neighborhood at the northwest corner of Martin Luther King, Jr. Parkway and Clark Street. The immediate area consists of a small commercial node surrounded by residential uses.

On May 21, 2012, by Roll Call No. 12-0833, the City Council denied a request to rezone the property from Limited "C-1" (Neighborhood Retail Commercial) to "C-2" (General Retail and Highway-Oriented Commercial) that would have allowed the property to be used as a commercial business for general motor vehicle repair.

PREVIOUS COUNCIL ACTION(S):

Date: May 21, 2012

Roll Call Number: [12-0833](#)

Action: [On](#) request from Jose Zambrano and Jose Gonzales to rezone property at 2001 and 2009 Clark Street and 1510 M. L. King Jr. Parkway from Ltd. "C-1" (Neighborhood Retail Commercial) to "C-2" (General Retail and Highway-Oriented Commercial) to allow use of the premises for a general motor vehicle repair shop. Plan and Zoning Commission recommends DENIAL. Roll Call contains alternative motions. Moved by Griess to adopt and to DENY the proposed rezoning. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: July 25, 2012

Resolution Number: ZON2012-00116

Action: Conditionally approved a use variance to allow use of the 133-foot by 120-foot (15,960 square feet) property in the vicinity of 2001 Clark Street for a general motor vehicle repair shop use, subject to conditions, by a 5-0 vote.

Board: Plan and Zoning Commission

Date: April 19, 2012

Resolution Number: ZON2012-00042

Action: Recommended denial of request for rezoning to “C-2” (General Retail and Highway-Oriented Commercial) by a 9-0 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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