

Date April 26, 2010

WHEREAS, on April 12, 2010, by Roll Call No. 10-507, it was duly resolved by the City Council that the application of Mark Graziano to rezone certain property he owns, and located in the vicinity of 3401 University Avenue, more fully described below, be set down for hearing on April 26, 2010, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on April 15, 2010, as provided by law, setting forth the time and place for hearing on said proposed amendment to the Zoning Ordinance; and,

WHEREAS, in accordance with said notice those interested in said proposed rezoning, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the Legal Department has prepared an amendment to the Zoning Ordinance of the City of Des Moines to rezone the following described property:

East 100 feet of the South 140 feet Lot 13, Chetwynd, AN OFFICIAL PLAT all now included in and forming a part of the City of Des Moines, IN POLK COUNTY, IOWA.

from the R-3 Multiple Family Residential to Limited C-1 Neighborhood Retail Commercial District classification, subject to the following conditions which are agreed to and accepted by execution of an Acceptance of Rezoning Ordinance in writing by all owners of said property and is binding upon the owners and their successors, heirs and assigns as follows:

1. Prohibit the following uses of the property:
  - a. automotive and motorcycle accessory and parts stores,
  - b. theatres,
  - c. upholstery shops,
  - d. package goods stores for the sale of alcoholic beverages,
  - e. pawn shops, and
  - f. financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
2. Compliance with all Des Moines' Landscape Standards for bufferyards, perimeter lot, and open space.
3. Removal of the two existing drive approaches closest to the intersection of 34<sup>th</sup> Street and University Avenue, with restoration of the right-of-way to a curbed condition.
4. Removal of the existing freestanding pylon sign structure.
5. Removal of the existing gas fueling island canopy.

Date April 26, 2010

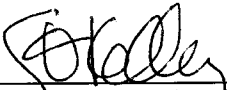
-2-

6. Any freestanding sign installed shall be a monument type sign.
7. Any exterior building modifications shall be reviewed by the Community Development Director as part of the required Site Plan to ensure compatibility with the surrounding neighborhood.
8. Any trash screening enclosure on site shall conform the standards of the Zoning Ordinance comprised of durable materials that compliment the principal dwelling with metal gates or doors.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property to Limited C-1 Neighborhood Retail Commercial District classification are hereby overruled, and the hearing is closed.

MOVED by \_\_\_\_\_ to adopt and approve the rezoning, subject to final passage of the rezoning ordinance.

FORM APPROVED:

  
\_\_\_\_\_  
Michael F. Kelley  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

April 5, 2010

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held April 1, 2010, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0 as follows:



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309 --1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Dann Flaherty	X			
Joel Huston	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Jim Martin				X
Brian Millard	X			
William Page	X			
Mike Simonson	X			
Kent Sovern	X			

**APPROVAL** of a request from M Investments, LLC (owner) to find the proposed rezoning for property located at 3401 University Avenue not in conformance with the existing Des Moines' 2020 Community Character Plan Low/Medium Density Residential designation; and to approve an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low/Medium Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node; to approve the request to rezone the property to "R-3" Multiple Family Residential District to "C-1" Neighborhood Retail Commercial District, subject to the owner(s) of the property agreeing to the following conditions: (ZON2010-00032 & 21-2010-4.05)

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8. Any trash screening enclosure on site shall conform the standards of the Zoning Ordinance comprised of durable materials that compliment the principal dwelling with metal gates or doors.

Written Responses

- 3 In Favor  
2 In Opposition

**STAFF REPORT**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is seeking to rezone to allow reuse of the former Conoco gas station site for a dry cleaner with a drive-up window.
2. **Size of Site:** The subject parcel is 100-feet by 140-feet or 14,000 square feet total.
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Vacant gas station.
5. **Adjacent Land Use and Zoning:**
  - North* – "R-3", Use is vacant parcel.
  - South* - "R-3", Uses are single-family dwellings and four-unit multiple-family apartment.
  - East* - "R-3", Uses are two-family residential dwellings.
  - West* – "R-3", Use is vacant parcel.
6. **General Neighborhood/Area Land Uses:** The surrounding area is a low/medium density residential segment of the University Avenue corridor that is west of the Drake University campus.
7. **Applicable Recognized Neighborhood(s):** Drake Neighborhood Association.

8. **Relevant Zoning History:** N/A.

9. **2020 Community Character Land Use Plan Designation:** Low/Medium Density Residential.

10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Landscaping & Buffering:** The applicant submitted a conceptual site layout for the proposed reuse of the property. The schematic indicates the intent to remove paving from the property to provide compliance with landscaping provisions. Because it is a change of use, it is required to bring the site into conformance with bufferyard (along north and west property lines), perimeter lot (along 34<sup>th</sup> Street and University Avenue), and open space setbacks and plantings.

2. **Access and Parking:** The submitted concept indicates removal of two drive approaches that are closest to the intersection and restoring the street frontage back to a curbed condition. Additional access drives would remain on 34<sup>th</sup> Street and University Avenue.

Off-street parking will be required for a dry cleaners at one space per 400 square feet of gross floor area. In this instance six (6) spaces are required for 2,154 square feet of gross floor area. The submitted schematic indicates seven (7) spaces to be provided plus queuing for a drive-up window.

3. **2020 Community Character Plan:** The Des Moines' 2020 Community Character Plan anticipates redevelopment for Low/Medium Density Residential uses up to 12 units per acre on the subject property. The applicant is seeking to conserve the existing commercial building for an adaptive reuse of the former gas station. This will require an amendment to allow for the requested rezoning. The Neighborhood Node future land use classification is appropriate because it intended for small-scale commercial serving primarily the adjacent neighborhood in a non-linear pattern.

Staff believes that there are some permitted uses in the requested "C-1" District that would not be appropriate given the size of the stand alone commercial site and proximity to the surrounding residential neighborhood. These uses would include, automotive and motorcycle accessory and parts stores, theatres, upholstery shops, package goods stores for the sale of alcoholic beverages, pawn shops, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.

4. **Urban Design:** The applicant has not determined specific plans for the architectural modifications to the building at this time. The owner has indicated that the overhead

doors would be removed and filled in and that as much of the store front glass toward the street view would be preserved. The site schematic demonstrates that the gas island canopies will be removed.

Staff recommends that as a condition of any rezoning, that the Community Development Director have administrative review of the building architecture at the time of Site Plan approval. This would ensure that the building redevelopment is appropriate in character to the surrounding neighborhood. In addition any freestanding signs on site are recommended to be ground mounted monument type signs. The current abandoned sign structure is recommended by staff for removal along with the gas island canopy as a condition of any rezoning.

- 5. Additional Information:** The Site is proposed for the relocation of the Campus Cleaners currently located at 2800 University Avenue.

### **III. STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan Low/Medium Density Residential designation.

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low/Medium Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node.

Part C) Staff recommends approval of the request to rezone the property to "R-3" Multiple Family Residential District to "C-1" Neighborhood Retail Commercial District, subject to the owner(s) of the property agreeing to the following conditions:

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8. Any trash screening enclosure on site shall conform the standards of the Zoning Ordinance comprised of durable materials that compliment the principal dwelling with metal gates or doors.

## **SUMMARY OF DISCUSSION**

*There was no discussion.*

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one to speak in opposition.*

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

## **COMMISSION ACTION**

Kent Sovern moved staff recommendation that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan Low/Medium Density Residential designation; and to approve an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low/Medium Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node; to approve the request to rezone the property to "R-3" Multiple Family Residential District to "C-1" Neighborhood Retail Commercial District, subject to the owner(s) of the property agreeing to the following conditions:

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Motion passed 12-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Ludwig', written in a cursive style.

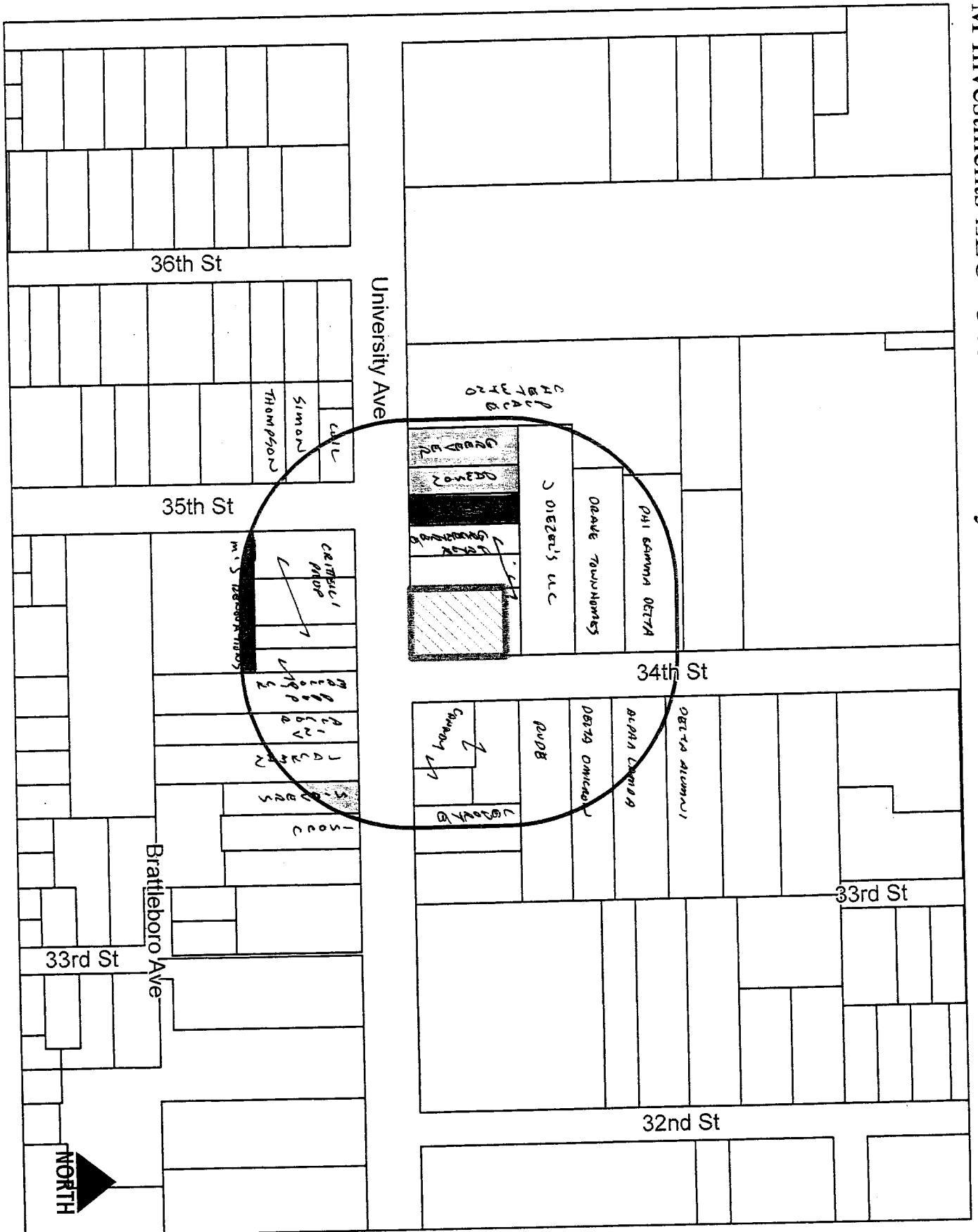
Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment



M Investments LLC - 3401 UNIVERSITY AVENUE



2010 00082

Date 3-24-10

Item

(any) (am not) in favor of the request.

(Circle One)

Print Name Margaret Sievers

Signature Margaret Sievers

Address 411 Ingersoll St 1006

RECEIVED  
MINORITY DEVELOPMENT  
DEPARTMENT  
MAR 26 2010

Reasons for opposing or approving this request may be listed below:

Five horizontal lines for listing reasons.

Item 2010 00032 Date 3-24-10

I (am) (am not) in favor of the request.

(Circle One)

Print Name ERIC DANSON  
Signature [Signature]  
Address 3501 UNIVERSITY

RECEIVED  
COMMUNITY DEVELOPMENT  
MARCH 26 2010

Reason for opposing or approving this request may be listed below:

WOULD ONLY BE CONCERNED IF IT  
BECAME A BAK.

Item 2010 00032 Date 3/25/10

I (am) (am not) in favor of the request.

(Circle One)

Print Name Roger & M.J. Greener  
Signature [Signature]  
Address 3515 University Ave

RECEIVED  
COMMUNITY DEVELOPMENT  
MARCH 26 2010

Reason for opposing or approving this request may be listed below:

Item 2010 00032 Date 3/26/10

I (am)  (am not) in favor of the request.

MBS Renovations

RECEIVED

COMMUNITY DEVELOPMENT

Print Name Michael Grundberg

Signature M.G.

MAR 31 2010

Address 1131 35th St. Des Moines 50311

Reason for opposing or approving this request may be listed below:

- ① Past use has lapsed
- ② C-1 use allows for too many other uses besides a "dry cleaners business"
- ③ Indirectly, through previous tenants (the last tenants) at that location those tenants told me he wanted a convenience store at that location →

Item 2010 00032 Date 3-27-10

I (am)  (am not) in favor of the request.

Print Name Stephen & Lynda Albaugh

Signature Stephen Albaugh

Address 3421 University Avenue

Des Moines IA 50311-2303

Reason for opposing or approving this request may be listed below:

RECEIVED  
COMMUNITY DEVELOPMENT  
APR 01 2010  
DEPARTMENT