

Date July 12, 2010

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 1, 2010, its members voted 13-0 in support of a motion to recommend **DENIAL** of a request from Irma Lopez (owner) to rezone property located at 1120 East 8th Street from "R1-60" One-Family Low-Density Residential District to "R-2" Two-Family Residential District, to allow the existing two-story residential building to be used for two dwelling units.

The subject property is more specifically described as follows:

East 1/2 Lot 1, Block B, Deans 2nd Subdivision of Outlot, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on July 26, 2010, at which time the City Council will hear both those who oppose and those who favor the proposal.

That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

FORM APPROVED: MOVED by _____ to adopt.



Michael F. Kelley
Assistant City Attorney

(ZON2010-00098)

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

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.

Mayor

City Clerk

Request from Irma Lopez (owner) to rezone property located at 1120 East 8 th Street				File #	
				ZON2010-00098	
Description of Action	Rezone property from "R1-60" One-Family Low-Density Residential District to "R-2" Two-Family Residential District, to allow the existing two-story residential building to be used for two dwelling units.				
2020 Community Character Plan	Low-Density Residential				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	"R1-60" One-Family Low-Density Residential District				
Proposed Zoning District	"R-2" Two-Family Residential District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1	1			
Outside Area					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council		Yes
	Denial	13-0			No
					(To approve Comp Plan & Rezoning)

Irma Lopez - 1120 E 8th Street

ZON2010-00098



Date _____

Agenda Item 14

Roll Call # _____

July 6, 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 July 1, 2010, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

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			

DENIAL of a request from Irma Lopez (owner) to rezone property located at 1120 East 8th Street from "R1-60" to "R-2" Part A) The proposed rezoning is **not** in conformance with the current Des Moines' 2020 Community Character Plan, Part B) the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Low/Medium Density Residential should be denied; and Part C) the rezoning of subject property from "R1-60" One-Family Low-Density Residential District to "R-2" Two-Family Residential District should be denied. ZON2010-00098

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the proposed rezoning be found **not** in conformance with the current Des Moines' 2020 Community Character Plan.

Part B) Staff recommends denial of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Low/Medium Density Residential.



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

Part C) Staff recommends denial of the requested rezoning.

Written Responses

- 1 In Favor
- 1 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** On March 3, 2010, the Neighborhood Inspection Division (NID) issued a code violation case against the appellant for illegally operating a single-family dwelling as a duplex within an "R1-60" One-Family Low-Density Residential District. The subject property has no record of having any legal non-conforming rights allowing the duplex use. The appellant is seeking a re-zoning to obtain a rental certificate for the duplex use.
2. **Size of Site:** 3,658 square feet.
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Single-family dwelling configured for two units.
5. **Adjacent Land Use and Zoning:**
 - North* – "R1-60", Uses include Filmore Street right-of-way and single-family dwellings.
 - South* – "R1-60", Use a single-family dwelling.
 - East* – "R1-60", Uses include East 8th Street right-of-way and single-family dwellings.
 - West* – "R1-60", Use a single-family dwelling.
6. **General Neighborhood/Area Land Uses:** The subject property is located at the southwest corner of the intersection of Filmore Street and East 8th Street in a predominantly low-density residential neighborhood.
7. **Applicable Recognized Neighborhood(s):** Capital Park Neighborhood.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Low 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, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

Should the applicant be denied rezoning by the City Council, they may submit an appeal to the Board of Adjustment for a Use Variance to allow the proposed use under provisions in Sec. 134-64(2). This would require the owner to demonstrate unique circumstances have created an unnecessary hardship by not allowing the property to be used for other than uses permitted in the “R1-60” District. Staff does not support such a request.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Natural Site Features:** The subject property is a built site with a large portion of open space area in the eastern front yard of the dwelling. There is an existing mature tree within the front (east) yard.
2. **Access/Parking:** Two-family dwellings are required to provide a minimum of two off-street parking spaces located outside of the front yard setback. In this instance, an existing paved drive approach is located off of East 8th Street.
3. **2020 Community Character Plan:** The Des Moines’ 2020 Community Character Plan projects the area west of East 8th Street for Low Density residential including two-family units in existence before 1997. The requested rezoning would require amendment to the Plan to give the property a Low/Medium Density Residential designation.
4. While there are scattered examples of two-family and multiple-family dwelling conversions within the surrounding area, it was the intent of the Plan to transition the neighborhood area back to original single-family density. Staff believes that an amendment from Low Density land use description and single-family zoning would not be appropriate for the subject property given the remaining surrounding predominance of single-family dwellings in the immediate area.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Mike Ludwig stated that when the neighborhood was rezoned to “R1-60” in the 1990’s, there was provision made in the zoning ordinance where legally conforming duplex structures received “permitted use” status in the “R1-60” zoning district. There were never any permits taken out for conversion of the subject property and it has never had a rental certificate. Therefore, the subject property is not a permitted use in the “R1-60” zoning district. It does not have grandfather rights either.

Dann Flaherty asked if the applicant met with their neighbors.

Jason Van Essen stated the applicant picked up their list from staff. Staff is not sure if the held a meeting but will defer the question to the applicant.

Irma Lopez 13002 Hammontree, Urbandale stated that she thought the property was already a duplex when she purchased it and never asked the City about zoning.

Brian Millard asked did the seller represent the property as a legal duplex.

Irma Lopez stated no, her family lived there so she did not know it was not legally a duplex.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor of the applicant's request.

The following spoke in opposition of the applicant's request.

Marilyn Bruce 833 Walker Street stressed the importance of not rezoning the applicant's property because the lot is too small. She noted how the neighborhood association fought to get the neighborhood all zoned low density residential (R1-60) because the lot sizes are small and parking is a problem. She stated she was sympathetic to the applicant's request but she would like for that property to remain single-family.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Jacqueline Easley asked staff to be sure to clearly communicate to the applicant through interpretation of the Commission's decision and why.

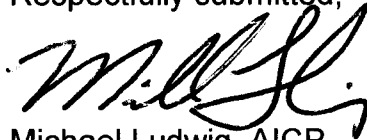
Mike Ludwig stated all of staff's communications will be in writing to the applicant and staff can have the communication translated when they send it out or offer that opportunity to the applicant. Tonight is just a recommendation to the City Council and the City Council will be holding a public hearing on the rezoning.

COMMISSION ACTION

Brian Millard moved staff recommendation to find the proposed rezoning not in conformance with the current Des Moines' 2020 Community Character Plan; and to deny the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Low/Medium Density Residential; and to deny the rezoning from "R1-60" One-Family Low-Density Residential District to "R-2" Two-Family Residential District, to allow the existing two-story residential building to be used for two dwelling units.

Motion passed 13-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Item 2010-00098 Date _____

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name: GRACEN BEDFORD
Signature: Gracen Bedford
Address: 1139 Penn Ave SW
50316

JUN 23 2010
Reason for opposing or approving this request may be listed below:

I don't mind her rezoning
her property to a 2 family home
It will not bother me
in one for enough and
even if they wouldnt bother
me

Item 2010-00098 Date 6/22/10

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

RECEIVED
COMMUNITY DEVELOPMENT
(Circle One)

JUN 26 2010

DEPARTMENT

Print Name: STANLEY C OSBORNE
Signature: Stanley Osborne
Address: 1108 E. 8th

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

I wish to ~~retain~~ retain single
family dwellings in the neighborhood
in order to improve property values and
attract residents interested in home ownership.
Thank you

Irma Lopez - 1120 E 8th Street

ZON2010-00098

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